

2016 -- H 8232

=====  
LC005997  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————  
A N A C T

RELATING TO AGRICULTURE AND FORESTRY

Introduced By: Representatives Melo, Bennett, McNamara, Corvese, and Tobon

Date Introduced: May 19, 2016

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 2 of the General Laws entitled "AGRICULTURE AND FORESTRY"  
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 26

4 HEMP GROWTH ACT

5 **2-26-1. Short title.** -- This chapter shall be known and may be cited as the "Hemp  
6 Growth Act."

7 **2-26-2. Legislative findings.** -- The general assembly finds and declares as follows:

8 (1) The cannabis sativa plant used for the production of hemp is separate and distinct  
9 from forms of cannabis used to produce marijuana.

10 (2) Hemp is used for products such as building materials, cloth, cordage, fiber, food, floor  
11 coverings, fuel, industrial chemicals, paint, paper, particle board, plastics, seed meal, seed oil and  
12 yarn.

13 (3) Industrial hemp production has remained legal throughout most of the world and  
14 hemp has the capacity to grow in a multitude of different climates, altitudes, soils, and weather  
15 conditions.

16 (4) Currently, it is legal to import industrial hemp into the United States.

17 (5) Although federal law currently prohibits the cultivation of hemp, the laws of  
18 California, Colorado, Indiana, Kentucky, Maine, Montana, North Dakota, Oregon, South  
19 Carolina, Tennessee, Vermont, Virginia and West Virginia permit commercial hemp programs.

1 (6) Currently, the United States is the largest importer of hemp products, the largest  
2 portion of which is imported from China.

3 (7) The growth of hemp was historically an important cultural product grown and used by  
4 the Narragansett Indian Tribe. The Tribe used hemp products for clothing, housing, and other  
5 every day uses. Moreover, the Tribe has enacted an economic development commission to  
6 explore areas of economic development for the Tribe which included hemp as an agricultural  
7 product. Rhode Island views this as a business opportunity for the Tribe to engage in this  
8 agricultural industry that is closely tied to the rich history of the Tribe.

9 (8) States are not required to enforce federal law or prosecute people for engaging in  
10 activities prohibited by federal law. Therefore, compliance with this chapter does not put the state  
11 of Rhode Island in violation of federal law.

12 **2-26-3. Definitions. --** When used in this chapter, the following terms shall have the  
13 following meanings:

14 (1) "Department" means the department of business regulation.

15 (2) "Division" means the division of agriculture in the department of environmental  
16 management.

17 (3) "Grower" means a person or entity that produces hemp for commercial purposes.

18 (4) "Handler" means a person or entity that produces hemp for processing into  
19 commodities, products, or agricultural hemp seed.

20 (5) "Hemp" means the plant of the genus cannabis and any part of such plant, whether  
21 growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-  
22 tenths percent (0.3%) on a dry weight basis of any part of the plant cannabis, or per volume or  
23 weight of marijuana product or the combined percent of delta-9 tetrahydrocannabinol and  
24 tetrahydrocannabinolic acid in any part of the plant cannabis regardless of the moisture content.  
25 Hemp is also commonly referred to in this context as "industrial hemp."

26 (6) "Hemp products" means all products made from the plants, including, but not limited  
27 to, concentrated oil, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics,  
28 seed, seed meal, seed oil, and certified for cultivation.

29 (7) "Narragansett Indian Tribe" or "Tribe" means the Narragansett Indian Tribe of Rhode  
30 Island and federally recognized by the United States as an Indian Tribe in 1983.

31 (8) "THC" means tetrahydrocannabinol, the principal psychoactive constituent of  
32 cannabis.

33 (9) "THCA" means tetrahydrocannabinol acid.

34 **2-26-4. Hemp an agricultural product. --** Hemp is an agricultural product which may

1 be grown as a crop, produced, possessed, distributed, and commercially traded pursuant to the  
2 provisions of this chapter. Hemp is subject to primary regulation by the department. The division  
3 may assist the department in the regulation of hemp growth and production.

4 **2-26-5. Authority over licensing and sales.** – (a) The department shall promulgate rules  
5 and regulations for the licensing and regulation of hemp growers and handlers from, or employed  
6 by, the Narragansett Indian Tribe, and shall be responsible for the enforcement of such licensing  
7 and regulation.

8 (b) The Narragansett Indian Tribe must have a hemp license issued by the department.

9 (c) The application for a hemp license shall include, but not be limited to, the following:

10 (1) The name and address of the responsible person or persons within the Narragansett  
11 Indian Tribe who will supervise, manage or direct the growing and handling of hemp and the  
12 names and addresses of any person or entity partnering with the Tribe or providing consulting  
13 services to the Tribe regarding the growing or handling of hemp.

14 (2) A certificate of analysis that the seeds or plants obtained for cultivation are of a type  
15 and variety that do not exceed the maximum concentration of delta-9 THC as set forth in §2-26-3;  
16 any seeds that are obtained from a federal agency are presumed not to exceed the maximum  
17 concentration and do not require a certificate of analysis.

18 (3) The location of the facility, including the global positioning system location, and  
19 other field reference information as may be required by the department with a tracking program  
20 and security layout to ensure that all agriculture grown is tracked and monitored from seed to  
21 distribution outlets.

22 (4) An explanation of the seed to sale tracking, cultivation method, extraction method,  
23 and certificate of analysis or certificate of analysis for the standard hemp seeds.

24 (5) Verification prior to planting any seed, that the plant to be grown is of a type and  
25 variety of hemp that will produce a delta-9 THC concentration of no more than three-tenths of  
26 one percent (0.3%) on a dry weight basis.

27 (6) Documentation that the licensee and/or its agents have entered into a purchase  
28 agreement with a hemp processor.

29 (7) A national criminal background check with the bureau of criminal identification of  
30 the United States Department of Attorney General for any person who will manage, direct,  
31 supervise or harvest or handle hemp or hemp products for the Tribe. The applicant shall pay the  
32 costs of any criminal identification background check.

33 (i) Any employee or agent who has been convicted of any felony offense under chapter  
34 28 of title 21, or any person who has been convicted of murder, manslaughter, first degree sexual

1 assault, second degree sexual assault, first degree child molestation, second degree child  
2 molestation, kidnapping, first degree arson, second degree arson, mayhem, robbery, burglary,  
3 breaking and entering, assault with a dangerous weapon, or any assault and battery punishable as  
4 a felony or assault with intent to commit any offense punishable as a felony, shall be disqualified  
5 from working under any license or permit under this chapter or to be employed in any capacity  
6 concerning the growing, planting or cultivation of hemp. The department shall notify the  
7 applicant, in writing, of a rejection of any proposed employee or agent pursuant to this  
8 subsection.

9 (ii) For purposes of this section, "conviction" means, in addition to judgements of  
10 conviction entered by a court subsequent to a finding of guilty, or plea of guilty, those instances  
11 where the defendant has entered a plea of nolo contendere and has received a sentence of  
12 probation, or those instances wherein the defendant has entered into a deferred sentence  
13 agreement with the Rhode Island attorney general.

14 (8) Any other information as set forth in rules and regulations as required by the  
15 department.

16 (d) All employees and agents of the Tribe shall register with the Rhode Island state  
17 police.

18 (e) The department shall issue a hemp license to the Narragansett Indian Tribe if it meets  
19 the requirements of this chapter, upon the Tribe paying a licensure fee of two thousand five  
20 hundred dollars (\$2,500). Said license shall be renewed every three (3) years upon payment of a  
21 two thousand five hundred dollar (\$2,500) renewal fee. Any employee(s) or agent(s) of the  
22 licensee convicted of any disqualifying offense described in subsection (c)(7)(i) of this section,  
23 must be terminated from employment and the Tribe must notify the department of this action.

24 **2-26-6. Rulemaking authority.** – (a) The department shall adopt rules to provide for the  
25 implementation of this chapter, which shall include rules to require hemp to be tested during  
26 growth for THC levels and to require inspection of hemp during sowing, growing season, harvest,  
27 storage, and processing. Included in these rules should be a system requiring the licensee to  
28 submit crop samples to an approved testing facility, as determined by the department for testing  
29 and verification of compliance with the limits on delta-9 THC concentration.

30 (b) The department shall not adopt under this or any other section, a rule that would  
31 prohibit a person or entity to grow or distribute hemp based on the legal status of hemp under  
32 federal law.

33 **2-26-7. Registration.** – (a) Except as provided in this section, beginning sixty (60) days  
34 after the effective date of this chapter, the department shall accept the application for licensure to

1 cultivate hemp submitted by the Narragansett Indian Tribe.

2 (b) A person or entity registered with the department pursuant to this chapter shall allow  
3 hemp crops, throughout sowing, year-long growing seasons, harvest storage, and processing, to  
4 be inspected and tested by and at the discretion of the department.

5 **2-26-8. Methods of extraction. --** (a) The department shall only permit the CO<sub>2</sub>  
6 extraction method of extracting oil for the production of any hemp product.

7 (1) CO<sub>2</sub> extraction also known as superficial fluid extraction (SFE), is the process of  
8 separating one component (the extricant) from another component (the matrix) using superficial  
9 fluids as the extracting solvent. Extraction is usually from a solid matrix, but can also be from  
10 liquids. SFE can be used as a sample preparation step for analytical purposes, or on a larger scale  
11 to either strip unwanted material from a product or collect a desired product.

12 (b) No butane method of extraction shall be allowed for any hemp product.

13 **2-26-9. Research and educational growth by institutions of higher education. –** (a)  
14 The department is authorized to certify any higher educational institution in Rhode Island to grow  
15 or cultivate or assist in growing or cultivating industrial hemp for the purpose of agricultural or  
16 academic research where such higher educational institution submits the following to the  
17 department:

18 (1) The location where the higher educational institution intends to grow or cultivate the  
19 industrial hemp;

20 (2) The higher educational institution's research plan; and

21 (3) The name of the employee of the higher educational institution that will supervise the  
22 hemp growth, cultivation and research.

23 (b) Growth for purposes of agricultural and educational research by a higher educational  
24 institution shall not be subject to the licensing requirements set forth in §2-26-5.

25 (c) The Narragansett Indian Tribe is encouraged to partner with an institution of higher  
26 learning within the state of Rhode Island to develop best practices for growing and handling  
27 hemp.

28 (d) The department shall maintain a list of each higher education institution certified to  
29 grow or cultivate industrial hemp under this chapter.

30 SECTION 2. Section 21-28-1.02 of the General Laws in Chapter 21-28 entitled "Uniform  
31 Controlled Substances Act" is hereby amended to read as follows:

32 **21-28-1.02. Definitions. --** Unless the context otherwise requires, the words and phrases  
33 as defined in this section are used in this chapter in the sense given them in the following  
34 definitions:

- 1 (1) "Administer" refers to the direct application of controlled substances to the body of a  
2 patient or research subject by:
- 3 (i) A practitioner, or, in his or her presence by his or her authorized agent; or  
4 (ii) The patient or research subject at the direction and in the presence of the practitioner  
5 whether the application is by injection, inhalation, ingestion, or any other means.
- 6 (2) "Agent" means an authorized person who acts on behalf of or at the direction of a  
7 manufacturer, wholesaler, distributor, or dispenser; except that these terms do not include a  
8 common or contract carrier or warehouse operator, when acting in the usual and lawful course of  
9 the carrier's or warehouse operator's business.
- 10 (3) "Apothecary" means a registered pharmacist as defined by the laws of this state and,  
11 where the context requires, the owner of a licensed pharmacy or other place of business where  
12 controlled substances are compounded or dispensed by a registered pharmacist; and includes  
13 registered assistant pharmacists as defined by existing law, but nothing in this chapter shall be  
14 construed as conferring on a person who is not registered as a pharmacist any authority, right, or  
15 privilege that is not granted to him or her by the pharmacy laws of the state.
- 16 (4) "Automated data processing system" means a system utilizing computer software and  
17 hardware for the purposes of record keeping.
- 18 (5) "Computer" means programmable electronic device capable of multi-functions,  
19 including, but not limited to, storage, retrieval, and processing of information.
- 20 (6) "Control" means to add a drug or other substance or immediate precursor to a  
21 schedule under this chapter, whether by transfer from another schedule or otherwise.
- 22 (7) "Controlled substance" means a drug, substance, immediate precursor, or synthetic  
23 drug in schedules I -- V of this chapter. The term shall not include distilled spirits, wine, or malt  
24 beverages, as those terms are defined or used in chapter 1 of title 3, nor tobacco.
- 25 (8) "Counterfeit substance" means a controlled substance which, or the container or  
26 labeling of which, without authorization bears the trademark, trade name, or other identifying  
27 mark, imprint, number, or device, or any likeness of them, of a manufacturer, distributor, or  
28 dispenser, other than the person or persons who in fact manufactured, distributed, or dispensed  
29 the substance and which thereby falsely purports or is represented to be the product of, or to have  
30 been distributed by, the other manufacturer, distributor, or dispenser, or which substance is  
31 falsely purported to be or represented to be one of the controlled substances by a manufacturer,  
32 distributor, or dispenser.
- 33 (9) "CRT" means cathode ray tube used to impose visual information on a screen.
- 34 (10) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a

1 controlled substance or imitation controlled substance, whether or not there exists an agency  
2 relationship.

3 (11) "Department" means the department of health of this state.

4 (12) "Depressant or stimulant drug" means:

5 (i) A drug which contains any quantity of:

6 (A) Barbituric acid or derivatives, compounds, mixtures, or preparations of barbituric  
7 acid; and

8 (B) "Barbiturate" or "barbiturates" includes all hypnotic and/or somnifacient drugs,  
9 whether or not derivatives of barbituric acid, except that this definition shall not include bromides  
10 and narcotics.

11 (ii) A drug which contains any quantity of:

12 (A) Amphetamine or any of its optical isomers;

13 (B) Any salt of amphetamine and/or desoxyephedrine or any salt of an optical isomer of  
14 amphetamine and/or desoxyephedrine, or any compound, mixture, or preparation of them.

15 (iii) A drug which contains any quantity of coca leaves. "Coca leaves" includes cocaine,  
16 or any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except  
17 derivatives of coca leaves, which do not contain cocaine, ecgonine, or substance from which  
18 cocaine or ecgonine may be synthesized or made.

19 (iv) Any other drug or substance which contains any quantity of a substance which the  
20 attorney general of the United States, or the director of health, after investigation, has found to  
21 have, or by regulation designates as having, a potential for abuse because of its depressant or  
22 stimulant effect on the central nervous system.

23 (13) "Director" means the director of health.

24 (14) "Dispense" means to deliver, distribute, leave with, give away, or dispose of a  
25 controlled substance to the ultimate user or human research subject by or pursuant to the lawful  
26 order of a practitioner, including the packaging, labeling, or compounding necessary to prepare  
27 the substance for that delivery.

28 (15) "Dispenser" is a practitioner who delivers a controlled substance to the ultimate user  
29 or human research subject.

30 (16) "Distribute" means to deliver (other than by administering or dispensing) a  
31 controlled substance or an imitation controlled substance and includes actual constructive, or  
32 attempted transfer. "Distributor" means a person who so delivers a controlled substance or an  
33 imitation controlled substance.

34 (17) "Downtime" means that period of time when a computer is not operable.

1 (18) "Drug addicted person" means a person who exhibits a maladaptive pattern of  
2 behavior resulting from drug use, including one or more of the following: impaired control over  
3 drug use; compulsive use; and/or continued use despite harm, and craving.

4 (19) "Drug Enforcement Administration" means the Drug Enforcement Administration  
5 United States Department of Justice or its successor.

6 (20) "Federal law" means the Comprehensive Drug Abuse Prevention and Control Act of  
7 1970, (84 stat. 1236)(see generally 21 U.S.C. § 801 et seq.), and all regulations pertaining to that  
8 federal act.

9 (21) "Hardware" means the fixed component parts of a computer.

10 (22) "Hospital" means an institution as defined in chapter 17 of title 23.

11 (23) "Imitation controlled substance" means a substance that is not a controlled  
12 substance, which by dosage unit, appearance (including color, shape, size, and markings), or by  
13 representations made, would lead a reasonable person to believe that the substance is a controlled  
14 substance and, which imitation controlled substances contain substances which if ingested, could  
15 be injurious to the health of a person. In those cases when the appearance of the dosage unit is not  
16 reasonably sufficient to establish that the substance is an "imitation controlled substance" (for  
17 example in the case of powder or liquid), the court or authority concerned should consider, in  
18 addition to all other logically relevant factors, the following factors as related to "representations  
19 made" in determining whether the substance is an "imitation controlled substance":

20 (i) Statement made by an owner, possessor, transferor, recipient, or by anyone else in  
21 control of the substance concerning the nature of the substance, or its use or effect.

22 (ii) Statements made by the owner, possessor, or transferor, to the recipient that the  
23 substance may be resold for substantial profit.

24 (iii) Whether the substance is packaged in a manner reasonably similar to packaging of  
25 illicit controlled substances.

26 (iv) Whether the distribution or attempted distribution included an exchange of or  
27 demand for money or other property as consideration, and whether the amount of the  
28 consideration was substantially greater than the reasonable value of the non-controlled substance.

29 (24) "Immediate precursor" means a substance:

30 (i) Which the director of health has found to be and by regulation designated as being the  
31 principal compound used, or produced primarily for use, in the manufacture of a controlled  
32 substance;

33 (ii) Which is an immediate chemical intermediary used or likely to be used in the  
34 manufacture of those controlled substances; and



1 (iii) The control of which is necessary to prevent, curtail, or limit the manufacture of that  
2 controlled substance.

3 (25) "Laboratory" means a laboratory approved by the department of health as proper to  
4 be entrusted with controlled substances and the use of controlled substances for scientific and  
5 medical purposes and for the purposes of instruction.

6 (26) "Marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not;  
7 the seeds of the plant; the resin extracted from any part of the plant; and every compound,  
8 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, but shall not  
9 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the  
10 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of  
11 mature stalks, (except the resin extracted from it), fiber, oil or cake, or the sterilized seed from the  
12 plant which is incapable of germination. [Marijuana shall not include hemp, or hemp products as  
13 defined in §2-26-3.](#)

14 (27) "Manufacture" means the production, preparation, propagation, cultivation,  
15 compounding, or processing of a drug or other substance, including an imitation controlled  
16 substance, either directly or indirectly or by extraction from substances of natural origin, or  
17 independently by means of chemical synthesis or by a combination of extraction and chemical  
18 synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of  
19 its container in conformity with the general laws of this state except by a practitioner as an  
20 incident to his or her administration or dispensing of the drug or substance in the course of his or  
21 her professional practice.

22 (28) "Manufacturer" means a person who manufactures but does not include an  
23 apothecary who compounds controlled substances to be sold or dispensed on prescriptions.

24 (29) "Narcotic drug" means any of the following, whether produced directly or indirectly  
25 by extraction from substances of vegetable origin, or independently by means of chemical  
26 synthesis or by a combination of extraction and chemical synthesis:

27 (i) Opium and opiates.

28 (ii) A compound, manufacture, salt, derivative, or preparation of opium or opiates.

29 (iii) A substance (and any compound, manufacture, salt, derivative, or preparation of it)  
30 which is chemically identical with any of the substances referred to in paragraphs (i) and (ii) of  
31 this subdivision.

32 (iv) Any other substance which the attorney general of the United States, or his or her  
33 successor, or the director of health, after investigation, has found to have, and by regulation  
34 designates as having, a potential for abuse similar to opium and opiates.

1 (30) "Official written order" means an order written on a form provided for that purpose  
2 by the Drug Enforcement Administration under any laws of the United States making provision  
3 for an official form, if order forms are authorized and required by federal law, and if no order  
4 form is provided then on an official form provided for that purpose by the director of health.

5 (31) "Opiate" means any substance having an addiction-forming or addiction-sustaining  
6 liability similar to morphine or being capable of conversion into a drug having addiction-forming  
7 or addiction-sustaining liability.

8 (32) "Opium poppy" means the plant of the species *papaver somniferum* L., except the  
9 seeds of the plant.

10 (33) "Ounce" means an avoirdupois ounce as applied to solids and semi-solids, and a  
11 fluid ounce as applied to liquids.

12 (34) "Person" means any corporation, association, partnership, or one or more  
13 individuals.

14 (35) "Physical dependence" means a state of adaptation that is manifested by a drug class  
15 specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction,  
16 decreasing blood level of the drug, and/or administration of an antagonist.

17 (36) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

18 (37) "Practitioner" means:

19 (i) A physician, osteopath, dentist, chiropract, veterinarian, scientific investigator, or  
20 other person licensed, registered or permitted to distribute, dispense, conduct research with  
21 respect to or to administer a controlled substance in the course of professional practice or research  
22 in this state.

23 (ii) A pharmacy, hospital, or other institution licensed, registered or permitted to  
24 distribute, dispense, conduct research with respect to, or to administer a controlled substance in  
25 the course of professional practice or research in this state.

26 (38) "Printout" means a hard copy produced by computer that is readable without the aid  
27 of any special device.

28 (39) "Production" includes the manufacture, planting, cultivation, growing, or harvesting  
29 of a controlled substance.

30 (40) "Researcher" means a person authorized by the director of health to conduct a  
31 laboratory as defined in this chapter.

32 (41) "Sell" includes sale, barter, gift, transfer, or delivery in any manner to another, or to  
33 offer or agree to do the same.

34 (42) "Software" means programs, procedures and storage of required information data.

1           (43) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic  
2 cathinones as provided for in schedule I.

3           (44) "Ultimate user" means a person who lawfully possesses a controlled substance for  
4 his or her own use or for the use of a member of his or her household, or for administering to an  
5 animal owned by him or her or by a member of his or her household.

6           (45) "Wholesaler" means a person who sells, vends, or distributes at wholesale, or as a  
7 jobber, broker agent, or distributor, or for resale in any manner in this state any controlled  
8 substance.

9           SECTION 3. This act shall take effect upon passage.

=====  
LC005997  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO AGRICULTURE AND FORESTRY

\*\*\*

1           This act would permit the growth of hemp by properly licensed individuals from or  
2 employed by the Narragansett Indian Tribe that have applied and met the requirements of this  
3 chapter. It would also provide that higher educational institutions could grow hemp for  
4 educational and research purposes and would exclude hemp and hemp products from the  
5 prohibitions set forth in chapter 28 of title 21 as they relate to marijuana.

6           This act would take effect upon passage.

=====  
LC005997  
=====