

## CHAPTER 360

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**CRIMINAL LAW AND PROCEDURE**

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**HOUSE BILL 03-1317**

BY REPRESENTATIVE(S) Fritz, Clapp, Fairbank, Jahn, Rhodes, Rippy, Smith, Witwer, Boyd, Brophy, Cadman, Carroll, Cloer, Coleman, Crane, Decker, Frangas, Garcia, Hall, Harvey, Hefley, Hoppe, Larson, Lee, May M., Merrifield, Miller, Mitchell, Paccione, Romanoff, Schultheis, Spence, Stafford, Stengel, Tochtrop, Wiens, Williams S., and Young;  
also SENATOR(S) Dyer, Arnold, Chlouber, Entz, Fitz-Gerald, Groff, Hanna, Jones, Kester, Taylor, and Teck.

**AN ACT****CONCERNING LIMITATIONS ON THE PROVISION OF MATERIALS USED TO ILLEGALLY MANUFACTURE A CONTROLLED SUBSTANCE, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) Methamphetamine is a cheaply produced and highly addictive controlled substance;

(b) Methamphetamine is a devastating drug that has a substantial adverse impact on the public health of this state;

(c) The number of illegal methamphetamine laboratories in this state continues to increase annually at an alarming rate;

(d) The proliferation of methamphetamine laboratories has caused law enforcement agencies and the criminal justice system to devote a greater portion of their resources toward the dismantling of the laboratories and the apprehension and prosecution of the persons responsible for the laboratories;

(e) Reducing the availability of chemicals, supplies, and equipment used to manufacture methamphetamine will negatively affect the ability to assemble methamphetamine laboratories and reduce the supply of illegally manufactured methamphetamine; and

(f) Other states have experienced a sixteen percent to sixty-two percent reduction

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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.*

in methamphetamine laboratories as a result of adopting legislation similar to this act.

(2) (a) The general assembly therefore finds and declares that the sale or distribution of chemicals, supplies, or equipment under circumstances in which the seller or distributor knows or should know that a person intends to use the item to illegally manufacture a controlled substance should be prohibited.

(b) The general assembly further declares that the effective date of this act should be postponed until July 1, 2004, in order to provide law enforcement agencies the opportunity to adequately train and educate wholesalers and retailers who sell or distribute products used in the manufacture of controlled substances.

(c) The general assembly further declares that this act will have a cost-neutral impact on the department of corrections.

(d) It is the intent of the general assembly that nothing in this act be construed to require a person who sells, distributes, or uses chemicals, supplies, or equipment that is regulated by federal or state law to violate any applicable federal or state regulation, standard, or requirement.

**SECTION 2.** Part 4 of article 18 of title 18, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**18-18-412.7. Sale or distribution of materials to manufacture controlled substances.** (1) A PERSON WHO SELLS OR DISTRIBUTES CHEMICALS, SUPPLIES, OR EQUIPMENT, AND WHO KNOWS OR REASONABLY SHOULD KNOW OR BELIEVES THAT A PERSON INTENDS TO USE THE CHEMICALS, SUPPLIES, OR EQUIPMENT TO ILLEGALLY MANUFACTURE A CONTROLLED SUBSTANCE VIOLATES THIS SECTION.

(2) A VIOLATION OF THIS SECTION IS A CLASS 3 FELONY.

**SECTION 3.** 18-1.3-401 (10) (b) (XII) and (10) (b) (XIII), Colorado Revised Statutes, are amended, and the said 18-1.3-401 (10) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

**18-1.3-401. Felonies classified - presumptive penalties.** (10) (b) Crimes that present an extraordinary risk of harm to society shall include the following:

(XII) Any crime of violence, as defined in section 18-1.3-406; ~~and~~

(XIII) Stalking, as described in section 18-9-111 (4); AND

(XIV) SALE OR DISTRIBUTION OF MATERIALS TO MANUFACTURE CONTROLLED SUBSTANCES, AS DESCRIBED IN SECTION 18-18-412.7.

**SECTION 4.** 35-13-105, Colorado Revised Statutes, is amended to read:

**35-13-105. Restriction of use of containers.** (1) No person, firm, or corporation, other than the owner and those authorized by the owner to do so, shall sell, fill, refill, deliver, or permit to be delivered, or use in any manner any anhydrous ammonia container or receptacle for any other purpose whatsoever.

(2) NO PERSON SHALL SELL, PURCHASE, ATTEMPT TO PURCHASE, FILL, REFILL, DELIVER, OR PERMIT TO BE DELIVERED ANY ANHYDROUS AMMONIA CONTAINER OR RECEPTACLE THAT HAS NOT BEEN INSPECTED IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE AND THAT IS LESS THAN FIVE HUNDRED GALLONS.

**SECTION 5.** Part 1 of article 1 of title 17, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**17-1-146. Appropriation to comply with section 2-2-703 - HB 03-1317.**

(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. 03-1317, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2004, 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) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2005, 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).

(II) 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-EIGHT THOUSAND TWO HUNDRED EIGHTEEN DOLLARS (\$28,218).

(c) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2006, 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).

(II) 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 FIFTY-SIX THOUSAND FOUR HUNDRED THIRTY-SIX DOLLARS (\$56,436).

(d) (I) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, 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 FIFTY-FIVE THOUSAND FIVE HUNDRED SEVENTY-FOUR DOLLARS (\$55,574).

(II) FOR THE FISCAL YEAR BEGINNING JULY 1, 2007, 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 EIGHTY-FOUR THOUSAND SIX HUNDRED FIFTY-FOUR DOLLARS (\$84,654).

**SECTION 6.** The introductory portion to 24-75-302 (2) and 24-75-302 (2) (q), (2) (r), and (2) (s), Colorado Revised Statutes, are amended, and the said 24-75-302 (2) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPH, 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, ~~2006~~ 2008, 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:

(q) On July 1, 2004, one hundred million dollars, plus two hundred thirty-three thousand eight hundred seventy-two dollars pursuant to H.B. 00-1201, enacted at the second regular session of the sixty-second general assembly; plus seventy-nine thousand eight hundred eighty-seven dollars pursuant to H.B. 01-1242, enacted at the first regular session of the sixty-third general assembly; plus four hundred eighty-six thousand two hundred sixty-nine dollars pursuant to S.B. 02-050, enacted at the second regular session of the sixty-third general assembly; plus nine hundred seventy-two thousand five hundred thirty-eight dollars pursuant to H.B. 02-1038, enacted at the second regular session of the sixty-third general assembly; plus four thousand twelve dollars pursuant to section 3 of H.B. 02S-1006 enacted at the third extraordinary session of the sixty-third general assembly; PLUS SIXTY-NINE THOUSAND FOUR HUNDRED SIXTY-SEVEN DOLLARS PURSUANT TO H.B. 03-1317, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY;

(r) On July 1, 2005, one hundred million dollars, plus four hundred forty-nine thousand seven hundred ninety-nine dollars pursuant to S.B. 02-050, enacted at the second regular session of the sixty-third general assembly; PLUS SIXTY-NINE THOUSAND FOUR HUNDRED SIXTY-SEVEN DOLLARS PURSUANT TO H.B. 03-1317, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY;

(s) On July 1, 2006, twenty-two thousand nine hundred twenty-four dollars pursuant to section 3 of H.B. 02S-1006, enacted at the third extraordinary session of the sixty-third general assembly; PLUS SIXTY-NINE THOUSAND FOUR HUNDRED SIXTY-SEVEN DOLLARS PURSUANT TO H.B. 03-1317, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY;

(t) ON JULY 1, 2007, FIFTY-FIVE THOUSAND FIVE HUNDRED SEVENTY-FOUR DOLLARS PURSUANT TO H.B. 03-1317, ENACTED AT THE FIRST REGULAR SESSION OF THE SIXTY-FOURTH GENERAL ASSEMBLY.

**SECTION 7. Effective date - applicability.** This act shall take effect July 1,

2004, and shall apply to offenses committed on or after said date.

**SECTION 8. 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 4, 2003