

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 23-0414.01 Jacob Baus x2173

HOUSE BILL 23-1167

HOUSE SPONSORSHIP

deGruy Kennedy,

SENATE SPONSORSHIP

(None),

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING PERSONS WHO REPORT EMERGENCY OVERDOSE EVENTS**
102 **IN GOOD FAITH.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Under current law, a person is immune from arrest and prosecution of certain criminal offenses if the person reports an overdose to an emergency responder and satisfies additional requirements related to the reporting. The bill extends that immunity from arrest and prosecution to the following criminal offenses:

- Unlawful possession of a controlled substance if the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

material, compound, mixture, or preparation contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof; and

- Unlawful distribution or transfer of the controlled substance for the purpose of consuming all of the controlled substance with another person at a time substantially contemporaneous with the transfer, if the distribution or transfer involves certain controlled substances.

The bill creates an affirmative defense to the prosecution for unlawful distribution, manufacturing, dispensing, or sale of a material, compound, mixture, or preparation that weighs not more than 4 grams and contains any amount of certain controlled substances if the person reports an overdose to an emergency responder and satisfies additional requirements related to the reporting.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-711, **amend** (2),
3 (3)(a), (3)(h), and (3)(i); and **add** (3)(j) as follows:

4 **18-1-711. Immunity for persons who suffer or report an**
5 **emergency drug or alcohol overdose event - definitions - repeal.**

6 (2) (a) The immunity described in subsection (1) of this section also
7 extends to the person who suffered the emergency drug or alcohol
8 overdose event if all of the conditions of subsection (1) of this section are
9 satisfied.

10 (b) THE IMMUNITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION
11 ALSO EXTENDS TO A PERSON WHO SATISFIED SUBSECTIONS (1)(b), (1)(c),
12 AND (1)(d) OF THIS SECTION, BUT DID NOT SATISFY SUBSECTION (1)(a) OF
13 THIS SECTION.

14 (3) The immunity described in subsection (1) of this section
15 applies to the following criminal offenses:

16 (a) Unlawful possession of a controlled substance, as described in
17 ~~section 18-18-403.5 (2)~~ SECTION 18-18-403.5 (2), (2.5), OR (2.7);

1 (h) Illegal possession or consumption of ethyl alcohol or
2 marijuana by an underage person or illegal possession of marijuana
3 paraphernalia by an underage person, as described in section 18-13-122;
4 **and**

5 (i) A violation of section 18-18-405 (2)(a)(III)(A), if the unlawful
6 distribution, manufacturing, dispensing, or sale of the material,
7 compound, mixture, or preparation weighs not more than four grams and
8 contains any amount of fentanyl, carfentanil, benzimidazole opiate, or an
9 analog thereof as described in section 18-18-204 (2)(g); AND

10 (j) A VIOLATION OF SECTION 18-18-405 (2)(d)(II) INVOLVING
11 UNLAWFUL DISTRIBUTION, TRANSFERRING, MANUFACTURING, DISPENSING,
12 OR SALE.

13 **SECTION 2.** In Colorado Revised Statutes, 18-18-405, **amend**
14 (2)(d) introductory portion; and **add** (6) as follows:

15 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
16 **or sale.** (2) Except as otherwise provided for an offense concerning
17 marijuana and marijuana concentrate in section 18-18-406 and for special
18 offenders as provided in section 18-18-407, any person who violates any
19 of the provisions of subsection (1) of this section:

20 (d) EXCEPT AS PROVIDED IN SECTION 18-1-711 (3)(j), commits a
21 level 4 drug felony if:

22 (6) EXCEPT FOR A PROSECUTION FOR MANUFACTURING, IT IS AN
23 AFFIRMATIVE DEFENSE TO A PROSECUTION PURSUANT TO SUBSECTIONS
24 (2)(c)(I), (2)(c)(II), (2)(c)(V), (2)(d), AND (2)(e) OF THIS SECTION, IF:

25 (a) THE DISTRIBUTION, [REDACTED] DISPENSING, TRANSFER, OR SALE
26 INVOLVES A MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT
27 WEIGHS NOT MORE THAN FOUR GRAMS AND CONTAINS ANY AMOUNT OF A

1 CONTROLLED SUBSTANCE IDENTIFIED IN SUBSECTION (2)(c)(I), (2)(c)(II),
2 (2)(c)(V), (2)(d), OR (2)(e) OF THIS SECTION;

3 (b) THE DEFENDANT REPORTS IN GOOD FAITH AN EMERGENCY
4 DRUG OVERDOSE EVENT TO A LAW ENFORCEMENT OFFICER, TO THE 911
5 SYSTEM, OR TO A MEDICAL PROVIDER;

6 (c) THE DEFENDANT REMAINS AT THE SCENE OF THE EVENT UNTIL
7 A LAW ENFORCEMENT OFFICER OR AN EMERGENCY MEDICAL RESPONDER
8 ARRIVES OR THE DEFENDANT REMAINS AT THE FACILITIES OF THE MEDICAL
9 PROVIDER UNTIL A LAW ENFORCEMENT OFFICER ARRIVES;

10 (d) THE DEFENDANT IDENTIFIES HIMSELF OR HERSELF AND
11 COOPERATES WITH THE LAW ENFORCEMENT OFFICER, EMERGENCY
12 MEDICAL RESPONDER, OR MEDICAL PROVIDER; AND

13 (e) THE OFFENSE ARISES FROM THE SAME COURSE OF EVENTS FROM
14 WHICH THE EMERGENCY OVERDOSE EVENT AROSE.

15 **SECTION 3. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety.