

CHAPTER 261

CRIMINAL LAW AND PROCEDURE

SENATE BILL 11-134

BY SENATOR(S) Kopp, Aguilar, Bacon, Boyd, Cadman, Grantham, Harvey, Heath, King K., King S., Lambert, Lundberg, Newell, Renfro, Roberts, Scheffel, White, Schwartz, Spence, Williams S.;
also REPRESENTATIVE(S) Murray and Vigil, Brown, Conti, Coram, DelGrosso, Fields, Joshi, Schafer S., Scott, Stephens, Summers, Todd.

AN ACT**CONCERNING THE ADDITION OF CERTAIN DRUGS TO THE STATUTORY LIST OF SCHEDULE I CONTROLLED SUBSTANCES.**

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

SECTION 1. 18-18-102 (5), Colorado Revised Statutes, is amended, and the said 18-18-102 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

18-18-102. Definitions. As used in this article:

(5) "Controlled substance" means a drug, substance, or immediate precursor included in schedules I through V of part 2 of this article, including cocaine, marijuana, ~~and~~ marijuana concentrate, ANY SYNTHETIC CANNABINOID, AND SALVIA DIVINORUM.

(33.5) "SALVIA DIVINORUM" MEANS SALVIA DIVINORUM, SALVINORIN A, AND ANY PART OF THE PLANT CLASSIFIED AS SALVIA DIVINORUM, WHETHER GROWING OR NOT, INCLUDING THE SEEDS THEREOF, ANY EXTRACT FROM ANY PART OF THE PLANT, AND ANY COMPOUND, MANUFACTURE, SALTS, DERIVATIVE, MIXTURE, OR PREPARATION OF THE PLANT, ITS SEEDS, OR ITS EXTRACTS.

(34.5) (a) "SYNTHETIC CANNABINOID" MEANS ANY CHEMICAL COMPOUND THAT IS CHEMICALLY SYNTHESIZED AND EITHER:

(I) HAS BEEN DEMONSTRATED TO HAVE BINDING ACTIVITY AT ONE OR MORE CANNABINOID RECEPTORS; OR

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

(II) IS A CHEMICAL ANALOG OR ISOMER OF A COMPOUND THAT HAS BEEN DEMONSTRATED TO HAVE BINDING ACTIVITY AT ONE OR MORE CANNABINOID RECEPTORS.

(b) "SYNTHETIC CANNABINOID" INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING SUBSTANCES:

(I) HU-210: (6AR, 10AR)-9-(HYDROXYMETHYL)-6, 6-DIMETHYL-3-(2-METHYLOCTAN-2-YL)-6A,7,10,10A-TETRAHYDROBENZO[C]CHROMEN-1-OL;

(II) HU-211: DEXANABINOL, (6AS, 10AS)-9-(HYDROXYMETHYL)-6, 6-DIMETHYL-3-(2-METHYLOCTAN-2-YL)-6A, 7, 10, 10A-TETRAHYDROBENZO[C]CHROMEN-1-OL;

(III) JWH-018: 1-PENTYL-3-(1-NAPHTHOYL)INDOLE;

(IV) JWH-073: 1-BUTYL-3-(1-NAPHTHOYL)INDOLE;

(V) JWH-081: 1-PENTYL-3-(4-METHOXY-1-NAPHTHOYL)INDOLE, ALSO KNOWN AS 4-METHOXYNAPHTHALEN-1-YL-(1-PENTYLINDOL-3-YL)METHANONE;

(VI) JWH-200: 1-[2-(4-MORPHOLINYL)ETHYL]-3-(1-NAPHTHOYL)INDOLE;

(VII) JWH-250: 1-PENTYL-3-(2-METHOXYPHENYLACETYL)INDOLE, ALSO KNOWN AS 2-(2-METHOXYPHENYL)-1-(1-PETYLINDOL-3-YL)ETHANONE; AND

(VIII) CP 47, 497, AND HOMOLOGUES: 2-[(1R, 3S)-3-HYDROXYCYCLOHEXYL]-5-(2-METHYLOCTAN-2-YL)PHENOL.

(c) "SYNTHETIC CANNABINOID" DOES NOT MEAN:

(I) ANY TETRAHYDROCANNIBOLS, AS DEFINED IN SUBSECTION (35) OF THIS SECTION; OR

(II) NABILONE.

(d) AS USED IN THIS SUBSECTION (34.5), "ANALOG" MEANS ANY CHEMICAL THAT IS SUBSTANTIALLY SIMILAR IN CHEMICAL STRUCTURE TO A CHEMICAL COMPOUND THAT HAS BEEN DETERMINED TO HAVE BINDING ACTIVITY AT ONE OR MORE CANNABINOID RECEPTORS.

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

18-18-406.1. Unlawful use or possession of synthetic cannabinoids or salvia divinorum. (1) ON AND AFTER JANUARY 1, 2012, IT IS UNLAWFUL FOR ANY PERSON TO USE OR POSSESS ANY AMOUNT OF ANY SYNTHETIC CANNABINOID OR SALVIA DIVINORUM.

(2) A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 2 MISDEMEANOR.

18-18-406.2. Unlawful distribution, manufacturing, dispensing, sale, or cultivation of synthetic cannabinoids or salvia divinorum. (1) IT IS UNLAWFUL FOR ANY PERSON KNOWINGLY TO:

(a) MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE, OR TO POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE, ANY AMOUNT OF ANY SYNTHETIC CANNABINOID OR SALVIA DIVINORUM;

(b) INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE WITH ONE OR MORE OTHER PERSONS, TO MANUFACTURE, DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE, ANY AMOUNT OF ANY SYNTHETIC CANNABINOID OR SALVIA DIVINORUM; OR

(c) CULTIVATE SALVIA DIVINORUM WITH INTENT TO DISPENSE, SELL, OR DISTRIBUTE ANY AMOUNT OF THE SALVIA DIVINORUM.

(2) A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION COMMITS A CLASS 5 FELONY.

(3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (2) OF THIS SECTION, A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1) OF THIS SECTION BY DISPENSING, SELLING, OR DISTRIBUTING ANY AMOUNT OF ANY SYNTHETIC CANNABINOID OR SALVIA DIVINORUM COMMITS A CLASS 4 FELONY IF THE PERSON:

(a) DISPENSES, SELLS, OR DISTRIBUTES THE SYNTHETIC CANNABINOID OR SALVIA DIVINORUM TO A MINOR WHO IS LESS THAN EIGHTEEN YEARS OF AGE; AND

(b) IS AT LEAST EIGHTEEN YEARS OF AGE AND AT LEAST TWO YEARS OLDER THAN SAID MINOR.

(4) AS USED IN THIS SECTION, "DISPENSE" DOES NOT INCLUDE LABELING, AS DEFINED IN SECTION 12-22-102 (16), C.R.S.

SECTION 3. 18-18-406.3, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

18-18-406.3. Medical use of marijuana by persons diagnosed with debilitating medical conditions - unlawful acts - penalty - medical marijuana program cash fund. (6) THE USE, POSSESSION, MANUFACTURING, DISPENSING, SELLING, OR DISTRIBUTION OF A SYNTHETIC CANNABINOID, AS DEFINED IN SECTION 18-18-102(34.5), SHALL NOT BE CONSIDERED AN EXCEPTION TO THE CRIMINAL LAWS OF THIS STATE FOR THE PURPOSES OF THIS SECTION OR OF SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

SECTION 4. Exception to the requirements of section 2-2-703, Colorado Revised Statutes. The general assembly hereby finds that the amendments to section 18-18-102, Colorado Revised Statutes, and the addition of sections 18-18-406.1 and 18-18-406.2, Colorado Revised Statutes, enacted in sections 1 and 2 of this act will result in the minor fiscal impact of two additional offenders being convicted and sentenced to the department of corrections in each of the five years following passage of this act. Because of the relative insignificance of this degree

of fiscal impact, these amendments are an exception to the five-year appropriation requirements specified in section 2-2-703, Colorado Revised Statutes.

SECTION 5. Effective date - applicability. This act shall take effect July 1, 2011, and shall apply to offenses committed on or after said date.

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 2, 2011