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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

RELATING TO FOOD AND DRUGS -- TAXATION AND REGULATION OF MARIJUANA

Introduced By: Representatives Ajello, Newberry, Bennett, Martin, and Valencia

Date Introduced: February 06, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby amended by adding thereto the following chapters:

CHAPTER 28.6.1

MARIJUANA REGULATION, CONTROL AND TAXATION ACT

21-28.6.1-1. Short title. -- This chapter shall be known and may be cited as the "Marijuana Regulation, Control, and Taxation Act."

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

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

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

(3) More than sixty thousand (60,000) people have been killed in drug cartel and crackdown-related violence since the beginning of the crackdown on cartels in Mexico in 2006.
and, a significant portion of drug cartel profits come from marijuana sales in the United States.

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

(5) Heads of state in countries that have been scarred by drug cartel violence are beginning to call for a re-examination of drug policies, with past and current presidents of four Latin American countries -- current president of Guatemala, President Otto Pérez Molina, Cesar Gaviria of Colombia, Fernando Henrique Cardoso of Brazil, and Felipe Calderon, Vicente Fox, and Ernesto Zedillo of Mexico -- calling either for a discussion on decriminalizing marijuana or for marijuana to be made legal and regulated.

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

(7) There were more than seven hundred fifty-seven thousand (757,000) arrests for marijuana offenses in the United States in 2009, which is close to the entire adult population of Rhode Island.

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

(9) While there were more than two thousand seven hundred and two (2,702) arrests for marijuana offenses in Rhode Island in 2009, thousands of serious crimes went unsolved; the clearance rates for homicide, rape, and robbery were only forty-three and eight tenths percent (43.8%), twenty-seven percent (27%), and twenty-nine and three tenths percent (29.3%) in Rhode Island in 2009.

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

(11) Removing state criminal penalties for persons aged twenty-one (21) and older who
use or cultivate small amounts of marijuana, and from regulated providers, would allow police to
spend more time preventing and investigating serious crimes like murder, rape, assault, robbery,
burglary, and driving under the influence of alcohol and other drugs and would create substantial
savings.

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

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

(1) "Department" means the state of Rhode Island department of business regulation.

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

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

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

(5) "Retailer" means an entity that is either:

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

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

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

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

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

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

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

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

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

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

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

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

(i) Actually and constructively using, obtaining, purchasing, transporting, or possessing
one ounce (1 oz.) or less of marijuana. As used herein, “one ounce (1 oz.) or less of marijuana”
includes one ounce (1 oz.) or less of marijuana, or any mixture or preparation thereof, including,
but not limited to, five (5) grams or less of hashish, sixteen ounces (16 oz.) of marijuana-infused
product in solid form, or seventy-two ounces (72 oz.) of marijuana-infused product in liquid
form.

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

(iii) Using, obtaining, purchasing, transporting, or possessing, actually or constructively,
marijuana paraphernalia;

(iv) Selling marijuana seeds to a wholesaler;

(v) Manufacturing, possessing, or producing marijuana paraphernalia;

(vi) Selling marijuana paraphernalia to retailers, wholesalers, or persons who are twenty-
one (21) years of age or older:
(vii) Transferring one ounce (1 oz.) or less of marijuana to a person who is twenty-one (21) years of age or older without remuneration;

(viii) Aiding and abetting another person who is twenty-one (21) years of age or older in the possession or use of one ounce (1 oz.) or less of marijuana;

(ix) Aiding and abetting another person who is twenty-one (21) years of age or older in the possession or use of marijuana paraphernalia;

(x) Cultivating, possessing, growing, processing, or transporting no more than six (6) marijuana plants, with three (3) or fewer being mature, flowering plants.

(xi) Controlling any premises where other persons twenty-one (21) years of age or older cultivate marijuana plants, with the total number of mature, flowering plants not exceeding eighteen (18) in any dwelling unit;

(xii) Assisting with the cultivation of marijuana plants that are cultivated at the same location for persons twenty-one (21) years of age or older, with the total number of mature, flowering plants not exceeding eighteen (18) in any dwelling unit; and

(xiii) Any combination of the acts described within paragraphs (i) to (xii), inclusive.

(2) A retailer or any person who is twenty-one (21) years of age or older and acting in his or her capacity as an owner, employee, or agent of a retailer who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for the following acts:

(i) Transporting or possessing, actually or constructively, marijuana, including seedlings or cuttings that was purchased from a wholesaler or a retailer;

(ii) Obtaining or purchasing marijuana from a wholesaler or a retailer;

(iii) Selling or transferring marijuana to another retailer;

(iv) Manufacturing, possessing, producing, obtaining, or purchasing marijuana paraphernalia;

(v) Selling, transferring, or delivering marijuana, including seedlings or cuttings, which originate from a wholesaler or retailer, or marijuana paraphernalia to any person who is twenty-one (21) years of age or older;

(vi) Aiding and abetting any person who is twenty-one (21) years of age or older in the possession or use of one ounce (1 oz.) or less of marijuana and three (3) or fewer marijuana seedlings or cuttings;

(vii) Aiding and abetting any person who is twenty-one (21) years of age or older in the possession or use of marijuana paraphernalia;
(viii) Controlling any premises or vehicle where marijuana and marijuana paraphernalia is possessed, sold, or deposited in a manner that is not in conflict with this chapter or department regulations; and

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

(3) A wholesaler or any person who is twenty-one (21) years of age or older and acting in his or her capacity as an owner, employee, or agent of a wholesaler who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for the following acts:

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

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

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

(iv) Transporting or possessing marijuana seeds;

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

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

(vii) Purchasing marijuana from a wholesaler;

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

(ix) Controlling any premises or vehicle where marijuana and marijuana paraphernalia is possessed, manufactured, sold, or deposited in a manner that is not in conflict with this chapter or department regulations; and

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

(4) A safety compliance facility or any person who is twenty-one (21) years of age or older and acting in his or her capacity as an owner, employee, or agent of a safety compliance facility who acts in compliance with the provisions of this chapter shall not be subject to state prosecution; search, except by the department pursuant to Rhode Island general laws section 21-28.6.2-17; seizure; or penalty in any manner or be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with this chapter and department regulations to provide the following services:

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

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

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

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

(v) Any combination of the acts described within paragraphs (i) through (iv), inclusive.

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

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

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

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

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

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

(ii) Under the circumstances, a reasonable person would have known or suspected that the document was counterfeit, forged, altered, or issued to a person other than the person to whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished.
21-28.6.1-5. Authorized activities. -- (a) Any person who is twenty-one (21) years of age or older is authorized to manufacture, produce, use, obtain, purchase, transport, or possess, actually or constructively, marijuana paraphernalia.

(b) Any person who is twenty-one (21) years of age or older is authorized to distribute or sell marijuana paraphernalia to retailers, wholesalers, or persons who are twenty-one (21) years of age or older.

21-28.6.1-6. Civil violation. -- The manufacture or cultivation of six (6) or fewer marijuana plants by any person who is twenty-one (21) years of age or older in a location that is contrary to this subsection is a misdemeanor punishable by a fine of up to one thousand dollars ($1,000), up to ten (10) days in jail, or both.

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

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

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

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

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

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

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

(3) Possessing marijuana in any local detention facility, county jail, state prison, reformatory, or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders.

21-28.6.1-8. Smoking marijuana shall be prohibited in all public places. -- (a) A person who smokes marijuana in such an indoor public place shall be guilty of a petty misdemeanor, and may be punished as follows:
(1) By a fine of not more than two hundred fifty dollars ($250), imprisonment for a term not exceeding ten (10) days, or both for the first violation;

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

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

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

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

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

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

21-28.6.1-12. False age representation. -- Any person who falsely represents himself or herself to be twenty-one (21) years of age or older in order to obtain any marijuana or marijuana paraphernalia pursuant to this chapter is guilty of a misdemeanor.

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

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

CHAPTER 28.6.2

TAXATION AND REGULATION OF MARIJUANA

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

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

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

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

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

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

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

(A) Training, including that related to cultivation of marijuana, safe handling of marijuana, and security and inventory procedures; or

(B) Testing marijuana for potency and contaminants; or

(ii) Exempt from state penalties under Rhode Island general laws section 21-28.6.2-4 due to the department not issuing registrations.

(4) "Wholesaler" means an entity that is either:

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

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

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

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

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

(3) By one year after the effective date of this chapter, the department shall have issued at least one retailer registration per county. By two (2) years after the effective date of this chapter, the department shall have issued at least one retailer registration per county, and up to 25 total registrations, provided a sufficient number of qualified applicants exist. If more qualifying
applicants apply than the department will register, the department shall implement a competitive
scoring process to determine to which applicants to grant registrations, which may be varied for
geographic distribution. The scoring system shall take into account the applicant and managing
officers’ applicable experience, training, and expertise; the applicant’s plan for security and
diversion prevention; any criminal, civil, or regulatory issues encountered by other entities the
applicant and managing officers have controlled or managed; and the suitability of the proposed
location.

(4) If at any time after two (2) years after the effective date of this chapter, there are
fewer than twenty-five (25) valid and outstanding retailer registrations, with at least one
registration in each county, the department shall accept and process applications for retailer
registrations.

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

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

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

(8) Nothing in this section shall prohibit an entity registered as a retailer or seeking
retailer registration from also holding a wholesaler registration or seeking registration as a
wholesaler pursuant to section 21-28.6.2-3 of the Rhode Island general laws.

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

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

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

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

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

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

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

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

(8) Nothing in this section shall prohibit an entity registered as a wholesaler or seeking wholesaler registration from also holding a retailer registration or seeking registration as a retailer pursuant to section 21-28.6.2-3 of the Rhode Island general laws.

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

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

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

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

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

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

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

(1) The entity would be located within one thousand feet (1000’) of the property line of a pre-existing public school, private school, or structure used primarily for religious services or worship; or

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

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

21-28.6.2-7. Advertising and product placement.-- (a) No retailer, wholesaler, or other person may advertise the sale of marijuana in a manner contrary to the regulations established by the department.

(b) Film, television, production, and other entertainment companies are prohibited from paying for the product placement of marijuana or marijuana products in any production filmed in Rhode Island.

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

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

(i) Methods for administering marijuana;

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

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

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

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

(1) The name and registration number of the wholesaler.

(2) If a safety compliance facility is operational, the potency of the marijuana, as determined by testing by a safety compliance facility, represented by the percentage of tetrahydrocannabinol by mass.

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

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

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

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

(2) Government employees performing their official duties;

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

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

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

21-28.6.2-12. Retailer violations. -- (a) A retailer shall not:

(1) Sell, give, or otherwise furnish marijuana or marijuana paraphernalia to any person who is under twenty-one (21) years of age;

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

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

(4) Knowingly and willfully sell, give, or otherwise furnish an amount of marijuana to a person that would cause that person to possess more than one ounce (1 oz.) of marijuana or more than three (3) marijuana plants, seedlings, or clones:
(5) Purchase marijuana, other than marijuana seeds, from any person other than a licensed wholesaler or retailer;

(6) Violate regulations issued by the department;

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

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

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

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

(d) As used in this section, "marijuana paraphernalia" means equipment, products, and materials which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, ingesting, inhaling, or otherwise introducing marijuana into the human body.

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

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

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

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

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

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

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

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

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

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

21-28.6.2-15. Excise tax. -- An excise tax is hereby levied upon wholesalers and must be collected respecting all marijuana sold to retailers at the rate of either fifty dollars ($50.00) per
ounce or proportionate part thereof, or an amount that the department may set that adjusts the initial fifty dollars ($50) per ounce rate for inflation or deflation based on the consumer price index.

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

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

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

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

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

(c) The department shall adopt regulations that:

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

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

(3) Specify the content, form, and timing of reports, which must be completed by each retailer, wholesaler, and safety compliance facility and which must be available for inspection by the department. The reports shall include information on sales, expenses, inventory, and taxes and shall be retained for at least one year after the completion of the forms;

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

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

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

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

(8) Establish restrictions on advertising for the sale of marijuana. The restrictions shall:

(i) Be in compliance with the United States Constitution and the Rhode Island Constitution; and

(ii) Be at least as restrictive as limitations on advertising tobacco products, provided that the regulations may not prevent appropriate signs on the property of the retailer or wholesaler, listings in business directories including phone books, listings in publications focused on marijuana, or the sponsorship of health or not-for-profit charity or advocacy events;

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

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

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

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

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

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

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

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

f) Except as provided in this subsection, the department shall keep the name and address of each wholesaler, retailer, and safety compliance facility and each owner, employee, or agent of a wholesaler, retailer, and safety compliance facility confidential and refuse to disclose this information to any individual or public or private entity, except as necessary for authorized employees of the department to perform official duties of the department pursuant to this chapter. The department may confirm to a state or local law enforcement officer that a retailer, wholesaler, or safety compliance facility holds a valid registration if the law enforcement officer inquires about the specific location or entity.
(g) The department shall not require:

1. An individual consumer to provide a retailer with personal information other than government-issued identification to determine the individual's age; or

2. A retailer to acquire and record personal information about individual customers other than information typically acquired in a financial transaction conducted at a retail liquor store.

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

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

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

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

1. The content of safety inserts;

2. Whether additional warning labels should be added;

3. Strategies for educating physicians and the public about research relating to marijuana’s benefits and risks;

4. Any effect on organized crime in the state;

5. Any effect on criminal sales of marijuana in middle and high schools;

6. Quality control and labeling standards;

7. Recommendations on restrictions on advertising;

8. Recommendations for reporting and data monitoring related to beneficial and adverse
effects of marijuana; and

(9) An update on the latest research related to driving under the influence of marijuana, along with recommendations regarding policies for roadside sobriety tests and any recommended changes to driving under the influence statutes.

c) The department shall submit to the legislature an annual report by the first Thursday of every year, which shall include:

(1) The direct revenue and costs related to implementing this chapter, including revenue from taxes, fines, and fees;

(2) The number of registrations suspended and revoked, and the nature of revocations;

and

(3) The findings of the advisory committee.

SECTION 2. Sections 21-28-4.01, 21-28-4.01.1, and 21-28-4.01.2 of the General Laws in Chapter 21-28 entitled "Uniform Controlled Substances Act" are hereby amended to read as follows:

21-28-4.01. Prohibited acts A -- Penalties. [Effective until April 1, 2013.] -- (a) (1)

Except as authorized by this chapter, it shall be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance.

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

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

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

(i) A controlled substance classified in schedule I or II, is guilty of a crime and upon conviction may be imprisoned for not more than thirty (30) years, or fined not more than one hundred thousand dollars ($100,000) nor less than three thousand dollars ($3,000), or both;

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

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

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

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

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

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

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

(c) (1) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance, unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

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

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

(ii) A controlled substance classified in schedule I as marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for not more than one year or fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or both.

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

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

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

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

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

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

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

(e) It shall be unlawful for a practitioner to prescribe, order, distribute, supply, or sell an anabolic steroid or human growth hormone for: (1) enhancing performance in an exercise, sport, or game, or (2) hormonal manipulation intended to increase muscle mass, strength, or weight without a medical necessity. Any person who violates this subsection is guilty of a misdemeanor and upon conviction may be imprisoned for not more than six (6) months or a fine of not more than one thousand dollars ($1,000), or both.
(2) Any person who is not a drug addicted person, as defined in section 21-28-1.02(18), who violates this subsection with respect to a controlled substance classified in schedule I or II, except the substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned to a term up to life, or fined not more than five hundred thousand dollars ($500,000) nor less than ten thousand dollars ($10,000), or both.

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

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

(i) A controlled substance classified in schedule I or II, except the substance classified as marijuana, is guilty of a crime and upon conviction may be imprisoned for not more than thirty (30) years, or fined not more than one hundred thousand dollars ($100,000) nor less than three thousand dollars ($3,000), or both;

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

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

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

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

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

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

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

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

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

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

(c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled substance, unless the substance was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter or exempt from arrest by chapters 21-28.6.1, 21-28.6.2 or 44-49-17.

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

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

(ii) More than one ounce (1 oz.) of a controlled substance classified in schedule I as marijuana is guilty of a misdemeanor except for those persons subject to subdivision 21-28-4.01(a)(1) and upon conviction may be imprisoned for not more than one year or fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or both.

(iii) Notwithstanding any public, special or general laws to the contrary, the possession of one ounce (1 oz.) or less of marijuana by a person who is eighteen (18) years of age or older but who is less than twenty-one (21) years of age and who is not exempted from penalties pursuant to chapter 21-28.6 shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars ($150) and forfeiture of the marijuana, but not to any other form of criminal or civil punishment or disqualification. Notwithstanding any public, special or general laws to the contrary, this civil penalty of one hundred fifty dollars ($150) and
forfeiture of the marijuana shall apply if the offense is the first (1st) or second (2nd) violation within the previous eighteen (18) months.

(iv) Notwithstanding any public, special or general laws to the contrary, possession of one ounce (1 oz.) or less of marijuana by a person who is under the age of eighteen (18) years and who is not exempted from penalties pursuant to chapter 21-28.6 shall constitute a civil offense, rendering the offender liable to a civil penalty in the amount of one hundred fifty dollars ($150) and forfeiture of the marijuana; provided the minor offender completes an approved drug awareness program and community service as determined by the court. If the person under the age of eighteen (18) years fails to complete an approved drug awareness program and community service within one year of the offense, the penalty shall be a three hundred dollar ($300) civil fine and forfeiture of the marijuana, except that if no drug awareness program or community service is available, the penalty shall be a fine of one hundred fifty dollars ($150) and forfeiture of the marijuana. The parents or legal guardian of any offender under the age of eighteen (18) shall be notified of the offense and the availability of a drug awareness and community service program. The drug awareness program must be approved by the court, but shall, at a minimum, provide four (4) hours of instruction or group discussion, and ten (10) hours of community service. Notwithstanding any other public, special or general laws to the contrary, this civil penalty shall apply if the offense is the first (1st) or second (2nd) violation within the previous eighteen (18) months.

(v) Notwithstanding any public, special, or general laws to the contrary, a person not exempted from penalties pursuant to chapter 21-28.6 found in possession of one ounce (1 oz.) or less of marijuana is guilty of a misdemeanor and upon conviction may be imprisoned for not more than thirty (30) days or fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or both, if that person has been previously adjudicated on a violation for possession of less than one ounce (1 oz.) of marijuana under subparagraphs 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) two (2) times in the eighteen (18) months prior to the third (3rd) offense.

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

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

(viii) No violation of subparagraphs 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be
considered a violation of parole or probation.

(ix) Any records collected by any state agency or tribunal that include personally
identifiable information about violations of subparagraphs 21-28-4.01(c)(2)(iii) or 21-28-
4.01(c)(2)(iv) shall be sealed eighteen (18) months after the payment of said civil fine.

(3) Jurisdiction. - Any and all violations of subparagraphs 21-28-4.01(c)(2)(iii) and 21-28-
4.01(c)(2)(iv) shall be the exclusive jurisdiction of the Rhode Island traffic tribunal. All
money associated with the civil fine issued under subparagraphs 21-28-4.01(c)(2)(iii) or 21-28-
4.01(c)(2)(iv) shall be payable to the Rhode Island traffic tribunal. Fifty percent (50%) of all fines
collected by the Rhode Island traffic tribunal from civil penalties issued pursuant to
subparagraphs 21-28-4.01(c)(2)(iii) or 21-28-4.01(c)(2)(iv) shall be expended on drug awareness
and treatment programs for youth.

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

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

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

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

(iv) If the offense involves the use of any automobile to transport the substance or the
substance is found within an automobile, then a person convicted or who pleads nolo contendere
under paragraphs (2)(i) and (ii) of this subsection shall be subject to a loss of license for a period
of six (6) months for a first offense and one year for each offense after this.
(5) All fees assessed and collected pursuant to paragraph (3)(ii) of this subsection shall be deposited as general revenues and shall be collected from the person convicted or who pleads nolo contendere before any other fines authorized by this chapter.

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

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

21-28-4.01.1. Minimum sentence -- Certain quantities of controlled substances. -- (a) Except as authorized by this chapter, it shall be unlawful for any person to manufacture, sell, or possess with intent to manufacture, sell, a controlled substance classified in schedules I or II (excluding marijuana) or to possess or deliver the following enumerated quantities of certain controlled substances:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 3. Chapter 21-28 of the General Laws entitled "Uniform Controlled Substances Act" is hereby amended by adding thereto the following section:
21-28-4.23. Marijuana exemption. -- The penalties provided for in this chapter do not apply to those exempted from criminal penalties pursuant to sections 21-28.6.1, 21-28.6.2 and 44-29-17.

SECTION 4. Section 31-27-2 of the General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" is hereby amended to read as follows:

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

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

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

(c) In any criminal prosecution for a violation of subsection (a) of this section, evidence as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance shall be admissible and competent, provided that evidence is presented that the following conditions have been complied with:
(1) The defendant has consented to the taking of the test upon which the analysis is made. Evidence that the defendant had refused to submit to the test shall not be admissible unless the defendant elects to testify.

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

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

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

(5) Equipment used for the conduct of the tests by means of breath analysis had been tested for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore provided, and breathalyzer operators shall be qualified and certified by the department of health within three hundred sixty-five (365) days of the test.

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

(d)(1)(i) Every person found to have violated subdivision (b)(1) of this section shall be sentenced as follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one percent (.08%) but less than one-tenth of one percent (.1%) by weight or who has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2) shall be subject to a fine of not less than one hundred dollars ($100) nor more than three hundred dollars ($300), shall be required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge and/or shall be required to attend a special course on driving while intoxicated or under the influence of a controlled substance; provided, however, that the court may permit a servicemember or veteran to complete any court-approved counseling program administered or approved by the Veterans' Administration, and his or her driver's license shall be suspended for thirty (30) days up to one
(ii) Every person convicted of a first violation whose blood alcohol concentration is one-tenth of one percent (.1%) by weight or above but less than fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is unknown shall be subject to a fine of not less than one hundred ($100) dollars nor more than four hundred dollars ($400) and shall be required to perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge. The person's driving license shall be suspended for a period of three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special course on driving while intoxicated or under the influence of a controlled substance and/or alcoholic or drug treatment for the individual; provided, however, that the court may permit a servicemember or veteran to complete any court-approved counseling program administered or approved by the Veterans' Administration.

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

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

(ii) Every person convicted of a second violation within a five (5) year period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by weight as shown by a chemical analysis of a blood, breath, or urine sample or who is under the influence of a drug, toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to mandatory imprisonment of not less than six (6) months nor more than one year, a mandatory fine of not less than one thousand dollars ($1,000) and a mandatory license suspension for a period of two (2) years from the date of completion of the sentence imposed under this subsection. The sentencing judge shall require alcohol or drug treatment for the individual; provided, however, that the court may permit a servicemember or veteran to complete any court approved counseling program administered or approved by the Veterans' Administration.

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

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

(iii) In addition to the foregoing penalties, every person convicted of a third or subsequent violation within a five (5) year period regardless of whether any prior violation and subsequent conviction was a violation and subsequent conviction under this statute or under the driving under the influence of liquor or drugs statute of any other state shall be subject, in the discretion of the sentencing judge, to having the vehicle owned and operated by the violator seized and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred to the general fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. Section 44-11-11 of the General Laws in Chapter 44-11 entitled "Business
Corporation Tax" is hereby amended to read as follows:

**44-11-11. "Net income" defined. --** (a) (1) "Net income" means, for any taxable year
and for any corporate taxpayer, the taxable income of the taxpayer for that taxable year under the
laws of the United States, except as provided for in subsection 44-11-11(j), plus:

   (i) Any interest not included in the taxable income;

   (ii) Any specific exemptions;

   (iii) For a captive REIT, an amount equal to the amount of the dividends paid deduction
allowed under the Internal Revenue Code for the taxable year;

(iv) The tax imposed by this chapter;

(v) Any deductions required to be added back to net income under the provisions of paragraph (f) of this section, and minus

(vi) Interest on obligations of the United States or its possessions, and other interest exempt from taxation by this state; and

(vii) The federal net operating loss deduction.

(2) All binding federal elections made by or on behalf of the taxpayer applicable either directly or indirectly to the determination of taxable income shall be binding on the taxpayer except where this chapter or its attendant regulations specifically modify or provide otherwise.

Rhode Island taxable income shall not include the "gross-up of dividends" required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer's election of the foreign tax credit.

(b) A net operating loss deduction shall be allowed which shall be the same as the net operating loss deduction allowed under 26 U.S.C. section 172, except that:

(1) Any net operating loss included in determining the deduction shall be adjusted to reflect the inclusions and exclusions from entire net income required by subsection (a) of this section and section 44-11-11.1;

(2) The deduction shall not include any net operating loss sustained during any taxable year in which the taxpayer was not subject to the tax imposed by this chapter; and

(3) The deduction shall not exceed the deduction for the taxable year allowable under 26 U.S.C. section 172; provided, that the deduction for a taxable year may not be carried back to any other taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the five (5) succeeding taxable years.

(c) "Domestic international sales corporations" (referred to as DISCs), for the purposes of this chapter, will be treated as they are under federal income tax law and shall not pay the amount of the tax computed under section 44-11-2(a). Any income to shareholders of DISCs is to be treated in the same manner as it is treated under federal income tax law as it exists on December 31, 1984.

(d) A corporation which qualifies as a "foreign sales corporation" (FSC) under the provisions of subchapter N, 26 U.S.C. section 861 et seq., and which has in effect for the entire taxable year a valid election under federal law to be treated as a FSC, shall not pay the amount of the tax computed under section 44-11-2(a). Any income to shareholders of FSCs is to be treated in the same manner as it is treated under federal income tax law as it exists on January 1, 1985.
(e) As used in this section:

(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue Code.

(2) "Intangible expenses and costs" includes: (A) expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income before operating loss deduction and special deductions for the taxable year under the Internal Revenue Code; (B) losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions; (C) royalty, patent, technical and copyright fees; (D) licensing fees; and (E) other similar expenses and costs.

(3) "Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

(4) "Interest expenses and costs" means amounts directly or indirectly allowed as deductions under section 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, management, ownership, sale, exchange or disposition of intangible property.

(5) "Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, as defined in this subsection, a component member as defined in section 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code.

(6) "Related entity" means: (A) a stockholder who is an individual, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock; (B) a stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnership, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock; or (C) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code, if the taxpayer owns, directly,
indirectly, beneficially or constructively, at least fifty percent (50%) of the value of the corporation's outstanding stock. The attribution rules on section 318 of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this subdivision have been met.

(f) For purposes of computing its net income under this section, a corporation shall add back otherwise deductible interest expenses and costs and intangible expenses and costs directly or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related members.

(1) The adjustments required in subsection (f) of this section shall not apply if the corporation establishes by clear and convincing evidence that the adjustments are unreasonable, as determined by the tax administrator or the corporation and the tax administrator agree in writing to the application or use of an alternative method of apportionment under section 44-11-15. Nothing in this subsection shall be construed to the limit or negate the tax administrator's authority to otherwise enter into agreements and compromises otherwise allowed by law.

(2) The adjustments required in subsection (f) of this section shall not apply to such portion of interest expenses and costs and intangible expenses and costs that the corporation can establish by the preponderance of the evidence meets both of the following: (A) the related member during the same income year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member; and (B) the transaction giving rise to the interest expenses and costs or the intangible expenses and costs between the corporation and the related member did not have as a significant purpose the avoidance of any portion of the tax due under chapter 44-11.

(3) The adjustments required in subsection (f) shall not apply if the corporation establishes by clear and convincing evidence, as determined by the tax administrator, that: (i) a principal purpose of the transaction giving rise to the payment of interest was not to avoid payment of taxes due under this chapter; (ii) the interest is paid pursuant to a contract that reflects an arm's length rate of interest and terms; and (iii) (A) the related member was subject to tax on its net income in this state or another state or possession of the United States or a foreign nation; (B) a measure of said tax included the interest received from the taxpayer; and (C) the effective rate of tax applied to the interest received by the related member is no less than the effective rate of tax applied to the taxpayer under this chapter minus 3 percentage points.

(4) Partial Adjustments. - The add back required in subsection (f) shall not be required in part if a portion of the add back would be unreasonable. A portion of the add back will be considered unreasonable to the extent that the taxpayer establishes to the tax administrator by
clear and convincing evidence that interest or intangible expense was paid, accrued or incurred to
a related member that is taxed on the corresponding income by a state, U.S. possession or foreign
jurisdiction. An adjustment to the add back will be allowed based on a factor determined by the
apportioned tax rate of the related member in the other jurisdiction compared to the apportioned
tax rate of the taxpayer in this state. A taxpayer that seeks to claim this adjustment must file a
schedule that sets forth the information required by the tax administrator.

(g) Nothing in this section shall require a corporation to add to its net income more than
once any amount of interest expenses and costs or intangible expenses and costs that the
corporation pays, accrues or incurs to a related member described in subsection (b) of this
section.

(h) Any taxpayer required to make an adjustment required in subsection (f) for tax years
beginning on or after January 1, 2008, is additionally required to report to the tax administrator,
on forms required by him, the amount of any adjustments that would have been required if the
law applied to tax years beginning on or after January 1, 2007.

(i) Nothing in this section shall be construed to limit or negate the tax administrator
authority to make adjustments under section 44-11-15.

(j) Notwithstanding any federal tax law to the contrary, in computing net income for
businesses exempted from criminal penalties under section 21-28.6.1-4 or section 21-28.6-12 of
the Rhode Island general laws there shall be allowed as a deduction from state taxes all the
ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade
or business, including, but not limited to, reasonable allowance for salaries or other compensation
for personal services actually rendered.

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

**44-49-17. No tax stamp required.** Controlled substance tax payment with a stamp or
other official indicia, as referred to in section 44-49-5, is not required for registered retailers and
wholesalers under chapters 21-28.6.1 and 21-28.6.2 and the penalties provided for in this chapter
do not apply to those acting in accordance with the laws of, and regulations enacted through the
authority of, said chapters of the general laws.

SECTION 7. This act shall take effect on April 1, 2013.
This act would create the "Marijuana Regulation, Control and Taxation Act" which would legalize the possession of less than one ounce (1 oz.) or less of marijuana, marijuana paraphernalia, and a limited amount of marijuana plants. The act would create a regulatory process for the manufacture, sale and taxation of marijuana.

This act would take effect on April 1, 2013.