

CHAPTER 71

STATUTES

HOUSE BILL 95-1020

BY REPRESENTATIVES Faatz, Acquafresca, Allen, Dean, DeGette, Friednash, George, Hagedorn, Jerke, Kerns, Kreutz, Lamm, Lyle, Morrison, Paschall, Pfiffner, Saliman, Sullivan, Taylor, and Tool;
also SENATORS Hopper, Bishop, Blickensderfer, Casey, Coffman, Dennis, Feeley, Johnson, Matsunaka, Norton, Pascoe, Perlmutter, R. Powers, Rizzuto, Rupert, Tebedo, Wattenberg, Weddig, and Weissmann.

AN ACT

CONCERNING THE REPEAL OF OUTDATED PROVISIONS OF LAW RESULTING FROM THE LAW'S OBSOLESCENCE, INFREQUENCY OF USE, OR INAPPLICABILITY TO CURRENT SOCIETY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 6 of title 2, Colorado Revised Statutes, 1980 Repl. Vol., is repealed as follows:

2-6-101. Legislative declaration. ~~The general assembly declares that, in order to maintain and create conditions which will sustain and promote the economy of the state, it is important to know the economic impact of state laws in recognition of the impact of laws and regulations upon the economy, employment, and enterprise of the state. It is further declared that without appropriate information the general assembly could enact legislation that would provide adverse impacts upon the economy of the state.~~

2-6-102. Definitions. ~~As used in this article, unless the context otherwise requires:~~

(1) ~~"Agency" means any department, agency, or instrumentality of the state, but not units of local government or school districts.~~

(2) ~~"Legislative proposal" or "proposal" means any proposal relating to a bill which may be considered or is presently being considered by the general assembly for enactment.~~

2-6-103. State agencies - other statutory obligations - effect of this article. ~~Nothing in this article shall affect any specific statutory obligation of any agency to~~

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~comply with any statutory standards or criteria prescribed by any other law. The requirements set forth in this article are supplementary to those set forth in existing law governing state agencies.~~

2-6-104. Economic impact statements - request - contents. ~~(1) The president of the senate, the speaker of the house of representatives, the majority and minority leaders of the senate or the house of representatives, the chairman of any committee of reference of the senate or the house of representatives, with approval of the president of the senate or the speaker of the house of representatives, or the chairman of an interim committee of the general assembly, with the approval of the chairman of the legislative council, may request an economic impact statement of any agency which is affected by or will have the duty of administering a legislative proposal. If no such agency can be ascertained, the economic impact statement shall be prepared by the office of state planning and budgeting.~~

~~(2) An economic impact statement shall provide any of the following, as designated by the requesting official:~~

~~(a) A brief description of the primary purpose of the proposal and the way in which it would operate;~~

~~(b) Citation of law, regulation, or other authority relevant to the proposal;~~

~~(c) The manner and extent to which the proposal if adopted may, directly or indirectly:~~

~~(I) Curtail, prevent, or increase any existing or likely employment of people in the state;~~

~~(II) Result in increased or decreased costs of goods or services in the state and the estimated dollar measure of such costs;~~

~~(III) Result in increased or decreased costs to state and local governments, including revenues that may be lost, and the estimated dollar measure of such costs;~~

~~(IV) Result in any adverse or favorable economic impacts within the state other than those specifically referred to in this section.~~

~~(3) Information requested by this section shall be included, if relevant, in an economic impact statement to the extent known by an agency. An economic impact statement that omits any information requested by this section shall specifically note its omission, the reason for its omission, the importance of any relevant information so omitted to a realistic assessment of the economic impact of the proposal, and the additional time and effort required to obtain any information needed for such assessment.~~

~~(4) An agency economic impact statement required by this article shall be made available to each member of the general assembly at the time such agency recommendation or report on the proposal is released or otherwise made available by the agency if the general assembly is in session; otherwise the statement shall be provided to the member or the committee requesting the statement.~~

SECTION 2. 6-15-102 (4), Colorado Revised Statutes, 1992 Repl. Vol., is amended to read:

6-15-102. Art dealers and artists - consignment of works of fine art. (4) An art dealer is strictly liable for the loss of or damage to a work of fine art while it is in his possession. The value of the work of fine art is, for the purposes of this subsection (4), the value established in a written agreement between the artist and the art dealer prior to the loss or damage of the work. ~~or, if no written agreement regarding the value of the work exists, the fair market value of the work less the art dealer's commission or fee.~~

SECTION 3. Article 41 of title 7, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

~~**7-41-101. Additional statements in certificate.** (1) Whenever any number of persons organize under the provisions of law to form a corporation for the purpose of constructing a line of magnetic telegraph in this state, their certificate shall specify the termini of such lines, and the counties through which they shall pass. Such corporation is authorized to construct the telegraph lines from point to point along and upon any of the public roads by the erection of the necessary fixtures, including posts, piers, and abutments necessary for the wires; but the same shall not incommode the public in the use of the roads or highways.~~

~~(2) A corporation organized under the "Colorado Nonprofit Corporation Act" shall have all of the rights and powers granted by this article to the extent not inconsistent with said act, if such corporation otherwise complies with the terms and provisions of this article.~~

~~**7-41-102. Consent of municipality.** No company has the right to erect any poles, posts, piers, abutments, wires, or other fixtures of their lines along or upon any street, alley, highway, or public ground within any incorporated city or town without the consent of the corporate authorities of the city or town. The consent required by this section must be in writing and shall be recorded in the recorder's office of the county in which the city or town is located. Any such city council or board of trustees of a city or town, as the case may be, shall have power to direct any alteration in the location or erection of any poles, posts, piers, or abutments and also in the height of wires, having first given the company or its agent opportunity to be heard in regard to the alteration.~~

~~**7-41-103. Refusal to send message - penalty.** If any company owning or operating any line of telegraph in this state refuses to receive a dispatch from any other company or person owning or operating any telegraph line in this state or refuses or willfully neglects to transmit the same in good faith and without partiality, the company so offending shall forfeit all rights and franchises acquired under the laws of this state, and may be enjoined therefrom by bill of complaint filed in any court of competent jurisdiction, and be liable to pay all damages which shall accrue by reason of the refusal to the company or person offering such dispatch for transmission.~~

~~**7-41-104. Messages sent in order received.** It is the duty of all persons employed in transmitting messages by telegraph to transmit them in the order in which they are~~

received, and any person who fails to transmit a message, who suppresses a message, or who makes known the contents of a message to any person other than the one to whom it is addressed or his agent is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, and said company shall be liable for all damages resulting therefrom.

SECTION 4. Article 46 of title 7, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

7-46-101. Additional statements in certificate. ~~(1) If three or more persons associate under the provisions of law to form a corporation for the purpose of constructing a bridge or establishing a ferry over any of the streams of water in this state, their certificate, in addition to the matters otherwise required, shall specify: The place where said bridge or ferry is to be built or established and on what streams; and that the banks on both sides of the stream where the bridge or ferry is to be built or established are owned by said company, or that the company has obtained in writing the consent of the owners of the banks where the said bridge is to be built to erect the bridge, or establish the ferry; or that the banks at such place are a public highway:~~

~~(2) A corporation organized under the "Colorado Nonprofit Corporation Act" shall have all of the rights and powers granted by this article to the extent not inconsistent with said act, if such nonprofit corporation otherwise complies with the terms and provisions of this article.~~

7-46-102. Bridge shall be kept open. ~~Any bridge built or ferry established under the provisions of law shall at all times be kept in good and safe condition for travel, both night and day, unless it is rendered impassable by reason of flood or high water. Any bridge or ferry so built or established, if destroyed by flood, fire, or other causes, shall be rebuilt or reestablished within a period of nine months from such destruction, or the rights acquired under law shall be forfeited and cease to exist.~~

7-46-103. Rate of toll. ~~The company, prior to receiving any toll upon said bridge or ferry, shall set up and keep in a conspicuous place on the bridge or ferry a board on which shall be written or printed in a plain, legible manner the rates of toll which have been prescribed by the board of county commissioners of the county. If any company demands or receives any greater rate of toll than the rate prescribed by said board, it shall be subject to a fine of ten dollars. No corporation formed under the provisions of law shall demand or receive toll if said bridge or ferry is not in a good and safe condition for travel, and any person having paid toll on such bridge or ferry and finding the same in a bad or unsafe condition for vehicles shall have the right to make complaint before the county court in the county in which the bridge or ferry is located, which court shall proceed as is provided in section 43-3-308, C.R.S.~~

SECTION 5. Article 72 of title 7, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

7-72-101. Registration of lands by name. ~~The owners of any farm or ranch in this state may have the name of their farm or ranch duly recorded in a register which shall be kept by the county clerk and recorder of each of the counties of the state for that purpose upon the payment of the fee provided by statute to the county clerk and recorder of the county in which such farm or ranch may be located accompanied by~~

~~an affidavit by such owners to be recorded in the register setting forth the lands included in such farm or ranch by legal subdivision or description and the name adopted for registry under this article. Such owners shall be furnished a certificate without additional charge, issued under the seal of said county clerk and recorder, setting forth the name and description of the farm or ranch and the name of the owners. When any name has been already recorded as the name of any farm or ranch, such name shall not be recorded as the name of any farm or ranch in the same county unless such name has been previously cancelled as provided in section 7-72-102.~~

~~**7-72-102. Cancellation - fees.** Any name recorded as provided in section 7-72-101 may be cancelled at any time by the record owners thereof or their heirs, devisees, successors, or grantees by filing for record with the county clerk and recorder of the county in which such name is recorded a relinquishment of the use of such name.~~

SECTION 6. Article 8 of title 8, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

~~**8-8-101. Truck system defined.** (1) As used in this article, unless the context otherwise requires, "truck system" means:~~

~~(a) Any agreement, method, means, or understanding used or employed by an employer, directly or indirectly, to require his employee to waive the payment of his wages in lawful money of the United States and to take the same, or any part thereof, in goods, wares, or merchandise belonging to the employer or any other person or corporation;~~

~~(b) Any condition in the contract of employment between employer and employee, direct or indirect, or any understanding, express or implied, that the wages of the employee, or any part thereof, shall be spent in any particular place or in any particular manner;~~

~~(c) Any requirement or understanding by the employer with the employee that does not permit the employee to purchase the necessities of life where and of whom he chooses without interference, coercion, let, or hindrance;~~

~~(d) Charging the employee interest, discount, or other thing for money advanced on his wages, earned or to be earned, where the paydays of the employer are at unreasonable intervals of time;~~

~~(e) Any arrangements, means, or methods by which any person, company, or corporation issues any truck order, scrip, or other writing by means of which the maker may charge the amount thereof to the employer of laboring men so receiving the truck order, scrip, or other writing with the understanding that the employer shall charge the same to his employee and deduct the same from his wages.~~

~~**8-8-102. Use of truck system unlawful.** It is unlawful for any person, company, or corporation, or the agent or the business manager of any such person, company, or corporation doing business in this state to use or employ as a system, directly or indirectly, the truck system in the payment, in whole or in part, of the wages of any~~

employees of any such person, company, or corporation:

8-8-103. Truck order, scrip - void. Any truck order, scrip, or other writing made, issued, or used in aid of, in furtherance of, or as a part of the truck system evidencing any debt or obligation from any person, company, or corporation for wages due or to become due to any employee of any person, company, or corporation issued under a system whereby it is the intent and purpose to settle such wage debt by any means or device other than in lawful money, shall be void in the hands of any person, company, or corporation with knowledge that the same had been issued in pursuance of such system; and it is unlawful to have, hold, or circulate the same with such knowledge.

8-8-104. Penalty for violation. Any person who violates any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars and by imprisonment in the county jail not less than thirty days nor more than six months.

8-8-105. Violation cause for forfeiture of charter. The violation of the provisions of any section of this article by any corporation organized and existing under the laws of this state is sufficient cause for the forfeiture of the charter of the corporation, and the attorney general of the state shall immediately commence proceedings in the proper court in the name of the people of the state of Colorado against the corporation for the forfeiture of its charter.

8-8-106. Effect of violation by foreign corporation. Any foreign corporation doing business in this state who violates the provisions of any section of this article shall forfeit its right to do business in this state, and the attorney general of the state, when such knowledge comes to his attention by information or otherwise, shall institute proceedings in the proper court for the forfeiture of the right of any such corporation to do business in this state.

8-8-107. Action to enforce forfeiture. If the attorney general of the state fails, neglects, or refuses to commence the actions provided for in sections 8-8-105 and 8-8-106 after demand is made upon him by any responsible person to institute the proceedings, then any citizen of this state has the right to institute and maintain such proceedings upon giving bond for costs of suit.

8-8-108. District attorney to prosecute. The district attorney of any county shall prosecute for any violation of this article in the same manner as he may be required by law to prosecute for the violation of other criminal acts, except as provided in sections 8-8-105 and 8-8-106.

8-8-109. Canal and reservoir companies excepted. The provisions of this article shall not be construed to prevent ditch, canal, and reservoir companies from contracting or issuing orders or warrants payable at future dates in lawful money of the United States for labor performed or services rendered or from contracting and paying for the same in the capital stock of such companies or water rights or privileges for water connected with the same.

SECTION 7. 10-3-120 (1), Colorado Revised Statutes, 1994 Repl. Vol., is repealed as follows:

10-3-120. Investments of officers, directors, and principal stockholders.

(1) Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of equity security of a domestic stock insurance company or who is a director or an officer of such company shall file in the office of the commissioner, on or before the thirty-first day of January, 1966, or within ten days after he becomes such beneficial owner, director, or officer, a statement, in such form as the commissioner may prescribe, of the amount of all classes of equity securities of such company of which he is the beneficial owner and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

SECTION 8. 10-3-121, Colorado Revised Statutes, 1994 Repl. Vol., is repealed as follows:

10-3-121. Regulation of proxies, consents, or authorizations. ~~(1) The purpose of this section is to regulate the solicitation of proxies, consents, or authorizations by domestic stock insurers having one hundred or more stockholders of record in accordance with the intent of congress as expressed in the "Securities Acts Amendments of 1964", by declaring unlawful certain solicitation practices and providing for the regulation thereof.~~

~~(2) No person shall, in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, solicit or permit the use of his name to solicit any proxy or consent or authorization in respect of any security of a domestic stock insurer having one hundred or more stockholders of record.~~

~~(3) Unless proxies, consents, or authorizations in respect of a security of a domestic stock insurer are solicited by or on behalf of the management of the insurer from the holders of record of such security in accordance with the rules and regulations prescribed under subsection (2) of this section, prior to any annual or other meeting of the holders of such security, such insurer shall, in accordance with the rules and regulations prescribed by the commissioner, file with the commissioner and transmit to all holders of record of such security information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.~~

~~(4) This section is applicable to all domestic stock insurers having one hundred or more stockholders of record; except that this section shall not apply to any insurer if ninety-five percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than five hundred stockholders. A domestic stock insurer which files with the securities and exchange commission forms of proxies, consents, and authorizations complying with the requirements of the federal "Securities and Exchange Act of 1934", as amended, is exempt from the provisions of this section.~~

~~(5) The term "person" as used in this section includes a natural person, corporation, partnership, and association.~~

SECTION 9. Article 9 of title 10, Colorado Revised Statutes, 1994 Repl. Vol., is repealed as follows:

10-9-101. Franchise insurance. ~~(1) Insurance on the franchise plan is declared to be life or accident and sickness insurance granted pursuant to a plan under which either: Four or more employees of any corporation, copartnership, or individual employer or of any governmental corporation, unit, agency, or department; or ten or more members, employees, or employees of members of any labor union, or of any trade, business, industrial, or professional association which has had an active existence for at least two years are initially insured, and under which such persons, with or without their dependents, are issued the same basic form of individual policy, varying only in respect to amounts and benefits as applied for, under an arrangement whereby the premiums on such policies are paid to the insurer periodically by the employer or by the association, or by some designated person acting on behalf of such employer or association. Such premium payments shall be made from the employer's or the association's own funds or from funds contributed by the employees or members specifically for their insurance, or from both.~~

~~(2) The term "employee", as used in this article, includes officers, managers, and employees of the employer, the partners if the employer is a partnership, and the individual proprietor if the employer is an individual proprietorship; except that an officer, manager, director, partner, or individual proprietor is not deemed an "employee" unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the corporation, partnership, or proprietorship.~~

10-9-102. Authority to write franchise insurance. ~~Any insurance company authorized to write life insurance in this state may issue life insurance policies on the franchise plan, and any insurance company authorized to write accident and sickness insurance in this state may issue accident and sickness insurance policies on the franchise plan.~~

10-9-103. Premium rates. ~~Notwithstanding any provisions of part 11 of article 3 of this title in conflict herewith, insurers may establish, for use in connection with insurance issued on the franchise plan, premium rates which reflect a differential from the rates otherwise charged for identical policies issued on an individual basis, if the rates charged do not unfairly discriminate between franchise units.~~

10-9-104. Policy provisions. ~~(1) In addition to other requirements of the statutes relating to individual life insurance policies:~~

~~(a) A life insurance policy issued on the franchise plan and granting term insurance renewable only during the continuation of employment or membership shall provide, in the event of termination of employment or membership, for the conversion of such insurance, without evidence of insurability, to any form of individual whole life or endowment policy then regularly issued by the insurer at the age and for the amount involved; if application and payment of the first premium therefor are made within thirty-one days after the date of such termination, and if the new policy shall be in an amount not exceeding the terminated insurance and without disability or other supplementary benefits, and if the premium therefor shall be at the insurer's then customary nonfranchise rates applicable to the form and amount of the new policy, to the underwriting classification to which the insured then belongs, and to his~~

attained age at the effective date of the new policy:

~~(b) A life insurance policy issued on the franchise plan and granting insurance, other than term insurance ceasing upon termination of employment or membership, may provide that any premiums becoming due on or after the date of termination of employment or membership shall be in amounts determined in accordance with the insurer's published rates for such policy at its date of issue, if not issued on the franchise plan, and on the basis of the insured's age and underwriting classification at the date of issue of the policy.~~

SECTION 10. 23-60-103 (1), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

23-60-103. Definitions. (1) "Area vocational school" means a school offering approved postsecondary vocational programs for credit, operated by a local school district or by a board of cooperative services, and designated by the general assembly as an area vocational school in conformity with standards established by the state board for community colleges and occupational education. Tuition rates and fees charged any person not enrolled in a secondary school curriculum shall be uniform for any group classification. For the purposes of this article, the following are declared to be area vocational schools: The Emily Griffith opportunity school, ~~the Boulder valley area vocational school, the Larimer county area vocational school, the San Luis valley area vocational school,~~ the San Juan basin area vocational school, the Delta-Montrose area vocational school, and the Aurora tech center.

SECTION 11. 24-11-103, Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

~~**24-11-103. Saturday half holiday - effect.** In every city of this state having a population of twenty-five thousand or over, every Saturday during the months of June, July, and August from 12 noon until 12 midnight is hereby designated a public holiday, and the same shall be recognized, classed, and treated as other holidays under the laws of this state. In the case of a half holiday, bills of exchange, bank checks, and promissory notes shall be presentable for acceptance or payment at or before 12 noon of that day; and, for the purpose of protesting or otherwise holding liable any party to any bill of exchange, check, or promissory note which has not been paid before 12 noon on any Saturday during said months, a demand of acceptance or payment thereof may be made and notice of protest or dishonor thereof may be given on the next succeeding secular or business day. When any person receives for collection any check, bill of exchange, or promissory note due and presentable for acceptance or payment on any Saturday during said months, such person shall not be deemed guilty of any neglect or omission of duty nor incur any liability in not presenting for payment or acceptance or collecting such check, bill of exchange, or promissory note on that day. In construing this section, every Saturday during said months, unless a whole holiday, until 12 noon, shall be deemed a secular or business day.~~

SECTION 12. 18-9-203, Colorado Revised Statutes, 1986 Repl. Vol., is repealed as follows:

18-9-203. Shepherd abandoning sheep without notice. ~~(1) It is unlawful for~~

~~any person employed as a sheepherder and having charge as such herder of any sheep, of whatsoever class, kind, description, or number, to willfully desert and abandon any such sheep upon the open range and leave them without care or attention unless the herder, at least five days prior to the abandonment, shall give notice to the owner of such sheep and, if the owner is not the employer of such sheepherder, to the sheepherder's employer of the intention of the sheepherder to abandon said sheep. Said notice shall specify the date the sheepherder intends to abandon the sheep.~~

~~(2) Any person who violates any of the provisions of this section commits a class 3 misdemeanor.~~

SECTION 13. 24-11-110, Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

24-11-110. Effect of closing public offices. ~~If, on a holiday designated in section 24-11-103, or~~ on any day when the public office concerned is closed, or on a Saturday, any document is required to be filed with any public office of the state of Colorado, its departments, agencies, or institutions, or with any public office of any political subdivision of the state, or any appearance or return is required to be made at any such public office, or any official or employee of such public office is required to perform any act or any duty of his office, then any such filing, appearance, return, act, or duty so required or scheduled shall neither be abated nor defaulted, but the same shall stand continued to the next succeeding full business day at such public office at the same time and place.

SECTION 14. 40-6-121, Colorado Revised Statutes, 1993 Repl. Vol., is amended to read:

40-6-121. Computation of time. When the day for the performance of any act under this title, the effective date of any commission decision or order, the effective date of any administrative law judge's or commissioner's recommended decision, or the day upon which any document is required to be filed with the commission falls on ~~a holiday specified in section 24-11-103, C.R.S., or~~ on any Saturday or Sunday, or on any day when the commission office is lawfully closed, the same shall be continued until 5 p.m. on the first full business day following such Saturday, Sunday, ~~legal holiday,~~ or day of lawful closing.

SECTION 15. 24-11-106, Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-11-106. Good Roads Day. ~~The second Friday in May of each year shall be set apart and known as "Good Roads Day", to be observed by the people of this state in the discussion of public highways and in the construction and repair of the same for the benefit and advancement of good roads in the state of Colorado and in such further efforts and undertakings as shall be in harmony with the general character of the day so established.~~

SECTION 16. 24-11-107, Colorado Revised Statutes, 1988 Repl. Vol., is repealed as follows:

24-11-107. Proclamation of governor. ~~Annually, at the proper season, the~~

~~governor shall issue a proclamation calling the attention of the people to the provisions of section 24-11-106 and recommending and enjoining their due observance. The commissioner of education shall promote by all proper means the observance of the day.~~

SECTION 17. 35-43-121, Colorado Revised Statutes, 1984 Repl. Vol., is repealed as follows:

35-43-121. Herding sheep near towns. ~~No person shall keep or herd ten or more sheep within two miles of any city, town, or village in this state; but this section shall not prevent anyone from driving sheep to market, or from passing through any city, town, or village with such animals, or from keeping the same in any enclosure, or from herding for threshing purposes in any city, town, or village. This section does not apply to any person who owns a stock ranch or farm within the limits provided for in this section.~~

SECTION 18. Article 8 of title 36, Colorado Revised Statutes, 1990 Repl. Vol., is repealed as follows:

36-8-101. Streams for floating logs. ~~All streams in the state capable of being used for driving or floating logs, or other timber products therein, may be used for said purpose by complying with the terms and provisions of this article. Such use shall be subject to any right acquired by prior appropriation of water for domestic, agricultural, or manufacturing purposes, with the right of any such appropriator to take and divert the waters of any stream for such purposes to the extent of said prior appropriations, and to make, maintain, and operate solid dams for the diversion of water for such purposes, when needed or required. The use of the stream for driving or floating operations shall not interfere with, injure, or damage any dam, headgate, or appliance used by any appropriator to divert water from said stream nor interfere with or damage any public or private road, bridge, or other structure along, on, or over said stream.~~

36-8-102. Use streams without permit. ~~It is unlawful for any person or corporation to use any stream in this state for the purpose of floating logs or other timber products therein until it procures a permit therefor from the state engineer to use any stream for such purpose. The person or corporation shall comply with all the terms and provisions of this article in relation thereto and shall give a bond as provided in section 36-8-106.~~

36-8-103. Application for permit - contents. ~~Any person or corporation desiring to procure a permit to use any stream in this state for the purpose of driving or floating logs or other timber products shall file with the state engineer an application in writing describing the stream upon which the log driving operations will be conducted and the location and character of any boom or other structure to be used in the operations, together with plans and specifications and a map designating the stream and showing the locations of said appliances. It shall show thereon the general location of all existing dams, headgates, and appliances of any appropriator taking water from the stream and all roads or bridges, public or private, on or over the stream, and the petition shall give the names of all owners of such structures and appliances and post-office address of the owner, insofar as can be ascertained.~~

36-8-104. Hearing on petition - notice. Upon the filing of the petition the state engineer shall fix a date not less than thirty days thereafter and a place for such hearing and shall cause a notice to be issued under his hand and seal stating in substance the nature and purpose of the application and the date and place of hearing thereon. The applicant shall cause the notice to be served personally or by registered mail upon all the owners of dams, headgates, appliances, bridges, or other structures in or over the stream, stating that a hearing on the application will be held at the place and upon the date fixed in the notice or any date to which the hearing may be adjourned. At the hearing any appropriator of water from the stream or any person having a dam, headgate, or appliance on the stream used for diverting water therefrom, and any person having a road, bridge, or other structure on or over the stream, may appear and file objections in writing and resist the application.

36-8-105. State engineer to consider. The state engineer shall consider the application, and all objections thereto, and the evidence for or against the same. If need be he shall make a personal inspection of the stream and of the location of any boom or appliance mentioned in the application, as well as all other appliances and structures on the stream, and shall determine whether the granting of the application will injuriously affect any existing dam, headgate, or irrigation appliance, or appropriation of water, or any road, bridge, or other structure in, on, or over the stream. If he determines that the granting of the application will not injuriously affect the property or rights of any other person using the stream or its waters, or any appliance used in connection therewith, or any road, bridge, or other structure thereon, then he shall grant the permit. If he determines that the use of the stream for the purposes stated in the application will injuriously affect the property or rights of any other person using the stream or its waters, or having any road, bridge, or other structure in, on, or over the stream, he shall deny the application. If he determines that the mode of use, or the appliances to be used, may be modified to avoid such injury, then he may grant such permit upon such conditions as he deems necessary for the protection of the rights of others and shall further require the applicant to furnish a good and sufficient bond as provided in section 36-8-106 before issuing the permit. The state engineer shall make his decision in writing and file the same in the proceeding.

36-8-106. Applicant to file bond. Before any permit shall be granted, the applicant shall execute and file with the state engineer a bond with good and sufficient security, running to the people of the state, for the use and benefit of all persons and corporations, public or private, having any interest in the waters of the stream as appropriators or otherwise, or having any dam, headgate, appliance, bridge, or other structure in, on, or over the stream which might be injured or damaged by driving or floating logs or other timbers in the stream or by the erection of any boom or other appliance to facilitate log-driving operations in the stream, conditioned to pay all damages sustained by any appropriator of water, or any person having any dam, headgate, or appliance in the stream for the diversion of water, or any road, bridge, or structure in, on, or over the stream, which bond shall be a continuing bond, and any person injured or damaged by the log-driving operation on the stream shall have a right to maintain an action for any injury or damage sustained thereby. Successive suits may be maintained by the same or different persons upon the bond as injury or damage arises. The bond shall be in such an amount as shall be fixed by the state engineer and, when executed and filed with him, shall be approved by him.

36-8-107. Permit - liability - suspended or annulled. The approval by the state engineer of any application, or of any plan therein set forth, and the granting of the permit shall not relieve the permittee from liability for any injury or damage caused by log-driving operations. The state engineer is authorized to suspend or annul any permit granted in case the permittee fails or refuses to comply with any of the conditions therein provided or so negligently carries on log-driving operations thereunder as to injure or damage the property or rights of any appropriator or user of the stream or any appliance therein or thereon. Any person whose rights, property, or appliances in, on, or over the stream are injured or damaged by the log-driving operations shall have a right of recovery against the holder of the permit, and upon the bond, for any injury or damage sustained by log-driving operations on the stream; and shall have a right to apply for an injunction against any injury or threatened injury which may arise on account of any log-driving operations on the stream or injury or damage to his appliances therein. Suits for injunction, and for damages, and for recovery on said bond may be joined in the same action.

36-8-108. Appeal - procedure - transcript. The permittee or any other person who has filed objections in the proceeding may appeal from the decision of the state engineer to the district court of any county where log-driving operations are sought to be carried on by giving written notice of appeal to the state engineer, within thirty days after his decision on the application, and filing with him a cost bond such as is or may be required in civil actions in courts of record, and thereupon said state engineer, upon payment to him of all costs incident to said appeal, shall transmit the entire record of the proceeding in his office and all papers and files connected therewith and his ruling thereon with his certificate attached thereto to the clerk of the district court of the proper or selected county. When the record is filed in the court, the clerk thereof shall prepare a notice that the proceeding has been appealed to the court, which notice shall be directed to and served upon all persons who have theretofore filed objections to the granting of the permit, at least twenty days prior to hearing thereon. After due service thereof has been made, the court shall proceed to hear and determine the application in like manner as other civil actions, and the trial thereof shall be de novo, and other persons claiming to be injured or affected thereby may appear at any time before the hearing thereon and file their objections to the granting of the permit. The court after hearing the cause shall enter its judgment therein, refusing or granting the permit or fixing conditions upon which the same may be granted, and if granted shall direct the state engineer to proceed and fix the bond and issue the permit in accordance with the decision of the court, and, unless appellate orders are taken, the clerk of the court shall transmit the decision to the state engineer for his action thereon.

36-8-109. Filing to operate as stay. In case the state engineer grants a permit and an appeal is taken to the district court, then the filing of the record in the district court shall operate as a stay on the permit until final determination by the court. The judgment of the district court is subject to appellate review as provided by law and the Colorado appellate rules as in other civil actions, and, in the hearing in the district court, the Colorado rules of procedure for trial of civil actions shall apply as near as may be.

36-8-110. Penalty. Anyone violating any of the provisions of this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more

than six months, or by both such fine and imprisonment.

SECTION 19. Part 9 of article 5 of title 25, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is repealed as follows:

25-5-901. Legislative declaration. ~~The general assembly hereby finds and declares that recent research has shown that the use of cannabis may alleviate the nausea and ill effects of cancer chemotherapy and may alleviate the ill effects of glaucoma. The general assembly further finds that there is a need for further research and experimentation with regard to the use of cannabis under strictly controlled circumstances. It is for this purpose that the "Dangerous Drugs Therapeutic Research Act" is enacted.~~

25-5-902. Short title. ~~This part 9 shall be known and may be cited as the "Dangerous Drugs Therapeutic Research Act".~~

25-5-903. Definitions. As used in this part 9, unless the context otherwise requires:

(1) ~~"Cannabis" means marihuana, as defined in section 12-22-303 (17), C.R.S., or marihuana concentrate, as defined in section 12-22-303 (18), C.R.S.~~

(2) ~~"Chancellor" means the chancellor for health affairs of the university of Colorado medical center.~~

(3) ~~"Committee" means the pharmacy and therapeutics committee of the medical board of Colorado general hospital.~~

(4) ~~Repealed.~~

(5) ~~"Practitioner" means a person authorized to practice medicine and to prescribe and administer controlled substances, as defined in section 12-22-303 (7), C.R.S., which are subject to the provisions of part 3 of article 22 of title 12, C.R.S.~~

(6) ~~"Program" means the dangerous drugs therapeutic research program.~~

25-5-904. Dangerous drugs therapeutic research program - establishment - participation. (1) ~~There is established at the university of Colorado health sciences center the dangerous drugs therapeutic research program. The program shall be administered by the chancellor and may make use of hospital facilities transferred to the university of Colorado hospital authority pursuant to the terms of part 5 of article 21 of title 23, C.R.S. The chancellor shall promulgate rules and regulations necessary for the proper administration of this part 9. In promulgating such rules and regulations, the chancellor shall take into consideration those pertinent rules and regulations promulgated by the federal drug enforcement agency, the federal food and drug administration, and the national institute on drug abuse. All rules and regulations promulgated pursuant to this subsection (1) shall be subject to sections 24-4-103 (8) (c) and (8) (d) and 24-4-108, C.R.S.~~

(2) ~~Except as provided in section 25-5-905 (2), the program shall be limited to cancer chemotherapy patients and glaucoma patients who are certified to the~~

~~committee by a practitioner as being involved in a life-threatening or sense-threatening situation, who are not responding to controlled substances, other than marihuana or marihuana concentrate, as defined in section 12-22-303 (7), C.R.S., administered pursuant to part 3 of article 22 of title 12, C.R.S., or where the substances administered have proven to be effective but where such patients have incurred severe side effects, and who have resided in the state of Colorado for at least one year. Such certification shall issue without unnecessary delay where a practitioner has determined that the possession and use of cannabis is necessary to alleviate the side effects of cancer chemotherapy or necessary for the treatment of glaucoma. The cost of any blood test required by the food and drug administration prior to entrance into the program shall be borne by the patient seeking entrance into the program.~~

25-5-905. Pharmacy and therapeutic committee - organization - powers and duties. (1) ~~The committee shall review all applicants for the program and their licensed practitioners and certify their participation in the program. The committee shall additionally certify practitioners and state-operated licensed pharmacies for participation regarding the distribution of cannabis pursuant to section 25-5-906 (3).~~

~~(2) The committee may include other disease groups for participation in the program after pertinent medical data has been presented by a clinical researcher with an investigative new drug number issued by the food and drug administration and approved by both the chancellor and the committee. For the purposes of this subsection (2), "clinical researcher" means any person licensed pursuant to section 12-22-304 (1)(a), C.R.S., to experiment with, study, or test any controlled substance, as defined in section 12-22-303 (7), C.R.S., within this state.~~

25-5-906. Dangerous drugs therapeutic research program - distribution. (1) ~~The chancellor shall apply to contract with the federal government for receipt of cannabis pursuant to rules and regulations promulgated by the national institute on drug abuse, the food and drug administration, and the drug enforcement administration.~~

~~(2) If, within a reasonable time, the chancellor is unable to obtain cannabis pursuant to subsection (1) of this section, he shall conduct an inventory of available sources of analyzed cannabis, including but not limited to the Colorado bureau of investigation, the Colorado organized crime strike force, and local law enforcement officials. Said inventory shall be for the purpose of determining the feasibility of obtaining analyzed cannabis for use in the program. Upon conducting said inventory, the chancellor shall contract with the available source for the receipt of analyzed cannabis. For the purpose of this subsection (2), "analyzed cannabis" means cannabis that has been tested for impurities or poisons and has been determined to be acceptable for human use.~~

~~(3) The chancellor shall cause such analyzed cannabis to be transferred to a certified state-operated pharmacy for distribution to a certified patient upon the written order form of the certified practitioner pursuant to this part 9.~~

25-5-907. Report - legislative review. (1) ~~Not later than thirty days prior to the convening of each regular session of the general assembly, the chancellor shall prepare a report on the use of cannabis as a therapeutic drug. The report shall~~

include, but shall not be limited to:

- ~~(a) The quantity of cannabis received from each source;~~
- ~~(b) The quantity of cannabis transferred to designated state-operated licensed pharmacies;~~
- ~~(c) The quantity of cannabis prescribed to patients;~~
- ~~(d) The number of patients, practitioners, and pharmacies certified under the provisions of this part 9, including the number of patients suffering from each type of disease for which cannabis is prescribed; and~~
- ~~(e) The recommendations and comments of the chancellor and the committee on the administration of the provisions of this part 9.~~

~~(2) During the fifth year after the establishment of the program, the chancellor, with the assistance of the committee, shall make a feasibility study and review of the provisions of this part 9 to determine its effectiveness and accomplishments and shall solicit the cooperation and advice of the Colorado medical society, the American board of ophthalmology, the American board of internal medicine, the American board of psychiatry, and any other person which the chancellor may deem proper. The chancellor shall report his findings and recommendations to the general assembly of the state of Colorado at the next regular session following the preparation of such feasibility study and review.~~

SECTION 20. 12-22-304 (7), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-22-304. License required - controlled substances - drug precursors - fund created - repeal. (7) No license shall be issued under this part 3 to a researcher, manufacturer, or distributor of marihuana or marihuana concentrate. ~~except in accordance with part 9 of article 5 of title 25, C.R.S.~~

SECTION 21. 18-18-406 (10), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-406. Offenses relating to marihuana and marihuana concentrate. (10) The provisions of this section shall not apply to any person who ~~possesses, uses, prescribes, dispenses, or administers marihuana or marihuana concentrate pursuant to the "Dangerous Drugs Therapeutic Research Act", part 9 of article 5 of title 25, C.R.S., or who possesses, uses, prescribes, dispenses, or administers any drug classified under group C guidelines of the national cancer institute, as amended, approved by the federal food and drug administration.~~

SECTION 22. 18-18-414 (1) (d), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

18-18-414. Unlawful acts - licenses - penalties. (1) Except as otherwise provided in this article or in article 22 of title 12, C.R.S., the following acts are unlawful:

(d) The dispensing of any marihuana or marihuana concentrate; ~~unless such controlled substance is dispensed in accordance with part 9 of article 5 of title 25, C.R.S.;~~

SECTION 23. 39-28.7-108, Colorado Revised Statutes, 1994 Repl. Vol., is amended to read:

39-28.7-108. Persons exempt from tax. Nothing in this article shall require persons otherwise lawfully in possession of marihuana or a controlled substance pursuant to the provisions of part 3 of article 22 of title 12, C.R.S., ~~part 9 of article 5 of title 25, C.R.S.;~~ or the group C guidelines of the national cancer institute, as amended, approved by the federal food and drug administration to pay the tax imposed by this article.

SECTION 24. 27-2-108 (1), Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended to read:

27-2-108. Display of flags. (1) The chief administrative officer of any state institution supported in whole or in part by the state and under the control of the state shall have erected and maintained, at the entrance of the institution or on the principal administrative building or grounds thereof, a suitable flagstaff with the attachments necessary for the display of flags and shall cause to be displayed thereon the flags of the United States and of the state of Colorado. The flag of the state of Colorado shall be the same size as the flag of the United States with which it is displayed. If both flags are displayed on one flagstaff, the flag of the state of Colorado shall be placed below the flag of the United States. ~~Such flags shall be displayed each day, not earlier than sunrise and not later than sunset, except in inclement weather.~~

SECTION 25. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 1995