



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
 BUDGET OFFICE
 One Capitol Hill
 Providence, R.I. 02908-5886

MEMORANDUM

To: The Honorable Marvin L. Abney
 Chairman, House Finance Committee

The Honorable William J. Conley, Jr.
 Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
 Executive Director/State Budget Officer

Date: March 13, 2019

Subject: Amendments to Article 20 of the FY 2020 Appropriations Act
 (19-H-5151)

The Governor requests that Article 20 entitled "Relating to Marijuana" submitted on January 17, 2019 be replaced with the attached version. This amended version is intended to address feedback received from various stakeholders after the submission of the Governor's FY 2020 Budget. The new version contains amendments to the following sections:

Section 1:

This section contains amendments which clarify the permitted actions under a hemp handler license, restrict the sale of hemp-derived consumable CBD products to persons over the age of twenty-one (21), and clarify that all consumable hemp products must be subject to, and must comply with, Department of Health food safety rules and regulations.

Section 2:

The new version clarifies the Department of Business Regulation's enforcement authority over industrial hemp license holders.

This section also contains an amendment which specifies that any fee revenue related to industrial hemp licensing be deposited into a restricted receipt account, and any surplus in that account will be transferred to the general fund at the end of the fiscal year.

Section 5:

The new version clarifies the difference between high dose and high potency medical marijuana products only available to medical marijuana registrants, and non-medical adult use marijuana products available to adults over the age of twenty-one (21). The new version also clarifies that the possession limits afforded to medical marijuana card holders under the Slater Act is to be applied towards amounts of medical marijuana products and that these limits are in addition to, not in place of, the possession limits for non-medical adult use marijuana products.

The new version clarifies that any patient medical records required by the Department of Health must be relevant to the patient's qualifying condition. The new version also corrects a drafting and transcription error within the definition of "practitioner." The corrected language prohibits doctors who are not licensed to practice medicine in Rhode Island from providing written certifications for qualified patient applicants.

The new version clarifies that employment protections for patient cardholders do not allow a patient to possess, use, or be under the influence of marijuana in the workplace or during work hours. It also clarifies employer exemptions to these protections in the following instances: motor vehicle operation; the operation of heavy machinery, equipment, or firearms; subject to a collective bargaining agreement; in the case of a federal contractor; and when failure to do so would constitute negligence or professional malpractice.

The new version also exempts patients who grow for themselves under a caregiver registration from having to obtain a criminal background check. Currently, patients who grow for themselves are not required to obtain a criminal background check.

Section 7:

The new version clarifies the Office of Cannabis Regulation's enforcement authority over marijuana products and license holders.

The new version clarifies that smoking or vaping marijuana in a hotel is prohibited unless specifically permitted by hotel management.

The new version removes language in the original article which provided employment protections for offsite use of marijuana by an employee. This provision was inconsistent with existing state employment law regarding private substance use. The new version contains new language which clarifies that employers may adopt and implement their own drug and substance use policies. The new version also provides a process by which a patient may request that the Department of Health verify their status to an employer to ensure compliance with workplace protections for patients. The new version also allows employers to take disciplinary action against an employee who is found to be actively impaired by marijuana while at work.

The new version clarifies that distribution to someone under the age of twenty-one (21) by someone who is less than three years their senior is not a felony offense.

The new version includes new language incorporating several mechanisms used in existing liquor laws which allows the use of underage individuals in compliance checks for marijuana licensees, prohibits the possession and transportation of marijuana by underaged persons, and prohibits the unlawful use and false presentation of a government-issued form of identification. These are added in new sections 21-28.10-12(d), 21-28.10-12.1, and 21-28.10-12.2

The new version revises the distance an adult use marijuana establishment (which includes adult use marijuana cultivators, processors, and retailers) must be from a preexisting school so that it is consistent with the previous distance required for an adult use marijuana retailer. The new version will also permit the collocation of licenses at one premise.

The new version extends the prohibition on billboard advertising from licensees to other ancillary marijuana businesses who may engage in marijuana advertising.

The new version provides cities and towns with more flexibility and time to ban marijuana licensees through enacting an ordinance. A local ban enacted through an ordinance would not need to be upheld by local referenda until November of 2021. The new version also allows cities and towns to collect a local impact fee from licensees to offset any costs imposed on the town during the first three months of operation of a new license.

Section 10:

The new version allows the Office of Cannabis Regulation to clarify the criteria for marijuana flower and marijuana trim in order to effectively implement the weight-based taxes associated with each classification.

The new version lowers the tax rate on hemp-derived consumable CBD products from eighty percent (80%) of wholesale cost to forty percent (40%) of wholesale cost.

The new version also includes the following changes and clarifications which are reflected throughout several sections of the article:

The new version also changes the disbursement of restricted receipt funds by removing disbursements to the executive office of health and human services and instead disbursing funds directly to the department of behavioral healthcare, developmental disabilities and hospitals throughout several sections.

The new version also clarifies that the protections, licenses, and registrations which enable a person or entity to possess, manufacture, process, distribute, and use marijuana and marijuana products only apply to products which comply with Rhode Island General Law.

The new version codifies existing law which allows for the lawful distribution of a prescription medication containing cannabis provided it is approved by the Food and Drug Administration.

The language to be changed is highlighted in grey. Inaccurate language to be removed from the original article is stricken and strike-outs have been removed from language that was incorrectly stricken in the original article.

If you have any questions regarding this amendment, please feel free to call me at 222-6300.

TAM: 20-Amend-10

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget