

CHAPTER 172

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 05-1110

BY REPRESENTATIVE(S) Decker, Kerr, Berens, Frangas, Hall, Penry, Sullivan, Todd, and Romanoff;
also SENATOR(S) Bacon, Anderson, Evans, Fitz-Gerald, Groff, Grossman, Hanna, Shaffer, Tochtrop, Tupa, Williams, and
Windels.

AN ACT

CONCERNING THE RETAIL SALE OF METHAMPHETAMINE PRECURSOR DRUGS.

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

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

(a) Section 18-18-412.7, Colorado Revised Statutes, was enacted by House Bill 03-1317 during the first regular session of the sixty-fourth general assembly and concerns persons who sell or distribute any chemicals, supplies, or equipment, and who know or reasonably should know or believe that another person intends to use the chemicals, supplies, or equipment to illegally manufacture a controlled substance; and

(b) It is the intent of the general assembly that House Bill 05-1110 specifically concern the stages of the retail sale of certain designated methamphetamine precursor drugs without regard to the knowledge or belief on the seller's part as to whether the purchaser or any other person intends to use the designated drugs to manufacture a controlled substance.

(2) The general assembly, therefore, determines that House Bill 03-1317 and House Bill 05-1110 each regulate different transactions and courses of conduct and that they impose different penalties.

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

18-18-412.8. Retail sale of methamphetamine precursor drugs - unlawful acts

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

- penalty. (1) THE RETAIL SALE OF METHAMPHETAMINE PRECURSOR DRUGS BY A STORE TO A PURCHASER SHALL BE LIMITED TO SALES IN BLISTER PACKS WITH EACH BLISTER TO CONTAIN NOT MORE THAN TWO DOSAGE UNITS, OR WHEN THE USE OF BLISTER PACKS IS TECHNICALLY INFEASIBLE, SALES IN UNIT DOSE PACKETS OR POUCHES.

(2) A PERSON MAY NOT DELIVER IN A SINGLE RETAIL SALE IN OR FROM A STORE MORE THAN THREE PACKAGES OF A METHAMPHETAMINE PRECURSOR DRUG OR A COMBINATION OF TWO OR MORE METHAMPHETAMINE PRECURSOR DRUGS.

(3) (a) A PERSON WHO KNOWINGLY VIOLATES A PROVISION OF THIS SECTION COMMITS A CLASS 2 MISDEMEANOR AND, UPON CONVICTION, SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501.

(b) A PERSON WHO IS AN OWNER, OPERATOR, MANAGER, OR SUPERVISOR AT A STORE IN WHICH, OR FROM WHICH, A RETAIL SALE OF A METHAMPHETAMINE PRECURSOR DRUG IN VIOLATION OF THIS SECTION IS MADE, SHALL NOT BE LIABLE UNDER THIS SECTION IF HE OR SHE:

(I) DID NOT HAVE KNOWLEDGE OF THE SALE; AND

(II) DID NOT PARTICIPATE IN THE SALE; AND

(III) DID NOT KNOWINGLY DIRECT THE PERSON MAKING THE SALE TO COMMIT A VIOLATION OF THIS SECTION.

(4) FOR PURPOSES OF THIS SECTION:

(a) (I) EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a), "METHAMPHETAMINE PRECURSOR DRUG" MEANS EPHEDRINE, PSEUDOEPHEDRINE, OR PHENYLPROPANOLAMINE OR THEIR SALTS, ISOMERS, OR SALTS OF ISOMERS.

(II) "METHAMPHETAMINE PRECURSOR DRUG" DOES NOT INCLUDE A SUBSTANCE CONTAINED IN ANY PACKAGE OR CONTAINER THAT IS LABELED BY THE MANUFACTURER AS INTENDED FOR PEDIATRIC USE.

(b) "PERSON" MEANS AN INDIVIDUAL WHO OWNS, OPERATES, IS EMPLOYED BY, OR IS AN AGENT OF A STORE.

(c) "STORE" MEANS ANY ESTABLISHMENT PRIMARILY ENGAGED IN THE SALE OF GOODS AT RETAIL.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT THE DISCRETION OF A DISTRICT ATTORNEY TO BRING CHARGES UNDER THIS SECTION AGAINST A PERSON WHO ALSO IS CHARGED WITH VIOLATING SECTION 18-18-412.7.

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: May 27, 2005