

## CHAPTER 275

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 99-1095**

BY REPRESENTATIVES Tupa, Alexander, Allen, Bacon, Chavez, Clarke, Coleman, Gagliardi, Gordon, Hagedorn, Kaufman, Larson, Mace, Morrison, Ragsdale, Saliman, Scott, Tapia, Tochtrop, Vigil, S. Williams, Windels, and Witwer; also SENATORS Arnold, Epps, Hernandez, Powers, and Wham.

**AN ACT**

CONCERNING THE PROHIBITION OF DRUGS ASSOCIATED WITH DRUG-INDUCED RAPE.

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

**SECTION 1. Legislative declaration.** The general assembly hereby finds, determines, and declares that the improper use of drugs commonly referred to as "date-rape" drugs are a danger to the people of Colorado. The general assembly further finds that two of the widely reported drugs used to sedate a potential victim for the purpose of committing a crime are ketamine hydrochloride and gamma hydroxybutyrate, also known as GHB. The general assembly therefore finds that legislation is necessary in order to establish penalties associated with the improper distribution, manufacturing, dispensing, sale, or possession of these drugs. The general assembly therefore hereby enacts the "Date Rape Drug Prevention Act of 1999".

**SECTION 2.** Article 13 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-13-123. Unlawful use of gamma hydroxybutyrate (GHB) and ketamine.**

(1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, IT SHALL BE UNLAWFUL FOR ANY PERSON TO KNOWINGLY POSSESS GAMMA HYDROXYBUTYRATE (GHB) OR KETAMINE, OR THE IMMEDIATE CHEMICAL PRECURSORS OR CHEMICAL ANALOGS FOR EITHER OF SUCH SUBSTANCES.

(2) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, IT SHALL BE UNLAWFUL FOR ANY PERSON TO KNOWINGLY MANUFACTURE, DISTRIBUTE, DISPENSE, SELL, OR POSSESS WITH INTENT TO MANUFACTURE, DISTRIBUTE, DISPENSE, OR SELL GAMMA HYDROXYBUTYRATE (GHB), OR KETAMINE, OR THE IMMEDIATE

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

CHEMICAL PRECURSORS OR CHEMICAL ANALOGS FOR EITHER OF SUCH SUBSTANCES.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4) OF THIS SECTION, IT SHALL BE UNLAWFUL FOR ANY PERSON TO KNOWINGLY CAUSE OR ATTEMPT TO CAUSE ANY OTHER PERSON TO UNKNOWINGLY CONSUME OR RECEIVE THE DIRECT ADMINISTRATION OF GAMMA HYDROXYBUTYRATE (GHB) OR KETAMINE OR THE IMMEDIATE CHEMICAL PRECURSORS OR CHEMICAL ANALOGS FOR EITHER OF SUCH SUBSTANCES.

(4) IT SHALL NOT BE A VIOLATION OF THIS SECTION IF EITHER GAMMA HYDROXYBUTYRATE (GHB) OR KETAMINE IS POSSESSED, MANUFACTURED, DISTRIBUTED, DISPENSED, OR SOLD FOR BONA FIDE MEDICAL NEEDS BY OR UNDER THE DIRECTION OF A PERSON LICENSED OR AUTHORIZED BY LAW TO PRESCRIBE, ADMINISTER, OR DISPENSE SUCH SUBSTANCES.

(5) VIOLATION OF THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION IS A CLASS ONE MISDEMEANOR. VIOLATION OF THE PROVISIONS OF SUBSECTION (2) OR (3) OF THIS SECTION IS A CLASS 3 FELONY; EXCEPT THAT SUCH VIOLATION IS A CLASS 2 FELONY IF THE VIOLATION IS SUBSEQUENT TO A PRIOR CONVICTION FOR A VIOLATION OF SUBSECTION (2) OR (3) OF THIS SECTION.

**SECTION 3. Exception to the requirements of section 2-2-703, Colorado Revised Statutes.** The general assembly hereby finds that the enactment of section 18-13-123, Colorado Revised Statutes, in this act would require a five-year appropriation pursuant to the requirements of section 2-2-703, Colorado Revised Statutes, for prison bed construction and operating costs. However, it is the intent of the general assembly that any prison bed construction and operating costs resulting from the passage of this act be offset by prison bed savings and operating costs savings created by the amendment to section 42-2-206, Colorado Revised Statutes, in House Bill 99-1168, that are anticipated to be equal to or greater than the costs resulting from the passage of this act.

**SECTION 4. Effective date - applicability.** This act shall take effect July 1, 1999, and shall apply to offenses committed on or after said date; except that this act shall only take effect if section 42-2-206, Colorado Revised Statutes, is amended in House Bill 99-1168 to change the penalty for driving with a revoked license from a class 6 felony to a class 1 misdemeanor and House Bill 99-1168 is enacted at the First Regular Session of the Sixty-second General Assembly and becomes law.

**SECTION 5. 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: June 1, 1999

**Editor' s note:** House Bill 99-1168 was signed by the Governor on May 24, 1999.