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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL OFFENSES - DECRIMINALIZATION OF CERTAIN
OFFENSES

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 13, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-1-2.1 of the General Laws in Chapter 11-1 entitled "General
2 Provisions" is hereby amended to read as follows:

3 **11-1-2.1. Violations -- Effect of conviction -- Standard of proof. --** Conviction of a
4 violation or a petty misdemeanor shall not give rise to any disability or legal disadvantage based
5 on conviction of a criminal offense. Conviction of a violation shall be supported by evidence
6 beyond a reasonable doubt.

7 SECTION 2. Section 11-41-20 of the General Laws in Chapter 11-41 entitled "Theft,
8 Embezzlement, False Pretenses, and Misappropriation" is hereby amended to read as follows:

9 **11-41-20. Shoplifting. --** (a) For the purpose of this section:

10 (1) "Conceal" means to place merchandise in such a manner that it is not visible through
11 ordinary observation.

12 (2) "Full retail value" means the merchant's stated price of the merchandise.

13 (3) "Merchandise" means any items of tangible personal property offered for sale within
14 a retail mercantile establishment.

15 (4) "Merchant" means an owner or operator of any retail mercantile establishment or any
16 agent, employee, lessee, officer, or director of the owner or operator.

17 (5) "Premises of a retail mercantile establishment" includes the retail mercantile
18 establishment, and common use areas in shopping centers, and all parking areas set aside by a

1 merchant or on behalf of a merchant for the parking of vehicles for the convenience of the patrons
2 of the retail mercantile establishment.

3 (6) "Retail mercantile establishment" means any place where merchandise is displayed,
4 held, stored or offered for sale to the public.

5 (7) "Shopping cart" means those push carts of the type or types which are commonly
6 provided by grocery stores, drug stores, or other retail mercantile establishments for the use of the
7 public in transporting commodities on or from the premises of the retail mercantile establishment.

8 (b) Whoever shall engage in the following shall be guilty of the crime of shoplifting:

9 (1) Take possession of, carry away, transfer or cause to be carried away or transferred
10 any merchandise displayed, held, stored, or offered for sale by a retail mercantile establishment
11 with the intention of depriving the merchant of all or any part of the full retail value of the
12 merchandise;

13 (2) Alter, transfer, or remove a label, price tag, marking, indicia of value or any other
14 markings which aid in determining value affixed to any merchandise displayed, held, stored or
15 offered for sale in a retail mercantile establishment and attempt to purchase or purchase the
16 merchandise personally or in consort with another at less than the full retail value with the
17 intention of depriving the merchant of all or any part of the full retail value of such merchandise;

18 (3) Transfer any merchandise displayed, held, stored or offered for sale in a retail
19 mercantile establishment from one container to another in an attempt to purchase or purchase the
20 merchandise personally or in consort with another at less than the full retail value with the
21 intention of depriving the merchant of all or any part of the full retail value of the merchandise; or

22 (4) Remove a shopping cart from the premises of a retail mercantile establishment
23 without the consent of the merchant given at the time of the removal with the intention of
24 depriving the merchant of the possession, use, or benefit of the cart.

25 (c) The fact that a person conceals upon his person, among his or her belongings, or
26 upon the person or among the belongings of another merchandise displayed, held, stored or
27 offered for sale in a retail mercantile establishment, for which he or she has not paid the full retail
28 value, and the merchandise has been taken beyond the area within the retail mercantile
29 establishment where payment for it is to be made, shall be prima facie evidence that the person
30 has possessed, carried away, or transferred the merchandise with the intention of depriving the
31 merchant of all or part of the full retail value of the merchandise without paying the full retail
32 value of the merchandise.

33 (d) Any person convicted of [a first offense of](#) the crime of shoplifting shall be guilty of a
34 ~~misdemeanor~~ [violation](#) and shall be punished by a fine of not less than fifty dollars (\$50.00) or

1 two times the full retail value of the merchandise, whichever is greater, but not more than five
2 hundred dollars (\$500), ~~or by imprisonment for not more than one year, or both~~; provided, that
3 any person convicted of a second offense of the crime of shoplifting, shall be guilty of a
4 misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or two
5 (2) times the retail value of the merchandise, whichever is greater, but not more than one
6 thousand dollars (\$1,000); provided further that any person convicted of the crime of shoplifting
7 merchandise with a retail value of over one hundred dollars (\$100) who has previously been
8 convicted of shoplifting shall be guilty of a felony and shall be punished by a fine of not more
9 than five thousand dollars (\$5,000), or by imprisonment of not more than five (5) years, or both.

10 SECTION 3. Section 11-44-26 of the General Laws in Chapter 11-44 entitled "Trespass
11 and Vandalism" is hereby amended to read as follows:

12 **11-44-26. Willful trespass -- Remaining on land after warning -- Exemption for**
13 **tenants holding over.** -- (a) Every person who willfully trespasses or, having no legitimate
14 purpose for his or her presence, remains upon the land of another or upon the premises or
15 curtilage of the domicile of any person legally entitled to the possession of that domicile, after
16 having been forbidden to do so by the owner of the land or the owner's duly authorized agent or a
17 person legally entitled to the possession of the premises, shall be punished by a fine not
18 exceeding ~~one thousand dollars (\$1,000), or imprisonment for a term not exceeding one year, or~~
19 ~~both~~ five hundred dollars (\$500).

20 (b) This section shall not apply to tenants or occupants of residential premises who,
21 having rightfully entered the premises at the commencement of the tenancy or occupancy, remain
22 after that tenancy or occupancy has been or is alleged to have been terminated. The owner or
23 landlord of the premises may recover possession only through appropriate civil proceedings.

24 (c) Where the provisions of The Domestic Violence Prevention Act, chapter 29 of title
25 12, are applicable, the penalties for violation of this section shall also include the penalties as
26 provided in section 12-29-5.

27 SECTION 4. Section 11-45-1 of the General Laws in Chapter 11-45 entitled "Disorderly
28 Conduct" is hereby amended to read as follows:

29 **11-45-1. Disorderly conduct.** -- (a) A person commits disorderly conduct if he or she
30 intentionally, knowingly, or recklessly:

- 31 (1) Engages in fighting or threatening, or in violent or tumultuous behavior;
- 32 (2) In a public place or near a private residence that he or she has no right to occupy,
33 disturbs another person by making loud and unreasonable noise which under the circumstances
34 would disturb a person of average sensibilities;

1 (3) Directs at another person in a public place offensive words which are likely to
2 provoke a violent reaction on the part of the average person so addressed;

3 (4) Alone or with others, obstructs a highway, street, sidewalk, railway, waterway,
4 building entrance, elevator, aisle, stairway, or hallway to which the public or a substantial group
5 of the public has access or any other place ordinarily used for the passage of persons, vehicles, or
6 conveyances;

7 (5) Engages in conduct which obstructs or interferes physically with a lawful meeting,
8 procession, or gathering;

9 (6) Enters upon the property of another and for a lascivious purpose looks into an
10 occupied dwelling or other building on the property through a window or other opening; or

11 (7) Who without the knowledge or consent of the individual, looks for a lascivious
12 purpose through a window, or any other opening into an area in which another would have a
13 reasonable expectation of privacy, including, but not limited to, a restroom, locker room, shower,
14 changing room, dressing room, bedroom, or any other such private area, notwithstanding any
15 property rights the individual may have in the location in which the private area is located.

16 (8) [Deleted by P.L. 2008, ch. 183, section 1].

17 (b) Any person, including a police officer, may be a complainant for the purposes of
18 instituting action for any violation of this section.

19 (c) Any person found guilty of the crime of disorderly conduct [pursuant to section 11-](#)
20 [45-1 \(a\) \(6\) or \(7\)](#) shall be imprisoned for a term of not more than six (6) months, or fined not
21 more than five hundred dollars (\$500), or both. [Any person found guilty of the crime of](#)
22 [disorderly conduct pursuant to section 11-45-1 \(a\) \(1\), \(2\), \(3\), \(4\) or \(5\) shall be fined not more](#)
23 [than five hundred dollars \(\\$500\).](#)

24 (d) In no event shall subdivisions (a)(2) -- (5) of this section be construed to prevent
25 lawful picketing or lawful demonstrations including, but not limited to, those relating to a labor
26 dispute.

27 SECTION 5. Section 11-47-42 of the General Laws in Chapter 11-47 entitled "Weapons"
28 is hereby amended to read as follows:

29 **11-47-42. Weapons other than firearms prohibited.** -- (a) (1) No person shall carry or
30 possess or attempt to use against another any instrument or weapon of the kind commonly known
31 as a blackjack, slingshot, billy, sandclub, sandbag, metal knuckles, slap glove, bludgeon, stun-
32 gun, or the so called "Kung-Fu" weapons.

33 (2) No person shall with intent to use unlawfully against another, carry or possess a
34 crossbow, dagger, dirk, stiletto, sword-in-cane, bowie knife, or other similar weapon designed to

1 cut and stab another.

2 (3) No person shall wear or carry concealed upon his person, any of the above-
3 mentioned instruments or weapons, or any razor, ~~or knife of any description having a blade of~~
4 ~~more than three (3) inches in length measuring from the end of the handle where the blade is~~
5 ~~attached to the end of the blade~~, or other weapon of like kind or description.

6 Any person violating the provisions of these subsections shall be punished by a fine of
7 not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year, or
8 both, and the weapon so found shall be confiscated.

9 Any person violating the provisions of these subsections while he or she is incarcerated
10 within the confines of the adult correctional institutions shall be punished by a fine of not less
11 than one thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000), or by
12 imprisonment for not less than one year nor more than five (5) years, or both, and the weapon so
13 found shall be confiscated.

14 (b) No person shall sell to a person under eighteen (18) years of age, without the written
15 authorization of the minor's parent or legal guardian, any stink bomb, blackjack, slingshot, bill,
16 sandclub, sandbag, metal knuckles, slap glove, bludgeon, stungun, paint ball gun, so called
17 "kung-fu" weapons, dagger, dirk, stiletto, sword-in-cane, bowie knife, razor, or knife of any
18 description having a blade of more than three inches (3") in length as described in subsection (a)
19 of this section, or any multi-pronged star with sharpened edges designed to be used as a weapon
20 and commonly known as a Chinese throwing star, except that an individual who is actually
21 engaged in the instruction of martial arts and licensed under section 5-43-1 may carry and possess
22 any multi-pronged star with sharpened edges for the sole purpose of instructional use. Any person
23 violating the provisions of this subsection shall be punished by a fine of not less than one
24 thousand dollars (\$1,000) nor more than three thousand dollars (\$3,000), or by imprisonment for
25 not less than one year nor more than five (5) years, or both, and the weapons so found shall be
26 confiscated.

27 SECTION 6. Section 31-11-18 of the General Laws in Chapter 31-11 entitled
28 "Suspension or Revocation of Licenses - Violations" is hereby amended to read as follows:

29 **31-11-18. Driving after denial, suspension, or revocation of license.** -- (a) Any person
30 who drives a motor vehicle on any highway of this state who never applied for a license, ~~or who~~
31 ~~drives after his or her application for a license has been refused~~, or after his or her license has
32 expired or who otherwise drives without a license, ~~or at a time when his or her license to operate~~
33 ~~is suspended, revoked, or cancelled, for reasons other than those provided for in section 31-11-~~
34 ~~18-1~~, shall be guilty of a ~~misdemeanor~~ violation. Any person who drives a motor vehicle after his

1 or her application for a license has been refused, or at a time when his or her license to operate a
2 motor vehicle is suspended, revoked, or cancelled, for reasons other than those provided for in
3 section 31-11-18.1, upon a first offense shall be guilty of a petty misdemeanor and upon a second
4 (2nd) or subsequent offense a misdemeanor.

5 (b) The division of motor vehicles, upon receiving a record of the conviction of any
6 person upon a charge of driving a motor vehicle while the license of the person was suspended,
7 shall suspend the person's license for an additional three (3) months. Upon receiving a record of
8 second violation, the division of motor vehicles shall suspend the license for an additional six (6)
9 months. Any subsequent conviction shall result in license revocation. Upon receiving a record of
10 conviction of any person upon a charge of driving after his or her application for a license has
11 been refused, or upon a charge of driving by one who never applied for a license or who
12 otherwise drives without a license, or after his or her license has expired or has been revoked or
13 canceled, the division of motor vehicles shall not issue a new license for an additional period of
14 one year from and after the date the person would otherwise have been entitled to apply for a new
15 license.

16 (c) Upon a first conviction under this section, for driving after his or her application for a
17 license has been refused, or at a time when his or her license to operate a motor vehicle is
18 suspended, revoked, or cancelled, for reasons other than those provided for in section 31-11-18.1,
19 a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500)
20 shall be imposed, and imprisonment for a term not to exceed thirty (30) days may be imposed.
21 For the second and any subsequent conviction, for driving after his or her application for a license
22 has been refused, or at a time when his or her license to operate a motor vehicle is suspended,
23 revoked, or cancelled, for reasons other than those provided for in section 31-11-18.1, a fine of
24 not less than three hundred fifty dollars (\$350) nor more than one thousand dollars (\$1,000) may
25 be imposed and an imprisonment for up to one year may be imposed. The imposition of fines may
26 be in addition to the suspension of license that may be imposed by the court.

27 (d) Notwithstanding the provisions of subsection (a) of this section, any person driving
28 after his or her license has expired shall be issued a summons to appear in district court not fewer
29 than ten (10) days after the issuance of the summons, and shall not be taken into custody based
30 solely on this charge. Any person who shall cause his or her expired license to be reinstated by
31 the division of motor vehicles within ten (10) days after issuance of the summons may present
32 proof of reinstatement at the headquarters of the charging police department. Presentation of
33 proof of reinstatement within ten (10) days after the issuance of the summons shall cause the
34 summons to be voided and shall otherwise constitute a complete defense to the charge of driving

1 after expiration of license and a bar to prosecution for that charge. Any summons or records
2 relating to the summons shall be expunged pursuant to the provisions of chapter 1.3 of title 12.
3 For the purposes of this subsection, each of the several state police barracks shall be considered
4 as a separate police headquarters.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO CRIMINAL OFFENSES - DECRIMINALIZATION OF CERTAIN
OFFENSES

1 This act would amend several sections of the various statutes on criminal offenses in
2 order to decriminalize less serious and in most cases victimless offenses. While these acts would
3 no longer be categorized as crimes they are still offenses which are subject to penalties.

4 This act would take effect upon passage.

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