

Article 13: Relating to State Controlled Adult Use Marijuana

Article 13 establishes a state-controlled adult-use marijuana market, increasing restricted receipts by \$26.0 million in FY2021. Specifically, the article:

- Authorizes the Office of Cannabis Regulation to notify law enforcement when there is a reasonable belief that a primary caregiver is not in compliance with laws and regulations.
- Establishes the Adult-Use of Marijuana Act and the Marijuana Regulation, Control, and Revenue Act to provide a framework for the state-controlled market.

FISCAL IMPACT

The State anticipates sales would begin in March 2021. The partial year of sales would result in a restricted receipt increase of \$26.0 million in FY2021, based on the assumption that 33.0 percent of the market will have been realized. The State would receive all fee revenues, totaling \$699,000 in FY2021. After accounting for expenditures related to the adult-use marijuana market, the estimated transfer to the general fund is \$21.8 million in FY2021.

The FY2022 estimated impact assumes there will be a 20.0 percent decrease in the retail price of marijuana and that the market be fully realized by the start of FY2022. These assumptions increase adult-use retail sale profits by 50.4 percent in FY2022. There are no tax revenues assumed in the Budget for adult-use marijuana, as sales are tax exempt. The fiscal impact of Article 13 is summarized in the following table:

Article 13 Net Impact		
Initiative	FY2021	FY2022
Adult-Use Retail Sale Profits	\$26,018,679	\$52,483,731
Fee Revenues	699,000	-
Expenditures	(4,888,172)	(12,894,739)
Anticipated Transfer to General Fund	\$21,829,507	\$39,588,992

Analyst Note: Since the Article requires months of infrastructure building and implementation, and a Budget has not yet been passed for FY2021, the State is unlikely to see any of the originally anticipated revenues in FY2021.

ANALYSIS AND BACKGROUND

Medical Marijuana: The article expands the enforcement authority of the Office of Cannabis Regulation (OCR) within the Department of Business Regulation (DBR). OCR would be authorized to notify law enforcement when there is a reasonable belief that a primary caregiver is not in compliance with plant tag requirements, possession limits and plant limits. The changes to medical marijuana are not expected to have a fiscal impact.

Adult-Use Marijuana: The article legalizes the adult-use of marijuana and authorizes the OCR to oversee the proposed state-controlled adult-use market. The article would allow for individuals aged twenty-one or older to purchase up to one ounce of marijuana. Up to five ounces of marijuana can be in a home if securely stored and there is at least one individual over the age of twenty-one. Homes with at least two individuals aged twenty-one or older can securely store up to ten ounces of marijuana in their home. Possession of marijuana in a motor vehicle must remain sealed, unused, and in the original packaging.

The Office of Management and Budget (OMB) completed an analysis to estimate the retail sales in the state. Using self-reported marijuana-use rates, OMB took the number of self-reported marijuana users in the State and adjusted for expected underreporting and the number of medical marijuana patients in the State.

The state-controlled adult-use marijuana market is modeled after New Hampshire's state-controlled liquor market. State-controlled markets lower prices and attract additional consumers. A study found that liquor prices were 89.0 percent of the prices in markets that were not state-controlled. OMB used this information to estimate the impact that a state-controlled model will have on retail prices and consumer demand. Adjusting for under-reporting of marijuana-use, medical marijuana patients, and the impact of a state-controlled adult-use marijuana market, OMB found that Rhode Island can anticipate 176,388 consumers in the adult-use market.

To estimate the total sales annually, OMB calculated used average sales per user in Colorado and Washington. To account for the proposed 50.0 percent potency limit, they analyzed the potency of products sold in Colorado. The data from Colorado suggests that potency limits would decrease sales and production by 13.7 percent. Nevada is currently the only other state that limits the potency of adult-use marijuana, but a number of states are considering potency limitations as potency continues to grow in both legal and illegal markets around the world.

A state-controlled model would allow the State to provide lower prices for the retail sale of marijuana, as New Hampshire has done with state-controlled liquor sales. Lower prices are expected to attract consumers away from the black market and allow the State to be competitive with neighboring states. OMB estimated the impact a state-controlled market would have on product pricing and adjusted accordingly. When including adjustments from the potency limits and the impact of a state-controlled market, the State can anticipate \$209.6 million in total sales annually in the adult-use market.

In Connecticut, the Governor included legalization of marijuana in their budget. Massachusetts passed legalization in 2016 and launched the retail sale of marijuana in 2018. There are three marijuana retail stores within approximately ten miles of the Rhode Island border, including one Fall River location within 0.1 miles of the Rhode Island border.

Prohibited Activities and Fines: The article prohibits specific activities and limits the amount of marijuana an adult may possess. If an individual or entity possesses marijuana plants without a cultivator license or medical marijuana plant tags, they are subject to forfeiture and fines based on the number of plants in possession. Fines range from \$2,000 to \$5,000 per plant and anyone possessing more than 20 plants is subject to a felony conviction. Adults over the possession weight limits would be penalized \$2,000 per ounce over the limit and would be required to forfeit the marijuana.

Prisoners are not permitted to possess marijuana, and marijuana is not permitted in any jail, detention or correctional facilities. An individual who smokes or vaporizes marijuana in public places or on the premises of certain housing facilities would be subject to a \$150 fine per violation, in addition to any fines by the municipality where the violation occurred.

The article does not exempt marijuana use when using marijuana could result in negligence or professional malpractice. The article also prohibits the use of marijuana on school grounds, school buses or other forms of public transportation, drug treatment facilities, public places and any place where smoke may affect children. Employers would not be required to accommodate employee marijuana use and may implement policies prohibiting the use and possession of marijuana in the workplace. Landlords also may restrict or ban the distribution, transfer, or use of marijuana.

Individuals or entities that distribute or sell marijuana to a minor would be subject to a \$10,000 fine. In addition, if the individual is at least three years older than the minor, the person is subject to a felony conviction. The article authorizes the OCR to complete compliance checks and statewide purchase surveys to ensure compliance with minimum age requirements. Penalties were excluded from revenue estimates.

Adult-Use Marijuana Fund: The article establishes the Adult-Use Marijuana Fund as a restricted receipt account exempt from the indirect cost recovery provision of RIGL 35-4-27. The allocation for net adult-use retail marijuana revenue would be as follows: 61.0 percent of the funds to the State, 10.0 percent to municipalities, and 29.0 percent to the contractor(s) operating on the State's behalf.

The article allocates \$4.9 million in funding from the fund for expenditures related to adult-use marijuana program administration. First-year expenditures include additional training and resources for public safety departments, public health monitoring and surveillance, licensing and regulating of adult-use marijuana facilities, and funding for substance use disorder prevention.

Article 13 FY2021 Expenditures

Agency	Restricted Receipt
Business Regulation	\$3,216,792
Food Safety and Staffing	641,536
BHDDH	529,844
Public Safety	500,000
Total Agency Expenditures	\$4,888,172

The article would require the remaining balance be transferred to the General Fund from the restricted receipt account on a monthly basis. In FY2021 the total anticipated transfer is \$21.1 million.

Municipalities: Municipalities would have the opportunity to limit or ban any or all marijuana-related licenses through a referendum completed on or by November 3, 2020. All municipalities would receive 25.0 percent of the municipality allocation, \$27,342 per municipality in FY2021. The remaining distribution would be based on volume; 25.0 percent of the municipal allocation would be based on license volume (with retail locations weighted double all other licenses), and the remaining 50.0 percent would be allocated based on sales volume. In FY2022, the first full year of retail sales, \$8.6 million would be available for municipality distribution. Municipalities may also receive an impact fee from new licensees to offset or reimburse actual, direct costs, and expenses that the municipality incurs during the first three months of operation.

FY2021 Article 13 Municipality Distribution

Distribution	FY2021	FY2022
Sales Volume (50%)	\$2,132,679	\$4,301,945
License Volume (25%)	1,066,339	2,150,973
All Municipalities (25%)	1,066,339	2,150,973
Total	\$4,265,357	\$8,603,890

Community Equity and Reinvestment Council: The article establishes the Community Equity and Reinvestment Council to advocate for social equity and community reinvestment. The Governor would appoint eleven members with expertise in areas such as community reinvestment, cannabis economics, cannabis reform and policy, criminal justice, social equity, diversity and inclusion, and business and employment opportunities. The Council members would be appointed by the Governor, without the advice and consent of the State Senate, to serve without compensation. The Council would be tasked with collecting and reviewing data, providing recommendations for the use of funds, and conducting public meetings. The Council serves as an advisory committee and does not have authority to allocate funds.

Public Safety: The article allows the testimony of certified drug recognition experts as evidence in cases of driving under the influence of drugs or alcohol and allows for the chemical analysis of saliva. The article amends RIGL 37-27-2.1 to add saliva to the list of chemical tests that drivers are deemed to have given consent. The Department of Public Safety and municipal police departments would require additional resources to train officers on recognizing individuals who are impaired by marijuana. The Department of Public Safety would receive \$500,000 in funding for training and operational costs associated with the adult-use marijuana program.

License and Application Fees: The article establishes fees associated with applying for and obtaining licenses for cultivators, processors, contractors, and employees who work in the marijuana industry. Current medical marijuana cultivators may apply for and obtain adult-use cultivator licenses so long as it will not impact supplies in the medical marijuana market. The new licenses established are specifically for the adult-use marijuana market and would generate \$699,000 in FY2021. Licenses would require renewal every three years. The OCR would have regulatory authority to set fees through the promulgation of rules and

regulations and would be responsible for licensing marijuana contractors, processors, cultivators, and employees who work in the industry. The Department of Health (DOH) would be responsible for the oversight and licensing of the lab testing of marijuana and marijuana products.

FY2021 Article 13 License Revenue

License	Estimated Revenue
Cultivator	\$360,000
Processors	270,000
Contractors	30,000
Key Employees	9,000
Operations Employees	30,000
License Fees	\$699,000

- **Cultivator License:** In order to cultivate marijuana, an entity would be required to apply for and obtain a cultivator license with an anticipated license fee of \$5,000. The cultivator license fee is based on the cultivator’s size and scope of marijuana growth, ranging from \$5,000 to \$80,000, the same as the medical marijuana cultivator license. OMB estimates that OCR would approve 72 applications, generating \$360,000. Cultivators are prohibited from manufacturing or processing marijuana products.
- **Processors:** In order to process and produce marijuana products, a processor license with an anticipated license fee of \$5000 is required. OMB estimates that OCR would approve 54 applications, generating \$360,000. Processors are prohibited from cultivating marijuana.
- **Contractors:** In the state-controlled adult-use marijuana market, the State would enter into a contractual agreement with one or more contractors that would acquire marijuana and operate retail stores on behalf of the State. Contractors would be required to obtain a contractor license. The contractor license fee is expected to be \$10,000 and OMB anticipates that three will be approved. Contractor license fees are projected to generate \$30,000. Contractors are prohibited from cultivating or processing marijuana.
- **Employee Licenses:** OMB anticipates the fee for employee licenses would be \$300 for key employees and \$150 for operational employees. Employee license fees are expected to generate \$39,000.