

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: Senator Frank A. Ciccone

Date Introduced: February 25, 2021

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28.6-4 of the General Laws in Chapter 21-28.6 entitled "The
2 Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act" is hereby amended to read as
3 follows:

4 **21-28.6-4. Protections for the medical use of marijuana.**

5 (a) A qualifying patient cardholder who has in his or her possession a registry identification
6 card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
7 privilege, including, but not limited to, civil penalty or disciplinary action by a business or
8 occupational or professional licensing board or bureau, solely for the medical use of medical
9 marijuana; provided that the qualifying patient cardholder possesses an amount of medical
10 marijuana that does not exceed twelve (12) mature marijuana plants and twelve (12) immature
11 marijuana plants that are accompanied by valid medical marijuana plant tags, two and one-half
12 ounces (2.5 oz.) of dried medical marijuana, or its equivalent amount which satisfies the
13 requirements of this chapter, and an amount of wet medical marijuana to be set by regulations
14 promulgated by the department of business regulation. The plants shall be stored in an indoor
15 facility. Marijuana plants and the marijuana they produce shall only be grown, stored,
16 manufactured, and processed in accordance with regulations promulgated by the department of
17 business regulation;

18 (b) An authorized purchaser who has in his or her possession a registry identification card

1 shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege,
2 including, but not limited to, civil penalty or disciplinary action by a business or occupational or
3 professional licensing board or bureau, for the possession of medical marijuana; provided that the
4 authorized purchaser possesses an amount of medical marijuana that does not exceed two and one-
5 half (2.5) ounces of usable marijuana, or its equivalent amount, and this medical marijuana was
6 purchased legally from a compassion center for the use of their designated qualifying patient.

7 (c) A qualifying patient cardholder, who has in his or her possession a registry
8 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
9 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business
10 or occupational or professional licensing board or bureau, for selling, giving, or distributing, on or
11 before December 31, 2016, to a compassion center cardholder, medical marijuana of the type and
12 in an amount not to exceed that set forth in subsection (a) that he or she has cultivated or
13 manufactured pursuant to this chapter.

14 (d) No school or landlord may refuse to enroll, or lease to, or otherwise penalize, a person
15 ~~solely for~~ because of his or her status as a cardholder or lawful user of medical marijuana under
16 this chapter. Provided, however, due to the safety and welfare concern for other tenants, the
17 property, and the public, as a whole, a landlord may have the discretion not to lease, or continue to
18 lease, to a cardholder who cultivates, manufactures, processes, smokes, or vaporizes medical
19 marijuana in the leased premises.

20 (e) No employer may refuse to employ, or otherwise penalize, a person ~~solely for~~ because
21 of his or her status as a cardholder or lawful user of medical marijuana under this chapter, except:

22 (1) To the extent employer action is taken with respect to such person's:

23 (i) Use or possession of marijuana or being under the influence of marijuana in any
24 workplace;

25 (ii) Undertaking a task under the influence of marijuana when doing so would constitute
26 negligence or professional malpractice or jeopardize workplace safety;

27 (iii) Operation, navigation, or actual physical control of any motor vehicle or other
28 transport vehicle, aircraft, motorboat, machinery or equipment, or firearms while under the
29 influence of marijuana; or

30 (iv) Violation of employment conditions pursuant to the terms of a collective bargaining
31 agreement; or

32 (2) Where the employer is a federal contractor or otherwise subject to federal law such that
33 failure of the employer to take such action against the employee would cause the employer to lose
34 a monetary or licensing related benefit.

1 (f) For purposes of subsections (d) and (e) of this section, a cardholder's positive drug test
2 for marijuana components or metabolites shall not by itself constitute evidence that the person is
3 under the influence of marijuana.

4 ~~(g)~~ A primary caregiver cardholder, who has in his or her possession a registry
5 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
6 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business
7 or occupational or professional licensing board or bureau, for assisting a patient cardholder, to
8 whom he or she is connected through the department of health or department of business
9 regulation's registration process, with the medical use of medical marijuana; provided, that the
10 primary caregiver cardholder possesses an amount of marijuana that does not exceed twelve (12)
11 mature marijuana plants that are accompanied by valid medical marijuana tags, two and one-half
12 (2.5) ounces of usable marijuana, or its equivalent amount, and an amount of wet marijuana set in
13 regulations promulgated by the departments of health and business regulation for each qualified
14 patient cardholder to whom he or she is connected through the department of health's registration
15 process.

16 ~~(h)~~ A qualifying patient cardholder shall be allowed to possess a reasonable amount of
17 unusable marijuana, including up to twelve (12) immature marijuana plants that are accompanied
18 by valid medical marijuana tags. A primary caregiver cardholder shall be allowed to possess a
19 reasonable amount of unusable marijuana, including up to twenty-four (24) immature marijuana
20 plants that are accompanied by valid medical marijuana tags and an amount of wet marijuana set
21 in regulations promulgated by the departments of health and business regulation.

22 ~~(i)~~ There shall exist a presumption that a cardholder is engaged in the medical use of
23 marijuana if the cardholder:

24 (1) Is in possession of a registry identification card; and

25 (2) Is in possession of an amount of marijuana that does not exceed the amount permitted
26 under this chapter. Such presumption may be rebutted by evidence that conduct related to marijuana
27 was not for the purpose of alleviating the qualifying patient's debilitating medical condition or
28 symptoms associated with the medical condition.

29 ~~(j)~~ A primary caregiver cardholder may receive reimbursement for costs associated with
30 assisting a qualifying patient cardholder's medical use of marijuana. A primary caregiver
31 cardholder may only receive reimbursement for the actual costs of goods, materials, services or
32 utilities for which they have incurred expenses. A primary caregiver may not receive
33 reimbursement or compensation for his or her time, knowledge, or expertise. Compensation shall
34 not constitute sale of controlled substances under state law. The department of business regulation

1 may promulgate regulations for the documentation and tracking of reimbursements and the transfer
2 of medical marijuana between primary caregivers and their registered patients.

3 ~~(k)~~ A primary caregiver cardholder, who has in his or her possession a registry
4 identification card, shall not be subject to arrest, prosecution, or penalty in any manner, or denied
5 any right or privilege, including, but not limited to, civil penalty or disciplinary action by a business
6 or occupational or professional licensing board or bureau, for selling, giving, or distributing, on or
7 before December 31, 2016, to a compassion center cardholder, marijuana, of the type, and in an
8 amount not to exceed that set forth in subsection ~~(g)~~ of this section, if:

9 (1) The primary caregiver cardholder cultivated the marijuana pursuant to this chapter, not
10 to exceed the limits of subsection ~~(g)~~ of this section; and

11 (2) Each qualifying patient cardholder the primary caregiver cardholder is connected with
12 through the department of health's registration process has been provided an adequate amount of
13 the marijuana to meet his or her medical needs, not to exceed the limits of subsection (a).

14 ~~(l)~~ A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or
15 denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by
16 the Rhode Island board of medical licensure and discipline, or an employer or occupational or
17 professional licensing board or bureau solely for providing written certifications in accordance with
18 this chapter and regulations promulgated by the department of health, or for otherwise stating that,
19 in the practitioner's professional opinion, the potential benefits of the medical marijuana would
20 likely outweigh the health risks for a patient.

21 ~~(m)~~ Any interest in, or right to, property that is possessed, owned, or used in connection
22 with the lawful medical use of marijuana, or acts incidental to such use, shall not be forfeited.

23 ~~(n)~~ No person shall be subject to arrest or prosecution for constructive possession,
24 conspiracy, aiding and abetting, being an accessory, or any other offense, for simply being in the
25 presence or vicinity of the medical use of marijuana as permitted under this chapter, or for assisting
26 a qualifying patient cardholder with using or administering marijuana.

27 ~~(o)~~ A practitioner, licensed with authority to prescribe drugs pursuant to chapters 34,
28 37, and 54 of title 5, or pharmacist, licensed under chapter 19.1 of title 5, or certified school nurse
29 teacher, shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or
30 privilege, including, but not limited to, civil penalty or disciplinary action by an employer or
31 occupational or professional licensing board or bureau solely for: (1) Discussing the benefits or
32 health risks of medical marijuana or its interaction with other substances with a patient; or

33 (2) Administering a non-smokable and non-vaporized form of medical marijuana in a
34 school setting to a qualified patient registered in accordance with this chapter.

1 ~~(p)~~ A qualifying patient or primary caregiver registry identification card, or its
2 equivalent, issued under the laws of another state, U.S. territory, or the District of Columbia, to
3 permit the medical use of marijuana by a patient with a debilitating medical condition, or to permit
4 a person to assist with the medical use of marijuana by a patient with a debilitating medical
5 condition, shall have the same force and effect as a registry identification card.

6 ~~(q)~~ Notwithstanding the provisions of subsection ~~(g)~~ of this section, no primary
7 caregiver cardholder shall possess an amount of marijuana in excess of twenty-four (24) mature
8 marijuana plants that are accompanied by valid medical marijuana tags and five (5) ounces of
9 usable marijuana, or its equivalent, and an amount of wet medical marijuana set in regulations
10 promulgated by the departments of health and business regulation for patient cardholders to whom
11 he or she is connected through the department of health and/or department of business regulation
12 registration process.

13 ~~(r)~~ A qualifying patient or primary caregiver cardholder may give marijuana to another
14 qualifying patient or primary caregiver cardholder to whom they are not connected by the
15 department's registration process, provided that no consideration is paid for the marijuana, and that
16 the recipient does not exceed the limits specified in this section.

17 ~~(s)~~ Qualifying patient cardholders and primary caregiver cardholders electing to grow
18 marijuana shall only grow at one premises, and this premises shall be registered with the department
19 of business regulation. Except for licensed compassion centers, and licensed cooperative
20 cultivations, and licensed cultivators, no more than twenty-four (24) mature marijuana plants that
21 are accompanied by valid medical marijuana tags shall be grown or otherwise located at any one
22 dwelling unit or commercial unit. The number of qualifying patients or primary caregivers residing,
23 owning, renting, growing, or otherwise operating at a dwelling or commercial unit does not affect
24 this limit. The department of business regulation shall promulgate regulations to enforce this
25 provision.

26 ~~(t)~~ For the purposes of medical care, including organ transplants, a patient cardholder's
27 authorized use of marijuana shall be considered the equivalent of the authorized use of any other
28 medication used at the direction of a physician, and shall not constitute the use of an illicit
29 substance.

30 ~~(u)~~ Notwithstanding any other provisions of the general laws, the manufacture of
31 marijuana using a solvent extraction process that includes the use of a compressed, flammable gas
32 as a solvent by a patient cardholder or primary caregiver cardholder shall not be subject to the
33 protections of this chapter.

34 ~~(v)~~ Notwithstanding any provisions to the contrary, nothing in this chapter or the general

1 laws shall restrict or otherwise affect the manufacturing, distribution, transportation, sale,
2 prescribing, and dispensing of a product that has been approved for marketing as a prescription
3 medication by the U.S. Food and Drug Administration and legally prescribed, nor shall hemp, in
4 accordance with chapter 26 of title 2, be defined as marijuana or marihuana pursuant to this chapter,
5 chapter 28 of this title or elsewhere in the general laws.

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

9 **21-28.6-19. Civil liability.**

10 A person whose rights under § 21-28.6-4 have been violated may commence a civil action
11 for injunctive and other appropriate equitable relief, and for the award of compensatory and
12 exemplary damages, within three (3) years after the occurrence of the alleged violation of this
13 chapter. An aggrieved person who prevails in an action authorized by this section, in addition to
14 other relief, is entitled to an award of costs of the litigation and reasonable attorneys' fees in an
15 amount to be fixed by the court.

16 SECTION 3. Section 28-6.5-2 of the General Laws in Chapter 28-6.5 entitled "Urine and
17 Blood Tests as a Condition of Employment" is hereby amended to read as follows:

18 **28-6.5-2. Testing of prospective employees.**

19 (a) Except as provided in subsections (b) and (c) of this section, an employer may require
20 a job applicant to submit to testing of his or her blood, urine or any other bodily fluid or tissue if:

21 (1) The job applicant has been given an offer of employment conditioned on the applicant's
22 receiving a negative test result;

23 (2) The applicant provides the test sample in private, outside the presence of any person;
24 and

25 (3) Positive tests of urine, blood, or any other bodily fluid or tissue are confirmed by a
26 federal certified laboratory by means of gas chromatography/mass spectrometry or technology
27 recognized as being at least as scientifically accurate.

28 (b) The pre-employment drug testing authorized by this section shall not extend to job
29 applicants for positions with any agency or political subdivision of the state or municipalities,
30 except for applicants seeking employment as a law enforcement or correctional officer, firefighter,
31 or any other position where that testing is required by federal law or required for the continued
32 receipt of federal funds.

33 (c) An employer shall not be required to comply with the conditions of testing under
34 subsection (a) of this section to the extent they are inconsistent with federal law.

1 [\(d\) Any testing authorized by this chapter shall be subject to the provisions of § 21-28.6-4.](#)

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

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LC001818
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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 expand the criminal and civil protections to lawful users of medical
2 marijuana. This act would also provide for civil damages to be imposed upon violators of these
3 protections.

4 This act would take effect upon passage.

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