

2016 -- H 8232 SUBSTITUTE A

LC005997/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO AGRICULTURE AND FORESTRY

Introduced By: Representatives Melo, Bennett, McNamara, Corvese, and Tobon

Date Introduced: May 19, 2016

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

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

3 CHAPTER 26

4 HEMP GROWTH ACT

5 **2-26-1. Short title.** -- This chapter shall be known and may be cited as the "Hemp
6 Growth Act."

7 **2-26-2. Legislative findings.** -- The general assembly finds and declares as follows:

8 (1) The cannabis sativa plant used for the production of hemp is separate and distinct
9 from forms of cannabis used to produce marijuana.

10 (2) Hemp is used for products such as building materials, cloth, cordage, fiber, food, floor
11 coverings, fuel, industrial chemicals, paint, paper, particle board, plastics, seed meal, seed oil and
12 yarn.

13 (3) Industrial hemp production has remained legal throughout most of the world and
14 hemp has the capacity to grow in a multitude of different climates, altitudes, soils, and weather
15 conditions.

16 (4) Currently, it is legal to import industrial hemp into the United States.

17 (5) Although federal law currently prohibits the cultivation of hemp, the laws of
18 California, Colorado, Indiana, Kentucky, Maine, Montana, North Dakota, Oregon, South
19 Carolina, Tennessee, Vermont, Virginia and West Virginia permit commercial hemp programs.

1 (6) Currently, the United States is the largest importer of hemp products, the largest
2 portion of which is imported from China.

3 (7) States are not required to enforce federal law or prosecute people for engaging in
4 activities prohibited by federal law. Therefore, compliance with this chapter does not put the state
5 of Rhode Island in violation of federal law.

6 **2-26-3. Definitions. --** When used in this chapter, the following terms shall have the
7 following meanings:

8 (1) "Applicant" means any person, firm, corporation, or other legal entity who, on their
9 own behalf or on behalf of another has applied for permission to engage in any act or activity that
10 is regulated under the provisions of this chapter.

11 (2) "Department" means the department of business regulation.

12 (3) "Division" means the division of agriculture in the department of environmental
13 management.

14 (4) "Grower" means a person or entity that produces hemp for commercial purposes.

15 (5) "Handler" means a person or entity that produces hemp for processing into
16 commodities, products, or agricultural hemp seed.

17 (6) "Hemp" means the plant of the genus cannabis and any part of such plant, whether
18 growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed three-
19 tenths percent (0.3%) on a dry weight basis of any part of the plant cannabis, or per volume or
20 weight of marijuana product or the combined percent of delta-9 tetrahydrocannabinol and
21 tetrahydrocannabinolic acid in any part of the plant cannabis regardless of the moisture content.
22 Hemp is also commonly referred to in this context as "industrial hemp."

23 (7) "Hemp products" means all products made from the plants, including, but not limited
24 to, concentrated oil, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics,
25 seed, seed meal, seed oil, and certified for cultivation.

26 (8) "THC" means tetrahydrocannabinol, the principal psychoactive constituent of
27 cannabis.

28 (9) "THCA" means tetrahydrocannabinol acid.

29 **2-26-4. Hemp an agricultural product. --** Hemp is an agricultural product which may
30 be grown as a crop, produced, possessed, distributed, and commercially traded pursuant to the
31 provisions of this chapter. Hemp is subject to primary regulation by the department. The division
32 may assist the department in the regulation of hemp growth and production.

33 **2-26-5. Authority over licensing and sales. –** (a) The department shall promulgate rules
34 and regulations for the licensing and regulation of hemp growers and handlers or persons

1 otherwise employed by the applicant and shall be responsible for the enforcement of such
2 licensing and regulation.

3 (b) All growers and handlers must have a hemp license issued by the department.

4 (c) The application for a hemp license shall include, but not be limited to, the following:

5 (1) The name and address of the applicant who will supervise, manage or direct the
6 growing and handling of hemp and the names and addresses of any person or entity partnering or
7 providing consulting services regarding the growing or handling of hemp.

8 (2) A certificate of analysis that the seeds or plants obtained for cultivation are of a type
9 and variety that do not exceed the maximum concentration of delta-9 THC as set forth in §2-26-3;
10 any seeds that are obtained from a federal agency are presumed not to exceed the maximum
11 concentration and do not require a certificate of analysis.

12 (3) The location of the facility, including the global positioning system location, and
13 other field reference information as may be required by the department with a tracking program
14 and security layout to ensure that all hemp grown is tracked and monitored from seed to
15 distribution outlets.

16 (4) An explanation of the seed to sale tracking, cultivation method, extraction method,
17 and certificate of analysis or certificate of analysis for the standard hemp seeds.

18 (5) Verification prior to planting any seed, that the plant to be grown is of a type and
19 variety of hemp that will produce a delta-9 THC concentration of no more than three-tenths of
20 one percent (0.3%) on a dry weight basis.

21 (6) Documentation that the licensee and/or its agents have entered into a purchase
22 agreement with a hemp handler or processor.

23 (7) All applicants:

24 (i) Shall apply to the state police for a national criminal identification records check that
25 shall include fingerprints submitted to the federal bureau of investigation. Upon the discovery of
26 a disqualifying conviction defined in paragraph (iv) and (v) herein, and in accordance with the
27 rules promulgated by the department, the state police shall inform the applicant, in writing, of the
28 nature of the conviction, and the state police shall notify the department, in writing, without
29 disclosing the nature of the conviction, that a conviction has been found;

30 (ii) In those situations in which no conviction has been found, the state police shall
31 inform the applicant and the department, in writing, of this fact;

32 (iii) All applicants shall be responsible for any expense associated with the criminal
33 background check with fingerprints.

34 (iv) Any applicant who has been convicted of any felony offense under chapter 28 of title

1 21, or any person who has been convicted of murder, manslaughter, first degree sexual assault,
2 second degree sexual assault, first degree child molestation, second degree child molestation,
3 kidnapping, first degree arson, second degree arson, mayhem, robbery, burglary, breaking and
4 entering, assault with a dangerous weapon, or any assault and battery punishable as a felony or
5 assault with intent to commit any offense punishable as a felony, shall be disqualified from
6 holding any license or permit under this chapter. The department shall notify any applicant, in
7 writing, for a denial of a license pursuant to this subsection.

8 (v) For purposes of this section, "conviction" means in addition to judgements of
9 conviction entered by a court subsequent to a finding of guilty, or plea of guilty, those instances
10 where the defendant has entered a plea of nolo contendere and has received a jail sentence or a
11 suspended jail sentence, or those instances wherein the defendant has entered into a deferred
12 sentence agreement with the Rhode Island attorney general and the period of deferment has not
13 been completed.

14 (8) Any other information as set forth in rules and regulations as required by the
15 department.

16 (d) All employees of the applicant shall register with the Rhode Island state police.

17 (e) The department shall issue a hemp license to the applicant if it meets the requirements
18 of this chapter, upon the applicant paying a licensure fee of two thousand five hundred dollars
19 (\$2,500). Said license shall be renewed every three (3) years upon payment of a two thousand
20 five hundred dollar (\$2,500) renewal fee. Any licensee convicted of any disqualifying offense
21 described in subsection (c)(7)(iv) shall have their license revoked.

22 **2-26-6. Rulemaking authority.** – (a) The department shall adopt rules to provide for the
23 implementation of this chapter, which shall include rules to require hemp to be tested during
24 growth for THC levels and to require inspection of hemp during sowing, growing season, harvest,
25 storage, and processing. Included in these rules should be a system requiring the licensee to
26 submit crop samples to an approved testing facility, as determined by the department for testing
27 and verification of compliance with the limits on delta-9 THC concentration.

28 (b) The department shall not adopt under this or any other section, a rule that would
29 prohibit a person or entity to grow or distribute hemp based on the legal status of hemp under
30 federal law.

31 **2-26-7. Registration.** – (a) Except as provided in this section, beginning sixty (60) days
32 after the effective date of this chapter, the department shall accept the application for licensure to
33 cultivate hemp submitted by the applicant.

34 (b) A person or entity registered with the department pursuant to this chapter shall allow

1 hemp crops, throughout sowing, year-long growing seasons, harvest storage, and processing, to
2 be inspected and tested by and at the discretion of the department.

3 **2-26-8. Methods of extraction. --** (a) The department shall adopt rules regarding
4 permissible methods of extraction.

5 (b) No butane method of extraction shall be permitted by the department.

6 **2-26-9. Research and educational growth by institutions of higher education. – (a)**
7 The department is authorized to certify any higher educational institution in Rhode Island to grow
8 or handle or assist in growing or handling industrial hemp for the purpose of agricultural or
9 academic research where such higher educational institution submits the following to the
10 department:

11 (1) The location where the higher educational institution intends to grow or cultivate the
12 industrial hemp;

13 (2) The higher educational institution's research plan; and

14 (3) The name of the employee of the higher educational institution that will supervise the
15 hemp growth, cultivation and research.

16 (b) Growth for purposes of agricultural and educational research by a higher educational
17 institution shall not be subject to the licensing requirements set forth in §2-26-5.

18 (c) The applicant is encouraged to partner with an institution of higher learning within the
19 state of Rhode Island to develop best practices for growing and handling hemp.

20 (d) The department shall maintain a list of each higher education institution certified to
21 grow or cultivate industrial hemp under this chapter.

22 SECTION 2. Section 21-28-1.02 of the General Laws in Chapter 21-28 entitled "Uniform
23 Controlled Substances Act" is hereby amended to read as follows:

24 **21-28-1.02. Definitions. --** Unless the context otherwise requires, the words and phrases
25 as defined in this section are used in this chapter in the sense given them in the following
26 definitions:

27 (1) "Administer" refers to the direct application of controlled substances to the body of a
28 patient or research subject by:

29 (i) A practitioner, or, in his or her presence by his or her authorized agent; or

30 (ii) The patient or research subject at the direction and in the presence of the practitioner
31 whether the application is by injection, inhalation, ingestion, or any other means.

32 (2) "Agent" means an authorized person who acts on behalf of or at the direction of a
33 manufacturer, wholesaler, distributor, or dispenser; except that these terms do not include a
34 common or contract carrier or warehouse operator, when acting in the usual and lawful course of

1 the carrier's or warehouse operator's business.

2 (3) "Apothecary" means a registered pharmacist as defined by the laws of this state and,
3 where the context requires, the owner of a licensed pharmacy or other place of business where
4 controlled substances are compounded or dispensed by a registered pharmacist; and includes
5 registered assistant pharmacists as defined by existing law, but nothing in this chapter shall be
6 construed as conferring on a person who is not registered as a pharmacist any authority, right, or
7 privilege that is not granted to him or her by the pharmacy laws of the state.

8 (4) "Automated data processing system" means a system utilizing computer software and
9 hardware for the purposes of record keeping.

10 (5) "Computer" means programmable electronic device capable of multi-functions,
11 including, but not limited to, storage, retrieval, and processing of information.

12 (6) "Control" means to add a drug or other substance or immediate precursor to a
13 schedule under this chapter, whether by transfer from another schedule or otherwise.

14 (7) "Controlled substance" means a drug, substance, immediate precursor, or synthetic
15 drug in schedules I -- V of this chapter. The term shall not include distilled spirits, wine, or malt
16 beverages, as those terms are defined or used in chapter 1 of title 3, nor tobacco.

17 (8) "Counterfeit substance" means a controlled substance which, or the container or
18 labeling of which, without authorization bears the trademark, trade name, or other identifying
19 mark, imprint, number, or device, or any likeness of them, of a manufacturer, distributor, or
20 dispenser, other than the person or persons who in fact manufactured, distributed, or dispensed
21 the substance and which thereby falsely purports or is represented to be the product of, or to have
22 been distributed by, the other manufacturer, distributor, or dispenser, or which substance is
23 falsely purported to be or represented to be one of the controlled substances by a manufacturer,
24 distributor, or dispenser.

25 (9) "CRT" means cathode ray tube used to impose visual information on a screen.

26 (10) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a
27 controlled substance or imitation controlled substance, whether or not there exists an agency
28 relationship.

29 (11) "Department" means the department of health of this state.

30 (12) "Depressant or stimulant drug" means:

31 (i) A drug which contains any quantity of:

32 (A) Barbituric acid or derivatives, compounds, mixtures, or preparations of barbituric
33 acid; and

34 (B) "Barbiturate" or "barbiturates" includes all hypnotic and/or somnifacient drugs,

1 whether or not derivatives of barbituric acid, except that this definition shall not include bromides
2 and narcotics.

3 (ii) A drug which contains any quantity of:

4 (A) Amphetamine or any of its optical isomers;

5 (B) Any salt of amphetamine and/or desoxyephedrine or any salt of an optical isomer of
6 amphetamine and/or desoxyephedrine, or any compound, mixture, or preparation of them.

7 (iii) A drug which contains any quantity of coca leaves. "Coca leaves" includes cocaine,
8 or any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except
9 derivatives of coca leaves, which do not contain cocaine, ecgonine, or substance from which
10 cocaine or ecgonine may be synthesized or made.

11 (iv) Any other drug or substance which contains any quantity of a substance which the
12 attorney general of the United States, or the director of health, after investigation, has found to
13 have, or by regulation designates as having, a potential for abuse because of its depressant or
14 stimulant effect on the central nervous system.

15 (13) "Director" means the director of health.

16 (14) "Dispense" means to deliver, distribute, leave with, give away, or dispose of a
17 controlled substance to the ultimate user or human research subject by or pursuant to the lawful
18 order of a practitioner, including the packaging, labeling, or compounding necessary to prepare
19 the substance for that delivery.

20 (15) "Dispenser" is a practitioner who delivers a controlled substance to the ultimate user
21 or human research subject.

22 (16) "Distribute" means to deliver (other than by administering or dispensing) a
23 controlled substance or an imitation controlled substance and includes actual constructive, or
24 attempted transfer. "Distributor" means a person who so delivers a controlled substance or an
25 imitation controlled substance.

26 (17) "Downtime" means that period of time when a computer is not operable.

27 (18) "Drug addicted person" means a person who exhibits a maladaptive pattern of
28 behavior resulting from drug use, including one or more of the following: impaired control over
29 drug use; compulsive use; and/or continued use despite harm, and craving.

30 (19) "Drug Enforcement Administration" means the Drug Enforcement Administration
31 United States Department of Justice or its successor.

32 (20) "Federal law" means the Comprehensive Drug Abuse Prevention and Control Act of
33 1970, (84 stat. 1236)(see generally 21 U.S.C. § 801 et seq.), and all regulations pertaining to that
34 federal act.

1 (21) "Hardware" means the fixed component parts of a computer.

2 (22) "Hospital" means an institution as defined in chapter 17 of title 23.

3 (23) "Imitation controlled substance" means a substance that is not a controlled
4 substance, which by dosage unit, appearance (including color, shape, size, and markings), or by
5 representations made, would lead a reasonable person to believe that the substance is a controlled
6 substance and, which imitation controlled substances contain substances which if ingested, could
7 be injurious to the health of a person. In those cases when the appearance of the dosage unit is not
8 reasonably sufficient to establish that the substance is an "imitation controlled substance" (for
9 example in the case of powder or liquid), the court or authority concerned should consider, in
10 addition to all other logically relevant factors, the following factors as related to "representations
11 made" in determining whether the substance is an "imitation controlled substance":

12 (i) Statement made by an owner, possessor, transferor, recipient, or by anyone else in
13 control of the substance concerning the nature of the substance, or its use or effect.

14 (ii) Statements made by the owner, possessor, or transferor, to the recipient that the
15 substance may be resold for substantial profit.

16 (iii) Whether the substance is packaged in a manner reasonably similar to packaging of
17 illicit controlled substances.

18 (iv) Whether the distribution or attempted distribution included an exchange of or
19 demand for money or other property as consideration, and whether the amount of the
20 consideration was substantially greater than the reasonable value of the non-controlled substance.

21 (24) "Immediate precursor" means a substance:

22 (i) Which the director of health has found to be and by regulation designated as being the
23 principal compound used, or produced primarily for use, in the manufacture of a controlled
24 substance;

25 (ii) Which is an immediate chemical intermediary used or likely to be used in the
26 manufacture of those controlled substances; and

27 (iii) The control of which is necessary to prevent, curtail, or limit the manufacture of that
28 controlled substance.

29 (25) "Laboratory" means a laboratory approved by the department of health as proper to
30 be entrusted with controlled substances and the use of controlled substances for scientific and
31 medical purposes and for the purposes of instruction.

32 (26) "Marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not;
33 the seeds of the plant; the resin extracted from any part of the plant; and every compound,
34 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, but shall not

1 include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the
2 seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of
3 mature stalks, (except the resin extracted from it), fiber, oil or cake, or the sterilized seed from the
4 plant which is incapable of germination. [Marijuana shall not include hemp, or hemp products as
5 defined in §2-26-3.](#)

6 (27) "Manufacture" means the production, preparation, propagation, cultivation,
7 compounding, or processing of a drug or other substance, including an imitation controlled
8 substance, either directly or indirectly or by extraction from substances of natural origin, or
9 independently by means of chemical synthesis or by a combination of extraction and chemical
10 synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of
11 its container in conformity with the general laws of this state except by a practitioner as an
12 incident to his or her administration or dispensing of the drug or substance in the course of his or
13 her professional practice.

14 (28) "Manufacturer" means a person who manufactures but does not include an
15 apothecary who compounds controlled substances to be sold or dispensed on prescriptions.

16 (29) "Narcotic drug" means any of the following, whether produced directly or indirectly
17 by extraction from substances of vegetable origin, or independently by means of chemical
18 synthesis or by a combination of extraction and chemical synthesis:

19 (i) Opium and opiates.

20 (ii) A compound, manufacture, salt, derivative, or preparation of opium or opiates.

21 (iii) A substance (and any compound, manufacture, salt, derivative, or preparation of it)
22 which is chemically identical with any of the substances referred to in paragraphs (i) and (ii) of
23 this subdivision.

24 (iv) Any other substance which the attorney general of the United States, or his or her
25 successor, or the director of health, after investigation, has found to have, and by regulation
26 designates as having, a potential for abuse similar to opium and opiates.

27 (30) "Official written order" means an order written on a form provided for that purpose
28 by the Drug Enforcement Administration under any laws of the United States making provision
29 for an official form, if order forms are authorized and required by federal law, and if no order
30 form is provided then on an official form provided for that purpose by the director of health.

31 (31) "Opiate" means any substance having an addiction-forming or addiction-sustaining
32 liability similar to morphine or being capable of conversion into a drug having addiction-forming
33 or addiction-sustaining liability.

34 (32) "Opium poppy" means the plant of the species *papaver somniferum* L., except the

1 seeds of the plant.

2 (33) "Ounce" means an avoirdupois ounce as applied to solids and semi-solids, and a
3 fluid ounce as applied to liquids.

4 (34) "Person" means any corporation, association, partnership, or one or more
5 individuals.

6 (35) "Physical dependence" means a state of adaptation that is manifested by a drug class
7 specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction,
8 decreasing blood level of the drug, and/or administration of an antagonist.

9 (36) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

10 (37) "Practitioner" means:

11 (i) A physician, osteopath, dentist, chiropract, veterinarian, scientific investigator, or
12 other person licensed, registered or permitted to distribute, dispense, conduct research with
13 respect to or to administer a controlled substance in the course of professional practice or research
14 in this state.

15 (ii) A pharmacy, hospital, or other institution licensed, registered or permitted to
16 distribute, dispense, conduct research with respect to, or to administer a controlled substance in
17 the course of professional practice or research in this state.

18 (38) "Printout" means a hard copy produced by computer that is readable without the aid
19 of any special device.

20 (39) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
21 of a controlled substance.

22 (40) "Researcher" means a person authorized by the director of health to conduct a
23 laboratory as defined in this chapter.

24 (41) "Sell" includes sale, barter, gift, transfer, or delivery in any manner to another, or to
25 offer or agree to do the same.

26 (42) "Software" means programs, procedures and storage of required information data.

27 (43) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
28 cathinones as provided for in schedule I.

29 (44) "Ultimate user" means a person who lawfully possesses a controlled substance for
30 his or her own use or for the use of a member of his or her household, or for administering to an
31 animal owned by him or her or by a member of his or her household.

32 (45) "Wholesaler" means a person who sells, vends, or distributes at wholesale, or as a
33 jobber, broker agent, or distributor, or for resale in any manner in this state any controlled
34 substance.

1 SECTION 3. This act shall take effect upon passage.

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LC005997/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO AGRICULTURE AND FORESTRY

1 This act would permit the growth of hemp by properly licensed individuals that have
2 applied and met the requirements of this chapter. It would also allow higher educational
3 institutions to grow hemp for educational and research purposes with the approval of the
4 department of health, and would exclude hemp and hemp products from the prohibitions set forth
5 in chapter 28 of title 21 as they relate to marijuana.

6 This act would take effect upon passage.

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