

CHAPTER 332

CRIMINAL LAW AND PROCEDURE

SENATE BILL 13-283

BY SENATOR(S) Jahn and Baumgardner, Schwartz, Carroll, Grantham, Kerr, Newell, Todd, Ulibarri, Tochtrop;
also REPRESENTATIVE(S) May, Buckner, Ginal, Hullinghorst, Labuda, Ryden, Schafer, Singer.

AN ACT

**CONCERNING IMPLEMENTATION OF AMENDMENT 64, AND, IN CONNECTION THEREWITH, MAKING
AND REDUCING AN APPROPRIATION.**

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

SECTION 1. In Colorado Revised Statutes, **add** 9-7-113 as follows:

9-7-113. Use of flammable gases in home marijuana cultivation - prohibited.

A LOCAL GOVERNMENT MAY BAN THE USE OF A COMPRESSED, FLAMMABLE GAS AS A SOLVENT IN THE EXTRACTION OF THC OR OTHER CANNABINOIDS IN A RESIDENTIAL SETTING.

SECTION 2. In Colorado Revised Statutes, 12-43.3-1101, **amend as added by House Bill 13-1061** (1); and **add** (2.5) as follows:

12-43.3-1101. Responsible vendor program - standards - designation - program. (1) A person who wants to offer a responsible medical OR RETAIL marijuana vendor server and seller training program must submit an application to the state licensing authority for approval, which program is referred to in this part 11 as an "approved training program". The state licensing authority, in consultation with the department of public health and environment, shall approve the submitted program if the submitted program meets the minimum criteria described in subsection (2) of this section. The department of public health and environment shall review each submitted program and shall provide the state licensing authority with the department's analysis of whether the portions of the program related to the department's oversight meet the minimum criteria described in this section.

(2.5) WHEN PROMULGATING PROGRAM STANDARDS PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE STATE LICENSING AUTHORITY SHALL CONSIDER INPUT FROM

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

OTHER STATE AGENCIES, LOCAL JURISDICTIONS, THE MEDICAL AND RETAIL MARIJUANA INDUSTRY, AND ANY OTHER STATE OR NATIONAL SELLER SERVER PROGRAM.

SECTION 3. In Colorado Revised Statutes, 12-43.3-1102, **amend as added by House Bill 13-1061** (1) and (2) as follows:

12-43.3-1102. Responsible vendor - designation. (1) (a) A medical marijuana business licensed pursuant to this article OR A RETAIL MARIJUANA BUSINESS LICENSED PURSUANT TO ARTICLE 43.4 OF THIS TITLE may receive a responsible vendor designation from the program vendor after successfully completing a responsible medical OR RETAIL marijuana vendor server and seller training program approved by the state licensing authority. A responsible vendor designation is valid for two years from the date of issuance.

(b) Successful completion of an approved training program is achieved when the program has been attended by and, as determined by the program provider, satisfactorily completed by all employees selling and handling medical OR RETAIL marijuana, all managers, and all resident on-site owners, if any.

(c) In order to maintain the responsible vendor designation, the licensed medical OR RETAIL marijuana business must have each new employee who sells or handles medical OR RETAIL marijuana, manager, or resident on-site owner attend and satisfactorily complete a responsible medical OR RETAIL marijuana vendor server and seller training program within ninety days after being employed or becoming an owner. The licensed medical marijuana business shall maintain documentation of completion of the program by new employees, managers, or owners.

(2) A licensed medical OR RETAIL marijuana business that receives a responsible vendor designation from the program vendor shall maintain information on all persons licensed pursuant to this article who are in its employment and who have been trained in an approved training program. The information includes the date, place, time, and duration of training and a list of all licensed persons attending each specific training class, which class includes a training examination or assessment that demonstrates proficiency.

SECTION 4. In Colorado Revised Statutes, **add** part 6 to article 22 of title 13 as follows:

PART 6
MARIJUANA CONTRACTS ENFORCEABLE

13-22-601. Contracts pertaining to marijuana enforceable. IT IS THE PUBLIC POLICY OF THE STATE OF COLORADO THAT A CONTRACT IS NOT VOID OR VOIDABLE AS AGAINST PUBLIC POLICY IF IT PERTAINS TO LAWFUL ACTIVITIES AUTHORIZED BY SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION AND ARTICLE 43.4 OF TITLE 12, C.R.S.

SECTION 5. In Colorado Revised Statutes, 16-11.3-103, **add** (2.8) as follows:

16-11.3-103. Duties of commission - mission - staffing - repeal. (2.8) (a) ON

OR BEFORE DECEMBER 15, 2013, THE DRUG POLICY TASK FORCE OF THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE SHALL MAKE RECOMMENDATIONS TO THE COMMISSION WHO SHALL, IN TURN, MAKE RECOMMENDATIONS TO THE GENERAL ASSEMBLY REGARDING CRIMINAL LAWS THAT NEED TO BE REVISED TO ENSURE THAT TITLE 18, C.R.S., AND OTHER RELEVANT CRIMINAL STATUTES ARE COMPATIBLE WITH THE INTENT AND PLAIN MEANING OF SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION. IN MAKING THE RECOMMENDATIONS, THE COMMISSION SHALL:

(I) CONSIDER THAT THE INTENT OF SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION WAS TO DECRIMINALIZE CONSUMPTION OF SMALL AMOUNTS OF MARIJUANA, TO CREATE A LAWFUL MARKETPLACE FOR ADULTS TO OBTAIN SAFE AND LEGAL MARIJUANA, TO PROTECT AGAINST YOUTH ACCESS AND CONSUMPTION OF MARIJUANA, AND TO ELIMINATE THE ILLICIT DRUG MARKETPLACE FOR MARIJUANA;

(II) CONSIDER THE RECOMMENDATIONS OF THE AMENDMENT 64 IMPLEMENTATION TASK FORCE ESTABLISHED PURSUANT TO EXECUTIVE ORDER B 2012-004 IN DEVELOPING ITS RECOMMENDATIONS;

(III) CONSIDER WAYS TO HARMONIZE CONFLICTS RAISED BY SECTIONS 5 TO 10 OF THE INTRODUCED VERSION OF HOUSE BILL 13-1317 AND SECTIONS 12-43.3-901, 12-43.4-901, AND 18-18-414, C.R.S.;

(IV) CONSIDER PENALTIES FOR UNLAWFUL ACTIVITIES BY PERSONS EIGHTEEN YEARS OF AGE OR OLDER BUT UNDER TWENTY-ONE YEARS OF AGE INVOLVING MARIJUANA PURSUANT TO SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION; AND

(V) MAKE RECOMMENDATIONS THAT ASSIST IN ELIMINATING PARTICIPATION IN THE ILLICIT DRUG MARKET FOR MARIJUANA BY BUYERS, SELLERS, AND PRODUCERS, INCLUDING APPROPRIATE FINES AND CRIMINAL SANCTIONS ON ALL ACTIVITY THAT OCCURS OUTSIDE THE LEGAL MARKETPLACE.

(b) THIS SUBSECTION (2.8) IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 6. In Colorado Revised Statutes, 18-18-426, **add** (2) as follows:

18-18-426. Drug paraphernalia - definitions. As used in sections 18-18-425 to 18-18-430, unless the context otherwise requires:

(2) "DRUG PARAPHERNALIA" DOES NOT INCLUDE ANY MARIJUANA ACCESSORIES AS DEFINED IN SECTION 16(2)(g) OF ARTICLE XVIII OF THE STATE CONSTITUTION IF POSSESSED OR USED BY A PERSON AGE TWENTY-ONE OR OLDER.

SECTION 7. In Colorado Revised Statutes, **add** 24-20-112 as follows:

24-20-112. Implementation of section 16 of article XVIII of the Colorado constitution - list of banned substances - cultivation and laboratory practices - education oversight and materials. (1) THE GOVERNOR SHALL DESIGNATE A STATE AGENCY TO CREATE A LIST OF SUBSTANCES THAT MAY NOT BE USED IN THE CULTIVATION OR PROCESSING OF MARIJUANA AS AUTHORIZED PURSUANT TO ARTICLE

43.4 OF TITLE 12, C.R.S. THE DESIGNATED AGENCY MAY CONSULT WITH OTHER STATE AGENCIES IN COMPILING THE LIST. THE STATE AGENCY SHALL PROMULGATE RULES FOR THE LIST OF SUBSTANCES THAT MAY NOT BE USED IN THE CULTIVATION OF MARIJUANA.

(2) THE GOVERNOR SHALL DESIGNATE A STATE AGENCY TO WORK WITH A PRIVATE ADVISORY GROUP TO DEVELOP GOOD CULTIVATION AND HANDLING PRACTICES FOR THE MARIJUANA INDUSTRY. THE DESIGNATED AGENCY IS ENCOURAGED TO ASSIST IN THE FORMATION OF A PRIVATE ADVISORY GROUP. IF A PRIVATE ADVISORY GROUP DEVELOPS GOOD CULTIVATION AND HANDLING PRACTICES, AN ENTITY LICENSED PURSUANT TO ARTICLE 43.4 OF TITLE 12, C.R.S., THAT FOLLOWS THOSE PRACTICES MAY INCLUDE A STATEMENT OF COMPLIANCE ON ITS LABEL AFTER RECEIVING CERTIFICATION OF COMPLIANCE. THE DESIGNATED AGENCY MAY CONSULT WITH OTHER STATE AGENCIES TO RECEIVE TECHNICAL ASSISTANCE.

(3) THE GOVERNOR SHALL DESIGNATE A STATE AGENCY TO WORK WITH A PRIVATE ADVISORY GROUP TO DEVELOP GOOD LABORATORY PRACTICES FOR THE RETAIL MARIJUANA INDUSTRY. THE DESIGNATED AGENCY IS STRONGLY ENCOURAGED TO ASSIST IN THE FORMATION OF A PRIVATE ADVISORY GROUP. THE DESIGNATED AGENCY MAY CONSULT WITH OTHER STATE AGENCIES TO RECEIVE TECHNICAL ASSISTANCE.

(4) THE GOVERNOR SHALL DESIGNATE A STATE AGENCY THAT MUST ESTABLISH AN EDUCATIONAL OVERSIGHT COMMITTEE COMPOSED OF MEMBERS WITH RELEVANT EXPERIENCE IN MARIJUANA ISSUES. THE COMMITTEE SHALL DEVELOP AND IMPLEMENT RECOMMENDATIONS FOR EDUCATION OF ALL NECESSARY STAKEHOLDERS ON ISSUES RELATED TO MARIJUANA USE, CULTIVATION, AND ANY OTHER RELEVANT ISSUES. THE COMMITTEE SHALL ENCOURAGE PROFESSIONS TO INCLUDE MARIJUANA EDUCATION, IF APPROPRIATE, AS A PART OF CONTINUING EDUCATION PROGRAMS.

(5) THE GOVERNOR SHALL DESIGNATE A STATE AGENCY THAT SHALL ESTABLISH EDUCATIONAL MATERIALS REGARDING APPROPRIATE RETAIL MARIJUANA USE AND PREVENTION OF MARIJUANA USE BY THOSE UNDER TWENTY-ONE YEARS OF AGE. IN ESTABLISHING EDUCATIONAL MATERIALS, TO THE GREATEST EXTENT POSSIBLE, THE STATE AGENCY SHALL UTILIZE ESTABLISHED BEST PRACTICES AND EXISTING FEDERAL AND STATE RESOURCES.

SECTION 8. In Colorado Revised Statutes, add 24-31-314 as follows:

24-31-314. Advanced roadside impaired driving enforcement training.

(1) ON AND AFTER OCTOBER 1, 2013, THE P.O.S.T. BOARD IS ENCOURAGED TO INCLUDE ADVANCED ROADSIDE IMPAIRED DRIVING ENFORCEMENT TRAINING IN THE CURRICULUM FOR PERSONS WHO ENROLL IN A TRAINING ACADEMY FOR BASIC PEACE OFFICER TRAINING.

(2) SUBJECT TO THE AVAILABILITY OF SUFFICIENT MONEYS, THE P.O.S.T. BOARD SHALL ARRANGE TO PROVIDE TRAINING IN ADVANCED ROADSIDE IMPAIRED DRIVING ENFORCEMENT TO DRUG RECOGNITION EXPERTS WHO WILL ACT AS TRAINERS IN ADVANCED ROADSIDE IMPAIRED DRIVING ENFORCEMENT FOR ALL PEACE OFFICERS DESCRIBED IN SECTION 16-2.5-101, C.R.S.

SECTION 9. In Colorado Revised Statutes, **add** 24-33.5-516 as follows:

24-33.5-516. Study marijuana implementation. (1) THE DIVISION SHALL GATHER DATA AND UNDERTAKE OR CONTRACT FOR A SCIENTIFIC STUDY OF LAW ENFORCEMENT'S ACTIVITY AND COSTS RELATED TO THE IMPLEMENTATION OF SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION OVER THE TWO-YEAR PERIOD BEGINNING JANUARY 1, 2006, AND OVER THE TWO-YEAR PERIOD BEGINNING JANUARY 1, 2014.

(2) TO BE INCLUDED IN THE STUDY, THE DIVISION OR CONTRACTOR MUST HAVE DATA FOR BOTH OF THE TWO-YEAR PERIODS DESCRIBED IN SUBSECTION (1) IN THIS SECTION. THE STUDY MUST INCLUDE INFORMATION CONCERNING:

(a) MARIJUANA-INITIATED CONTACTS BY LAW ENFORCEMENT, BROKEN DOWN BY JUDICIAL DISTRICT AND BY RACE AND ETHNICITY;

(b) COMPREHENSIVE SCHOOL DATA, BOTH STATEWIDE AND BY INDIVIDUAL SCHOOL, INCLUDING SUSPENSIONS, EXPULSIONS, AND POLICE REFERRALS RELATED TO DRUG USE AND SALES, BROKEN DOWN BY SPECIFIC DRUG CATEGORIES;

(c) MARIJUANA ARREST DATA, INCLUDING AMOUNTS OF MARIJUANA WITH EACH ARREST, BROKEN DOWN BY JUDICIAL DISTRICT AND BY RACE AND ETHNICITY;

(d) TRAFFIC ACCIDENTS, INCLUDING FATALITIES AND SERIOUS INJURIES RELATED TO BEING UNDER THE INFLUENCE OF MARIJUANA;

(e) DIVERSION OF MARIJUANA TO PERSONS UNDER TWENTY-ONE YEARS OF AGE;

(f) DIVERSION OF MARIJUANA OUT OF COLORADO;

(g) CRIME OCCURRING IN AND RELATING TO THE OPERATION OF MARIJUANA ESTABLISHMENTS;

(h) UTILIZATION OF PARCEL SERVICES FOR THE TRANSFER OF MARIJUANA;

(i) DATA RELATED TO DRUG-ENDANGERED CHILDREN, SPECIFICALLY FOR MARIJUANA;

(j) PROBATION DATA;

(k) DATA ON EMERGENCY ROOM VISITS RELATED TO THE USE OF MARIJUANA AND THE OUTCOMES OF THOSE VISITS, INCLUDING INFORMATION FROM COLORADO POISON CONTROL CENTER;

(l) OUTDOOR MARIJUANA CULTIVATION FACILITIES;

(m) MONEY LAUNDERING RELATING TO BOTH LICENSED AND UNLICENSED MARIJUANA; AND

(n) THE ROLE OF ORGANIZED CRIME IN MARIJUANA.

(3) THE DIVISION IS NOT REQUIRED TO PERFORM THE DUTIES REQUIRED BY THIS SECTION UNTIL THE MARIJUANA CASH FUND, CREATED IN SECTION 12-43.3-501, C.R.S., HAS RECEIVED SUFFICIENT REVENUE TO FULLY FUND THE APPROPRIATIONS MADE TO THE DEPARTMENT OF REVENUE RELATED TO ARTICLES 43.3 AND 43.4 OF TITLE 12, C.R.S., AND THE GENERAL ASSEMBLY HAS APPROPRIATED SUFFICIENT MONEYS FROM THE FUND FOR SUCH DUTIES.

SECTION 10. In Colorado Revised Statutes, **add** 25-1.5-111 as follows:

25-1.5-111. Monitor health effects of marijuana. THE DEPARTMENT SHALL MONITOR CHANGES IN DRUG USE PATTERNS, BROKEN DOWN BY COUNTY AND RACE AND ETHNICITY, AND THE EMERGING SCIENCE AND MEDICAL INFORMATION RELEVANT TO THE HEALTH EFFECTS ASSOCIATED WITH MARIJUANA USE. THE DEPARTMENT SHALL APPOINT A PANEL OF HEALTH CARE PROFESSIONALS WITH EXPERTISE IN CANNABINOID PHYSIOLOGY TO MONITOR THE RELEVANT INFORMATION. THE PANEL SHALL PROVIDE A REPORT BY JANUARY 31, 2015, AND EVERY TWO YEARS THEREAFTER TO THE STATE BOARD OF HEALTH, THE DEPARTMENT OF REVENUE, AND THE GENERAL ASSEMBLY. THE DEPARTMENT SHALL MAKE THE REPORT AVAILABLE ON ITS WEB SITE. THE PANEL SHALL ESTABLISH CRITERIA FOR STUDIES TO BE REVIEWED, REVIEWING STUDIES AND OTHER DATA, AND MAKING RECOMMENDATIONS, AS APPROPRIATE, FOR POLICIES INTENDED TO PROTECT CONSUMERS OF MARIJUANA OR MARIJUANA PRODUCTS AND THE GENERAL PUBLIC. THE DEPARTMENT MAY COLLECT COLORADO-SPECIFIC DATA THAT REPORTS ADVERSE HEALTH EVENTS INVOLVING MARIJUANA USE FROM THE ALL-PAYER CLAIMS DATABASE, HOSPITAL DISCHARGE DATA, AND BEHAVIORAL RISK FACTORS. THE DEPARTMENT AND PANEL ARE NOT REQUIRED TO PERFORM THE DUTIES REQUIRED BY THIS SECTION UNTIL THE MARIJUANA CASH FUND, CREATED IN SECTION 12-43.3-501, C.R.S., HAS RECEIVED SUFFICIENT REVENUE TO FULLY FUND THE APPROPRIATIONS MADE TO THE DEPARTMENT OF REVENUE RELATED TO ARTICLES 43.3 AND 43.4 OF TITLE 12, C.R.S., AND THE APPROPRIATION TO THE DIVISION OF CRIMINAL JUSTICE RELATED TO SECTION 24-33.5-516, C.R.S., AND THE GENERAL ASSEMBLY HAS APPROPRIATED SUFFICIENT MONEYS FROM THE FUND TO THE DEPARTMENT TO PAY FOR THE MONITORING REQUIRED BY THIS SECTION.

SECTION 11. In Colorado Revised Statutes, 25-14-103.5, **amend** (3) (a) (I) as follows:

25-14-103.5. Prohibition against the use of tobacco products and retail marijuana on school property - legislative declaration - education program - special account. (3) (a) (I) The board of education of each school district shall adopt appropriate policies and rules ~~which~~ THAT mandate a prohibition against the use of all tobacco products AND ALL RETAIL MARIJUANA OR RETAIL MARIJUANA PRODUCTS AUTHORIZED PURSUANT TO ARTICLE 43.4 OF TITLE 12, C.R.S., on all school property by students, teachers, staff, and visitors and ~~which~~ THAT provide for the enforcement of such policies and rules.

SECTION 12. In Colorado Revised Statutes, **amend** 25-14-202 as follows:

25-14-202. Legislative declaration. The general assembly hereby finds and determines that it is in the best interest of the people of this state to protect nonsmokers from involuntary exposure to environmental tobacco AND MARIJUANA

smoke in most indoor areas open to the public, public meetings, food service establishments, and places of employment. The general assembly further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products AND COMBUSTIBLE MARIJUANA and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products AND COMBUSTIBLE MARIJUANA in certain designated public areas and in private places. Therefore, the general assembly hereby declares that the purpose of this part 2 is to preserve and improve the health, comfort, and environment of the people of this state by limiting exposure to tobacco AND MARIJUANA smoke.

SECTION 13. In Colorado Revised Statutes, 25-14-203, **amend** (16); and **add** (11.5) as follows:

25-14-203. Definitions. As used in this part 2, unless the context otherwise requires:

(11.5) "MARIJUANA" SHALL HAVE THE SAME MEANING AS IN SECTION 16 (2) (f) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(16) "Smoking" means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco or ~~medical~~ marijuana. ~~as defined by section 12-43.3-104 (7), C.R.S.~~

SECTION 14. In Colorado Revised Statutes, 25-14-204, **amend** (1) introductory portion as follows:

25-14-204. General smoking restrictions. (1) Except as provided in section 25-14-205, and in order to reduce the levels of exposure to environmental tobacco AND MARIJUANA smoke, smoking shall not be permitted and no person shall smoke in any indoor area, including, but not limited to:

SECTION 15. In Colorado Revised Statutes, 26-6-108, **amend** (2) (c); and **add** (2.6) as follows:

26-6-108. Denial of license - suspension - revocation - probation - refusal to renew license - fines. (2) The department may deny an application, or suspend, revoke, or make probationary the license of any facility regulated and licensed under this part 1 or assess a fine against the licensee pursuant to section 26-6-114 should the licensee, an affiliate of the licensee, a person employed by the licensee, or a person who resides with the licensee at the facility:

(c) Use any controlled substance, as defined in section 18-18-102 (5), C.R.S., INCLUDING RETAIL MARIJUANA, or consume any alcoholic beverage during the operating hours of the facility or be under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or

(2.6) THE STATE DEPARTMENT SHALL DENY AN APPLICATION FOR AN ENTITY LICENSED UNDER THIS ARTICLE AND SHALL REVOKE THE LICENSE OF AN ENTITY LICENSED UNDER THIS ARTICLE IF THE ENTITY CULTIVATES MARIJUANA PURSUANT TO THE AUTHORITY IN SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION.

SECTION 16. In Colorado Revised Statutes, 27-10.5-109, **add** (6) (d) as follows:

27-10.5-109. Community residential home - licenses - rules. (6) The department of human services and the state board of health shall promulgate such rules as are necessary to implement this section, pursuant to the provisions specified in article 4 of title 24, C.R.S. The rules shall include, but shall not be limited to, the following:

(d) PROHIBITING THE CULTIVATION, USE, OR CONSUMPTION OF RETAIL MARIJUANA ON THE PREMISES OF A COMMUNITY RESIDENTIAL HOME.

SECTION 17. In Colorado Revised Statutes, **amend** 27-10.5-301 as follows:

27-10.5-301. Regional centers for persons with developmental disabilities. There are hereby established state regional centers in Wheat Ridge, Pueblo, and Grand Junction. The essential object of such regional centers shall be to provide state operated services and supports to persons with developmental disabilities. A REGIONAL CENTER MAY NOT PERMIT THE CULTIVATION, USE, OR CONSUMPTION OF RETAIL MARIJUANA ON ITS PREMISES.

SECTION 18. In Colorado Revised Statutes, 39-22-104, **add** (4) (s) as follows:

39-22-104. Income tax imposed on individuals, estates, and trusts - single rate - definitions - repeal. (4) There shall be subtracted from federal taxable income:

(s) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, IF A TAXPAYER IS LICENSED UNDER THE "COLORADO RETAIL MARIJUANA CODE", ARTICLE 43.4 OF TITLE 12, C.R.S., AN AMOUNT EQUAL TO ANY EXPENDITURE THAT IS ELIGIBLE TO BE CLAIMED AS A FEDERAL INCOME TAX DEDUCTION BUT IS DISALLOWED BY SECTION 280E OF THE FEDERAL "INTERNAL REVENUE CODE" BECAUSE MARIJUANA IS A CONTROLLED SUBSTANCE UNDER FEDERAL LAW.

SECTION 19. In Colorado Revised Statutes, 39-22-304, **add** (3) (n) as follows:

39-22-304. Net income of corporation. (3) There shall be subtracted from federal taxable income:

(n) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, IF A TAXPAYER IS LICENSED UNDER THE "COLORADO RETAIL MARIJUANA CODE", ARTICLE 43.4 OF TITLE 12, C.R.S., AN AMOUNT EQUAL TO ANY EXPENDITURE THAT IS ELIGIBLE TO BE CLAIMED AS A FEDERAL INCOME TAX DEDUCTION BUT IS DISALLOWED BY SECTION 280E OF THE FEDERAL "INTERNAL REVENUE CODE" BECAUSE MARIJUANA IS A CONTROLLED SUBSTANCE UNDER FEDERAL LAW.

SECTION 20. In Colorado Revised Statutes, **add** 42-4-1305.5 as follows:

42-4-1305.5. Open marijuana container - motor vehicle - prohibited.
(1) **Definitions.** AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "MARIJUANA" SHALL HAVE THE SAME MEANING AS IN SECTION 16 (2) (f) OF ARTICLE XVIII OF THE STATE CONSTITUTION.

(b) "MOTOR VEHICLE" MEANS A VEHICLE DRIVEN OR DRAWN BY MECHANICAL POWER AND MANUFACTURED PRIMARILY FOR USE ON PUBLIC HIGHWAYS BUT DOES NOT INCLUDE A VEHICLE OPERATED EXCLUSIVELY ON A RAIL OR RAILS.

(c) "OPEN MARIJUANA CONTAINER" MEANS A RECEPTACLE OR MARIJUANA ACCESSORY THAT CONTAINS ANY AMOUNT OF MARIJUANA AND:

(I) THAT IS OPEN OR HAS A BROKEN SEAL;

(II) THE CONTENTS OF WHICH ARE PARTIALLY REMOVED; OR

(III) THERE IS EVIDENCE THAT MARIJUANA HAS BEEN CONSUMED WITHIN THE MOTOR VEHICLE.

(d) "PASSENGER AREA" MEANS THE AREA DESIGNED TO SEAT THE DRIVER AND PASSENGERS, INCLUDING SEATING BEHIND THE DRIVER, WHILE A MOTOR VEHICLE IS IN OPERATION AND ANY AREA THAT IS READILY ACCESSIBLE TO THE DRIVER OR A PASSENGER WHILE IN HIS OR HER SEATING POSITION, INCLUDING BUT NOT LIMITED TO THE GLOVE COMPARTMENT.

(2)(a) EXCEPT AS OTHERWISE PERMITTED IN PARAGRAPH (b) OF THIS SUBSECTION (2), A PERSON WHILE IN THE PASSENGER AREA OF A MOTOR VEHICLE THAT IS ON A PUBLIC HIGHWAY OF THIS STATE OR THE RIGHT-OF-WAY OF A PUBLIC HIGHWAY OF THIS STATE MAY NOT KNOWINGLY:

(I) USE OR CONSUME MARIJUANA; OR

(II) HAVE IN HIS OR HER POSSESSION AN OPEN MARIJUANA CONTAINER.

(b) THE PROVISIONS OF THIS SUBSECTION (2) SHALL NOT APPLY TO:

(I) PASSENGERS, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, LOCATED IN THE PASSENGER AREA OF A MOTOR VEHICLE DESIGNED, MAINTAINED, OR USED PRIMARILY FOR THE TRANSPORTATION OF PERSONS FOR COMPENSATION;

(II) THE POSSESSION BY A PASSENGER, OTHER THAN THE DRIVER OR A FRONT SEAT PASSENGER, OF AN OPEN MARIJUANA CONTAINER IN THE LIVING QUARTERS OF A HOUSE COACH, HOUSE TRAILER, MOTOR HOME, AS DEFINED IN SECTION 42-1-102 (57), OR TRAILER COACH, AS DEFINED IN SECTION 42-1-102 (106) (a);

(III) THE POSSESSION OF AN OPEN MARIJUANA CONTAINER IN THE AREA BEHIND THE LAST UPRIGHT SEAT OF A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK; OR

(IV) THE POSSESSION OF AN OPEN MARIJUANA CONTAINER IN AN AREA NOT NORMALLY OCCUPIED BY THE DRIVER OR A PASSENGER IN A MOTOR VEHICLE THAT IS NOT EQUIPPED WITH A TRUNK.

(c) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION (2) COMMITS A CLASS A TRAFFIC INFRACTION AND SHALL BE PUNISHED BY A FINE OF FIFTY DOLLARS AND A SURCHARGE OF SEVEN DOLLARS AND EIGHTY CENTS AS PROVIDED IN THIS SECTION AND SECTION 42-4-1701 (4) (a) (I) (N).

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PREEMPT OR LIMIT THE AUTHORITY OF ANY STATUTORY OR HOME RULE TOWN, CITY, OR CITY AND COUNTY TO ADOPT ORDINANCES THAT ARE NO LESS RESTRICTIVE THAN THE PROVISIONS OF THIS SECTION.

SECTION 21. In Colorado Revised Statutes, 12-43.3-501, **amend** (1) as follows:

12-43.3-501. Marijuana cash fund - repeal. (1)(a) All moneys collected by the state licensing authority pursuant to this article AND ARTICLE 43.4 OF THIS TITLE shall be transmitted to the state treasurer, who shall credit the same to the ~~medical marijuana license~~ cash fund, which fund is hereby created and referred to in this section as the "fund". THE FUND CONSISTS OF THE MONEYS IN THE FUND SO COLLECTED, ANY EXCISE TAX OR ADDITIONAL SALES TAX IMPOSED PURSUANT TO ARTICLE 28.8 OF TITLE 39, C.R.S., ANY OTHER SALES TAX, AND ANY ADDITIONAL GENERAL FUND MONEYS APPROPRIATED TO THE FUND THAT ARE NECESSARY FOR THE OPERATION OF THE STATE LICENSING AUTHORITY. MONEYS IN THE FUND shall be subject to annual appropriation by the general assembly to the department of revenue for the direct and indirect costs associated with implementing this article AND ARTICLE 43.4 OF THIS TITLE. Any moneys in the fund not expended for the purpose of this article OR ARTICLE 43.4 OF THIS TITLE may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. UPON A DETERMINATION BY THE GENERAL ASSEMBLY THAT THE DEPARTMENT OF REVENUE HAS ESTABLISHED A SUFFICIENT REVENUE STREAM TO FUND THE STATE LICENSING AUTHORITY'S REGULATORY EFFORTS AND ALL OTHER PROGRAMS TO BE FUNDED BY THE FUND, THE GENERAL ASSEMBLY SHALL DIRECT THE STATE TREASURER TO TRANSFER ANY EXCESS BALANCE IN THE FUND TO THE GENERAL FUND TO REPAY ANY APPROPRIATION MADE FROM THE GENERAL FUND TO INITIALLY SUPPORT THE SPENDING AUTHORITY OF THE STATE LICENSING AUTHORITY.

(b)(I) ANY UNEXPENDED AND UNENCUMBERED MONEYS IN THE FUND AS OF JULY 1, 2013, ARE APPROPRIATED TO THE STATE LICENSING AUTHORITY FOR THE 2013-14 FISCAL YEAR.

(II) THIS PARAGRAPH (b) IS REPEALED, EFFECTIVE JULY 1, 2014.

SECTION 22. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the marijuana cash fund created in section 12-43.3-501 (1) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for the fiscal year beginning July 1, 2013, the sum of \$307,542 and 4.0 FTE, or so much thereof as may be necessary, for allocation to the disease control and environmental epidemiology division, environmental epidemiology subdivision, for the cannabis health environmental and epidemiological training, outreach, and surveillance line item

related to the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the marijuana cash fund created in section 12-43.3-501 (1) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of public safety, for the fiscal year beginning July 1, 2013, the sum of \$154,034, or so much thereof as may be necessary, for allocation to the division of criminal justice for the DCJ administrative services line item related to the implementation of this act.

SECTION 23. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of \$280,000, or so much thereof as may be necessary, for allocation to the taxation business group for computer programming costs related to the implementation of this act.

SECTION 24. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the P.O.S.T. board cash fund created in section 24-31-303 (2) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of law, for the fiscal year beginning July 1, 2013, the sum of \$20,000, or so much thereof as may be necessary, for allocation to the criminal justice and appellate unit for peace officers standards and training board support expenses related to the implementation of section 24-31-314, Colorado Revised Statutes.

SECTION 25. Effective date. (1) This act takes effect upon passage; except that:

(a) Section 23 takes effect only if House Bill 13-1042 does not become law.

SECTION 26. 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 28, 2013