

CHAPTER 358

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 14-1037

BY REPRESENTATIVE(S) Landgraf, Gardner, Murray, Stephens, Conti, Duran, Exum, Fields, Garcia, Gerou, Ginal, Kagan, Labuda, Lawrence, McLachlan, Melton, Pabon, Pettersen, Primavera, Rosenthal, Saine, Salazar, Vigil, Williams, Young, Ferrandino;
also SENATOR(S) Baumgardner, Aguilar, Crowder, Herpin, Jahn, King, Newell, Rivera, Schwartz, Todd.

AN ACT

CONCERNING ENFORCEMENT OF LAWS AGAINST DESIGNER DRUGS, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, **add** 6-1-725 as follows:

6-1-725. Synthetic cannabinoids - incense - deceptive trade practice. (1) IT IS UNLAWFUL FOR ANY PERSON OR ENTITY TO DISTRIBUTE, DISPENSE, MANUFACTURE, DISPLAY FOR SALE, OFFER FOR SALE, ATTEMPT TO SELL, OR SELL TO A PURCHASER ANY PRODUCT THAT CONTAINS ANY AMOUNT OF ANY SYNTHETIC CANNABINOID, AS DEFINED IN SECTION 18-18-102 (34.5), C.R.S.

(2) (a) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE AS PROVIDED IN 6-1-105 (1) (ggg), AND THE VIOLATOR SHALL BE SUBJECT TO A CIVIL PENALTY AS DESCRIBED IN SECTION 6-1-112(1)(e) IN ADDITION TO ANY APPLICABLE CRIMINAL PENALTY.

(b) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE DEEMED TO HAVE COMMITTED A VIOLATION FOR EACH INDIVIDUALLY PACKAGED PRODUCT THAT HE OR SHE DISTRIBUTED, DISPENSED, MANUFACTURED, DISPLAYED FOR SALE, OFFERED FOR SALE, ATTEMPTED TO SELL, OR SOLD IN VIOLATION OF SUBSECTION (1) OF THIS SECTION.

SECTION 2. In Colorado Revised Statutes, 6-1-105, **add** (1) (fff) and (1) (ggg) as follows:

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

6-1-105. Deceptive trade practices. (1) A person engages in a deceptive trade practice when, in the course of the person's business, vocation, or occupation, the person:

(fff) VIOLATES SECTION 6-1-723;

(ggg) VIOLATES SECTION 6-1-725.

SECTION 3. In Colorado Revised Statutes, 6-1-112, **amend** (1) (d); and **add** (1) (e) as follows:

6-1-112. Civil penalties. (1) The attorney general or a district attorney may bring a civil action on behalf of the state to seek the imposition of civil penalties as follows:

(d) Any person who violates or causes another to violate the provisions of ~~sections 6-1-105 (1) (e) and 6-1-723~~ SECTION 6-1-105 (1) (fff) by distributing, dispensing, DISPLAYING FOR SALE, OFFERING FOR SALE, ATTEMPTING TO SELL, or selling any product that is labeled as a "bath salt" or any other trademark if the product contains any amount of any cathinones, as defined in section 18-18-102 (3.5), C.R.S., shall forfeit and pay to the general fund of the state a civil penalty of not less than ten thousand dollars and not more than five hundred thousand dollars for each such violation; except that the person shall forfeit and pay to the general fund of the state a civil penalty of not less than twenty-five thousand dollars and not more than five hundred thousand dollars for each such violation if the person distributes, dispenses, DISPLAYS FOR SALE, OFFERS FOR SALE, ATTEMPTS TO SELL, or sells the product to a minor under the age of eighteen and the person is at least eighteen years of age and at least two years older than the minor.

(e) ANY PERSON WHO VIOLATES OR CAUSES ANOTHER TO VIOLATE THE PROVISIONS OF SECTION 6-1-105 (1) (ggg) BY DISTRIBUTING, DISPENSING, DISPLAYING FOR SALE, OFFERING FOR SALE, ATTEMPTING TO SELL, OR SELLING ANY PRODUCT THAT CONTAINS ANY AMOUNT OF ANY SYNTHETIC CANNABINOID, AS DEFINED IN SECTION 18-18-102 (34.5), C.R.S., SHALL FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TEN THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS FOR EACH VIOLATION; EXCEPT THAT THE PERSON SHALL FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS FOR EACH VIOLATION IF THE PERSON DISTRIBUTES, DISPENSES, DISPLAYS FOR SALE, OFFERS FOR SALE, ATTEMPTS TO SELL, OR SELLS THE PRODUCT TO A MINOR UNDER THE AGE OF EIGHTEEN AND THE PERSON IS AT LEAST EIGHTEEN YEARS OF AGE AND AT LEAST TWO YEARS OLDER THAN THE MINOR.

SECTION 4. In Colorado Revised Statutes, 24-33.5-412, **add** (9) as follows:

24-33.5-412. Functions of bureau - legislative review - interagency cooperation with reporting functions - processing time for criminal history record checks - synthetic cannabinoids enforcement. (9) ON AND AFTER SEPTEMBER 1, 2014, THE BUREAU SHALL PURCHASE AND MAINTAIN MATERIALS AND EQUIPMENT TO BE MADE AVAILABLE BY THE BUREAU TO LAW ENFORCEMENT

AGENCIES AND TO THE LIQUOR ENFORCEMENT DIVISION CREATED IN SECTION 24-35-401, FOR THE PRESUMPTIVE IDENTIFICATION OF SYNTHETIC CANNABINOIDS OR ANY OTHER DESIGNER DRUGS.

SECTION 5. In Colorado Revised Statutes, **amend** 6-1-723 as follows:

6-1-723. Cathinone bath salts - deceptive trade practice. (1) It is unlawful for any person or entity to distribute, dispense, manufacture, DISPLAY FOR SALE, OFFER FOR SALE, ATTEMPT TO SELL, or sell to a purchaser any product that is labeled as a bath salt or any other trademark if the product contains any amount of any cathinones, as defined in section 18-18-102 (3.5), C.R.S.

(2) (a) A violation of this section shall be deemed a deceptive trade practice as provided in ~~section 6-1-105 (1) (c)~~ SECTION 6-1-105 (1) (fff), and the violator shall be subject to a civil penalty as described in section 6-1-112 (1) (d) in addition to any applicable criminal penalty.

(b) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE DEEMED TO HAVE COMMITTED A VIOLATION FOR EACH INDIVIDUALLY PACKAGED PRODUCT THAT HE OR SHE DISTRIBUTED, DISPENSED, MANUFACTURED, DISPLAYED FOR SALE, OFFERED FOR SALE, ATTEMPTED TO SELL, OR SOLD IN VIOLATION OF SUBSECTION (1) OF THIS SECTION.

SECTION 6. In Colorado Revised Statutes, **add** 17-18-114 as follows:

17-18-114. Appropriation to comply with section 2-2-703 - HB 14-1037 - repeal. (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 HOUSE BILL 14-1037, ENACTED IN 2014:

(a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

(b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

(c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2017, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

(d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, IN ADDITION TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

(2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

SECTION 7. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the controlled maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased by \$339,602.

(2) 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 public safety, for the fiscal year beginning July 1, 2014, the sum of \$339,602 and 0.6 FTE, or so much thereof as may be necessary, to be allocated to laboratory and investigative services for the implementation of this act as follows:

- (a) \$36,844 and 0.6 FTE for personal services;
- (b) \$5,258 for operating expenses and capital outlay; and
- (c) \$297,500 for equipment, training, and supplies.

SECTION 8. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 6, 2014, if adjournment sine die is on May 7, 2014); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to offenses committed on or after the applicable effective date of this act.

Approved: June 6, 2014