

CHAPTER 298

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 02-1283

BY REPRESENTATIVE(S) Fritz, Clapp, Groff, Grossman, Harvey, Hefley, Jahn, Kester, Lawrence, Lee, Miller, Rhodes, Romanoff, Stafford, and Williams S.; also SENATOR(S) Gordon, Arnold, Dyer, Entz, Epps, Evans, Fitz-Gerald, Hagedorn, Hernandez, Lamborn, Nichol, Owen, Phillips, Taylor, Teck, and Tupa.

AN ACT

CONCERNING PROHIBITIONS AGAINST WEAPONS THAT MAY CAUSE MASS DESTRUCTION, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. 18-12-109 (4) and (7), Colorado Revised Statutes, are amended, and the said 18-12-109 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

18-12-109. Possession, use, or removal of explosives or incendiary devices - possession of components thereof - chemical, biological, and nuclear weapons - persons exempt - hoaxes. (2.5) ANY PERSON WHO KNOWINGLY POSSESSES, CONTROLS, MANUFACTURERS, GIVES, MAILES, SENDS, OR CAUSES TO BE SENT A CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL WEAPON COMMITS A CLASS 3 FELONY.

(4) Any person who knowingly uses or causes to be used OR GIVES, MAILES, SENDS, OR CAUSES TO BE SENT an explosive or incendiary device OR A CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL WEAPON OR MATERIALS in the commission of or ~~attempts~~ IN AN ATTEMPT to commit a felony commits a class 2 felony.

(5.5) ANY PERSON WHO REMOVES OR CAUSES TO BE REMOVED OR CARRIES AWAY ANY CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL WEAPON FROM THE PREMISES WHERE SAID CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL WEAPON IS KEPT BY THE LAWFUL USER, VENDOR, TRANSPORTER, OR MANUFACTURER THEREOF, WITHOUT THE CONSENT OR DIRECTION OF THE LAWFUL POSSESSOR, COMMITS A CLASS 3 FELONY. A PERSON CONVICTED OF THIS OFFENSE SHALL BE SUBJECT TO A MANDATORY MINIMUM SENTENCE OF TWO YEARS.

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

(6.5) ANY PERSON WHO POSSESSES ANY CHEMICAL WEAPON, BIOLOGICAL WEAPON, OR RADIOLOGICAL WEAPON PARTS COMMITS A CLASS 3 FELONY.

(7) Any person who manufactures or possesses or who gives, mails, sends, or causes to be sent any false, facsimile, or hoax explosive or incendiary device OR CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL WEAPON to another person or places any such purported explosive or incendiary device OR CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL WEAPON in or upon any real or personal property commits a class 5 felony.

SECTION 2. 18-12-109 (3), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18-12-109. Possession, use, or removal of explosives or incendiary devices - possession of components thereof - persons exempt - hoaxes. (3) Subsection (2) of this section shall not apply to the following persons:

(f) A PERSON OR ENTITY AUTHORIZED TO USE CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL MATERIALS IN THEIR LAWFUL BUSINESS OPERATIONS WHILE USING THE CHEMICAL, BIOLOGICAL, OR RADIOLOGICAL MATERIALS IN THE COURSE OF LEGITIMATE BUSINESS ACTIVITIES. AUTHORIZED USERS SHALL INCLUDE CLINICAL, ENVIRONMENTAL, VETERINARY, AGRICULTURAL, PUBLIC HEALTH, OR RADIOLOGICAL LABORATORIES AND ENTITIES OTHERWISE LICENSED TO POSSESS RADIOLOGICAL MATERIALS.

SECTION 3. Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

17-1-139. Appropriation to comply with section 2-2-703 - H.B. 02-1283.

(1) PURSUANT TO SECTION 2-2-703, C.R.S., THE FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT H.B. 02-1283, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED FROM THE CAPITAL CONSTRUCTION FUND CREATED IN SECTION 24-75-302, C.R.S., TO THE CORRECTIONS EXPANSION RESERVE FUND CREATED IN SECTION 17-1-116, THE SUM OF SIXTY-NINE THOUSAND FOUR HUNDRED SIXTY-SEVEN DOLLARS (\$69,467).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2003, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-SEVEN THOUSAND TWO HUNDRED FIFTY-ONE DOLLARS (\$27,251).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-SEVEN THOUSAND TWO HUNDRED FIFTY-ONE

DOLLARS (\$27,251).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-SEVEN THOUSAND TWO HUNDRED FIFTY-ONE DOLLARS (\$27,251).

(e) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT OF CORRECTIONS, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-SEVEN THOUSAND TWO HUNDRED FIFTY-ONE DOLLARS (\$27,251).

(2) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE GENERAL FUND APPROPRIATION IN SUBSECTION (1) OF THIS SECTION FOR THE IMPLEMENTATION OF THIS SECTION SHALL BE DERIVED FROM SAVINGS GENERATED FROM THE IMPLEMENTATION OF THE PROVISIONS OF H.B. 02-1241, AS ENACTED DURING THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY.

SECTION 4. 24-75-302 (2) (o), Colorado Revised Statutes, is amended to read:

24-75-302. Capital construction fund - capital assessment fees - calculation.

(2) As of July 1, 1988, and July 1 of each year thereafter through July 1, 2005, a sum as specified in this subsection (2) shall accrue to the capital construction fund. The state treasurer and the controller shall transfer such sum out of the general fund and into the capital construction fund as moneys become available in the general fund during the fiscal year beginning on said July 1. Transfers between funds pursuant to this subsection (2) shall not be deemed to be appropriations subject to the limitations of section 24-75-201.1. The amount which shall accrue pursuant to this subsection (2) shall be as follows:

(o) On July 1, 2002, one hundred million dollars, plus thirteen thousand nine hundred sixty-two dollars pursuant to S.B. 98-021, enacted at the second regular session of the sixty-first general assembly; plus eight million three hundred seven thousand five hundred nine dollars pursuant to H.B. 98-1156, enacted at the second regular session of the sixty-first general assembly; plus three hundred ninety-seven thousand nine hundred twenty-three dollars pursuant to H.B. 98-1160, enacted at the second regular session of the sixty-first general assembly; plus fifty thousand three hundred sixty-four dollars pursuant to H.B. 00-1107, enacted at the second regular session of the sixty-second general assembly; plus one hundred twenty-one thousand five hundred sixty-seven dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus two hundred fifty thousand eighty-one dollars pursuant to H.B. 00-1214, enacted at the second regular session of the sixty-second general assembly; plus forty thousand five hundred twenty-two dollars pursuant to H.B. 00-1247, enacted at the second regular session of the sixty-second general assembly; plus one million seven hundred sixty-eight thousand two hundred twenty-five dollars pursuant to H.B. 01-1205, enacted at the first regular session of the sixty-third general assembly; plus one hundred thirty-eight thousand nine hundred thirty-four dollars pursuant to H.B. 01-1242, enacted at the first regular session of the sixty-third general assembly; PLUS SIXTY-NINE THOUSAND FOUR

HUNDRED SIXTY-SEVEN DOLLARS PURSUANT TO H.B. 02-1283, ENACTED AT THE SECOND REGULAR SESSION OF THE SIXTY-THIRD GENERAL ASSEMBLY;

SECTION 5. Effective date - applicability. (1) Except as otherwise provided in subsection (2) of this section, this act shall take effect upon passage and apply to offenses committed on or after said date.

(2) Sections 2 and 3 of this act shall only take effect if:

(a) The final fiscal estimate for H.B. 02-1241, as reflected in the appropriations clause for said act, shows a net general fund savings that is equal to or greater than the final general fund fiscal estimate for this act, as reflected in sections 2 and 3 of this act; and

(b) H.B. 02-1241 is enacted at the second regular session of the sixty-third general assembly and becomes law.

SECTION 6. 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 3, 2002