

2021 -- H 5452

=====  
LC000106  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

---

A N A C T

RELATING TO FOOD AND DRUGS -- THE EDWARD O. HAWKINS AND THOMAS C.  
SLATER MEDICAL MARIJUANA ACT

Introduced By: Representatives Williams, Messier, Vella-Wilkinson, Slater, Felix, and  
Alzate

Date Introduced: February 10, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-28.6-2 and 21-28.6-3 of the General Laws in Chapter 21-28.6  
2 entitled "The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act" are hereby  
3 amended to read as follows:

4 **21-28.6-2. Legislative findings.**

5 The general assembly finds and declares that:

6 (1) Modern medical research has discovered beneficial uses for marijuana in treating or  
7 alleviating pain, nausea, and other symptoms associated with certain debilitating medical  
8 conditions, as found by the National Academy of Sciences' Institute of Medicine in March 1999.

9 (2) According to the U.S. Sentencing Commission and the Federal Bureau of Investigation,  
10 ninety-nine (99) out of every one hundred (100) marijuana arrests in the United States are made  
11 under state law, rather than under federal law. Consequently, changing state law will have the  
12 practical effect of protecting from arrest the vast majority of seriously ill people who have a medical  
13 need to use marijuana.

14 (3) Although federal law currently prohibits any use of marijuana, the laws of Alaska,  
15 California, Colorado, Hawaii, Maine, Montana, Nevada, Oregon, Vermont, and Washington permit  
16 the medical use and cultivation of marijuana. Rhode Island joins in this effort for the health and  
17 welfare of its citizens.

18 (4) States are not required to enforce federal law or prosecute people for engaging in

1 activities prohibited by federal law. Therefore, compliance with this chapter does not put the state  
2 of Rhode Island in violation of federal law.

3 (5) State law should make a distinction between the medical and nonmedical use of  
4 marijuana. Hence, the purpose of this chapter is to protect patients with debilitating medical  
5 conditions, and their physicians and primary caregivers, from arrest and prosecution, criminal and  
6 other penalties, and property forfeiture if such patients engage in the medical use of marijuana.

7 (6) The general assembly enacts this chapter pursuant to its police power to enact  
8 legislation for the protection of the health of its citizens, as reserved to the state in the Tenth  
9 Amendment of the United States Constitution.

10 (7) It is in the state's interests of public safety, public welfare, and the integrity of the  
11 medical marijuana program to ensure that the possession and cultivation of marijuana for the sole  
12 purpose of medical use for alleviating symptoms caused by debilitating medical conditions is  
13 adequately regulated.

14 (8) The goal of the medical marijuana program is to create a system that is transparent,  
15 safe, and responsive to the needs of patients. Consequently, the medical marijuana program requires  
16 regulation and a comprehensive regulatory structure that allows for oversight over all suppliers of  
17 medical marijuana while ensuring both safety and patient access.

18 (9) Marijuana prohibition has had a devastating impact on communities across Rhode  
19 Island and across the United States. Persons convicted of a marijuana-related offense and their  
20 families suffer the long-term consequences of prohibition. These individuals have a more difficult  
21 time entering the newly created adult-use marijuana industries due, in part, to a lack of access to  
22 capital, business space, technical support, and regulatory compliance assistance. In partial  
23 recognition of this consequence, the general assembly decriminalized possession of small amounts  
24 of marijuana in 2013. Since 2006, medicinal use of marijuana has been permitted in Rhode Island.

25 (10) During the era of marijuana prohibition in Rhode Island, the burdens of arrests,  
26 convictions, and long-term collateral consequences arising from a conviction related to marijuana  
27 fell disproportionately on Black and Latino people, even though people of all races used and sold  
28 marijuana at nearly identical rates.

29 (11) The collateral consequences associated with marijuana law violations, coupled with  
30 generational poverty and a lack of access to resources, made it extraordinarily difficult for persons  
31 of color, especially those with prior convictions, to enter the newly regulated marijuana industries.

32 **21-28.6-3. Definitions.**

33 For the purposes of this chapter:

34 (1) "Authorized purchaser" means a natural person who is at least twenty-one (21) years

1 old and who is registered with the department of health for the purposes of assisting a qualifying  
2 patient in purchasing marijuana from a compassion center. An authorized purchaser may assist no  
3 more than one patient, and is prohibited from consuming marijuana obtained for the use of the  
4 qualifying patient. An authorized purchaser shall be registered with the department of health and  
5 shall possess a valid registry identification card.

6 (2) "Cannabis" means all parts of the plant of the genus marijuana, also known as marijuana  
7 sativa L. whether growing or not; the seeds thereof; the resin extracted from any part of the plant;  
8 and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds,  
9 or resin regardless of cannabinoid content or cannabinoid potency including "marijuana," and  
10 "industrial hemp" or "industrial hemp products" which satisfy the requirements of chapter 26 of  
11 title 2.

12 (3) "Cannabis testing laboratory" means a third-party analytical testing laboratory licensed  
13 by the department of health, in coordination with the department of business regulation, to collect  
14 and test samples of cannabis.

15 (4) "Cardholder" means a person who has been registered or licensed with the department  
16 of health or the department of business regulation pursuant to this chapter and possesses a valid  
17 registry identification card or license.

18 (5) "Commercial unit" means a building, or other space within a commercial or industrial  
19 building, for use by one business or person and is rented or owned by that business or person.

20 (6)(i) "Compassion center" means a not-for-profit corporation, subject to the provisions of  
21 chapter 6 of title 7, and is licensed under § 21-28.6-12, that acquires, possesses, cultivates,  
22 manufactures, delivers, transfers, transports, supplies, or dispenses medical marijuana, and/or  
23 related supplies and educational materials, to patient cardholders and/or their registered caregiver  
24 cardholder or authorized purchaser.

25 (ii) "Compassion center cardholder" means a principal officer, board member, employee,  
26 volunteer, or agent of a compassion center who has registered with the department of business  
27 regulation and has been issued and possesses a valid, registry identification card.

28 (7) "Debilitating medical condition" means:

29 (i) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune  
30 deficiency syndrome, Hepatitis C, post-traumatic stress disorder, or the treatment of these  
31 conditions;

32 (ii) A chronic or debilitating disease or medical condition, or its treatment, that produces  
33 one or more of the following: cachexia or wasting syndrome; severe, debilitating, chronic pain;  
34 severe nausea; seizures, including but not limited to, those characteristic of epilepsy; or severe and

1 persistent muscle spasms, including but not limited to, those characteristic of multiple sclerosis or  
2 Crohn's disease; or agitation of Alzheimer's Disease; or

3 (iii) Any other medical condition or its treatment approved by the department of health, as  
4 provided for in § 21-28.6-5.

5 (8) "Department of business regulation" means the office of cannabis regulation within the  
6 Rhode Island department of business regulation or its successor agency.

7 (9) "Department of health" means the Rhode Island department of health or its successor  
8 agency.

9 (10) "Department of public safety" means the Rhode Island department of public safety or  
10 its successor agency.

11 (11) "Dried marijuana" means the dried leaves and flowers of the marijuana plant as  
12 defined by regulations promulgated by the department of business regulation.

13 (12) "Dwelling unit" means the room, or group of rooms, within a residential dwelling used  
14 or intended for use by one family or household, or by no more than three (3) unrelated individuals,  
15 with facilities for living, sleeping, sanitation, cooking, and eating.

16 (13) "Equivalent amount" means the portion of usable marijuana, be it in extracted, edible,  
17 concentrated, or any other form, found to be equal to a portion of dried marijuana, as defined by  
18 regulations promulgated by the department of business regulation.

19 (14) "Immature marijuana plant" means a marijuana plant, rooted or unrooted, with no  
20 observable flower or buds.

21 (15) "Licensed medical marijuana cultivator" means a person or entity, as identified in §  
22 43-3-6, who or that has been licensed by the department of business regulation to cultivate medical  
23 marijuana pursuant to § 21-28.6-16.

24 (16) "Marijuana" has the meaning given that term in § 21-28-1.02.

25 (17) "Marijuana establishment licensee" means any person or entity licensed by the  
26 department of business regulation under this chapter whose license permits it to engage in or  
27 conduct activities in connection with the medical marijuana program. "Marijuana establishment  
28 licensees" shall include compassion centers, medical marijuana cultivators, and cannabis testing  
29 laboratories.

30 (18) "Mature marijuana plant" means a marijuana plant that has flowers or buds that are  
31 readily observable by an unaided visual examination.

32 (19) "Medical marijuana emporium" means any establishment, facility or club, whether  
33 operated for-profit or nonprofit, or any commercial unit, at which the sale, distribution, transfer, or  
34 use of medical marijuana or medical marijuana products is proposed and/or occurs to, by or among

1 registered patients, registered caregivers, authorized purchaser cardholders or any other person.  
2 This shall not include a compassion center regulated and licensed by the department of business  
3 regulation pursuant to the terms of this chapter.

4 (20) "Medical marijuana" means marijuana and marijuana products that satisfy the  
5 requirements of this chapter and have been given the designation of "medical marijuana" due to  
6 dose, potency, form. Medical marijuana products are only available for use by patient cardholders,  
7 and may only be sold to or possessed by patient cardholders, or their registered caregiver, or  
8 authorized purchaser in accordance with this chapter. Medical marijuana may not be sold to,  
9 possessed by, manufactured by, or used except as permitted under this chapter.

10 (21) "Medical marijuana plant tag set" or "plant tag" means any tag, identifier, registration,  
11 certificate, or inventory tracking system authorized or issued by the department or which the  
12 department requires be used for the lawful possession and cultivation of medical marijuana plants  
13 in accordance with this chapter.

14 (22) "Medical use" means the acquisition, possession, cultivation, manufacture, use,  
15 delivery, transfer, or transportation of medical marijuana or paraphernalia relating to the  
16 consumption of marijuana to alleviate a patient cardholder's debilitating medical condition or  
17 symptoms associated with the medical condition in accordance with the provisions of this chapter.

18 (23) "Persons of color" means people who are affected by racial disparities in Rhode Island  
19 including persons who are:

20 (i) Black (a person having origins in any of the black racial groups of Africa);

21 (ii) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, other  
22 Spanish culture or origin, regardless of race);

23 (iii) Asian American (a person having origins in any of the original peoples of the Far East,  
24 Southeast Asia, the Indian subcontinent, or the Pacific Islands); or

25 (iv) American Indian and Alaskan Native (a person having origins in any of the original  
26 peoples of North America).

27 ~~(23)~~(24) "Practitioner" means a person who is licensed with authority to prescribe drugs  
28 pursuant to chapters 34, 37, and 54 of title 5, who may provide a qualifying patient with a written  
29 certification in accordance with regulations promulgated by the department of health.

30 ~~(24)~~(25) "Primary caregiver" means a natural person who is at least twenty-one (21) years  
31 old who is registered under this chapter in order to, and who may assist one qualifying patient, but  
32 no more than five (5) qualifying patients, with their medical use of marijuana, provided that a  
33 qualified patient may also serve as his or her own primary caregiver subject to the registration and  
34 requirements set forth in § 21-28.6-4.

1           ~~(25)~~(26) "Qualifying patient" means a person who has been certified by a practitioner as  
2 having a debilitating medical condition and is a resident of Rhode Island.

3           ~~(26)~~(27) "Registry identification card" means a document issued by the department of  
4 health or the department of business regulation, as applicable, that identifies a person as a registered  
5 qualifying patient, a registered primary caregiver, or authorized purchaser, or a document issued  
6 by the department of business regulation that identifies a person as a registered principal officer,  
7 board member, employee, volunteer, or agent of a compassion center, licensed medical marijuana  
8 cultivator, cannabis testing lab, or any other medical marijuana licensee.

9           ~~(27)~~(28) "Unusable marijuana" means marijuana seeds, stalks, and unusable roots and shall  
10 not count towards any weight-based possession limits established in this chapter.

11           ~~(28)~~(29) "Usable marijuana" means the leaves and flowers of the marijuana plant, and any  
12 mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant.

13           ~~(29)~~(30) "Wet marijuana" means the harvested leaves and flowers of the marijuana plant  
14 before they have reached a dry state, as defined by regulations promulgated by the department of  
15 health and department of business regulation.

16           ~~(30)~~(31) "Written certification" means a statement signed by a practitioner, stating that, in  
17 the practitioner's professional opinion, the potential benefits of the medical use of marijuana would  
18 likely outweigh the health risks for the qualifying patient. A written certification shall be made only  
19 in the course of a bona fide, practitioner-patient relationship after the practitioner has completed a  
20 full assessment of the qualifying patient's medical history. The written certification shall specify  
21 the qualifying patient's debilitating medical condition or conditions which may include the  
22 qualifying patient's relevant medical records.

23           SECTION 2. Chapter 21-28.6 of the General Laws entitled "The Edward O. Hawkins and  
24 Thomas C. Slater Medical Marijuana Act" is hereby amended by adding thereto the following  
25 sections:

26           **21-28.6-2.1. Legislative intent.**

27           It is the intent of the legislature that this chapter shall:

28           (1) Ensure that persons most harmed by marijuana criminalization be offered assistance to  
29 enter the marijuana industries as entrepreneurs or as employees with high quality and well-paying  
30 jobs. It is also the intent of this chapter to ensure that barriers to persons of color, who have been  
31 disproportionately harmed by marijuana prohibition, are reduced or eliminated, thus allowing entry  
32 into the legal marijuana industries.

33           (2) Offer technical support, regulatory compliance assistance, and assistance with securing  
34 the capital necessary to begin a business in the emerging new marijuana industries consequently

1 reducing barriers to licensure and employment of persons of color who have been  
2 disproportionately harmed by marijuana prohibition.

3 (3) These supports will also aid the state in eliminating or reducing the illicit marijuana  
4 market by creating opportunity for people into the legal marketplace.

5 **21-28.6-19. Social equity and race analysis.**

6 (a) To facilitate greater equity in business ownership and employment in the marijuana  
7 market, the department of business regulation (the "department") shall undertake a social equity  
8 and race analysis (the "analysis"), which analysis shall be completed and the results thereof  
9 published pursuant to the provisions of subsection (f) of this section.

10 (b) The social equity and race analysis shall include:

11 (1) A disparity study consisting of both qualitative and quantitative findings to determine  
12 whether racial disparities exist in the process to obtain a state license to cultivate and/or sell  
13 marijuana;

14 (2) A disparity study on whether racial disparities exist in the arrest and conviction rates  
15 for possession and distribution of marijuana by determining percentage figures for such arrests and  
16 convictions aggregated by the following ethnic groups:

17 (i) African-American/Black;

18 (ii) Hispanic/Latino;

19 (iii) White;

20 (iv) Asian; and

21 (v) Pacific Island/American Indian/Alaskan Native.

22 (c) The department shall consider, identify, and address the following factors for and  
23 aggregated by each group identified in subsection (b)(2) of this section:

24 (1) Representation in the general population;

25 (2) Rates of employment and unemployment;

26 (3) Poverty rates; and

27 (4) Arrests for or related to marijuana.

28 (d) The analysis shall compile data as provided for by this section for the calendar years  
29 2009 through 2020, inclusive and shall promulgate findings and conclusions as to the existence of  
30 disparities in arrests and convictions relative to marijuana and shall identify any ethnic group that  
31 have been disproportionately impacted by marijuana prohibition.

32 (e) All state and municipal agencies shall cooperate with the department to effectuate the  
33 purposes of the analysis.

34 (f) On or before January 1, 2022, the department shall publish such findings and

1 conclusions and submit a copy of the analysis to the governor, the speaker of the house, and the  
2 president of the senate.

3 **21-28.6-20. Distribution of certificates and licenses.**

4 (a) Notwithstanding any provisions of this chapter to the contrary, effective September 1,  
5 2021, and thereafter, the department of business regulation (the "department") shall implement  
6 policies to increase participation in the marijuana industry by people of color. Policies implemented  
7 pursuant to this chapter shall pursue a goal of ensuring that fifty percent (50%) of all new  
8 compassion center registration certificates issued, including, but not limited to, certificates issued  
9 pursuant to the provisions of § 21-28.6-12, are issued to persons of color. In promulgating these  
10 policies, the department shall consider the legislative intent identified in § 21-28.6-2.1, and other  
11 factors designed to promote the entry of persons of color into the marijuana industries.

12 (b) Notwithstanding any provisions of this chapter to the contrary, effective September 1,  
13 2021, and thereafter, the department shall implement policies to increase participation by people of  
14 color in the marijuana cultivation industry. Policies implemented pursuant to this section shall  
15 pursue a goal of ensuring that fifty percent (50%) of all new cultivator licenses issued, including,  
16 but not limited to, licenses issued pursuant to the provisions of § 21-28.6-16, are issued to persons  
17 of color. In issuing these licenses, the department shall consider factors and goals identified in §  
18 21-28.6-2.1, the conclusions reached in the 2015 American Civil Liberties Union of Rhode Island  
19 report entitled "The School to Prison Pipeline in Black and White" and other factors designed to  
20 promote the entry of persons of color into the marijuana industries.

21 (c) In issuing any certificate or license pertaining to the marijuana industries, the  
22 department shall also consider the number of persons of color who the applicant for the certificate  
23 or license will employ under or pursuant to the certificate or license. The department shall  
24 encourage applicants who commit to ensuring that at least twenty-five percent (25%) of their staff  
25 and employees are persons of color.

26 **21-28.6-21. Marijuana economic opportunity fund.**

27 (a) Fund established.

28 (1) Effective July 1, 2021, there is hereby established a restricted receipt account entitled  
29 the "marijuana economic opportunity fund" (the "fund").

30 (b) Funding.

31 (1) Thirty percent (30%) of all monies and revenues generated by licensure, taxes and fees  
32 charged pursuant to this chapter and any other provisions related to the marijuana industries, and  
33 one percent (1%) of the sales tax shall be deposited into the fund. The fund shall be administered  
34 by the department of business regulation (the "department").



1           (c) Distribution of fund.

2           (1) Eighty percent (80%) of the fund shall be used to provide interest free or low interest  
3 loans not to exceed two percent (2%) per annum compounded, to persons of color who are seeking  
4 entry into the marijuana industries. Applicants for these loans shall set forth in detail the proposed  
5 use of the funds and, if a loan is approved, the applicant shall be required to use the funds in  
6 accordance with the applicant’s application. The approval process for these loans shall be  
7 established by rules and regulations promulgated by the department. The department shall provide  
8 assistance to persons of color in the completion of these loan applications.

9           (2) Twenty percent (20%) of the fund shall be used to provide job training to assist persons  
10 of color in gaining entrance into the marijuana industries.

11           **21-28.6-22. Duties of department of business regulation.**

12           To facilitate greater equity in business ownership and employment in the marijuana market,  
13 the department of business regulation shall do all of the following:

14           (1) Serve as a point of contact for and to assist persons of color interested in gaining access  
15 to the marijuana industries.

16           (2) To the extent feasible, assist and provide guidance to persons of color seeking to enter  
17 the marijuana industries, specifically with respect to issues related to dealing with local municipal  
18 agencies, including, but not limited to, planning and zoning boards, and municipal governing  
19 councils.

20           (3) On or before January 1, 2022, publish the social equity and race analysis pursuant to §  
21 21-28.6-19(f) and applicable marijuana regulations aimed at promoting equitable ownership and  
22 employment opportunities for persons of color in the marijuana industries. The publication of the  
23 social equity and race analysis and regulations shall be in consistent, plain language and  
24 terminology with an explanation that the regulations are intended to decrease disparities in life  
25 outcomes for marginalized communities and to address the disproportionate impact of the war on  
26 drugs in those communities, and especially upon persons of color. In preparing the analysis and  
27 regulations, the department shall reach out to advocacy groups and experts who may include, but  
28 are not limited to: business owners of color and entrepreneurs of color; organizations with expertise  
29 in addressing barriers to employment and licensure for residents of low-income communities or  
30 persons of color with prior arrests or convictions; and unions representing marijuana workers.

31           SECTION 3. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby  
32 amended by adding thereto the following chapter:

33    CHAPTER 28.11  
34    THE RHODE ISLAND MARIJUANA EXPUNGEMENT ACT OF 2021

1           **21-28.11-1. Short title.**

2           This chapter shall be known and may be cited as the "Rhode Island Marijuana  
3 Expungement Act of 2021."

4           **21-28.11-2. Legislative findings.**

5           The general assembly finds and declares the following:

6           (1) In 2005, Rhode Island passed the Edward O. Hawkins and Thomas C. Slater Medical  
7 Marijuana Act. Rhode Island has also decriminalized possession of one ounce (1 oz.) or less of  
8 marijuana for personal use. With the advent of different states throughout the country legalizing  
9 marijuana, the general assembly finds that regulating it in a way that reduces barriers to entry into  
10 the legal, regulated market would benefit the state and those individuals who are inequitably being  
11 denied the opportunity to enter into the business of selling and cultivating marijuana due to prior  
12 convictions relating to possession of marijuana and/or distribution of marijuana.

13           (2) Marijuana prohibition had a devastating impact on communities in Rhode Island and  
14 across the United States. Persons convicted of a marijuana offense and their families suffer the  
15 long-term consequences of conviction, including the adverse repercussions in obtaining  
16 employment and housing and generally, are hindered as a result of those convictions to participate  
17 and contribute as productive members of society.

18           (3) The general assembly finds and declares that this chapter furthers the purposes and  
19 intent of the Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act and prospectively  
20 will reduce barriers in the future as Rhode Island contemplates legalization of marijuana.

21           **21-28.11-3. Expungement of marijuana related convictions.**

22           (a) Anyone with a prior conviction for misdemeanor or felony possession of marijuana,  
23 possession with intent to deliver marijuana or distribution of marijuana shall be entitled to have the  
24 criminal conviction expunged pursuant to chapter 1.3 of title 12.

25           (b) Any individual who has been convicted for misdemeanor or felony possession of  
26 marijuana shall have all court costs waived with respect to expungement of their criminal record  
27 under this section.

28           SECTION 4. This act shall take effect upon passage.

=====  
LC000106  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FOOD AND DRUGS -- THE EDWARD O. HAWKINS AND THOMAS C.  
SLATER MEDICAL MARIJUANA ACT

\*\*\*

1           This act would direct the department of business regulation to undertake a social equity  
2 and race analysis to examine whether racial disparities exist in the process to obtain a state license  
3 to sell marijuana, and in arrest and conviction rates pertaining to marijuana. The department would  
4 publish the analysis on or before January 1, 2022.

5           This act would also seek to remove barriers to persons of color or persons found to be  
6 disproportionately impacted by marijuana prohibition from entering into the marijuana industries.  
7 The act would ensure that a policy is implemented to promote an equitable distribution of licenses  
8 and certificates related to these industries. The act would also establish a loan program, to be  
9 administered by the department of business regulation, to assist persons of color or persons found  
10 to be disproportionately impacted by marijuana prohibition to gain access into the marijuana  
11 industries.

12           This act would also provide for expungement of past criminal misdemeanor and felony  
13 convictions for marijuana offenses.

14           This act would take effect upon passage.

=====  
LC000106  
=====