

2011 -- H 5591

LC01558

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

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

Introduced By: Representatives Ajello, Martin, Blazejewski, Walsh, and Valencia

Date Introduced: March 03, 2011

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 CHAPTER 37

4 TAXATION AND REGULATION OF MARIJUANA ACT

5 **21-37-1. Short title.** – This chapter shall be known and may be cited as the “Taxation  
6 And Regulation Of Marijuana Act.”

7 **21-37-2. Legislative findings.** – It is hereby found and declared as follows:

8 (1) In Rhode Island, the nation, and internationally there is an increasing call to take a  
9 careful look at marijuana policies, their effectiveness, their consequences, and the economic costs  
10 associated with them;

11 (2) In June 2005, five hundred thirty (530) economists, including three (3) Nobel  
12 Laureates, endorsed a study on the costs of marijuana prohibition by Harvard professor Dr.  
13 Jeffrey Miron and called for “an open and honest debate about marijuana prohibition,” adding,  
14 “We believe such a debate will favor a regime in which marijuana is legal but taxed and regulated  
15 like other goods.”

16 (3) Heads of state in countries that have been scarred by drug cartel violence are  
17 beginning to call for a reexamination of drug policies, with past presidents of three Latin  
18 American countries – calling on the U.S. to consider decriminalization of marijuana;

19 (4) In 2003 the UNODC World Drug Report estimated that the worldwide illicit retail

1 market for marijuana is worth one hundred thirteen billion dollars (\$113,000,000,000);

2 (5) The complete lack of marijuana market regulation ensures that marijuana production  
3 and distribution are in the hands of unlicensed growers, untaxed and unmonitored, and the  
4 product is not controlled or regulated for safety concerns;

5 (6) Rhode Island has been a leader in the nation on medical marijuana policy reform, and  
6 during the debate on the issue the legislature learned of violence that is created by marijuana  
7 being sold on the criminal market;

8 (7) There were more than eight hundred forty seven thousand (847,000) arrests for  
9 marijuana offenses in the United States in 2008, which is more than the entire adult population in  
10 Rhode Island;

11 (8) Of more than eight hundred forty seven thousand (847,000) marijuana-related arrests  
12 in 2008 just over six thousand three hundred (6,300) suspects were booked by federal law  
13 enforcement – less than one percent (1%) – demonstrating that nearly all marijuana arrests occur  
14 on the state level, and thus state legislative action has the capacity to significantly change policy;

15 (9) There were more than two thousand (2,000) arrests for marijuana offenses in the State  
16 of Rhode Island in 2007;

17 (10) There is an alarming racial disparity in marijuana arrest in Rhode Island, with  
18 African-Americans arrested at nearly three (3) times the rate of Caucasians in 2007, although  
19 their marijuana usage rates were very similar;

20 (11) Decades of arresting millions of marijuana users has failed to prevent teenagers or  
21 anyone else from using marijuana: a study published in the American Journal of Public Health  
22 compared marijuana use and sales are de facto legal, found “no evidence to support claims that  
23 criminalization reduces (marijuana) use”; and

24 (12) Allowing adults aged twenty-one (21) and older to use marijuana legally in the  
25 privacy of their homes would allow police to spend more time preventing and investigating  
26 serious crimes like murder, rape, assault, robbery, burglary, and driving under the influence of  
27 alcohol and other drugs and would create substantial savings.

28 **21-37-3. Definitions.** – As used in this chapter and in chapter 21-36, the following words  
29 and phrases have the following meanings, unless the context clearly requires otherwise. (1)  
30 “Department” means the State of Rhode Island department of business regulation.

31 (2) “Marijuana” means all parts of the plant Cannabis sativa L., whether growing or not;  
32 the seeds thereof; the resin extracted from any part of the plant; and every compound,  
33 manufacture, salt, the plant, fiber produced from the stalks, oil or cake made from the seeds of the  
34 plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature

1 stalks (except the resin extracted from it), fiber, oil, or cake, or the sterilized seed of the plant that  
2 is incapable of germination.

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

8 (4) “Registered safety compliance facility” means an entity registered under section 21-  
9 36-9 with the department to provide one or both of the following services: training, including that  
10 related to cultivation of marijuana, safe handling of marijuana, marijuana research, and security  
11 and inventory procedures; and testing for potency and contaminants.

12 (5) “Registry identification zip tie” means a zip tie issued by the department that  
13 identifies a marijuana plant that is legally registered for personal cultivation and is not affiliated  
14 with a retailer or wholesaler.

15 (6) “Retailer” means an entity registered pursuant to section 21-36-2 of the Rhode Island  
16 general laws to purchase marijuana from a wholesaler and to sell marijuana and marijuana  
17 paraphernalia to customers.

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

20 (8) “Verification system” means a phone or web-based system that is in operation  
21 twenty-four (24) hours a day that law enforcement personnel shall use to verify registry  
22 identification zip ties and that shall be established and maintained by the department pursuant to  
23 subdivision (13).

24 (9) “Wholesaler” means an entity registered pursuant to section 21-36-5 of the Rhode  
25 Island general laws to cultivate, prepare, package, and sell marijuana to a retailer or another  
26 wholesaler, but not to sell marijuana to the general public.

27 **21-37-4. Exemption.** – (a) A person who is twenty-one (21) years of age or older and  
28 who acts in compliance with the provisions of this chapter is exempt from arrest, civil or criminal  
29 penalty, seizure or forfeiture of assets, discipline by any state or local licensing board, and state  
30 prosecution for the following acts:

31 (1) Actually and constructively using, obtaining, purchasing, transporting, or possessing  
32 one ounce or less of marijuana. As used herein, “one ounce or less of marijuana” includes one  
33 ounce or less of marijuana, or any mixtures or preparation thereof (including, but not limited to,  
34 five (5) grams or less of hashish). The weight of any non-marijuana ingredients combined with

1 marijuana, such as in a preparation for topical administration or for consumption as food or drink,  
2 shall not count toward the one ounce limit.

3 (2) Controlling any premises or vehicle where up to one ounce of marijuana per person  
4 who is twenty-one (21) years of age or older is possessed deposited.

5 (3) Using, obtaining, purchasing, transporting, or possessing, actually or constructively,  
6 marijuana paraphernalia.

7 (4) Selling marijuana seeds to a wholesaler.

8 (5) Manufacturing, possessing, or producing marijuana paraphernalia.

9 (6) Selling marijuana paraphernalia to retailers, wholesalers, or persons who are twenty  
10 one (21) years of age or older.

11 (7) Transferring one ounce or less of marijuana without remuneration to a person who is  
12 twenty one (21) years of age or older.

13 (8) Aiding and abetting another person who is twenty one (21) years of age or older in the  
14 possession or use of one ounce or less of marijuana.

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

17 (10) Cultivating three (3) marijuana plants or less in compliance with this chapter, where  
18 the cultivator possesses valid registry identification zip ties, which are either affixed to or beside  
19 each plant.

20 (11) Any combination of the acts described in subdivisions (a)(1) through (a)(10),  
21 inclusive.

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

27 (1) Transporting or possessing, actually or constructively, marijuana that was purchased  
28 from a wholesaler.

29 (2) Possession of marijuana paraphernalia.

30 (3) Obtaining or purchasing marijuana from a wholesaler.

31 (4) Manufacturing, possessing, producing, obtaining, or purchasing marijuana  
32 paraphernalia.

33 (5) Selling marijuana or marijuana paraphernalia which originates from a wholesaler to  
34 any person who is twenty one (21) years of age or older.

1           (6) Aiding and abetting any person who is twenty-one (21) years of age or older in the  
2 possession or use of one ounce or less of marijuana.

3           (7) Aiding and abetting any person who is twenty-one (21) years of age or older in the  
4 possession or use of marijuana paraphernalia.

5           (8) Controlling any premises or vehicle where marijuana and marijuana paraphernalia is  
6 possessed, sold, or deposited in accordance with this chapter.

7           (9) Any combination of the acts described in subdivisions (b)(1) through (b)(8), inclusive.

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

13           (1) Cultivating, packing, processing, transporting, or manufacturing marijuana.

14           (2) Transporting or possessing marijuana that was produced by the wholesaler or another  
15 wholesaler.

16           (3) Transporting or possessing marijuana seeds.

17           (4) Possession of marijuana paraphernalia.

18           (5) Selling marijuana or marijuana paraphernalia to a retailer or a wholesaler.

19           (6) Purchasing marijuana seeds from a person who is twenty-one (21) years of age or  
20 older.

21           (8) Controlling any premises or vehicle where marijuana and marijuana paraphernalia is  
22 possessed, manufactured, sold or deposited in accordance with this chapter.

23           (9) Any combination of the acts described in subdivisions (c)(1) through (c)(8), inclusive.

24           (d) By way of clarification, the actions identified and described in this section, when  
25 undertaken in compliance with the provisions of this chapter, are lawful under Rhode Island state  
26 law.

27           **21-37-5. Defenses.** – (a) In a prosecution for selling, giving, or otherwise furnishing  
28 marijuana or marijuana paraphernalia to any person who is under twenty-one (21) years of age, it  
29 is a complete defense if:

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

34           (2) Immediately before selling, giving, or otherwise furnishing marijuana or marijuana

1 paraphernalia to a person who is under twenty-one (21) years of age the person who sold, gave, or  
2 otherwise furnished the marijuana or marijuana paraphernalia was shown a document which  
3 appeared to be issued by an agency of a federal, state, tribal, or foreign sovereign government and  
4 which indicated that the person to whom the marijuana or marijuana paraphernalia was sold,  
5 given, or otherwise furnished was twenty-one (21) years of age or older at the time the marijuana  
6 or marijuana paraphernalia was sold, given or otherwise furnished to the person.

7 (b) The complete defense set forth in this section does not apply if:

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

12 (2) Under the circumstances, a reasonable person who would have known or suspected  
13 that the document was counterfeit, forged, altered, or issued to a person other than the person to  
14 whom the marijuana or marijuana paraphernalia was sold, given, or otherwise furnished.

15 **21-37-6. Personal use.** – A person who is twenty-one (21) years of age or older may  
16 cultivate three (3) marijuana plants or less for personal use if the person is in compliance with this  
17 section. The cultivation must only occur in a closet, room, greenhouse, or other area enclosed on  
18 all sides and equipped with locks or other security devices that permit access only by the  
19 cultivator, except that if more than one adult lives in the household and possess valid zip ties, the  
20 plants may all be cultivated in the same location. Cultivation may not occur in public view and  
21 must occur on property lawfully in possession of the cultivator. The cultivator must affix a valid  
22 registry identification zip tie to each plant or beside each plant. The application of renewal fee for  
23 each zip tie is one hundred dollars (\$100), and such zip tie is valid for one year from the date of  
24 issuance.

25 **21-37-7. Identification zip ties -- Registry.** – (a) The department shall issue registry  
26 identification zip ties to Rhode Island residents who submit the following, in accordance with the  
27 department's regulations:

28 (1) Application or renewal fee;

29 (2) Name, address, and date of birth of applicant, showing the applicant to be twenty one  
30 (21) years of age or older;

31 (3) Number of marijuana plant registration identification zip ties requested, up to three  
32 (3); and

33 (4) A statement signed by the applicant, pledging not to sell or receive anything of value  
34 for the marijuana the applicant would personally cultivate.

1           (b) The department shall verify the information contained in a zip tie application or  
2 renewal submitted pursuant to this section, and shall approve or deny an application or renewal  
3 within fifteen (15) days of receiving it. The department may deny an application or renewal only  
4 if the applicant did not provide the information required pursuant to this section, the applicant did  
5 not provide the application or renewal fee, if the applicant had previously had one or more zip ties  
6 revoked, or if the department determines that the information provided was falsified. Rejection of  
7 an application or renewal is considered a final department action, subject to judicial review.  
8 Jurisdiction and venue for judicial review are vested in the Rhode Island superior court.

9           (c) The department shall issue registry identification zip ties to applicants within five (5)  
10 days of approving an application or renewal. Each registry identification zip tie shall expire one  
11 year after the date of issuance. Registry identification zip ties shall contain the following:

12           (1) The date of issuance and expiration date of the registry identification zip tie; and

13           (2) A random twenty (20) digit alphanumeric identification number, containing at least  
14 four (4) numbers and at least four (4) letters, which is unique to the zip tie.

15           (d) The following confidentiality rules shall apply:

16           (1) Applications and supporting information submitted are confidential.

17           (2) The department shall maintain a confidential list of the persons to whom the  
18 department has issued registry identification zip ties. Individual names and other identifying  
19 information on the list shall be confidential, exempt from the Freedom of Information Act, and  
20 not subject to disclosure, except to authorized employees of the department as necessary to  
21 perform official duties of the department and as provided in subsection (d) of this section.

22           (3) Within one hundred twenty (120) days of the effective date of this act, the department  
23 shall establish a phone or web-based verification system that is in operation twenty-four (24)  
24 hours a day, which law enforcement personnel can use to verify registry identification zip ties.  
25 The verification system must allow law enforcement personnel to enter in a registry identification  
26 number to determine whether or not the number corresponds with a current, valid ID zip tie. The  
27 system shall not disclose any additional information about the zip tie holder.

28           (4) During business hours, the department shall provide any additional information  
29 needed by law enforcement personnel to verify the zip ties, including the name and address  
30 corresponding with a zip tie the law enforcement personnel seeks to verify.

31           (5)(i) It shall be a crime, punishable by up to one hundred eighty (180) days in jail and a  
32 one thousand dollar (\$1,000) fine, for any person, including an employee or official of the  
33 department or another state agency or local government, to breach the confidentiality of  
34 information obtained pursuant to this act.

1 (ii) Notwithstanding this provision, this section shall not prevent the following  
2 notifications:

3 (A) Department employees may notify law enforcement about falsified or fraudulent  
4 information submitted to the department, so long as the employee who suspects that falsified or  
5 fraudulent information has been submitted confers with his or her supervisor (or at least one other  
6 employee of the department) and both agree that circumstances exist which warrant reporting;  
7 and

8 (B) The department may notify state or local law enforcement about apparent criminal  
9 violations of this act, provided that the employee who suspects the offense confers with his or her  
10 supervisor and both agree that circumstances exist which warrant reporting.

11 **21-37-8. Revocation of zip ties.** – The department shall revoke the zip ties of any zip tie  
12 holder who sells marijuana after having received zip ties from the department, unless the person  
13 sold marijuana as an employee of a retailer or wholesaler who was acting in accordance with this  
14 chapter. The department may revoke the zip ties of any zip tie holder who knowingly violates this  
15 chapter.

16 **21-37-9. Exclusions.** – No person is exempt from arrest, civil or criminal penalty, seizure  
17 or forfeiture of assets, discipline by any state or local licensing board, and state prosecution for,  
18 nor may he or she establish an affirmative defense based on this chapter to charges arising from,  
19 any of the following acts:

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

22 (2) Possessing marijuana if the person is a prisoner.

23 (3) Possessing marijuana or possessing marijuana paraphernalia if the possession of the  
24 marijuana or marijuana paraphernalia is discovered because the person engaged or assisted in the  
25 use of marijuana in:

26 (i) Any local detention facility, county jail, state prison, reformatory, or other correctional  
27 facility, including, without limitation, any facility for the detention of juvenile offenders; or

28 (ii) Any preschool, elementary school, junior high school, or high school.

29 (4) Possessing, using, transferring, selling, or cultivating marijuana or committing any  
30 other act involving marijuana in violation of the provisions of this chapter.

31 **21-37-10. Prohibition.** – (a) Smoking marijuana shall be prohibited in all enclosed public  
32 places, as identified in section 23-20.10-3. A person who smokes marijuana in such a place shall  
33 be guilty of a petty misdemeanor, and may be punished as follows:

34 (1) By a fine of not more than two hundred fifty dollars (\$250) for the first violation;

1 (2) By a fine of not more than five hundred dollars (\$500) for the second violation;  
2 (3) By a fine of not more than one thousand dollars (\$1,000) for the third and subsequent  
3 violations; or

4 (4) Imprisonment for a term not exceeding six (6) months and the appropriate fine.

5 (b) Smoking marijuana shall be prohibited in all non-enclosed outdoor public places or in  
6 any place open to the public, and anyone who smokes marijuana in such a place shall be liable for  
7 a civil penalty of one hundred fifty dollars (\$150). Municipalities may impose additional fines  
8 equivalent to local fines for the consumption of alcohol in a non-enclosed outdoor public place or  
9 any place open to the public. The provisions of this chapter do not require employers to  
10 accommodate the use or possession of marijuana, or being under the influence of marijuana, in a  
11 place of employment. Any minor who falsely represents himself or herself to be twenty-one (21)  
12 years of age or older in order to obtain any marijuana or marijuana paraphernalia pursuant to this  
13 chapter is guilty of a misdemeanor.

14 **21-37-11. Lawful uses.** – Notwithstanding any other law, it is lawful and not a violation  
15 of Rhode Island law to possess, transport, or sell the mature stalks of the plant Cannabis sativa L.,  
16 fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound,  
17 manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin  
18 extracted therefrom, which is regulated as marijuana), fiber, oil, or cake or the sterilized seed of  
19 the plant that is incapable of germination.

20 **21-37-12. Expungement.** – This act shall, by operation of law, expunge the conviction of  
21 anyone previously convicted of possession of one ounce or less of marijuana or possession of  
22 marijuana paraphernalia, provided that person was twenty-one (21) years of age or older at the  
23 time of conviction.

24 **21-37-13. Not applicable to other forms.** – Nothing contained herein shall be construed  
25 to repeal or modify any law concerning the medical use of marijuana or tetrahydrocannabinol in  
26 other forms, such as Marinol.

27 **21-37-14. Penalties.** – Penalties as provided for in Rhode Island general laws 21-28-4  
28 through 21-28-4.08 shall not apply to this act.

29 SECTION 2. Chapter 21-28 of the General Laws entitled "Uniform Controlled  
30 Substances Act" is hereby amended by adding thereto the following section:

31 **21-28-4.09.1. Exemptions to penalties.** – Penalties as set forth in accordance with this  
32 chapter shall not apply to legal uses as set forth in Rhode Island general laws sections 21-37-1  
33 through 21-37-13, inclusive.

34 SECTION 3. Section 31-27-2 of the General Laws in Chapter 31-27 entitled "Motor

1 Vehicle Offenses" is hereby amended to read as follows:

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

7 (b) (1) Any person charged under subsection (a) of this section whose blood alcohol  
8 concentration is eight one-hundredths of one percent (.08%) or more by weight as shown by a  
9 chemical analysis of a blood, breath, or urine sample shall be guilty of violating subsection (a) of  
10 this section. This provision shall not preclude a conviction based on other admissible evidence.  
11 Proof of guilt under this section may also be based on evidence that the person charged was under  
12 the influence of intoxicating liquor, drugs, toluene, or any controlled substance defined in chapter  
13 28 of title 21, or any combination of these, to a degree which rendered the person incapable of  
14 safely operating a vehicle. The fact that any person charged with violating this section is or has  
15 been legally entitled to use alcohol or a drug shall not constitute a defense against any charge of  
16 violating this section.

17 (2) Whoever drives or otherwise operates any vehicle in the state with a blood presence  
18 of any scheduled controlled substance as defined within chapter 28 of title 21, except for  
19 marijuana, as shown by analysis of a blood or urine sample, shall be guilty of a misdemeanor and  
20 shall be punished as provided in subsection (d) of this section. Whoever drives or otherwise  
21 operates any vehicle in the state with a blood presence of marijuana, as shown by analysis of a  
22 blood or urine sample, shall be guilty of a misdemeanor and shall be punished as provided in  
23 subsection (d) of this section only if it is proven, examining the totality of the circumstances, that  
24 the driver is impaired. The driver shall not be considered to be impaired by marijuana solely  
25 because of the presence of metabolites or components of marijuana unless those metabolites or  
26 components are proven to be in sufficient concentration to cause impairment.

27 (c) In any criminal prosecution for a violation of subsection (a) of this section, evidence  
28 as to the amount of intoxicating liquor, toluene, or any controlled substance as defined in chapter  
29 28 of title 21, or any combination of these, in the defendant's blood at the time alleged as shown  
30 by a chemical analysis of the defendant's breath, blood, or urine or other bodily substance shall be  
31 admissible and competent, provided that evidence is presented that the following conditions have  
32 been complied with:

33 (1) The defendant has consented to the taking of the test upon which the analysis is  
34 made. Evidence that the defendant had refused to submit to the test shall not be admissible unless

1 the defendant elects to testify.

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

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

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

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

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

21 (d) (1) (i) Every person found to have violated subdivision (b)(1) of this section shall be  
22 sentenced as follows: for a first violation whose blood alcohol concentration is eight one-  
23 hundredths of one percent (.08%) but less than one-tenth of one percent (.1%) by weight or who  
24 has a blood presence of any scheduled controlled substance as defined in subdivision (b)(2) shall  
25 be subject to a fine of not less than one hundred dollars (\$100) nor more than three hundred  
26 dollars (\$300), shall be required to perform ten (10) to sixty (60) hours of public community  
27 restitution, and/or shall be imprisoned for up to one year. The sentence may be served in any unit  
28 of the adult correctional institutions in the discretion of the sentencing judge and/or shall be  
29 required to attend a special course on driving while intoxicated or under the influence of a  
30 controlled substance, and his or her driver's license shall be suspended for thirty (30) days up to  
31 one hundred eighty (180) days.

32 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-  
33 tenth of one percent (.1%) by weight or above but less than fifteen hundredths of one percent  
34 (.15%) or whose blood alcohol concentration is unknown shall be subject to a fine of not less than

1 one hundred (\$100) dollars nor more than four hundred dollars (\$400) and shall be required to  
2 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned  
3 for up to one year. The sentence may be served in any unit of the adult correctional institutions in  
4 the discretion of the sentencing judge. The person's driving license shall be suspended for a  
5 period of three (3) months to twelve (12) months. The sentencing judge shall require attendance  
6 at a special course on driving while intoxicated or under the influence of a controlled substance  
7 and/or alcoholic or drug treatment for the individual.

8 (iii) Every person convicted of a first offense whose blood alcohol concentration is  
9 fifteen hundredths of one percent (.15%) or above, or who is under the influence of a drug,  
10 toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to a fine of  
11 five hundred dollars (\$500) and shall be required to perform twenty (20) to sixty (60) hours of  
12 public community restitution and/or shall be imprisoned for up to one year. The sentence may be  
13 served in any unit of the adult correctional institutions in the discretion of the sentencing judge.  
14 The person's driving license shall be suspended for a period of three (3) months to eighteen (18)  
15 months. The sentencing judge shall require attendance at a special course on driving while  
16 intoxicated or under the influence of a controlled substance and/or alcohol or drug treatment for  
17 the individual.

18 (2) (i) Every person convicted of a second violation within a five (5) year period with a  
19 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above but less than  
20 fifteen hundredths of one percent (.15%) or whose blood alcohol concentration is unknown or  
21 who has a blood presence of any controlled substance as defined in subdivision (b)(2), and every  
22 person convicted of a second violation within a five (5) year period regardless of whether the  
23 prior violation and subsequent conviction was a violation and subsequent conviction under this  
24 statute or under the driving under the influence of liquor or drugs statute of any other state, shall  
25 be subject to a mandatory fine of four hundred dollars (\$400). The person's driving license shall  
26 be suspended for a period of one year to two (2) years, and the individual shall be sentenced to  
27 not less than ten (10) days nor more than one year in jail. The sentence may be served in any unit  
28 of the adult correctional institutions in the discretion of the sentencing judge; however, not less  
29 than forty-eight (48) hours of imprisonment shall be served consecutively. The sentencing judge  
30 shall require alcohol or drug treatment for the individual, and may prohibit that person from  
31 operating a motor vehicle that is not equipped with an ignition interlock system for a period of  
32 one year to two (2) years following the completion of the sentence as provided in section 31-27-  
33 2.8.

34 (ii) Every person convicted of a second violation within a five (5) year period whose

1 blood alcohol concentration is fifteen hundredths of one percent (.15%) or above by weight as  
2 shown by a chemical analysis of a blood, breath, or urine sample or who is under the influence of  
3 a drug, toluene, or any controlled substance as defined in subdivision (b)(1) shall be subject to  
4 mandatory imprisonment of not less than six (6) months nor more than one year, a mandatory fine  
5 of not less than one thousand dollars (\$1,000) and a mandatory license suspension for a period of  
6 two (2) years from the date of completion of the sentence imposed under this subsection.

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

22 (ii) Every person convicted of a third or subsequent violation within a five (5) year  
23 period whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above by  
24 weight as shown by a chemical analysis of a blood, breath, or urine sample or who is under the  
25 influence of a drug, toluene or any controlled substance as defined in subdivision (b)(1) shall be  
26 subject to mandatory imprisonment of not less than three (3) years nor more than five (5) years, a  
27 mandatory fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars  
28 (\$5,000) and a mandatory license suspension for a period of three (3) years from the date of  
29 completion of the sentence imposed under this subsection.

30 (iii) In addition to the foregoing penalties, every person convicted of a third or  
31 subsequent violation within a five (5) year period regardless of whether any prior violation and  
32 subsequent conviction was a violation and subsequent conviction under this statute or under the  
33 driving under the influence of liquor or drugs statute of any other state shall be subject, in the  
34 discretion of the sentencing judge, to having the vehicle owned and operated by the violator

1 seized and sold by the state of Rhode Island, with all funds obtained by the sale to be transferred  
2 to the general fund.

3 (4) Whoever drives or otherwise operates any vehicle in the state while under the  
4 influence of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in  
5 chapter 28 of title 21, or any combination of these, when his or her license to operate is  
6 suspended, revoked or cancelled for operating under the influence of a narcotic drug or  
7 intoxicating liquor shall be guilty of a felony punishable by imprisonment for not more than three  
8 (3) years and by a fine or not more than three thousand dollars (\$3,000). The court shall require  
9 alcohol and/or drug treatment for the individual; provided, the penalties provided for in  
10 subdivision 31-27-2(d)(4) shall not apply to an individual who has surrendered his or her license,  
11 and served the court ordered period of suspension, but who, for any reason, has not had their  
12 license reinstated after the period of suspension, revocation, or suspension has expired; provided,  
13 further the individual shall be subject to the provisions of paragraphs 31-27-2(d)(2)(i) or (ii) or  
14 31-27-22(d)(3)(i), (ii), or (iii) regarding subsequent offenses, and any other applicable provision  
15 of section 31-27-2.

16 (5) (i) For purposes of determining the period of license suspension, a prior violation  
17 shall constitute any charge brought and sustained under the provisions of this section or section  
18 31-27-2.1.

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

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

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

32 (7) (i) If the person convicted of violating this section is under the age of eighteen (18)  
33 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of  
34 public community restitution, and the juvenile's driving license shall be suspended for a period of

1 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing  
2 judge shall also require attendance at a special course on driving while intoxicated or under the  
3 influence of a controlled substance and alcohol or drug education and/or treatment for the  
4 juvenile. The juvenile may also be required to pay a highway assessment fine of no more than  
5 five hundred dollars (\$500), and the assessment imposed shall be deposited into the general fund.

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

14 (8) Any person convicted of a violation under this section may undergo a clinical  
15 assessment at the community college of Rhode Island 's center for workforce and community  
16 education. Should this clinical assessment determine problems of alcohol, drug abuse, or  
17 psychological problems associated with alcoholic or drug abuse, this person shall be referred to  
18 an appropriate facility, licensed or approved by the department of mental health, retardation and  
19 hospitals for treatment placement, case management, and monitoring.

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

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

27 (2) Persons convicted under the provisions of this chapter shall be required to attend a  
28 special course on driving while intoxicated or under the influence of a controlled substance,  
29 and/or participate in an alcohol or drug treatment program. The course shall take into  
30 consideration any language barrier which may exist as to any person ordered to attend, and shall  
31 provide for instruction reasonably calculated to communicate the purposes of the course in  
32 accordance with the requirements of the subsection. Any costs reasonably incurred in connection  
33 with the provision of this accommodation shall be borne by the person being retrained. A copy of  
34 any violation under this section shall be forwarded by the court to the alcohol and drug safety

1 unit. In the event that persons convicted under the provisions of this chapter fail to attend and  
2 complete the above course or treatment program, as ordered by the judge, then the person may be  
3 brought before the court, and after a hearing as to why the order of the court was not followed,  
4 may be sentenced to jail for a period not exceeding one year.

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

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

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

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

22 (j) An order to attend a special course on driving while intoxicated that shall be  
23 administered in cooperation with a college or university accredited by the state, shall include a  
24 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars  
25 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into  
26 the general fund.

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

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

34 SECTION 4. Title 21 of the General Laws entitled "FOOD AND DRUGS" is hereby

1 amended by adding thereto the following chapter:

2 CHAPTER 36

3 RETAILER AND WHOLESALER REGISTRATION AND APPLICATIONS IN

4 ACCORDANCE WITH THE REGULATION OF MARIJUANA BILL

5 **21-36-1. Short title.** -- This chapter shall be known and may be cited as the “Retailer  
6 Registration And The Regulation Of Marijuana Act.”

7 **21-36-2. Retailer registration.** – (a) An entity may apply, in accordance with the  
8 provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a  
9 registration authorizing the entity to act as a retailer pursuant to the provisions of this chapter.

10 (b) Each applicant for a retailer registration shall submit application materials required by  
11 the department and a non-refundable fee in an amount determined by the department.

12 (c) By one year after the effective date of this chapter, the department shall have issued at  
13 least one retailer registration per county. By two (2) years after the effective date of this act, the  
14 department shall have issued a number of retailer registrations that are no fewer than one valid  
15 and outstanding retailer license for every 75,000 residents of the county per county, provided a  
16 sufficient number of qualified applicants exist. If more qualifying applicants apply than the  
17 department is required to authorize, the department shall implement a competitive scoring process  
18 to determine to which applicants to grant registrations. The scoring system shall take into account  
19 the applicant and managing officers' applicable experience, training, and expertise; the applicant's  
20 plan for security and to prevent diversion; and criminal, civil, or regulatory issues encountered by  
21 other entities that applicant and managing officers have controlled or managed; the applicant's  
22 staffing and training plan; and the suitability of the proposed location.

23 (d) The fee for the initial issuance of a registration as a retailer is five thousand dollars  
24 (\$5,000). A registration as a retailer must be renewed annually. The fee for renewal of a  
25 registration as a retailer is five thousand dollars (\$5,000).

26 (e) If eighteen (18) months after the effective date of this act the department has failed to  
27 issue a retailer registration as required by this chapter a retail registration shall be granted to any  
28 qualified applicant who holds a retail tobacco products dealer license and who has submitted a  
29 notarized letter of intention to begin operating as a retailer and a five thousand (\$5,000) fee to the  
30 department at least ninety (90) days before beginning operations.

31 **21-36-3. Definitions.** -- As used in this chapter, "qualified applicant" means any entity  
32 that:

33 (1) Complies with any regulations adopted pursuant to Rhode Island general laws 21-36-  
34 11 of this act concerning application for and issuance of a registration; and

1           (2) Satisfies the requirements set forth in this chapter and any regulations adopted  
2 pursuant thereto.

3           **21-36-4. Requirements.** -- A retailer shall include a safety insert with all marijuana sold.  
4 The safety insert may, at the department's discretion, be developed and approved by the  
5 department and include, but not be limited to, information on:

6           (1) Methods for administering marijuana;

7           (2) Any potential dangers stemming from the use of marijuana;

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

10          (4) A retailer must sell the marijuana in its original wholesaler packaging without making  
11 any changes or repackaging.

12          **21-36-5. Wholesale registration.** -- (1) An entity may apply, in accordance with the  
13 provisions of this chapter and the regulations adopted pursuant thereto, for the issuance of a  
14 registration authorizing the entity to act as a retailer pursuant to the provisions of this chapter.

15          (2) Each applicant for a retailer registration shall submit application materials required by  
16 the department and a non-refundable fee in an amount determined by the department.

17          (3) By three (300) hundred days after the effective date of this act, the department shall  
18 have issued at least three (3) wholesaler registrations, provided that qualified applicants exist. By  
19 two (2) years after the effective date of this act, the department shall have issued a number of  
20 wholesaler registrations that are sufficient to meet demand. If more qualifying applicants apply  
21 than the department is required to authorize, the department shall implement a competitive  
22 scoring process to determine to which applicants to grant registrations. The scoring system shall  
23 take into account the applicant and managing officers applicable experience, training, and  
24 expertise; the applicant's plan for security and diversion prevention; any criminal, civil, or  
25 regulatory issues encountered by other entities the applicant and managing officers have  
26 controlled or managed; the applicant's staffing and training plan; and the suitability of the  
27 proposed location.

28          (4) The fee for the initial issuance of a registration as a wholesaler is five thousand  
29 dollars (\$5,000). A registration as a wholesaler must be renewed annually. The fee for renewal of  
30 a registration as a wholesaler is five thousand dollars (\$5,000).

31          (5) If eighteen (18) months after the effective date of this act the department has failed to  
32 issue any wholesaler registrations as required by this chapter a wholesaler registration shall be  
33 granted to any qualified applicant who has submitted a notarized letter of intention to begin  
34 operating as a wholesaler and a five thousand dollar (\$5,000) fee to the department at least ninety

1 (90) days before beginning operations.

2 **21-36-6. Requirements.** -- A wholesaler shall cultivate only in one or more enclosed,  
3 locked facilities, which include a building, room, greenhouse, or other area enclosed on all sides  
4 and equipped with locks or other security devices that permit access only by:

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

7 (2) Department staffers or public safety officers performing official duties; or

8 (3) Contractors performing labor that is unrelated to marijuana cultivation, packaging, or  
9 processing, provided that they must be accompanied by an employee, agent, or owner of the  
10 wholesaler.

11 (4) A wholesaler or any person who is acting in his or her capacity as an owner,  
12 employee, or agent of a wholesaler must have documentation when transporting marijuana on  
13 behalf of the wholesaler that specifies the amount of marijuana being transported, the address and  
14 contact information of the wholesaler, the date the marijuana is being transported, and the address  
15 and contact information for the intended retailer or other wholesaler. A wholesaler must create a  
16 unique package and label for its marijuana identifying itself as the producer. The packaging shall  
17 include:

18 (i) The name or registration number of the wholesaler.

19 (ii) The potency of the marijuana, represented by the percentage of tetrahydrocannabinol  
20 by mass.

21 (iii) A "Produced On" date which reflects the date that the wholesaler finished drying and  
22 processing the marijuana and placed it in its packaging.

23 (iv) A warning that states: "Consumption of marijuana impairs your ability to drive a car  
24 or operate machinery."

25 (v) A warning that states: "Possession of marijuana is illegal outside of Rhode Island and  
26 under federal law" unless federal or state laws have changed.

27 **21-36-7. Prohibitions and Penalties.** -- (a) The department may not issue a registration  
28 for a retailer, wholesaler, or registered safety compliance facility to an entity:

29 (1) That is located within five hundred feet (500') of the property line of a public school,  
30 private school, or structure used primarily for religious services or worship;

31 (2) That would be engaged in business as a gas station, convenience store, grocery store,  
32 night club, dance hall, or licensed gaming establishment at the same location; or

33 (3) That sells intoxicating liquor for consumption on or off the premises. Nothing shall  
34 prohibit local governments from enacting ordinances or regulations not in conflict with this

1 section or with department rules regulating the time, place, and manner of wholesaler, retailer, or  
2 registered safety compliance facility operations, provided that no local government may prohibit  
3 wholesaler, retailer, or registered safety compliance facility operation altogether, either expressly  
4 or through the enactment of ordinances or regulations which make wholesaler, retailer, or  
5 registered safety compliance facility operation impracticable.

6 (b) A retailer shall not:

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

9 (2) Allow any person who is under twenty-one (21) years of age to be present inside the  
10 establishment unless the person is a department employee or public safety officer performing his  
11 or her duties or a contractor performing labor unrelated to marijuana and who will not have  
12 access to marijuana.

13 (3) Knowingly and willfully sell, give, or otherwise furnish an amount of marijuana to a  
14 person that would cause that person to possess more than one ounce of marijuana.

15 (4) Purchase marijuana, other than marijuana seeds, from any person other than a  
16 wholesaler.

17 (5) Purchase or sell, give, or otherwise furnish marijuana in any manner other than as  
18 authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.

19 (6) Knowingly or negligently sell marijuana that has been adulterated or contaminated by  
20 a controlled substance, illegal additive, or pesticide.

21 (c) In addition to any other penalty provided pursuant to specific statutes, a person who  
22 violates this section is guilty of a misdemeanor and shall be punished by a fine of not more than  
23 one thousand dollars (\$1,000). A person who violates this section may also incur civil liability.  
24 Additionally, the department may suspend or terminate the registration of a retailer who commits  
25 multiple or serious violations of this act or regulations issued pursuant to it.

26 (d) In a prosecution for a violation of subsection (a) or (b) subdivision (1) it is a complete  
27 defense that immediately before allowing the person who is under twenty-one (21) years of age  
28 onto the premises the person who allowed the person onto the premises was shown a document  
29 which appeared to be issued by an agency of a federal, state, tribal, or foreign sovereign,  
30 government and which indicated that the person who was allowed onto the premises of the  
31 retailer was twenty-one (21) years of age or older at the time the person was allowed onto the  
32 premises of the retailer. The complete defense set forth in this subsection does not apply if:

33 (1) The document which was shown to the person who allowed the person who is under  
34 twenty-one (21) years of age onto the premises of the retailer was counterfeit, forged, altered, or

1 issued to a person other than the person who was allowed onto the premises of the retailer; and

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

5 (e) A wholesaler shall not:

6 (1) Allow any person who is under twenty-one (21) years of age to be present on the  
7 premises of its establishment unless the person is a department employee or public safety officer  
8 performing his or her duties or a contractor performing labor unrelated to marijuana cultivation,  
9 packaging, and processing.

10 (2) Sell, give, or otherwise furnish marijuana to any person other than a retailer or  
11 wholesaler.

12 (3) Purchase marijuana from any person other than a wholesaler.

13 (4) Purchase or sell, give, or otherwise furnish marijuana in any manner other than as  
14 authorized pursuant to the provisions of this chapter and any regulations adopted pursuant thereto.

15 (5) Sell marijuana that has been adulterated or contaminated by any other substance,  
16 including, without limitation, any controlled substance or illegal additive or pesticide.

17 (f) In addition to any other penalty provided pursuant to specific statutes, a person who  
18 violates this section is guilty of a misdemeanor and shall be punished by a fine or not more than  
19 one thousand dollars (\$1,000). A person who violates this section may also incur civil liability.  
20 Additionally, the department may suspend or terminate the registration of a wholesaler who  
21 commits multiple or serious violations of this act or regulations issued pursuant to it.

22 **21-36-8. Defenses. --** In a prosecution for a violation of section 21-36-7 it is a complete  
23 defense that immediately before allowing the person who is under twenty-one (21) years of age  
24 onto the premises the person who allowed the person onto the premises was shown a document  
25 which appeared to be issued by an agency of a federal, state, tribal, or foreign sovereign  
26 government and which indicated that the person who was allowed onto the premises of the  
27 wholesaler was twenty-one (21) years of age or older at the time the person was allowed onto the  
28 premises of the wholesaler. The complete defense set forth in this subsection does not apply if:

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

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

1 allowed onto the premises.

2 (3) In order to ascertain that marijuana is produced or has not been adulterated or  
3 contaminated, a wholesaler may use a registered safety compliance facility to test its marijuana  
4 for contaminants and for tetrahydrocannabinol potency before providing it to a retailer.

5 **21-36-9. Safety compliance facility registration.** -- (a) Each applicant for a safety  
6 compliance facility registration shall submit application materials required by the department and  
7 a non-refundable fee in an amount determined by the department.

8 (b) If a qualified applicant exists, the department shall grant a two (2) year registration to  
9 at least one safety compliance facility within one year of the effective date of this act, provided  
10 that the facility pays a five thousand dollar (\$5,000) fee. If more qualifying applicants apply than  
11 the department is required to authorize, the department shall implement a competitive scoring  
12 process to determine which applicant or applicants to grant registrations to. The scoring system  
13 shall take into account the applicant and managing officers' applicable experience, training, and  
14 expertise; the applicant's plan for security and to prevent diversion; any criminal, civil, or  
15 regulatory issues encountered by other entities the applicant and managing officers controlled or  
16 managed; the applicant's plan for services; the applicant's staffing and training plan; and the  
17 suitability of the proposed location.

18 (c) A registered safety compliance facility or any person who is twenty-one (21) years of  
19 age or older and acting in his or her capacity as an owner, employee, or agent of a registered  
20 safety compliance facility who acts in compliance with the provisions of this chapter shall not be  
21 subject to prosecution; search, except by the department pursuant to section 21-36-7 or penalty in  
22 any manner or be denied any right or privilege, including, but not limited to, civil penalty or  
23 disciplinary action by a court or business licensing board or entity, solely for acting in accordance  
24 with this act and department regulations to provide the following services; acquiring or  
25 possessing marijuana obtained from wholesalers; returning the marijuana to the same  
26 wholesalers; producing and possessing marijuana for training and analytical testing; producing  
27 and selling educational materials on marijuana; receiving compensation for testing for  
28 contaminants or potency; researching marijuana; and providing training to Rhode Island residents  
29 who are twenty-one (21) years of age or older. Any possession or cultivation of marijuana by a  
30 registered safety compliance facility must occur on the location registered with the department.

31 (d) In addition to any other penalty provided pursuant to specific statutes, the department  
32 may suspend or terminate the registration of a registered safety compliance facility who commits  
33 multiple or serious violations of this act or regulations issued pursuant to it.

34 **21-36-10. Excise tax.** -- (a) An excise tax is hereby levied upon wholesalers and must be

1 collected respecting all marijuana sold to retailers at the rate of fifty dollars (\$50) per ounce or  
2 proportionate part thereof.

3 (b) Marijuana sold by retailers shall be subject to sales tax to be collected by retailers. For  
4 the purpose of determining the tax for the retail sale of marijuana pursuant to this chapter, the tax  
5 for the sale of marijuana must be the same as the taxes for the retail sale of other products  
6 generally.

7 (c) This chapter shall not create any new taxes on medical marijuana, as defined by  
8 section 21-37-3. Medical marijuana is excluded from the taxes of subsections (a) and (b) herein.

9 **21-36-11, Administration. --** The department shall apportion the money remitted to the  
10 department from registration fees and taxes collected pursuant to this chapter in the following  
11 manner:

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

14 (2) After retaining sufficient money to defray the entire cost of administration of this  
15 chapter pursuant to subdivision (1), the department shall remit the remaining money to the Rhode  
16 Island general fund, fifty (50%) percent of which must be distributed to the department of mental  
17 health, retardation and hospitals for use in voluntary programs for the prevention or treatment of  
18 the abuse of alcohol, tobacco or controlled substances. A person shall not advertise the sale of  
19 marijuana through television, radio, newspapers, magazines, billboards, the Internet or any other  
20 written or oral commercial media. This shall not prevent a phone listing in a directory of  
21 businesses, appropriate signs on the retailer locations that do not include marijuana imagery, or  
22 listings in trade publications. The provisions of this chapter do not authorize any person to  
23 transport marijuana into or outside the State of Rhode Island unless federal law permits such  
24 transport. The department is responsible for administering and carrying out the provisions of this  
25 chapter. The department may adopt regulations that are necessary and convenient to administer  
26 and carry out the provisions of this chapter.

27 (3) The department shall adopt regulations that:

28 (i) Set forth the procedures for the application for and issuance of registrations to  
29 retailers, wholesalers, and registered as a retailer, wholesaler, or safety compliance testing  
30 facility.

31 (ii) Specify the procedures for the collection of taxes levied pursuant to this chapter.

32 (iii) Specify the content, form, and timing of reports which must be completed by each  
33 retailer, wholesaler, and registered safety compliance testing facility and which must be available  
34 for inspection by the department. The reports shall include information on sales, expenses,

1 inventory, and taxes and shall be retained for at least one year after the forms completion.

2 (iv) Specify the requirements for the packaging and labeling of marijuana.

3 (v) Specify the requirements for the safety insert to be included with marijuana by  
4 retailers.

5 (vi) Establish reasonable security requirements for wholesalers and retailers.

6 (vii) Require the posting or display of the registration of a retailer, wholesaler, or  
7 registered safety compliance testing facility.

8 (viii) Establish the procedures for inspecting and auditing the records or premises of a  
9 retailer, wholesaler, or registered safety compliance testing facility.

10 (ix) Set forth the procedures for hearings to contest the denial of an application for a  
11 registration as a retailer, wholesaler, or registered safety compliance testing facility.

12 (x) Set forth the procedures for hearings to contest the suspension or revocation of a  
13 registration as a retailer, wholesaler, or registered safety compliance testing facility for a violation  
14 of any provision of this chapter or the regulations adopted pursuant to this chapter.

15 (xi) Establish reasonable environmental controls to ensure that any registered premises  
16 minimize any harm to the environment, adjoining and nearby landowners, and persons passing  
17 by.

18 (4) The department shall make available free of charge all forms for applications and  
19 reports.

20 (5) The department shall issue registrations as required by section 21-36-5.

21 (6) The department shall keep the name and address of each wholesaler, retailer, and  
22 safety compliance facility and each owner, employee, or agent of a wholesaler, retailer, and safety  
23 compliance facility confidential and refuse to disclose this information to any individual or public  
24 or private entity, except as necessary for authorized employees of the department to perform  
25 official duties of the department pursuant to this chapter. The department may confirm to a state  
26 or local law enforcement officer that a retailer, wholesaler, or safety compliance facility holds a  
27 valid registration if the law enforcement officer inquires about the specific location or entity.

28 (7) If any provisions of this act, or the application thereof to any person, thing, or  
29 circumstance is held invalid, such invalidity shall not affect the provisions or application of this  
30 act which can be given effect without the invalid provision or application, and to this end the  
31 provisions of this act are declared to be severable.

32 (8) The department shall adopt regulations to implement this act and shall begin  
33 accepting applications for retailers, wholesalers, zip ties, and safety compliance facilities within  
34 one hundred eighty (180) days of the effective date of this act.

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

5           SECTION 5. Chapter 44-49 of the General Laws entitled "Taxation of Marijuana and  
6 Controlled Substances" is hereby amended by adding thereto the following section:

7           **44-49-17. No tax stamp required.** -- Controlled substance tax payment with a stamp or  
8 other official indicia, as referred to in section 44-49-5, is not required for registered retailers and  
9 wholesalers and the penalties provided for in the this chapter do not apply to those acting in  
10 accordance with sections 21-37-1 to 21-37-13 and 21-36-1 to 21-36-11, inclusive.

11           SECTION 6. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FOOD AND DRUGS -- TAXATION AND REGULATION OF MARIJUANA

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1           This act would regulate the use, sale and taxation of marijuana. It would also increase the  
2 state's evidentiary burden to prove a driver guilty of operating a motor vehicle under the  
3 influence if they have a marijuana blood presence.

4           This act would take effect upon passage.

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