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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO FOOD AND DRUGS - TAXATION AND REGULATION OF MARIJUANA

Introduced By: Senators Perry, and Miller

Date Introduced: February 14, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. TITLE 21 of the General Laws entitled "FOOD & DRUGS" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 21-28.6.1

4 LEGALIZATION OF MARIJUANA

5 21-28.6.1-1. Short title. -- This chapter shall be known and may be cited as the
6 "Legalization of Marijuana Act".

7 21-28.6.1-2. Legislative findings. -- The general assembly hereby finds and declares
8 that:

9 (1) More than seven (7) decades of arresting marijuana users has failed to prevent
10 marijuana use; a study published in the American Journal of Public Health compared marijuana
11 usage rates in the United States with rates in the Netherlands, where adults' marijuana use and
12 sales are de facto legal, found "no evidence to support claims that criminalization reduces
13 [marijuana] use".

14 (2) More than one hundred million (100,000,000) adults in the United States, including
15 the last three (3) presidents, have used marijuana, and data from the 2010 Monitoring the Future
16 Survey show that despite prohibition, more than eighty percent (80%) of twelfth graders find
17 marijuana "fairly easy" or "easy" to obtain.

18 (3) More than fifty thousand (50,000) people have been killed in drug cartel and
19 crackdown-related violence since the beginning of the crackdown on cartels in Mexico in 2006

1 and, according to the Federal Office of National Drug Control Policy, sixty percent (60%) of drug
2 cartel profits come from marijuana sales in the United States.

3 (4) In June 2005, five hundred thirty (530) economists, including three (3) Nobel
4 Laureates, endorsed a study on the costs of marijuana prohibition by Harvard professor Dr.
5 Jeffrey Miron which estimated that taxing and regulating marijuana would yield ten billion
6 dollars to fourteen billion dollars (\$10,000,000,000 – \$14,000,000,000) in increased revenues and
7 savings, and which called for “an open and honest debate about marijuana prohibition,” adding,
8 “We believe such a debate will favor a regime in which marijuana is legal but taxed and regulated
9 like other goods.”

10 (5) Heads of state in countries that have been scarred by drug cartel violence are
11 beginning to call for a re-examination of drug policies, with former president of Mexico Vicente
12 Fox calling for marijuana to be legally sold, and past and current presidents of three (3) Latin
13 American countries Cesar Gaviria of Colombia, Fernando Henrique Cardoso of Brazil, and Felipe
14 Calderon and Ernesto Zedillo of Mexico calling for a discussion on decriminalizing marijuana.

15 (6) The lack of marijuana market regulation ensures that marijuana production and
16 distribution are in the hands of unlicensed growers, who are untaxed, unmonitored, and often
17 cultivated on state or federal lands, and the product is not controlled or regulated for safety
18 concerns.

19 (7) There were more than eight hundred fifty-eight thousand (858,000) arrests for
20 marijuana offenses in the United States in 2009, which is more than the entire adult population of
21 Rhode Island.

22 (8) Just over eight thousand one hundred (8,100) suspects were booked by federal law
23 enforcement in 2004 about one percent of all marijuana arrests demonstrating that nearly all
24 marijuana arrests occurs on the state level, and thus, state legislative action has the capacity to
25 significantly change policy.

26 (9) While there were more than two thousand seven hundred two (2,702) arrests for
27 marijuana offenses in Rhode Island in 2009, thousands of serious crimes went unsolved; the
28 clearance rates for homicide, rape, and robbery were only 43.8%, 27%, and 29.3% in Rhode
29 Island in 2009.

30 (10) There is an alarming racial disparity in marijuana arrests in Rhode Island, with
31 African Americans arrested at nearly three and a half (3½) times the rate of whites in 2009,
32 although their marijuana usage rates were very similar.

33 (11) Removing state criminal penalties for persons aged twenty-one (21) and older who
34 use or cultivate small amounts of marijuana, and from regulated providers, would allow police to

1 spend more time preventing and investigating serious crimes like murder, rape, assault, robbery,
2 burglary, and driving under the influence of alcohol and other drugs and would create substantial
3 savings now.

4 (12) States are not required to enforce federal law or to prosecute people for engaging in
5 activities prohibited by federal law, and may choose whether or not to impose state criminal
6 penalties on conduct.

7 **21-28.6.1-3. Definitions. --** For purposes of this chapter:

8 (1) “Department” means the state of Rhode Island department of business regulation.

9 (2) “Marijuana” means all parts of the plant cannabis sativa L., whether growing or not;
10 the seeds thereof; the resin extracted from any part of the plant; and every compound,
11 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not
12 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
13 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of
14 the mature stalks (except the resin extracted from it), fiber, oil, or cake, or the sterilized seed of
15 the plant that is incapable of germination.

16 (3) “Marijuana paraphernalia” means equipment, products, and materials which are used
17 or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing,
18 compounding, converting, producing, processing, preparing, testing, analyzing, packaging,
19 repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing
20 marijuana into the human body.

21 (4) “Public place” means any street, alley, park, sidewalk, public building other than
22 individual dwellings, or any place of business or assembly open to or frequented by the public,
23 and any other place to which the public has access.

24 (5) “Retailer” means an entity that is either:

25 (i) Registered pursuant to sections 21-28.6.2 and 44-49-17 of the general laws, to be
26 exempt from state penalties for purchasing marijuana from a wholesaler and selling marijuana
27 and marijuana paraphernalia to customers who are twenty-one (21) years of age or older; or

28 (ii) Exempt from state penalties under Rhode Island general law 21-28.6.2-2 due to the
29 department not issuing registrations.

30 (6) “Safety compliance facility” means an entity that is either:

31 (i) Registered pursuant to chapter 21-28.6.2 and Rhode Island general law section 44-49-
32 17, inclusive, of this chapter to be exempt from state penalties for providing one or both of the
33 following services: training, including that related to cultivation of marijuana, safe handling of
34 marijuana, and security and inventory procedures; or testing marijuana for potency and

1 contaminants; or

2 (ii) Exempt from state penalties under Rhode Island general law section 21-28.6.2-3 due
3 to the department not issuing registrations.

4 (7) “Smoking” means heating to at least the point of combustion, causing plant material
5 to burn. It does not include vaporizing, which means heating below the point of combustion and
6 resulting in a vapor or mist.

7 (8) “State prosecution” means prosecution initiated or maintained by the state of Rhode
8 Island or an agency or political subdivision of the state of Rhode Island.

9 (9) “Verification system” means a phone or web-based system that is operational twenty-
10 four (24) hours each day that law enforcement personnel shall use to verify registry identification
11 zip ties and that shall be established and maintained by the department pursuant to Rhode Island
12 general law section 21-28.6.2-6.

13 (10) “Wholesaler” means an entity that is either:

14 (i) Registered pursuant to sections 21-28.6.2 and 44-49-17 of the general laws, to be
15 exempt from state penalties for cultivating, preparing, packaging, and selling marijuana to a
16 retailer or another wholesaler, but not selling marijuana to the general public; or

17 (ii) Exempt from state penalties under Rhode Island general law section 21-28.6.2-3 due
18 to the department not issuing registrations.

19 (11) “Zip tie” means a fastener capable of being attached to a plant, which is produced by
20 or at the direction of the department.

21 **21-28.6.1-4. Exempt Activities. --** Except as otherwise provided in this chapter:

22 (1) A person who is twenty-one (21) years of age or older is exempt from arrest, civil or
23 criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board,
24 and state prosecution for the following acts:

25 (i) Actually and constructively using, obtaining, purchasing, transporting, or possessing
26 one ounce or less of marijuana and three (3) marijuana seedlings or cuttings or less. As used
27 herein, “one ounce or less of marijuana” includes one ounce or less of marijuana, or any mixture
28 or preparation thereof, including but not limited to five (5) grams or less of hashish. The weight
29 of any non-marijuana ingredients combined with marijuana, such as in a preparation for topical
30 administration or for consumption as food or drink, shall not count toward the one ounce (1 oz.)
31 limit;

32 (ii) Controlling any premises or vehicle where up to one ounce (1 oz.) or less of
33 marijuana and three (3) marijuana seedlings or cuttings or less per person who is twenty-one (21)
34 years of age or older is possessed, processed, or stored;

- 1 (iii) Using, obtaining, purchasing, transporting, or possessing, actually or constructively,
2 marijuana paraphernalia;
- 3 (iv) Selling marijuana seeds to a wholesaler;
- 4 (v) Manufacturing, possessing, or producing marijuana paraphernalia;
- 5 (vi) Selling marijuana paraphernalia to retailers, wholesalers, or persons who are twenty-
6 one (21) years of age or older;
- 7 (vii) Transferring one ounce (1 oz.) or less of marijuana and three (3) marijuana seedlings
8 or cuttings or less without remuneration to a person who is twenty-one (21) years of age or older;
- 9 (viii) Aiding and abetting another person who is twenty-one (21) years of age or older in
10 the possession or use of one ounce (1 oz.) or less of marijuana or in the cultivation of three (3) or
11 fewer marijuana plants;
- 12 (ix) Aiding and abetting another person who is twenty-one (21) years of age or older in
13 the possession or use of marijuana paraphernalia;
- 14 (x) Cultivating three (3) or fewer marijuana plants;
- 15 (xi) Controlling the premises where no more than five (5) other persons twenty-one (21)
16 years of age or older cultivate marijuana plants, with the total number of plants not exceeding
17 eighteen (18) in any dwelling unit;
- 18 (xii) Assisting with the cultivation of marijuana plants that are cultivated at the same
19 location for persons twenty-one (21) years of age or older, with the total number of plants not
20 exceeding eighteen (18) in any dwelling unit; and
- 21 (xiii) Any combination of the acts described within paragraphs (i) to (xii), inclusive.
- 22 (2) A retailer or any person who is twenty-one (21) years of age or older and acting in his
23 or her capacity as an owner, employee, or agent of a retailer who acts in compliance with the
24 provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of
25 assets, discipline by any state or local licensing board, and state prosecution for the following
26 acts:
- 27 (i) Transporting or possessing, actually or constructively, marijuana, including seedlings
28 or cuttings that was purchased from a wholesale;
- 29 (ii) Possessing marijuana paraphernalia;
- 30 (iii) Obtaining or purchasing marijuana from a wholesaler;
- 31 (iv) Manufacturing, possessing, producing, obtaining, or purchasing marijuana
32 paraphernalia;
- 33 (v) Selling, transferring, or delivering marijuana, including seedlings or cuttings, which
34 originates from a wholesaler, or marijuana paraphernalia to any person who is twenty-one (21)

1 years of age or older;

2 (vi) Aiding and abetting any person who is twenty-one (21) years of age or older in the

3 possession or use of one ounce (1 oz.) or less of marijuana and three (3) or fewer marijuana

4 seedlings or cuttings;

5 (vii) Aiding and abetting any person who is twenty-one (21) years of age or older in the

6 possession or use of marijuana paraphernalia;

7 (viii) Controlling any premises or vehicle where marijuana and marijuana paraphernalia

8 is possessed, sold, or deposited in a manner that is not in conflict with this chapter or department

9 regulations; and

10 (ix) Any combination of the acts described within paragraphs (i) to (viii), inclusive.

11 (3) A wholesaler or any person who is twenty-one (21) years of age or older and acting in

12 his or her capacity as an owner, employee, or agent of a wholesaler who acts in compliance with

13 the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture

14 of assets, discipline by any state or local licensing board, and state prosecution for the following

15 acts:

16 (i) Cultivating, packing, processing, transporting, or manufacturing marijuana;

17 (ii) Producing marijuana-infused products, including tinctures, oils, and edible or potable

18 goods;

19 (iii) Transporting or possessing marijuana that was produced by the wholesaler or another

20 wholesaler;

21 (iv) Transporting or possessing marijuana seeds;

22 (v) Possessing, transporting, selling, or producing marijuana paraphernalia;

23 (vi) Selling marijuana to a retailer or a wholesaler;

24 (vii) Purchasing marijuana from a wholesaler;

25 (viii) Purchasing marijuana seeds from a person who is twenty-one (21) years of age or

26 older;

27 (ix) Controlling any premises or vehicle where marijuana and marijuana paraphernalia is

28 possessed, manufactured, sold, or deposited in a manner that is not in conflict with this chapter or

29 department regulations; and

30 (x) Any combination of the acts described within paragraphs (i) to (ix), inclusive.

31 (4) A safety compliance facility or any person who is twenty-one (21) years of age or

32 older and acting in his or her capacity as an owner, employee, or agent of a safety compliance

33 facility who acts in compliance with the provisions of this chapter shall not be subject to state

34 prosecution; search, except by the department pursuant to Rhode Island general law section 21-

1 28.6.2-17; seizure; or penalty in any manner or be denied any right or privilege, including, but not
2 limited to, civil penalty or disciplinary action by a court or business licensing board or entity,
3 solely for acting in accordance with this chapter and department regulations to provide the
4 following services:

5 (i) Acquiring or possessing marijuana obtained from wholesalers, retailers, or, if the
6 quantity is no more than one ounce (1 oz.) per person, twenty-one (21) years of age or older;

7 (ii) Transporting or possessing marijuana obtained from wholesalers, retailers, or, if the
8 quantity is no more than one ounce (1 oz.) per person, twenty-one (21) years of age or older;

9 (iii) Returning marijuana to wholesalers, retailers, or, if the quantity is no more than one
10 ounce (1 oz.) per person, twenty-one (21) years of age or older;

11 (iv) Receiving compensation for analytical testing, including for contaminants or
12 potency; and

13 (v) Any combination of the acts described within subdivisions (1) through (4), inclusive.

14 (5) The acts listed in subdivisions (1) through (4), when undertaken in compliance with
15 the provisions of this chapter, are lawful under Rhode Island law.

16 (6) Except as otherwise provided in subdivision (7), in a prosecution for selling,
17 transferring, delivering, giving, or otherwise furnishing marijuana or marijuana paraphernalia to
18 any person who is under twenty-one (21) years of age, it is a complete defense if:

19 (i) The person who sold, gave, or otherwise furnished marijuana or marijuana
20 paraphernalia to a person who is under twenty-one (21) years of age was a retailer or was acting
21 in his or her capacity as an owner, employee, or agent of a retailer at the time the marijuana or
22 marijuana paraphernalia was sold, given, or otherwise furnished to the person; and

23 (ii) Before selling, giving, or otherwise furnishing marijuana or marijuana paraphernalia
24 to a person who is under twenty-one (21) years of age, the person who sold, gave, or otherwise
25 furnished the marijuana or marijuana paraphernalia, or a staffer or agent of the retailer, was
26 shown a document which appeared to be issued by an agency of a federal, state, tribal, or foreign
27 sovereign government and which indicated that the person to whom the marijuana or marijuana
28 paraphernalia was sold, given, or otherwise furnished was twenty-one (21) years of age or older
29 at the time the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished to
30 the person.

31 (7) The complete defense set forth in subdivision (6) does not apply if:

32 (i) The document which was shown to the person who sold, gave, or otherwise furnished
33 the marijuana or marijuana paraphernalia was counterfeit, forged, altered, or issued to a person
34 other than the person to whom the marijuana or marijuana paraphernalia was sold, given, or

1 otherwise furnished; and

2 (ii) Under the circumstances, a reasonable person would have known or suspected that
3 the document was counterfeit, forged, altered, or issued to a person other than the person to
4 whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished.

5 **21-28.6.1-5. Civil Violation.** -- (a) Except as provided in subsection (c), unless obtaining
6 a zip tie was not reasonably practicable, any person who is twenty-one (21) years of age or older
7 who manufactures or cultivates marijuana plants without a zip tie affixed to or within twelve (12)
8 inches of each plant is responsible for a civil violation punishable by a fine of up to five hundred
9 dollars (\$500) for one plant without a zip tie, or up to one thousand dollars (\$1,000) for two (2)
10 or three (3) plants without a zip tie. For purposes of illustration and not limitation, it is not
11 reasonably practicable for an adult to obtain a zip tie if any of the following are true:

12 (1) On the date when law enforcement encountered the plant or plants, the department's
13 website did not list any location meeting the requirements of Rhode Island general law section
14 21-28.6.1-6 and in the same zip code as the adult's residence where zip ties could be obtained;

15 (2) On any day within thirty (30) days preceding the day when law enforcement
16 encountered the plant or plants, the department's website did not list any location meeting the
17 requirements of Rhode Island general law section 21-28.6.1-6 and in the same zip code as the
18 adult's residence where zip ties could be obtained; or

19 (3) The adult or a person acting on the adult's behalf attempted to purchase a zip tie from
20 a location listed on the department's website within thirty (30) days prior to the law enforcement
21 encounter, but the location did not have a sufficient number of zip ties available, was not open
22 during the posted hours, or the location did not meet the requirements of Rhode Island general
23 law section 21-28.6.1-6.

24 (b) The manufacture or cultivation of three (3) or fewer marijuana plants by any persons
25 who are twenty-one (21) years of age or older in a location that is contrary to this subsection is a
26 misdemeanor punishable by a fine of up to one thousand dollars (\$1,000), up to ten (10) days in
27 jail, or both.

28 (1) Cultivation shall not occur in a location where the marijuana plants are subject to
29 public view without the use of binoculars, aircraft, or other optical aids.

30 (2) Marijuana that is cultivated outdoors must be cultivated in an enclosed location, such
31 as a fenced-in area.

32 (3) Cultivation may only occur on property lawfully in possession of the cultivator or
33 with the consent of the person in lawful possession of the real property.

34 (4) If one or more persons under twenty-one (21) years of age live in or are guests at the

1 property where marijuana is cultivated, reasonable precautions must be taken to prevent their
2 access to marijuana plants. For purposes of illustration and not limitation, cultivating marijuana in
3 a locked closet, room, or fully enclosed area to which the person or persons under twenty-one
4 (21) years of age do not possess a key, constitutes reasonable precautions.

5 (c) Any individual who lawfully cultivates marijuana plants under the provisions of
6 chapter 21-28.6 entitled “The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act”
7 shall be exempt from the zip tie requirements of this chapter.

8 **21-28.6.1-6. Zip ties.--** (a) Within one hundred twenty (120) days of the effective date of
9 this chapter, the department shall establish a means for residents of Rhode Island to anonymously
10 obtain zip ties with the payment of a one hundred (\$100) fee per year per plant. The locations
11 selling zip ties may be operated by state or local government agencies or private businesses. Zip
12 ties may be sold by automated machines or by individuals.

13 (b) Zip tie purchasers must be allowed to choose whether to pay with cash or credit card.
14 The department may allow additional methods of payment.

15 (c) The department shall ensure that there is at least one indoor location selling zip ties in
16 each zip code that is open at least thirty-five (35) daytime or evening hours each week and at least
17 four (4) daytime or evening hours per week on weekends.

18 (d) The department shall post a list of all locations where zip ties may be purchased on its
19 website, including the hours when zip ties may be purchased. The department shall retain an
20 archived list of all locations that were posted to its website on each date for each zip code for at
21 least ninety (90) days.

22 (e) Persons purchasing zip ties shall not be subject to surveillance by video cameras or
23 still photography.

24 (f) Each purchaser of a zip tie shall be required to provide his or her date of birth and to
25 attest that he or she is a resident of Rhode Island.

26 (g) The department and the vendor or machine may not require the applicant to disclose
27 any additional identifying information to obtain a zip tie, including names, social security
28 numbers, or addresses.

29 (h) Each zip tie shall include a random identification number and an expiration date,
30 which shall be one year after it is issued.

31 (i) Within one hundred twenty (120) days of the effective date of this chapter, the
32 department shall establish a phone or Web-based verification system that is operational twenty-
33 four (24) hours each day, which law enforcement personnel can use to verify registry
34 identification zip ties. The verification system must allow law enforcement personnel to enter a

1 registry identification number to determine whether or not the number corresponds with an
2 identification zip tie that has not expired.

3 **21-28.6.1-7. Activities not exempt.--** The provisions of this chapter do not exempt any
4 person from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state
5 or local licensing board, and state prosecution for, nor may he or she establish an affirmative
6 defense based on this chapter to charges arising from, any of the following acts:

7 (1) Driving, operating, or being in actual physical control of a vehicle or a vessel under
8 power or sail while impaired by marijuana;

9 (2) Possessing marijuana if the person is a prisoner; or

10 (3) Possessing marijuana or possessing drug paraphernalia if the possession of the
11 marijuana or drug paraphernalia is discovered because the person engaged or assisted in the use
12 of marijuana in:

13 (i) Any local detention facility, county jail, state prison, reformatory, or other correctional
14 facility, including, without limitation, any facility for the detention of juvenile offenders; or

15 (ii) Any preschool, elementary school, junior high school, or high school.

16 **21-28.6.1-8. Smoking marijuana shall be prohibited in all public places.--**

17 (a) A person who smokes marijuana in such an indoor public place shall be guilty of a
18 petty misdemeanor, and may be punished as follows:

19 (1) By a fine of not more than two hundred fifty dollars (\$250), imprisonment for a term
20 not exceeding ten (10) days, or both for the first violation;

21 (2) By a fine of not more than five hundred dollars (\$500), imprisonment for a term not
22 exceeding thirty (30) days, or both, for the second or subsequent violation.

23 (b) A person who smokes marijuana in an outdoor public place shall be liable for a civil
24 penalty of one hundred fifty dollars (\$150).

25 (c) Municipalities may impose additional fines equivalent to state fines for the
26 consumption of alcohol in an outdoor public place.

27 **21-28.6.1-9. Places of employment. --** The provisions of this chapter do not require
28 employers to accommodate the use or possession of marijuana, or being under the influence of
29 marijuana, in a place of employment.

30 **21-28.6.1-10. Rental premises. --** The provisions of this chapter do not prevent a
31 landlord from prohibiting the cultivation of marijuana on the rental premises.

32 **21-28.6.1-11. Hotels and motels. --** A landlord or innkeeper may prohibit the smoking of
33 marijuana on the rented property or rooms if the landlord or innkeeper posts a notice.

34 **21-28.6.1-12. False age representation.--** Any person who falsely represents himself or

1 herself to be twenty-one (21) years of age or older in order to obtain any marijuana or marijuana
2 paraphernalia pursuant to this chapter is guilty of a misdemeanor.

3 **21-28.6.1-13. Expungement.** -- This chapter shall, by operation of law, expunge the
4 conviction of anyone previously convicted of possession of one ounce (1 oz.) or less of marijuana
5 or possession of marijuana paraphernalia, provided that person was twenty-one (21) years of age
6 or older at the time of conviction.

7 **21-28.6.1-14. Medical Use.** -- Nothing contained herein shall be construed to repeal or
8 modify any law concerning the medical use of marijuana or tetrahydrocannabinol in other forms,
9 such as Marinol.

10 SECTION 2. TITLE 21 of the General Laws entitled "FOOD & DRUGS" is hereby
11 amended by adding thereto the following chapter:

12 CHAPTER 21-28.6.2

13 TAXATION & REGULATION OF MARIJUANA

14 **21-28.6.2-1. Definitions.**-- As used in this chapter:

15 (1) "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not;
16 the seeds thereof; the resin extracted from any part of the plant; and every compound,
17 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not
18 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
19 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of
20 the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of
21 the plant that is incapable of germination.

22 (2) "Retailer" means an entity that is either:

23 (i) Registered pursuant to sections 21-28.6.2 and 44-49-17 of the general laws, to be
24 exempt from state penalties for purchasing marijuana from a wholesaler and selling marijuana
25 and marijuana paraphernalia to customers who are twenty-one years (21) years of age or older; or

26 (ii) Exempt from state penalties under Rhode Island general law section 21-28.6.2-2 due
27 to the department not issuing registrations.

28 (3) "Safety compliance facility" means an entity that is either:

29 (i) Registered pursuant to sections 21-28.6.2 and 44-49-17 of the general laws, to be
30 exempt from state penalties for providing one or both of the following services:

31 (ii) Training, including that related to cultivation of marijuana, safe handling of
32 marijuana, and security and inventory procedures; or testing marijuana for potency and
33 contaminants; or

34 (iii) Exempt from state penalties under Rhode Island general law section 21-28.6.2-4 due

1 to the department not issuing registrations.

2 (4) “Wholesaler” means an entity that is either:

3 (i) Registered pursuant to sections 21-28.6.2 and 44-49-17 of the general laws, to be
4 exempt from state penalties for cultivating, preparing, packaging, and selling marijuana to a
5 retailer or another wholesaler, but not selling marijuana to the general public; or

6 (ii) Exempt from state penalties under Rhode Island general law section 21-28.6.2-3 due
7 to the department not issuing registrations.

8 **21-28.6.2-2. Retailer registration. --** Except as otherwise provided in Rhode Island
9 general law section 21-28.6.2-5 of this chapter:

10 (1) A person or an entity may apply, in accordance with the provisions of this chapter and
11 the regulations adopted pursuant thereto, for the issuance of a registration exempting the entity
12 from state prosecution and penalties for operating as a retailer pursuant to the provisions of this
13 chapter.

14 (2) Each applicant for a retailer registration shall submit application materials required by
15 the department and a non-refundable fee in an amount determined by the department, not to
16 exceed five thousand dollars (\$5,000).

17 (3) By one year after the effective date of this chapter, the department shall have issued at
18 least one retailer registration per county. By two (2) years after the effective date of this chapter,
19 the department shall have issued a number of retailer registrations that are no fewer than one valid
20 and outstanding retailer registration for every twenty-five thousand (25,000) residents of the
21 county, per county, provided a sufficient number of qualified applicants exist. If more qualifying
22 applicants apply than the department will register, the department shall implement a competitive
23 scoring process to determine to which applicants to grant registrations, which may be varied for
24 geographic distribution. The scoring system shall take into account the applicant and managing
25 officers’ applicable experience, training, and expertise; the applicant’s plan for security and
26 diversion prevention; any criminal, civil, or regulatory issues encountered by other entities the
27 applicant and managing officers have controlled or managed; and the suitability of the proposed
28 location.

29 (4) If at any time after two (2) years after the effective date of this chapter, there are
30 fewer than one valid and outstanding retailer registration for every twenty-five thousand (25,000)
31 residents of the county, per county, the department shall accept and process applications for
32 retailer registrations.

33 (5) The fee for the initial issuance of a registration as a retailer is ten thousand dollars
34 (\$10,000).

1 (6) A registration as a retailer may be renewed annually for a five thousand dollar
2 (\$5,000) fee. The renewal application may be submitted up to one hundred twenty (120) days
3 before the expiration of the retailer registration. If the department fails to approve a valid renewal
4 application, it shall be deemed granted sixty (60) days after its submission.

5 (7) If at any time beginning eighteen (18) months after the effective date of this chapter,
6 the department has failed to begin issuing retailer registrations or has ceased issuing retailer
7 registrations or renewals as required by this chapter, a retail registration shall not be required to
8 operate as a retailer for any person or entity that operates in a location zoned for retail use that
9 satisfies the requirements set forth in this chapter and any regulations adopted pursuant to the
10 chapter.

11 **21-28.6.2-3. Wholesaler registration.--** Except as otherwise provided in Rhode Island
12 general laws section 21-28.6.2-5 of this chapter:

13 (1) An entity may apply, in accordance with the provisions of this chapter and the
14 regulations adopted pursuant thereto, for the issuance of a registration exempting the entity from
15 state prosecution and penalties for operating as a wholesaler pursuant to the provisions of this
16 chapter.

17 (2) Each applicant for a wholesaler registration shall submit application materials
18 required by the department and a non-refundable fee in an amount determined by the department,
19 not to exceed five thousand dollars (\$5,000).

20 (3) By three hundred (300) days after the effective date of this chapter, the department
21 shall have issued at least five (5) wholesaler registrations, provided that qualified applicants exist.
22 By two (2) years after the effective date of this chapter, the department shall have issued at least
23 ten (10) wholesaler registrations. If more qualifying applicants apply than the department will
24 register, the department shall implement a competitive scoring process to determine to which
25 applicants to grant registrations, which may be varied for geographic distribution. The scoring
26 system shall take into account the applicant and managing officers' applicable experience,
27 training, and expertise; the applicant's plan for security and diversion prevention; any criminal,
28 civil, or regulatory issues encountered by other entities the applicant and managing officers have
29 controlled or managed; and the suitability of the proposed location.

30 (4) If at any time after two (2) years after the effective date of this chapter, there are
31 fewer valid wholesaler registrations than specified in subdivision (3), the department shall accept
32 and process applications for wholesaler registrations. In addition, the department may, at its
33 discretion, grant additional wholesaler registrations.

34 (5) The fee for the initial issuance of a registration as a wholesaler is ten thousand dollars

1 (\$10,000).

2 (6) A registration as a wholesaler may be renewed annually for a five thousand (\$5,000)
3 dollar fee. The renewal application may be submitted up to one hundred twenty (120) days before
4 the expiration of the wholesaler registration. If the department fails to approve a valid renewal
5 application, it shall be deemed granted sixty (60) days after its submission.

6 (7) If at any time beginning eighteen (18) months after the effective date of this chapter,
7 the department has failed to begin issuing wholesaler registrations or has ceased issuing
8 wholesaler registrations in accordance with this chapter, a wholesaler registration shall not be
9 required to operate as a wholesaler for any person or entity that operates in a location zoned for
10 agricultural or industrial use that satisfies the requirements set forth in this chapter and any
11 regulations adopted pursuant to the chapter.

12 **21-28.6.2-4. Safety compliance facility registration.--** Except as otherwise provided in
13 Rhode Island general law section 21-28.6.2-5 of this chapter:

14 (1) An entity may apply, in accordance with the provisions of this chapter and the
15 regulations adopted pursuant thereto, for the issuance of a registration exempting the entity from
16 state prosecution and penalties for operating as a safety compliance facility pursuant to the
17 provisions of this chapter.

18 (2) Each applicant for a safety compliance facility registration shall submit application
19 materials required by the department and a non-refundable fee in an amount determined by the
20 department, not to exceed five thousand dollars (\$5,000).

21 (3) If a qualified applicant exists, the department shall grant a two (2) year registration to
22 at least two (2) safety compliance facilities within one year of the effective date of this chapter,
23 provided that each facility pays a five thousand dollar (\$5,000) fee. If more qualifying applicants
24 apply than the department will register, the department shall implement a competitive scoring
25 process to determine to which applicants to grant registrations, which may be varied for
26 geographic distribution. The scoring system shall take into account the applicant and managing
27 officers' applicable experience, training, and expertise; the applicant's plan for security and
28 diversion prevention; any criminal, civil, or regulatory issues encountered by other entities the
29 applicant and managing officers controlled or managed; the applicant's plan for services; and the
30 suitability of the proposed location.

31 (4) If at any time after two (2) years after the effective date of this chapter, there are
32 fewer than two (2) valid safety compliance facility registrations, the department shall accept and
33 process applications for safety compliance facility registrations. In addition, the department may,
34 at its discretion, grant additional safety compliance facility registrations.

1 (5) A safety compliance facility registration may be renewed biennially for a five
2 thousand dollar (\$5,000) fee. The renewal application may be submitted up to one hundred
3 twenty (120) days before the expiration of the registration. If the department fails to approve a
4 valid renewal application, it shall be deemed granted sixty (60) days after its submission.

5 **21-28.6.2-5. Ineligibility for registration.** -- A retailer, wholesaler, or safety compliance
6 facility may not operate, and a prospective retailer, wholesaler, or safety compliance facility may
7 not apply for a registration if any of the following are true:

8 (1) The entity would be located within five hundred feet (500') of the property line of a
9 pre-existing public school, private school, or structure used primarily for religious services or
10 worship; or

11 (2) The entity sells intoxicating liquor for consumption on the premises.

12 **21-28.6.2-6. Municipalities.** -- Nothing shall prohibit municipalities from enacting
13 ordinances or regulations not in conflict with this section or with department rules regulating the
14 time, place, and manner of wholesaler, retailer, or safety compliance facility operations, provided
15 that no local government may prohibit wholesaler, retailer, or safety compliance facility operation
16 altogether, either expressly or through the enactment of ordinances or regulations which make
17 wholesaler, retailer, or safety compliance facility operation impracticable.

18 **21-28.6.2-7. Advertising.** -- No retailer, wholesaler, or other person may advertise the
19 sale of marijuana in a manner contrary to the regulations established by the department.

20 **21-28.6.2-8. Retailer safety insert.** -- A retailer shall:

21 (1) Include a safety insert with all marijuana sold. The safety insert may, at the
22 department's discretion, be developed and approved by the department and include, but not be
23 limited to, information on:

24 (i) Methods for administering marijuana;

25 (ii) Any potential dangers stemming from the use of marijuana; and

26 (iii) How to recognize what may be problematic usage of marijuana and obtain
27 appropriate services or treatment for problematic usage.

28 (2) Sell marijuana in its original wholesaler packaging without making any changes or
29 repackaging.

30 **21-28.6.2-9. Warning label by wholesaler or safety compliance facility.**-- A
31 wholesaler must create a unique package and label for its marijuana identifying itself as the
32 producer. The packaging shall include:

33 (1) The name or registration number of the wholesaler.

34 (2) If a safety compliance facility is operational, the potency of the marijuana, as

1 determined by testing by a safety compliance facility, represented by the percentage of
2 tetrahydrocannabinol by mass.

3 (3) A “produced on” date which reflects the date that the wholesaler finished drying and
4 processing the marijuana and placed it in its packaging.

5 (4) Warnings that state: “Consumption of marijuana impairs your ability to drive a car or
6 operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal outside
7 of Rhode Island and under federal law,” unless federal or state laws have changed.

8 **21-28.6.2-10. Wholesale cultivation facilities.--** All marijuana cultivated by wholesalers
9 shall be cultivated only in one or more enclosed, locked facilities, each of which must have been
10 registered with the department, unless the department has ceased issuing or failed to begin issuing
11 registrations. An “enclosed, locked facility” may include a building, room, greenhouse, fully
12 enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other
13 security devices that permit access only by:

14 (1) Employees, agents, or owners of the wholesaler, all of whom must be twenty-one (21)
15 years of age or older;

16 (2) Government employees performing their official duties;

17 (3) Contractors performing labor that does not include marijuana cultivation, packaging,
18 or processing; contractors must be accompanied by an employee, agent, or owner of the
19 wholesaler when they are in areas where marijuana is being grown or stored; or

20 (4) Members of the media, elected officials, and other individuals over the age of twenty-
21 one (21) touring the facility, if they are accompanied by an employee, agent, or owner of the
22 wholesaler.

23 **21-28.6.2-11. Transportation of marijuana.--** A wholesaler or any person who is acting
24 in his or her capacity as an owner, employee, or agent of a wholesaler must have documentation
25 when transporting marijuana on behalf of the wholesaler that specifies the amount of marijuana
26 being transported, the registry identification number of the wholesaler, the date the marijuana is
27 being transported, and the registry identification number of the intended retailer, other
28 wholesaler, or safety compliance facility. If the retailer or wholesaler does not have a registration
29 number because the department has ceased issuing registry identification certificates or has failed
30 to begin issuing registry identification certificates, the retailer or wholesaler may instead use a
31 number of its choosing that it consistently uses on documentation in place of a registry
32 identification number.

33 **21-28.6.2-12. Retailer Violations.--** (a) A retailer shall not:

34 (1) Sell, give, or otherwise furnish marijuana or marijuana paraphernalia to any person

1 who is under twenty-one (21) years of age;

2 (2) Allow any person who is under twenty-one (21) years of age to be present inside any
3 room where marijuana is stored or sold by the retailer unless the person who is under twenty-one
4 (21) years of age is a government employee performing his or her official duties, an elected
5 official, a member of the media, or a contractor performing labor that does not include marijuana
6 cultivation, packaging, or processing;

7 (3) Sell, give, or otherwise furnish more than one ounce (1 oz.) of marijuana or more than
8 three (3) seedlings or cuttings of marijuana to a person in a single transaction;

9 (4) Knowingly and willfully sell, give, or otherwise furnish an amount of marijuana to a
10 person that would cause that person to possess more than one ounce (1 oz.) of marijuana or more
11 than three (3) marijuana plants, seedlings, or clones;

12 (5) Purchase marijuana, other than marijuana seeds, from any person other than a
13 wholesaler;

14 (6) Violate regulations issued by the department;

15 (b) In addition to any other penalty provided pursuant to specific statutes, a retailer who
16 violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than
17 one thousand dollars (\$1,000).

18 (c) Except as otherwise provided in this subsection, in a prosecution for a violation of
19 Rhode Island general law section 21-28.6.2-12, it is a complete defense that before allowing a
20 person who is under twenty-one (21) years of age into the room where marijuana is sold or stored,
21 a staff member for the retailer was shown a document which appeared to be issued by an agency
22 of a federal, state, tribal, or foreign sovereign government and which indicated that the person
23 who was allowed onto the premises of the retailer was twenty-one (21) years of age or older at the
24 time the person was allowed onto the premises of the retailer. The complete defense set forth in
25 this subsection does not apply if:

26 (1) The document which was shown to the person who allowed the person who is under
27 twenty-one (21) years of age onto the premises of the retailer was counterfeit, forged, altered, or
28 issued to a person other than the person who was allowed onto the premises of the retailer; and

29 (2) Under the circumstances, a reasonable person would have known or suspected that the
30 document was counterfeit, forged, altered, or issued to a person other than the person who was
31 allowed onto the premises.

32 (d) As used in this section, “marijuana paraphernalia” means equipment, products, and
33 materials which are used or intended for use in planting, propagating, cultivating, growing,
34 harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,

1 analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or
2 otherwise introducing marijuana into the human body.

3 **21-28.6.2-13. Wholesaler violations.--** (a) A wholesaler shall not:

4 (1) Allow any person who is under twenty-one (21) years of age to be present on the
5 premises of any of its enclosed, locked facilities where marijuana is cultivated or in any room
6 where the wholesaler stores or processes marijuana unless the person is a department employee or
7 public safety officer performing his or her duties, an elected official, a member of the media, or a
8 contractor performing labor unrelated to marijuana cultivation, packaging, or processing;

9 (2) Sell, give, or otherwise furnish marijuana to any person other than a retailer,
10 wholesaler, safety compliance facility, or a staff member acting on behalf of a retailer,
11 wholesaler, or safety compliance facility;

12 (3) Purchase marijuana, other than marijuana seeds, from any person other than a
13 wholesaler; or

14 (4) Purchase or sell, give, or otherwise furnish marijuana in any manner other than as is
15 exempted from state penalties pursuant to the provisions of this chapter and any regulations
16 adopted pursuant thereto.

17 (b) In addition to any other penalty provided pursuant to specific statutes, a person who
18 violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than
19 one thousand dollars (\$1,000).

20 (c) Except as otherwise provided in this subsection, in a prosecution for a violation of
21 Rhode Island general law section 21-28.6.2-13, it is a complete defense that before allowing the
22 person who is under twenty-one (21) years of age onto the premises, a staff member of the
23 wholesaler was shown a document which appeared to be issued by an agency of a federal, state,
24 tribal, or foreign sovereign government and which indicated that the person who was allowed
25 onto the premises of the wholesaler was twenty-one (21) years of age or older at the time the
26 person was allowed onto the premises of the wholesaler. The complete defense set forth in this
27 subsection does not apply if:

28 (1) The document which was shown to the person who allowed the person who is under
29 twenty-one (21) years of age onto the premises of the wholesaler was counterfeit, forged, altered,
30 or issued to a person other than the person who was allowed onto the premises of the wholesaler;
31 and

32 (2) Under the circumstances, a reasonable person would have known or suspected that the
33 document was counterfeit, forged, altered, or issued to a person other than the person who was
34 allowed onto the premises.

1 **21-28.6.2-14. Suspension or termination of registration.--** (a) The department may
2 suspend or terminate the registration of a retailer, wholesaler, or safety compliance facility that
3 commits multiple or serious violations of this chapter or reasonable regulations issued pursuant to
4 it.

5 (b) If the department has ceased issuing registrations or has not begun issuing
6 registrations, and a retailer, wholesaler, or safety compliance facility lacks a registration as a
7 result, any city or town where the retailer, wholesaler, or safety compliance facility is operating
8 may file for an injunction in district court if the retailer has committed multiple or serious
9 violations of this act or regulations issued pursuant to it.

10 **21-28.6.2-15. Excise tax.--** An excise tax is hereby levied upon wholesalers and must be
11 collected respecting all marijuana sold to retailers at the rate of either fifty dollars (\$50) per ounce
12 or proportionate part thereof, or an amount that the department may set that adjusts the initial fifty
13 dollars (\$50) per ounce rate for inflation or deflation based on the consumer price index.

14 **21-28.6.2-16. Distribution of funds.--** The department shall apportion the money
15 remitted to the department from registration fees and taxes collected pursuant to this chapter in
16 the following manner:

17 (1) The department shall retain sufficient money to defray the entire cost of
18 administration of this chapter.

19 (2) After retaining sufficient money to defray the entire cost of administration of this
20 chapter pursuant to subdivision (1), the department shall remit the remaining money to the Rhode
21 Island general fund, forty percent (40%) of which must be distributed to the Rhode Island
22 department of health for use in voluntary programs for the prevention or treatment of the abuse of
23 alcohol, tobacco, or controlled substances, and ten percent (10%) of which must be spent on
24 clinical research into the medical efficacy of marijuana.

25 **21-28.6.2-17. Department regulations.--** (a) The department is responsible for
26 administering and carrying out the provisions of this chapter.

27 (b) The department may adopt regulations that are necessary and convenient to
28 administer and carry out the provisions of this chapter.

29 (c) The department shall adopt regulations that:

30 (1) Set forth the procedures for the application for and issuance of registrations to
31 retailers, wholesalers, and safety compliance testing facilities, including the content and form for
32 an application to be registered as a retailer, wholesaler, or safety compliance facility;

33 (2) Specify the procedures for the collection of taxes levied pursuant to this chapter;

34 (3) Specify the content, form, and timing of reports which must be completed by each

1 retailer, wholesaler, and safety compliance facility and which must be available for inspection by
2 the department. The reports shall include information on sales, expenses, inventory, and taxes and
3 shall be retained for at least one year after the completion of the forms;

4 (4) Specify the requirements for the packaging and labeling of marijuana, including those
5 in Rhode Island general law section 21-28.6.2-9;

6 (5) Specify the requirements for the safety insert to be included with marijuana by
7 retailers, including those in Rhode Island general law section 21-28.6.2-8, if the department
8 chooses to do so;

9 (6) Establish reasonable security requirements for wholesalers and retailers;

10 (7) Require the posting or display of the registration of a retailer, wholesaler, or safety
11 compliance facility;

12 (8) Establish restrictions on advertising for the sale of marijuana, which shall be in
13 compliance with the United States Constitution and the Rhode Island Constitution. These
14 restrictions may not prevent appropriate signs on the property of the retailer or wholesaler,
15 listings in business directories including phone books, listings in publications focused on
16 marijuana, or the sponsorship of health or not-for-profit charity or advocacy events;

17 (9) Establish procedures for inspecting and auditing the records or premises of a retailer,
18 wholesaler, or safety compliance facility;

19 (10) Set a schedule of civil fines for violations of this chapter and regulations issued
20 pursuant to the chapter;

21 (11) Set forth the procedures for hearings on civil fines and suspensions and revocation of
22 a registration as a retailer, wholesaler, or safety compliance facility for a violation of any
23 provision of this chapter or the regulations adopted pursuant to this chapter;

24 (12) Establish reasonable environmental controls to ensure that any registered
25 wholesalers, retailers, and safety compliance facilities minimize any harm to the environment,
26 adjoining and nearby landowners, and persons passing by. This may include restrictions on the
27 use of pesticides;

28 (13) Establish rules requiring wholesalers and retailers to create identification cards for
29 their employees and providing for the contents of the identification cards; and

30 (14) Establish rules for the safe transportation of marijuana.

31 (d) The department shall make available free of charge all forms for applications and
32 reports.

33 (e) The department shall issue all registrations as required by chapter 21-28.6.2 and
34 Rhode Island general law section 44-49-17.

1 (f) Except as provided in this subsection, the department shall keep the name and address
2 of each wholesaler, retailer, and safety compliance facility and each owner, employee, or agent of
3 a wholesaler, retailer, and safety compliance facility confidential and refuse to disclose this
4 information to any individual or public or private entity, except as necessary for authorized
5 employees of the department to perform official duties of the department pursuant to this chapter.
6 The department may confirm to a state or local law enforcement officer that a retailer, wholesaler,
7 or safety compliance facility holds a valid registration if the law enforcement officer inquires
8 about the specific location or entity.

9 **21-28.6.2-18. Failure of department to adopt regulations.--** (a) The department shall
10 adopt regulations to implement this chapter and shall begin accepting applications for retailers,
11 wholesalers, and safety compliance facilities within one hundred eighty (180) days of the
12 effective date of this chapter.

13 (b) If the department fails to adopt regulations to implement this chapter and begins
14 processing applications for retailers and wholesalers within one hundred eighty (180) days of the
15 effective date of this chapter, any citizen may commence an action in a court of competent
16 jurisdiction to compel the department to perform the actions mandated pursuant to the provisions
17 of this chapter.

18 **21-28.6.2-19. Advisory committee.--** (a) The governor shall appoint a twelve (12)
19 member advisory committee comprised of: one member of the House of Representatives; one
20 member of the Senate; one representative of the department; one physician with experience in
21 medical marijuana issues; one economist; one board member or principal officer of a registered
22 safety compliance facility; one individual with experience in policy development or
23 implementation in the field of marijuana policy; one public health professional; one sociologist;
24 one attorney familiar with first amendment law; one expert in criminal justice; and one
25 researcher.

26 (b) The advisory committee shall meet at least two (2) times per year for the purpose of
27 collecting information, evaluating the effects of this chapter, and making recommendations to the
28 department, including:

29 (1) The content of safety inserts;

30 (2) Whether additional warning labels should be added;

31 (3) Strategies for educating physicians and the public about research relating to
32 marijuana's benefits and risks;

33 (4) Any effect on organized crime in the state;

34 (5) Quality control and labeling standards;

- 1 (6) Recommendations on restrictions on advertising;
2 (7) Recommendations for reporting and data monitoring related to beneficial and adverse
3 effects of marijuana; and
4 (8) An update on the latest research related to driving under the influence of marijuana,
5 along with recommendations regarding policies for roadside sobriety tests and any recommended
6 changes to driving under the influence statutes.
7 (c) The department shall submit to the legislature an annual report by the first Thursday
8 of every year, which shall include:
9 (1) The direct revenue and costs related to implementing this chapter, including revenue
10 from taxes, fines, and fees;
11 (2) The number of registrations suspended and revoked, and the nature of revocations;
12 (3) The number of zip ties sold annually; and
13 (4) The findings of the oversight committee.

14 SECTION 3. Sections 21-28-4.01, 21-28-4.01.1, 21-28-4.01.2, 21-28-4.11 and 21-28-
15 4.14 of the General Laws in Chapter 21-28 entitled “Uniform Controlled Substances Act” are
16 hereby amended to read as follows:

17 **21-28-4.01. Prohibited acts A – Penalties.** -- (a)(1) Except as authorized by this chapter,
18 or as exempted from criminal penalties pursuant to chapters 21-28.6.1, 21-28.6.2 or 44-49-17, it
19 shall be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or
20 deliver a controlled substance.

21 (2) Any person who is not a drug addicted person, as defined in § 21-28-1.02(18), who
22 violates this subsection with respect to a controlled substance classified in schedule I or II, except
23 the substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned
24 to a term up to life, or fined not more than five hundred thousand dollars (\$500,000) nor less than
25 ten thousand dollars (\$10,000), or both.

26 (3) Where the deliverance as prohibited in this subsection shall be the proximate cause
27 of death to the person to whom the controlled substance is delivered, it shall not be a defense that
28 the person delivering the substance was at the time of delivery, a drug addicted person as defined
29 in § 21-28-1.02(18).

30 (4) Any person, except as provided for in subdivision (2) of this subsection, who
31 violates this subsection with respect to:

32 (i) A controlled substance classified in schedule I or II, except the substance classified
33 as marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than thirty
34 (30) years, or fined not more than one hundred thousand dollars (\$100,000) nor less than three

1 thousand dollars (\$3,000), or both;

2 (ii) The manufacture of three (3) or fewer marijuana plants by a person under twenty-one
3 (21) years of age, is guilty of a crime and upon conviction may be imprisoned for not more than
4 five (5) years, or fined not more than three thousand dollars (\$3,000), or both.

5 (iii) The manufacture of four (4) or more marijuana plants, is guilty of a crime and upon
6 conviction may be imprisoned for not more than ten (10) years, or fined not more than one
7 hundred thousand dollars (\$100,000), nor less than one thousand dollars (\$1,000), or both.

8 (iv) The delivery of marijuana, is guilty of a crime and upon conviction maybe
9 imprisoned for not more than ten (10) years, or fined not more than one hundred thousand dollars
10 (\$100,000) nor less than one thousand dollars (\$1,000), or both.

11 ~~(ii)~~(v) A controlled substance classified in schedule III or IV, is guilty of a crime and
12 upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than
13 forty thousand dollars (\$40,000), or both; provided, with respect to a controlled substance
14 classified in schedule III(d), upon conviction may be imprisoned for not more than five (5) years,
15 or fined not more than twenty thousand dollars (\$20,000), or both.

16 ~~(iii)~~(vi) A controlled substance classified in schedule V, is guilty of a crime and upon
17 conviction may be imprisoned for not more than one year, or fined not more than ten thousand
18 dollars (\$10,000), or both.

19 (b)(1) Except as authorized by this chapter, it is unlawful for any person to create,
20 deliver, or possess with intent to deliver, a counterfeit substance.

21 (2) Any person who violates this subsection with respect to:

22 (i) A counterfeit substance classified in schedule I or II, is guilty of a crime and upon
23 conviction may be imprisoned for not more than thirty (30) years, or fined not more than one
24 hundred thousand dollars (\$100,000), or both;

25 (ii) A counterfeit substance classified in schedule III or IV, is guilty of a crime and
26 upon conviction may be imprisoned for not more than twenty (20) years, or fined not more than
27 forty thousand dollars (\$40,000), or both; provided, with respect to a controlled substance
28 classified in schedule III(d), upon conviction may be imprisoned for not more than five (5) years,
29 or fined not more than twenty thousand dollars (\$20,000) or both.

30 (iii) A counterfeit substance classified in schedule V, is guilty of a crime and upon
31 conviction may be imprisoned for not more than one year, or fined not more than ten thousand
32 dollars (\$10,000), or both.

33 (c)(1) It shall be unlawful for any person knowingly or intentionally to possess a
34 controlled substance, unless the substance was obtained directly from or pursuant to a valid

1 prescription or order of a practitioner while acting in the course of his or her professional
2 practice, or except as otherwise authorized by this chapter [or exempt from arrest by chapters 21-](#)
3 [28.6.1, 21-28.6.2, or 44-49-17.](#)

4 (2) Any person who violates this subsection with respect to:

5 (i) A controlled substance classified in schedules I, II and III, IV, and V, except the
6 substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned for
7 not more than three (3) years or fined not less than five hundred dollars (\$500) nor more than five
8 thousand dollars (\$5,000), or both;

9 (ii) ~~A~~ [More than one ounce \(1 oz.\) of a](#) controlled substance classified in schedule I as
10 marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for not more than
11 one year or fined not less than two hundred dollars (\$200) nor more than five hundred dollars
12 (\$500), or both.

13 [\(iii\) Notwithstanding any public, special, or general law to the contrary, the possession of](#)
14 [one ounce \(1 oz.\) or less of marijuana by a person who has reached the age of eighteen \(18\) but](#)
15 [who is less than twenty-one \(21\) years of age and who is not exempted from penalties pursuant to](#)
16 [chapter 21- 28.6 shall constitute a civil offense, rendering the offender liable to a civil penalty in](#)
17 [the amount of one hundred fifty dollars \(\\$150\) and forfeiture of the marijuana.](#)

18 [\(iv\) Notwithstanding any public special or general law to the contrary, the possession of](#)
19 [one ounce \(1 oz.\) or less of marijuana by a person who is under the age of eighteen \(18\) years of](#)
20 [age and who is not exempted from penalties pursuant to chapter 21-28.6 shall constitute a civil](#)
21 [offense, rendering the minor offender liable to a civil penalty in the amount of one hundred fifty](#)
22 [dollars \(\\$150\) and forfeiture of the marijuana, provided the minor offender completes an](#)
23 [approved drug awareness program and community service as determined by the court or hearing](#)
24 [board with jurisdiction. If the person under the age of eighteen \(18\) years of age fails to complete](#)
25 [an approved drug awareness program and community service within one year of the offense, the](#)
26 [penalty shall be a three hundred dollar \(\\$300\) civil fine and forfeiture of the marijuana, except](#)
27 [that if no drug awareness program or community service is available, the penalty shall be a civil](#)
28 [fine of one hundred fifty dollars \(\\$150\) and forfeiture of the marijuana. The parents or legal](#)
29 [guardian of any offender under the age of eighteen \(18\) shall be notified of the offense and the](#)
30 [availability of a drug awareness and community service program. The drug awareness program](#)
31 [must be approved by the court or juvenile hearing board having jurisdiction of the offense, but](#)
32 [shall, at a minimum, provide four \(4\) hours of instruction or group discussion and ten \(10\) hours](#)
33 [of community service. Notwithstanding any other public, special, or general law to the contrary,](#)
34 [this penalty shall apply whether the offense is a first or subsequent offense.](#)

1 (v) Any unpaid civil fine issued under paragraphs 21-28-4.01(c)(2)(iii) or 21-28-
2 4.01(c)(2)(iv) shall double to three hundred dollars (\$300) if not paid within thirty (30) days of
3 the offense. The civil fine shall double again to six hundred dollars (\$600) if it has not been paid
4 within ninety (90) days.

5 (vi) No person may be arrested for a violation of paragraphs 21-28-4.01(c)(2)(iii) or 21-
6 28-4.01(c)(2)(iv) except as provided in this paragraph. Any person in possession of an
7 identification card, license, or other form of identification issued by the state or any state,
8 municipality, or any college or university, who fails to produce the same upon request of a police
9 officer who informs the person that he or she has been found in possession of what appears to the
10 officer to be one ounce (1 oz.) or less of marijuana, or any person without any such forms of
11 identification that fails or refuses to truthfully provide his or her name, address, and date of birth
12 to a police officer who has informed such person that the officer intends to provide such
13 individual with a citation for possession of one ounce (1 oz.) or less of marijuana, may be
14 arrested.

15 (vii) No violation of paragraphs 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be
16 considered a violation of parole or probation.

17 (3) The money associated with the civil fine issued under paragraphs 21-28-4.01(c)(2)(iii)
18 or 21- 28-4.01(c)(2)(iv) shall be payable to the municipality in which the offense occurred. Fifty
19 percent (50%) of all fines collected in each municipality from civil penalties issued pursuant to
20 paragraphs 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be expended on drug awareness and
21 treatment programs for youth. The general assembly encourages and authorizes municipalities to
22 work collaboratively to establish and maintain drug awareness programs.

23 ~~(3)~~(4) Additionally every person convicted or who pleads nolo contendere under
24 paragraph (2)(i) of this subsection or convicted or who pleads nolo contendere a second or
25 subsequent time under paragraph (2)(ii) of this subsection, who is not sentenced to a term of
26 imprisonment to serve for the offense, shall be required to:

27 (i) Perform, up to one hundred (100) hours of community service;

28 (ii) Attend and complete a drug counseling and education program as prescribed by the
29 director of the department of mental health, retardation and hospitals and pay the sum of four
30 hundred dollars (\$400) to help defray the costs of this program which shall be deposited as
31 general revenues. Failure to attend may result after hearing by the court in jail sentence up to one
32 year;

33 (iii) The court shall not suspend any part or all of the imposition of the fee required by
34 this subsection, unless the court finds an inability to pay;

1 (iv) If the offense involves the use of any automobile to transport the substance or the
2 substance is found within an automobile, then a person convicted or who pleads nolo contendere
3 under paragraphs (2)(i) and (ii) of this subsection shall be subject to a loss of license for a period
4 of six (6) months for a first offense and one year for each offense after this.

5 ~~(4)~~(5) All fees assessed and collected pursuant to paragraph (3)(ii) of this subsection
6 shall be deposited as general revenues and shall be collected from the person convicted or who
7 pleads nolo contendere before any other fines authorized by this chapter.

8 (d) It shall be unlawful for any person to manufacture, distribute, or possess with intent
9 to manufacture or distribute, an imitation controlled substance. Any person who violates this
10 subsection is guilty of a crime, and upon conviction shall be subject to the same term of
11 imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the
12 controlled substance which the particular imitation controlled substance forming the basis of the
13 prosecution was designed to resemble and/or represented to be; but in no case shall the
14 imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars
15 (\$20,000).

16 (e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an
17 anabolic steroid or human growth hormone for: (1) enhancing performance in an exercise, sport,
18 or game, or (2) hormonal manipulation intended to increase muscle mass, strength, or weight
19 without a medical necessity. Any person who violates this subsection is guilty of a misdemeanor
20 and upon conviction may be imprisoned for not more than six (6) months or a fine of not more
21 than one thousand dollars (\$1,000), or both.

22 **21-28-4.01.1. Minimum sentence – Certain quantities of controlled substances.** -- (a)

23 Except as authorized by this chapter, it shall be unlawful for any person to manufacture, sell, or
24 possess with intent to manufacture, or sell, a controlled substance classified in schedules I or II
25 (excluding marijuana) or to possess or deliver the following enumerated quantities of certain
26 controlled substances:

27 (1) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
28 detectable amount of heroin;

29 (2) One ounce (1 oz.) to one kilogram (1 kg.) of a mixture or substance containing a
30 detectable amount of:

31 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
32 ecgonine, and derivatives of ecgonine or their salts have been removed;

33 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

34 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

1 (iv) Any compound, mixture, or preparation which contains any quantity of any of the
2 substances referred to in paragraphs (i) – (iii) of this subdivision;

3 (3) One gram (1 g.) to ten grams (10 gs.) of phencyclidine (PCP) or one hundred (100)
4 to one thousand (1,000) tablets of a mixture or substance containing a detectable amount of
5 phencyclidine (PCP); or

6 (4) One-tenth of a gram (0.1 g.) to one gram (1 g.) of lysergic acid diethylamide (LSD)
7 or one hundred (100) to one thousand (1,000) tablets of a mixture or substance containing a
8 detectable amount of lysergic acid diethylamide (LSD); ~~or.~~

9 ~~(5) One kilogram (1 kg.) to five (5 kgs.) kilograms of a mixture containing a detectable~~
10 ~~amount of marijuana.~~

11 (b) Any person who violates this section shall be guilty of a crime, and upon
12 conviction, may be imprisoned for a term up to fifty (50) years and fined not more than five
13 hundred thousand dollars (\$500,000).

14 **21-28-4.01.2. Minimum sentence – Certain quantities of controlled substances. --** (a)

15 Except as authorized by the chapter, it shall be unlawful for any person to possess, manufacture,
16 sell, or deliver the following enumerated quantities of certain controlled substances:

17 (1) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
18 amount of heroin;

19 (2) More than one kilogram (1 kg.) of a mixture or substance containing a detectable
20 amount of

21 (i) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine,
22 ecgonine, and derivatives of ecgonine or their salts have been removed;

23 (ii) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

24 (iii) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

25 (iv) Any compound, mixture, or preparation which contains any quantity of any of the
26 substances referred to in paragraphs (i) – (iii) of this subdivision;

27 (3) More than ten grams (10 gs.) of phencyclidine (PCP) or more than one thousand
28 (1,000) tablets of a mixture or substance containing a detectable amount of phencyclidine (PCP);
29 or

30 (4) More than one gram (1 g.) of lysergic acid diethylamide (LSD); or more than one
31 thousand (1,000) tablets of a mixture or substance containing a detectable amount of lysergic acid
32 diethylamide (LSD); ~~or.~~

33 ~~(5) More than five kilograms (5 kgs.) of a mixture containing a detectable amount of~~
34 ~~marijuana.~~

1 (b) Any person who violates this section shall be guilty of a crime, and upon
2 conviction, may be imprisoned for a term up to life and fined not more than one million dollars
3 (\$1,000,000).

4 **21-28-4.11. Second offenses.** -- (A) Any person convicted of a second offense under this
5 chapter, [except for violations of paragraphs 21-28-4.01\(c\)\(2\)\(iii\) or 21-28-4.01\(c\)\(2\)\(iv\)](#), may be
6 imprisoned for a term up to twice the term authorized, fined an amount up to twice that
7 authorized, or both.

8 (B) For purposes of this section, an offense is considered a second offense if, prior to
9 his or her conviction of the offense, the offender has at any time been convicted under this
10 chapter, [except for violations of paragraphs 21-28-4.01\(c\)\(2\)\(iii\) or 21-28-4.01\(c\)\(2\)\(iv\)](#), or under
11 any statute of the United States or of any state relating to narcotic drugs, marijuana, depressant,
12 stimulant, or hallucinogenic drugs.

13 **21-28-4.14. Third or subsequent offenses.** -- (a) Any person convicted of a third or
14 subsequent offense under this chapter, [except for violations of paragraphs 21-28-4.01\(c\)\(2\)\(iii\) or](#)
15 [21-28-4.01\(c\)\(2\)\(iv\)](#), may be imprisoned for a term up to three (3) times the term authorized, and
16 fined an amount up to three (3) times that authorized by § 21-28-4.11, or both.

17 (b) For purposes of this section, an offense is considered a third or subsequent offense if, prior
18 to his or her conviction of the offense, the offender has at any time been convicted twice under
19 this chapter, [except for violations of paragraphs 21-28-4.01\(c\)\(2\)\(iii\) or 21-28-4.01\(c\)\(2\)\(iv\)](#), or
20 twice under any statute of the United States or of any state, or any combination of them, relating
21 to narcotic drugs, marijuana, depressant, stimulant, or hallucinogenic drug.

22 SECTION 4. Chapter 21-28 of the General Laws entitled “Uniform Controlled
23 Substances Act” is hereby amended by adding thereto the following section:

24 **21-28-4.22. Marijuana exemption.**-- [The penalties provided for in this chapter do not](#)
25 [apply to those exempted from criminal penalties pursuant to sections 21-28.6.1, 21-28.6.2 and 44-](#)
26 [49-17.](#)

27 SECTION 5. Sections 31-27-2 and 31-27-2.4 of the General Laws in chapter 31-27
28 entitled “Motor Vehicle Offenses” are hereby amended to read as follows:

29 **31-27-2. Driving under influence of liquor or drugs.** -- (a) Whoever drives or
30 otherwise operates any vehicle in the state while under the influence of any intoxicating liquor,
31 drugs, toluene, or any controlled substance as defined in chapter 28 of title 21, or any
32 combination of these, shall be guilty of a misdemeanor except as provided in subdivision (d)(3)
33 and shall be punished as provided in subsection (d) of this section.

34 (b)(1) Any person charged under subsection (a) of this section whose blood alcohol

1 concentration is eight one-hundredths of one percent (.08%) or more by weight as shown by a
2 chemical analysis of a blood, breath, or urine sample shall be guilty of violating subsection (a) of
3 this section. This provision shall not preclude a conviction based on other admissible evidence.
4 Proof of guilt under this section may also be based on evidence that the person charged was under
5 the influence of intoxicating liquor, drugs, toluene, or any controlled substance defined in chapter
6 28 of title 21, or any combination of these, to a degree which rendered the person incapable of
7 safely operating a vehicle. The fact that any person charged with violating this section is or has
8 been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of
9 violating this section.

10 (2) Whoever drives or otherwise operates any vehicle in the state with a blood presence
11 of any scheduled controlled substance as defined within chapter 28 of title 21, as shown by
12 analysis of a blood or urine sample, shall be guilty of a misdemeanor and shall be punished as
13 provided in subsection (d) of this section. [A person twenty-one \(21\) years of age or older or a](#)
14 [person exempt from criminal penalties for the medical use of marijuana pursuant to chapter 21-](#)
15 [28.6 of the general laws shall not be considered under the influence of marijuana solely because](#)
16 [of the presence of marijuana metabolites or components of marijuana unless the concentration of](#)
17 [components of marijuana is proven to be sufficient to cause impairment.](#)

18 (c) In any criminal prosecution for a violation of subsection (a) of this section, evidence
19 as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter
20 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown
21 by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance shall be
22 admissible and competent, provided that evidence is presented that the following conditions have
23 been complied with:

24 (1) The defendant has consented to the taking of the test upon which the analysis is
25 made. Evidence that the defendant had refused to submit to the test shall not be admissible unless
26 the defendant elects to testify.

27 (2) A true copy of the report of the test result was mailed within seventy-two (72) hours
28 of the taking of the test to the person submitting to a breath test.

29 (3) Any person submitting to a chemical test of blood, urine, or other body fluids shall
30 have a true copy of the report of the test result mailed to him or her within thirty (30) days
31 following the taking of the test.

32 (4) The test was performed according to methods and with equipment approved by the
33 director of the department of health of the state of Rhode Island and by an authorized individual.

34 (5) Equipment used for the conduct of the tests by means of breath analysis had been

1 tested for accuracy within thirty (30) days preceding the test by personnel qualified as
2 hereinbefore provided, and breathalyzer operators shall be qualified and certified by the
3 department of health within three hundred sixty-five (365) days of the test.

4 (6) The person arrested and charged with operating a motor vehicle while under the
5 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of
6 title 21, or, any combination of these in violation of subsection (a) of this section was afforded the
7 opportunity to have an additional chemical test. The officer arresting or so charging the person
8 shall have informed the person of this right and afforded him or her a reasonable opportunity to
9 exercise this right, and a notation to this effect is made in the official records of the case in the
10 police department. Refusal to permit an additional chemical test shall render incompetent and
11 inadmissible in evidence the original report.

12 (d)(1) Every person found to have violated subdivision (b)(1) of this section shall be
13 sentenced as follows: for a first violation whose blood alcohol concentration is eight one-
14 hundredths of one percent (.08%) but less than one-tenth of one percent (.1%) by weight or who
15 has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2) shall
16 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred
17 dollars (\$300), shall be required to perform ten (10) to sixty (60) hours of public community
18 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit
19 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be
20 required to attend a special course on driving while intoxicated or under the influence of a
21 controlled substance; provided, however, that the court may permit a servicemember or veteran to
22 complete any court-approved counseling program administered or approved by the Veterans'
23 Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
24 hundred eighty (180) days.

25 (d)(i) Every person convicted of a first violation whose blood alcohol concentration is
26 one-tenth of one percent (.1%) by weight or above but less than fifteen hundredths of one percent
27 (.15%) or whose blood alcohol concentration is unknown shall be subject to a fine of not less than
28 one hundred (\$100) dollars nor more than four hundred dollars (\$400) and shall be required to
29 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned
30 for up to one year. The sentence may be served in any unit of the adult correctional institutions in
31 the discretion of the sentencing judge. The person's driving license shall be suspended for a
32 period of three (3) months to twelve (12) months. The sentencing judge shall require attendance
33 at a special course on driving while intoxicated or under the influence of a controlled substance
34 and/or alcoholic or drug treatment for the individual; provided, however, that the court may

1 permit a servicemember or veteran to complete any court-approved counseling program
2 administered or approved by the Veterans' Administration.

3 ~~(iii)~~(ii) Every person convicted of a first offense whose blood alcohol concentration is
4 fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,
5 toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to a fine of
6 five hundred dollars (\$500) and shall be required to perform twenty (20) to sixty (60) hours of
7 public community restitution and/or shall be imprisoned for up to one year. The sentence may be
8 served in any unit of the adult correctional institutions in the discretion of the sentencing judge.
9 The person's driving license shall be suspended for a period of three (3) months to eighteen (18)
10 months. The sentencing judge shall require attendance at a special course on driving while
11 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for
12 the individual; provided, however, that the court may permit a servicemember or veteran to
13 complete any court-approved counseling program administered or approved by the Veterans'
14 Administration.

15 (2) Every person convicted of a second violation within a five (5) year period with a
16 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above but less than
17 fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is unknown or
18 who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every
19 person convicted of a second violation within a five (5) year period regardless of whether the
20 prior violation and subsequent conviction was a violation and subsequent conviction under this
21 statute or under the driving under the influence of liquor or drugs statute of any other state, shall
22 be subject to a mandatory fine of four hundred dollars (\$400). The person's driving license shall
23 be suspended for a period of one year to two (2) years, and the individual shall be sentenced to
24 not less than ten (10) days nor more than one year in jail. The sentence may be served in any unit
25 of the adult correctional institutions in the discretion of the sentencing judge; however, not less
26 than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge
27 shall require alcohol or drug treatment for the individual; provided, however, that the court may
28 permit a servicemember or veteran to complete any court-approved counseling program
29 administered or approved by the Veterans' Administration and may prohibit that person from
30 operating a motor vehicle that is not equipped with an ignition interlock system for a period of
31 one year to two (2) years following the completion of the sentence as provided in § 31-27-2.8.

32 ~~(iii)~~(i) Every person convicted of a second violation within a five (5) year period whose
33 blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by weight as
34 shown by a chemical analysis of a blood, breath, or urine sample or who is under the influence of

1 a drug, toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to
2 mandatory imprisonment of not less than six (6) months nor more than one year, a mandatory fine
3 of not less than one thousand dollars (\$1,000) and a mandatory license suspension for a period of
4 two (2) years from the date of completion of the sentence imposed under this subsection. The
5 sentencing judge shall require alcohol or drug treatment for the individual; provided, however,
6 that the court may permit a servicemember or veteran to complete any court approved counseling
7 program administered or approved by the Veterans' Administration.

8 (3) Every person convicted of a third or subsequent violation within a five (5) year
9 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above
10 but less than fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is
11 unknown or who has a blood presence of any scheduled controlled substance as defined in
12 subdivision (b)(2) regardless of whether any prior violation and subsequent conviction was a
13 violation and subsequent conviction under this statute or under the driving under the influence of
14 liquor or drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory
15 fine of four hundred (\$400) dollars. The person's driving license shall be suspended for a period
16 of two (2) years to three (3) years, and the individual shall be sentenced to not less than one year
17 and not more than three (3) years in jail. The sentence may be served in any unit of the adult
18 correctional institutions in the discretion of the sentencing judge; however, not less than forty-
19 eight (48) hours of imprisonment shall be served consecutively. The sentencing judge shall
20 require alcohol or drug treatment for the individual; provided, however, that the court may permit
21 a servicemember or veteran to complete any court-approved counseling program administered or
22 approved by the Veterans' Administration, and may prohibit that person from operating a motor
23 vehicle that is not equipped with an ignition interlock system for a period of two (2) years
24 following the completion of the sentence as provided in § 31-27-2.8.

25 ~~(iii)~~(i) Every person convicted of a third or subsequent violation within a five (5) year
26 period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above by
27 weight as shown by a chemical analysis of a blood, breath, or urine sample or who is under the
28 influence of a drug, toluene or any controlled substance as defined in subdivision (b)(1) shall be
29 subject to mandatory imprisonment of not less than three (3) years nor more than five (5) years, a
30 mandatory fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars
31 (\$5,000) and a mandatory license suspension for a period of three (3) years from the date of
32 completion of the sentence imposed under this subsection.

33 ~~(iii)~~(ii) In addition to the foregoing penalties, every person convicted of a third or
34 subsequent violation within a five (5) year period regardless of whether any prior violation and

1 subsequent conviction was a violation and subsequent conviction under this statute or under the
2 driving under the influence of liquor or drugs statute of any other state shall be subject, in the
3 discretion of the sentencing judge, to having the vehicle owned and operated by the violator
4 seized and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred
5 to the general fund.

6 (4) Whoever drives or otherwise operates any vehicle in the state while under the
7 influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in
8 chapter 28 of title 21, or any combination of these, when his or her license to operate is
9 suspended, revoked or cancelled for operating under the influence of a narcotic drug or
10 intoxicating liquor shall be guilty of a felony punishable by imprisonment for not more than three
11 (3) years and by a fine or not more than three thousand dollars (\$3,000). The court shall require
12 alcohol and/or drug treatment for the individual; provided, the penalties provided for in
13 subdivision 31-27-2(d)(4) shall not apply to an individual who has surrendered his or her license,
14 and served the court ordered period of suspension, but who, for any reason, has not had their
15 license reinstated after the period of suspension, revocation, or suspension has expired; provided,
16 further the individual shall be subject to the provisions of paragraphs 31-27-2(d)(2)(i) or (ii) or
17 31-27-22(d)(3)(i), (ii), or (iii) regarding subsequent offenses, and any other applicable provision
18 of § 31-27-2.

19 (5) For purposes of determining the period of license suspension, a prior violation shall
20 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

21 ~~(ii)~~(i) Any person over the age of eighteen (18) who is convicted under this section for
22 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of
23 these, while a child under the age of thirteen (13) years was present as a passenger in the motor
24 vehicle when the offense was committed may be sentenced to a term of imprisonment of not more
25 than one year and further shall not be entitled to the benefit of suspension or deferment of this
26 sentence. The sentence imposed under this section may be served in any unit of the adult
27 correctional institutions in the discretion of the sentencing judge.

28 (6) Any person convicted of a violation under this section shall pay a highway
29 assessment fine of five hundred dollars (\$500) which shall be deposited into the general fund. The
30 assessment provided for by this subsection shall be collected from a violator before any other
31 fines authorized by this section.

32 ~~(ii)~~(i) Any person convicted of a violation under this section shall be assessed a fee of
33 eighty-six dollars (\$86).

34 (7) If the person convicted of violating this section is under the age of eighteen (18)

1 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of
2 public community restitution, and the juvenile's driving license shall be suspended for a period of
3 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing
4 judge shall also require attendance at a special course on driving while intoxicated or under the
5 influence of a controlled substance and alcohol or drug education and/or treatment for the
6 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than
7 five hundred dollars (\$500), and the assessment imposed shall be deposited into the general fund.

8 ~~(h)~~(i) If the person convicted of violating this section is under the age of eighteen (18)
9 years, for a second or subsequent violation regardless of whether any prior violation and
10 subsequent conviction was a violation and subsequent under this statute or under the driving
11 under the influence of liquor or drugs statute of any other state, he or she shall be subject to a
12 mandatory suspension of his or her driving license until such time as he or she is twenty-one (21)
13 years of age and may, in the discretion of the sentencing judge, also be sentenced to the Rhode
14 Island training school for a period of not more than one year and/or a fine of not more than five
15 hundred dollars (\$500).

16 (8) Any person convicted of a violation under this section may undergo a clinical
17 assessment at the community college of Rhode Island 's center for workforce and community
18 education. Should this clinical assessment determine problems of alcohol, drug abuse, or
19 psychological problems associated with alcoholic or drug abuse, this person shall be referred to
20 an appropriate facility, licensed or approved by the department of mental health, retardation and
21 hospitals for treatment placement, case management, and monitoring. In the case of a
22 servicemember or veteran, the court may order that the person be evaluated through the Veterans'
23 Administration. Should the clinical assessment determine problems of alcohol, drug abuse, or
24 psychological problems associated with alcohol or drug abuse, the person may have their
25 treatment, case management and monitoring administered or approved by the Veterans'
26 Administration.

27 (e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol
28 per one hundred (100) cubic centimeters of blood.

29 (f)(1) There is established an alcohol and drug safety unit within the division of motor
30 vehicles to administer an alcohol safety action program. The program shall provide for placement
31 and follow-up for persons who are required to pay the highway safety assessment. The alcohol
32 and drug safety action program will be administered in conjunction with alcohol and drug
33 programs licensed by the department of mental health retardation and hospitals.

34 (2) Persons convicted under the provisions of this chapter shall be required to attend a

1 special course on driving while intoxicated or under the influence of a controlled substance,
2 and/or participate in an alcohol or drug treatment program; provided, however, that the court may
3 permit a servicemember or veteran to complete any court-approved counseling program
4 administered or approved by the Veterans' Administration. The course shall take into
5 consideration any language barrier which may exist as to any person ordered to attend, and shall
6 provide for instruction reasonably calculated to communicate the purposes of the course in
7 accordance with the requirements of the subsection. Any costs reasonably incurred in connection
8 with the provision of this accommodation shall be borne by the person being retrained. A copy of
9 any violation under this section shall be forwarded by the court to the alcohol and drug safety
10 unit. In the event that persons convicted under the provisions of this chapter fail to attend and
11 complete the above course or treatment program, as ordered by the judge, then the person may be
12 brought before the court, and after a hearing as to why the order of the court was not followed,
13 may be sentenced to jail for a period not exceeding one year.

14 (3) The alcohol and drug safety action program within the division of motor vehicles
15 shall be funded by general revenue appropriations.

16 (g) The director of the health department of the state of Rhode Island is empowered to
17 make and file with the secretary of state regulations which prescribe the techniques and methods
18 of chemical analysis of the person's body fluids or breath, and the qualifications and certification
19 of individuals authorized to administer this testing and analysis.

20 (h) Jurisdiction for misdemeanor violations of this section shall be with the district
21 court for persons eighteen (18) years of age or older and to the family court for persons under the
22 age of eighteen (18) years. The courts shall have full authority to impose any sentence authorized
23 and to order the suspension of any license for violations of this section. All trials in the district
24 court and family court of violations of the section shall be scheduled within thirty (30) days of the
25 arraignment date. No continuance or postponement shall be granted except for good cause shown.
26 Any continuances that are necessary shall be granted for the shortest practicable time. Trials in
27 superior court are not required to be scheduled within thirty (30) days of the arraignment date.

28 (i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on
29 driving while intoxicated or under the influence of a controlled substance, public community
30 restitution, or jail provided for under this section can be suspended.

31 (j) An order to attend a special course on driving while intoxicated that shall be
32 administered in cooperation with a college or university accredited by the state, shall include a
33 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
34 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into

1 the general fund.

2 (k) For the purposes of this section, any test of a sample of blood, breath, or urine for
3 the presence of alcohol, which relies in whole or in part upon the principle of infrared light
4 absorption is considered a chemical test.

5 (l) If any provision of this section or the application of any provision shall for any
6 reason be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of
7 the section, but shall be confined in this effect to the provision or application directly involved in
8 the controversy giving rise to the judgment.

9 (m) For the purposes of this section, "servicemember" means a person who is presently
10 serving in the armed forces of the United States including the Coast Guard, a reserve component
11 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,
12 including the Coast Guard of the United States, a reserve component thereof, or the National
13 Guard, and has been discharged under other than dishonorable conditions.

14 **31-27-2.4. Driving while in possession of controlled substances.** -- (a) In addition to
15 any other penalty prescribed by law, whoever operates any motor vehicle while knowingly having
16 in the motor vehicle or in his or her possession, a controlled substance, as defined in § 21-28-
17 1.02, [except for possession of marijuana](#) shall have his or her license suspended for a period of
18 six (6) months.

19 (b) This section shall not apply to any person who lawfully possesses a controlled
20 substance, as defined in § 21-28-1.02, as a direct result and pursuant to a valid prescription from a
21 licensed medical practitioner, or as otherwise authorized by chapter 28 of title 21.

22 SECTION 6. Chapter 44-49 of the General Laws entitled "Taxation of Marijuana and
23 Controlled Substances" is hereby amended by adding thereto the following section.

24 **44-49-17. No tax stamp required.--** [Controlled substance tax payment with a stamp or
25 other official indicia, as referred to in section 44-49-5, is not required for registered retailers and
26 wholesalers and the penalties provided for in this chapter do not apply to those acting in
27 accordance with the laws of, and regulations enacted through the authority of, title 21 of the
28 general laws.](#)

29 SECTION 7. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO FOOD AND DRUGS - TAXATION AND REGULATION OF MARIJUANA

- 1 This act would legalize marijuana and establish regulations associated with legalization.
- 2 This act would take effect upon passage.

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