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2000 Survey of Rhode Island Law: Legislation: Criminal Law: An Act Relating to Criminal Offenses - Impersonation - Identity Fraud, An Act Relating to Uniform Controlled Substances

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Criminal Law. *An Act Relating to Criminal Offenses—Impersonation—Identity Fraud.* Classifies as a felony any use, possession or production of false forms of identification except when such misrepresentation is made by a person under the age of twenty-one to access liquor. Effective, July 6, 2000. 2000 R.I. Pub. Laws ch. 105.

This Act amends Title 11 of the General Laws entitled “Criminal Offenses” by adding chapter 49.1. The Impersonation and Identity Fraud Act¹ makes the knowing use, possession, production or transfer of an identification document, document-making implement or means of identification illegal.² An “identification document” is a government agency issued document or card generally accepted as proper identification.³ A “document-making implement” is defined as “any implement, impression, electronic device, or computer hardware or software” designed or used for the creation of false identification.⁴ “Means of identification” include an identifying characteristic such as name, social security number, driver’s license, alien registration number, passport number, fingerprint, retina or iris image or electronic identification number or address.⁵

Specifically, the Act prohibits production of false identification,⁶ transfer of identification documents that are stolen,⁷ possession of five or more identification documents with the intent to use unlawfully⁸ and possession of an identification document with the intent to defraud.⁹ Furthermore, the Act forbids possession or transfer of any device used to produce false identifications,¹⁰ possession of a false identification that appears to be genuine but which is stolen¹¹ and the transfer or use with the intent to defraud another’s means of identification with the intent to commit unlaw-

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1. R.I. Gen. Laws § 11-49.1 (1956) (2000 Reenactment).
 2. *See id.* § 11-49.1-3(a).
 3. *See id.* § 11-49.1-2(2).
 4. *Id.* § 11-49.1-2(1).
 5. *See id.* § 11-49.1-2(3).
 6. *See id.* § 11-49.1-3(a)(1).
 7. *See id.* § 11-49.1-3(a)(2).
 8. *See id.* § 11-49.1-3(a)(3).
 9. *See id.* § 11-49.1-3(a)(4).
 10. *See id.* § 11-49.1-3(a)(5).
 11. *See id.* § 11-49.1-3(a)(6).

ful activity.¹² This Act, however, is not applicable to any person under the age of twenty-one who uses a form of false identification to obtain admittance to a liquor-selling or serving establishment.¹³

The penalties for a violation of this Act vary depending on the number of convictions under this statute.¹⁴ For first-time offenders, the penalty is not more than three years imprisonment and a fine not exceeding, \$5,000.¹⁵ For second-time offenders, jail time may range between three and five years and a fine not exceeding, \$10,000 may be imposed.¹⁶ All subsequent offenses are punishable by imprisonment between five and ten years and a fine not less than \$15,000.¹⁷

Search warrants may be issued in order to search and seize materials used or possessed in violation of the provisions of the statute.¹⁸ Any items found in executing a search warrant will be brought into court and forfeited to the state.¹⁹ However, no property or money will be forfeited unless it is apparent that the owner had actual or constructive knowledge of the illegal conduct.²⁰ Property taken cannot be replevied and will be sold or destroyed.²¹ Twenty percent of all proceeds will go to the attorney general's office to further law enforcement of related activities and the remaining eighty percent will be divided among the participating agencies involved in the investigation, with each agency's share to be determined by the extent of their participation.²²

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12. *See id.* § 11-49.1-3(a)(7).

13. *See id.* § 11-49.1-3(b).

14. *See id.* § 11-49.1-4.

15. *See id.* § 11-49.1-4(a).

16. *See id.* § 11-49.1-4(b).

17. *See id.* § 11-49.1-4(c).

18. *See id.* § 11-49.1-5(a)(1).

19. *See id.*

20. *See id.* § 11-49.1-5(a)(2).

21. *See id.* § 11-49.1-5(b).

22. *See id.*

Criminal Law. *An Act Relating to Uniform Controlled Substances.* Removes a limited prohibition of the possession of hypodermic needles, syringes and instruments and authorizes their sale by licensed pharmacies. Effective September 1, 2000. 2000 R.I. Pub. Laws ch. 520.

This legislation (the Act) amends chapter 21-28 of the Rhode Island General Laws, entitled "Uniform Controlled Substances Act" (UCSA).¹ Prior to the passage of the Act, the UCSA prohibited the knowing possession of a hypodermic needle, syringe or any instrument adapted for subcutaneous injection unless the person fell within an enumerated class of individuals or was otherwise authorized in accordance with the USCA.² The Act removes this prohibition and declassifies hypodermic needles and syringes as drug paraphernalia under section 21-28.5-1.³

Section 21-28-4.04, entitled "Deregulation syringe act for diabetes and health promotion," permits licensed pharmacies to sell hypodermic instruments subject to certain requirements.⁴ Upon the sale of hypodermic needles and syringes, the pharmacist must provide the purchaser with information regarding their safe disposal, "including local disposal locations or a telephone number to call for such information."⁵ With this right to sell comes the duty of the pharmacist to restrict access to stored needles and syringes to authorized personnel only.⁶ Further, the seller "must certify to the director of the department of health participation in an activity that supports proper disposal of used hypodermic needles or syringes."⁷ The Act also imposes a duty on the director of the department of human health to "adopt rules and regulations relative to the content, format, and distribution of any materials required under" the Act.⁸

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1. See 2000 R.I. Pub. Laws ch. 520.
 2. See R.I. Gen. Laws § 21-28-4.04 (1956) (2000 Reenactment).
 3. See *id.*
 4. See *id.*
 5. *Id.*
 6. See *id.*
 7. *Id.*
 8. *Id.*