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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO FOOD AND DRUGS -- UNIFORM CONTROLLED SUBSTANCES ACT

Introduced By: Representatives Felix, Henries, Morales, Sanchez, Batista, Tanzi, J.
Lombardi, Kislak, Potter, and Cruz

Date Introduced: March 05, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 21-28-4.1 of the General Laws in Chapter 21-28 entitled "Uniform
2 Controlled Substances Act" is hereby amended to read as follows:

3 **21-28-4.01. Prohibited acts A — Penalties.**

4 (a)(1) Except as authorized by this chapter and chapters 28.6 and 28.11 of title 21, it shall
5 be unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver
6 a controlled substance.

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

12 (3) Where the deliverance as prohibited in this subsection shall be the proximate cause of
13 death to the person to whom the controlled substance is delivered, it shall not be a defense that the
14 person delivering the substance was, at the time of delivery, a drug-addicted person as defined in §
15 21-28-1.02.

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

18 (i) A controlled substance, classified in schedule I or II, is guilty of a crime and, upon
19 conviction, may be imprisoned for not more than thirty (30) years, or fined not more than one

1 hundred thousand dollars (\$100,000) nor less than three thousand dollars (\$3,000), or both;

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

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

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

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

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

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

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

24 (c)(1) It shall be unlawful for any person knowingly or intentionally to possess a controlled
25 substance, unless the substance was obtained directly from, or pursuant to, a valid prescription or
26 order of a practitioner while acting in the course of his or her professional practice, or except as
27 otherwise authorized by this chapter or chapters 28.6 and 28.11 of title 21.

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

29 (i) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, ~~ten grams (10 g.)~~
30 twenty-eight grams (28 g.) or less of a mixture or substance containing a detectable amount of a
31 controlled substance classified in schedules I, II, III, IV, and V, except buprenorphine and the
32 substance classified as marijuana, is guilty of a misdemeanor and, upon conviction, may be
33 imprisoned for not more than two (2) years, or fined not more than five hundred dollars (\$500) or
34 both. Any person previously convicted of possession of twenty-eight grams (28 g.) or less of a

1 controlled substance subject to the provisions of this subsection shall have their record modified to
2 a misdemeanor.

3 (ii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than ~~ten grams~~
4 ~~(10 g.)~~ twenty-eight grams (28 g.), but less than one ounce (1 oz.) of a mixture or substance
5 containing a detectable amount of a controlled substance classified in schedules I, II and III, IV,
6 and V, except buprenorphine and the substance classified as marijuana, is guilty of a felony and,
7 upon conviction, may be imprisoned for not more than three (3) years, or fined not more than five
8 thousand dollars (\$5,000), or both.

9 (iii) Except as otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, more than two
10 ounces (2 oz.) or the equivalent amount in the form of cannabis concentrate of a controlled
11 substance classified in schedule I as marijuana is guilty of a misdemeanor unless possessed inside
12 one's own primary residence, except for those persons subject to (a)(1), and, upon conviction, may
13 be imprisoned for not more than one year, or fined not more than five hundred dollars (\$500), or
14 both. Exclusive of live marijuana plants, more than ten ounces (10 oz.) of a controlled substance
15 classified in schedule I as marijuana or the equivalent amount in the form of cannabis concentrate,
16 when possessed within one's personal residence is guilty of a misdemeanor, except for those
17 persons subject to (a)(1), and, upon conviction, may be imprisoned for not more than one year, or
18 fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or both.

19 Possession of live marijuana plants in excess of the number authorized pursuant to § 21-
20 28.11-22 but less than twenty-five (25) marijuana plants is guilty of a misdemeanor, except for
21 those persons subject to (a)(1) and, upon conviction, may be imprisoned for not more than one year,
22 or fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or
23 both.

24 Possession of twenty-five (25) or more live marijuana plants is guilty of a felony, except
25 for those persons subject to (a)(1), and upon conviction, may be imprisoned for not more than three
26 (3) years or fined not more than five thousand dollars (\$5,000), or both.

27 (iv) Notwithstanding any public, special, or general law to the contrary, and except as
28 otherwise provided in §§ 21-28-4.01.1 and 21-28-4.01.2, the possession of more than one ounce (1
29 oz.) but not more than two ounces (2 oz.) of marijuana or the equivalent amount in the form of
30 cannabis concentrate by a person who is at least twenty-one (21) years old, and who is not exempted
31 from penalties pursuant to chapter 28.6 of this title, shall constitute a civil offense, rendering the
32 offender liable to a civil penalty in the amount of one hundred fifty dollars (\$150) and forfeiture of
33 the marijuana, but not to any other form of criminal or civil punishment or disqualification.
34 Notwithstanding any public, special, or general law to the contrary, this civil penalty of one hundred

1 fifty dollars (\$150) and forfeiture of the marijuana shall apply if the offense is the first (1st) or
2 second (2nd) violation within the previous eighteen (18) months.

3 (v) Notwithstanding any public, special, or general law to the contrary, possession of two
4 ounces (2 oz.) or less of marijuana or the equivalent amount in the form of cannabis concentrate by
5 a person between seventeen (17) and twenty (20) years old, and who is not exempted from penalties
6 pursuant to chapter 28.6 of this title, shall constitute a civil offense, rendering the offender liable to
7 a civil penalty in the amount of one hundred fifty dollars (\$150) and forfeiture of the marijuana;
8 provided the minor offender completes an approved, drug-awareness program and community
9 service as determined by the court. If the person seventeen (17) years of age or older and under the
10 age of eighteen (18) years fails to complete an approved, drug-awareness program and community
11 service within one year of the disposition, the penalty shall be a three hundred dollar (\$300) civil
12 fine and forfeiture of the marijuana, except that if no drug-awareness program or community
13 service is available, the penalty shall be a fine of one hundred fifty dollars (\$150) and forfeiture of
14 the marijuana. The parents or legal guardian of any offender seventeen (17) years of age or older
15 and under the age of eighteen (18) shall be notified of the offense and the availability of a drug-
16 awareness and community-service program. The drug-awareness program must be approved by the
17 court, but shall, at a minimum, provide four (4) hours of instruction or group discussion and ten
18 (10) hours of community service. Notwithstanding any other public, special, or general law to the
19 contrary, this civil penalty shall apply if the offense is the first or second violation within the
20 previous eighteen (18) months.

21 (vi) [Deleted by P.L. 2022, ch. 31, § 10 and P.L. 2022, ch. 32, § 10.]

22 (vii) Any unpaid civil fine issued under (c)(2)(iv) or (c)(2)(v) shall double to three hundred
23 dollars (\$300) if not paid within thirty (30) days of the disposition. The civil fine shall double again
24 to six hundred dollars (\$600) if it has not been paid within ninety (90) days.

25 (viii) No person may be arrested for a violation of (c)(2)(iv) or (c)(2)(v) of this subsection
26 except as provided in this subparagraph. Any person in possession of an identification card, license,
27 or other form of identification issued by the state or any state, city, or town, or any college or
28 university, who fails to produce the same upon request of a police officer who informs the person
29 that he or she has been found in possession of what appears to the officer to be more than one ounce
30 (1 oz.) of marijuana, or the equivalent amount in the form of cannabis concentrate or any person
31 without any such forms of identification who fails or refuses to truthfully provide his or her name,
32 address, and date of birth to a police officer who has informed such person that the officer intends
33 to provide such individual with a citation for possession of more than one ounce (1 oz.) but less
34 than two ounces (2 oz.) of marijuana or the equivalent amount in the form of cannabis concentrate,

1 may be arrested.

2 (ix) No violation of (c)(2)(iv) or (c)(2)(v) of this subsection shall be considered a violation
3 of parole or probation.

4 (x) Any records collected by any state agency, tribunal, or the family court that include
5 personally identifiable information about violations of (c)(2)(iv) or (c)(2)(v) shall not be open to
6 public inspection in accordance with § 8-8.2-21.

7 [\(d\) The chief justice of the district court and the presiding justice of the superior court shall](#)
8 [provide an annual report to the general assembly that provides information concerning the racial](#)
9 [demographics of all parties convicted pursuant to this section or §§ 21-28-4.01.1 or 21-28-4.01.2.](#)

10 **(3) Jurisdiction.**

11 (i) Any and all adjudications of violations of (c)(2)(i) shall be within the original
12 jurisdiction of the Rhode Island superior court. The department of attorney general shall prosecute
13 any and all violations of (c)(2)(i).

14 (ii) Any and all violations of (c)(2)(iv) and (c)(2)(v) shall be the exclusive jurisdiction of
15 the Rhode Island traffic tribunal. All money associated with the civil fine issued under (c)(2)(iv) or
16 (c)(2)(v) shall be payable to the Rhode Island traffic tribunal. Fifty percent (50%) of all fines
17 collected by the Rhode Island traffic tribunal from civil penalties issued pursuant to (c)(2)(iv) or
18 (c)(2)(v) shall be expended on drug-awareness and treatment programs for youth.

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

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

23 (ii) Attend and complete a drug-counseling and education program, as prescribed, by the
24 director of the department of behavioral healthcare, developmental disabilities and hospitals
25 (BHDDH) similar to that in § 21-28.11-27.2, and pay the sum of four hundred dollars (\$400) to
26 help defray the costs of this program which shall be deposited as general revenues. Failure to attend
27 may result, after hearing by the court, in jail sentence up to one year;

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

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

34 (5) All fees assessed and collected pursuant to (c)(2)(iii) shall be deposited as general

1 revenues and shall be collected from the person convicted or who pleads nolo contendere before
2 any other fines authorized by this chapter.

3 (d) It shall be unlawful for any person to manufacture, distribute, or possess with intent to
4 manufacture or distribute, an imitation controlled substance. Any person who violates this
5 subsection is guilty of a crime and, upon conviction, shall be subject to the same term of
6 imprisonment and/or fine as provided by this chapter for the manufacture or distribution of the
7 controlled substance that the particular imitation controlled substance forming the basis of the
8 prosecution was designed to resemble and/or represented to be; but in no case shall the
9 imprisonment be for more than five (5) years nor the fine for more than twenty thousand dollars
10 (\$20,000).

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

17 (f) It is unlawful for any person to knowingly or intentionally possess, manufacture,
18 distribute, or possess with intent to manufacture or distribute, any extract, compound, salt
19 derivative, or mixture of salvia divinorum or datura stramonium or its extracts unless the person is
20 exempt pursuant to the provisions of § 21-28-3.30. Notwithstanding any laws to the contrary, any
21 person who violates this section is guilty of a misdemeanor and, upon conviction, may be
22 imprisoned for not more than one year, or fined not more than one thousand dollars (\$1,000), or
23 both. The provisions of this section shall not apply to licensed physicians, pharmacists, and
24 accredited hospitals and teaching facilities engaged in the research or study of salvia divinorum or
25 datura stramonium and shall not apply to any person participating in clinical trials involving the
26 use of salvia divinorum or datura stramonium.

27 SECTION 2. 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 -- UNIFORM CONTROLLED SUBSTANCES ACT

1 This act would amend the uniform controlled substances act and reclassify simple
2 possession of twenty-eight grams (28 g.) or less of certain controlled substances as a misdemeanor.
3 The act would also require that persons with previous convictions of possession of twenty-eight
4 grams (28 g.) or less shall have their record modified to reflect a misdemeanor conviction. It would
5 also create reporting requirements related to the racial demographics of parties convicted of
6 controlled substance offenses.

7 This act would take effect upon passage.

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