

## CHAPTER 115

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**CRIMINAL LAW AND PROCEDURE**

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**SENATE BILL 05-034**

BY SENATOR(S) Hagedorn, Bacon, Evans, Fitz-Gerald, Groff, Hanna, Kester, Shaffer, Teck, Tochtrop, Veiga, and Williams;  
also REPRESENTATIVE(S) Boyd, Coleman, Frangas, Green, Madden, Marshall, McGihon, Penry, Todd, and Romanoff.

**AN ACT****CONCERNING A BAN ON ALCOHOL-WITHOUT-LIQUID DEVICES.**

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

**SECTION 1.** Part 9 of article 47 of title 12, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**12-47-902.5. Alcohol-without-liquid devices - legislative declaration - unlawful acts.** (1) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

(I) ALCOHOL-WITHOUT-LIQUID (AWOL) DEVICES CREATE ALCOHOL VAPOR BY POURING ALCOHOL INTO A DIFFUSER CAPSULE CONNECTED TO AN OXYGEN PIPE;

(II) AWOL DEVICES ENABLE INDIVIDUALS TO INHALE OR SNORT THE ALCOHOL VAPOR CREATED FROM CERTAIN ALCOHOL BEVERAGES THROUGH A TUBE INTO THE NOSE OR MOUTH RATHER THAN DRINK THE ALCOHOL BEVERAGE IN ITS LIQUID FORM THROUGH THE MOUTH;

(III) ALCOHOL VAPOR INGESTED FROM AN AWOL DEVICE BYPASSES THE STOMACH AND THE FILTERING CAPABILITIES OF THE LIVER AND IS ABSORBED THROUGH BLOOD VESSELS IN THE NOSE OR LUNGS CREATING A FASTER AND MORE INTENSE "HIGH" OR INTOXICATING EFFECT ON THE BRAIN;

(IV) THE POPULARITY OF AWOL DEVICES IS INCREASING IN THE NIGHTCLUB AND BAR BUSINESSES THROUGHOUT THE NATION; AND

(V) AWOL DEVICES ARE BEING MARKETED AS A WAY TO BECOME INTOXICATED WITHOUT A HANGOVER AND AS A "DIETER'S DREAM" BECAUSE THERE ARE NO CALORIES ASSOCIATED WITH INHALING OR SNORTING ALCOHOL VAPOR.

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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.*

(b) THE GENERAL ASSEMBLY, THEREFORE, DETERMINES THAT:

(I) AWOL DEVICES WILL SUBSTANTIALLY INCREASE THE ECONOMIC COSTS OF ALCOHOL ABUSE IN COLORADO;

(II) AWOL DEVICES ARE NOT CONDUCTIVE TO THE HEALTH, SAFETY, AND WELFARE OF THE CITIZENS OF COLORADO; AND

(III) THE POSSESSION, SALE, PURCHASE, AND USE OF AWOL DEVICES IN THIS STATE SHOULD BE PROHIBITED.

(2) FOR PURPOSES OF THIS SECTION, "AWOL DEVICE" MEANS A DEVICE, MACHINE, APPARATUS, OR APPLIANCE THAT MIXES AN ALCOHOL BEVERAGE WITH PURE OR DILUTED OXYGEN TO PRODUCE AN ALCOHOL VAPOR THAT AN INDIVIDUAL CAN INHALE OR SNORT. "AWOL DEVICE" DOES NOT INCLUDE AN INHALER, NEBULIZER, ATOMIZER, OR OTHER DEVICE THAT IS DESIGNED AND INTENDED BY THE MANUFACTURER TO DISPENSE A PRESCRIBED OR OVER-THE-COUNTER MEDICATION.

(3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5) OF THIS SECTION, IT IS UNLAWFUL FOR A PERSON TO POSSESS, PURCHASE, SELL, OFFER TO SELL, OR USE AN AWOL DEVICE IN THIS STATE. A PERSON WHO VIOLATES THIS SECTION SHALL BE PUNISHED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12-47-903 (2).

(4) IN ADDITION TO THE PENALTY IMPOSED BY THIS SECTION, IF A PERSON THAT VIOLATES SUBSECTION (3) OF THIS SECTION IS A LICENSEE, THE STATE OR LOCAL LICENSING AUTHORITY MAY SUSPEND OR REVOKE THE LICENSE OF THE LICENSEE IN ACCORDANCE WITH THE PROVISIONS OF SECTION 12-47-601.

(5) (a) SUBSECTION (3) OF THIS SECTION SHALL NOT APPLY TO A HOSPITAL, AS DEFINED IN SECTION 25.5-1-503 (3), C.R.S., THAT OPERATES PRIMARILY FOR THE PURPOSE OF CONDUCTING SCIENTIFIC RESEARCH, A STATE INSTITUTION CONDUCTING BONA FIDE RESEARCH, A PRIVATE COLLEGE OR UNIVERSITY, AS DEFINED IN SECTION 23-2-102 (3), C.R.S., CONDUCTING BONA FIDE RESEARCH, OR TO A PHARMACEUTICAL COMPANY OR BIOTECHNOLOGY COMPANY CONDUCTING BONA FIDE RESEARCH AND THAT COMPLIES WITH THE PROVISIONS OF THIS SUBSECTION (5).

(b) A HOSPITAL, STATE INSTITUTION, PRIVATE COLLEGE OR UNIVERSITY, PHARMACEUTICAL COMPANY, OR BIOTECHNOLOGY COMPANY THAT POSSESSES AN AWOL DEVICE OR THAT INTENDS TO ACQUIRE AN AWOL DEVICE, SHALL, BY SEPTEMBER 1, 2005, OR WITHIN THIRTY DAYS PRIOR TO THE ACQUISITION, WHICHEVER IS LATER, FILE WITH THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR ITS DESIGNEE A NOTICE OF POSSESSION OF AWOL DEVICE OR A NOTICE OF ACQUISITION OF AWOL DEVICE, AS APPROPRIATE.

**SECTION 2.** 12-47-903 (2), Colorado Revised Statutes, is amended to read:

**12-47-903. Violations - penalties.** (2) Any person violating any of the provisions of section 12-47-901 (1) (a), (1) (f), (1) (g), (1) (i), (1) (k), (1) (l), (5) (a) (I), or (5) (b) OR SECTION 12-47-902.5 commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.

**SECTION 3. Effective date - applicability.** This act shall take effect July 1, 2005, and shall apply to offenses committed on or after said date.

**SECTION 4. 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 27, 2005