

Be it Enacted by the People of the state of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-18-405, **amend** (2)(a)(I)(D), (2)(b)(I)(B), (2)(b)(I)(C), (2)(c)(III), (2)(c)(IV), (8) introductory portion, and (8)(a); and **repeal** (2)(a)(III), (2)(b)(I)(D), and (2)(c)(V) as follows:

18-18-405. Unlawful distribution, manufacturing, dispensing, or sale.

(2) Except as otherwise provided for an offense concerning marijuana and marijuana concentrate in section 18-18-406 and for special offenders as provided in section 18-18-407, ~~any~~ A person who violates any of the provisions of subsection (1) of this section:

(a) Commits a level 1 drug felony and is subject to the mandatory sentencing provisions in section 18-1.3-401.5 (7) if:

(I) The violation involves any material, compound, mixture, or preparation that weighs:

(D) ~~More than fifty grams~~ ANY AMOUNT and contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g); or

~~(III) (A) Except as provided in section 18-1-711 (3)(i), the defendant committed a violation of subsection (2)(a)(I)(D), (2)(b)(I)(D), or (2)(c)(V) of this section, and the actions in violation of subsection (2)(a)(I)(D), (2)(b)(I)(D), or (2)(c)(V) of this section are the proximate cause of the death of another person who used or consumed the material, compound, mixture, or preparation that contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g).~~

~~(B) Notwithstanding subsection (2)(a)(III)(A) of this section, a defendant who committed a violation of subsection (2)(c)(V) of this section, and the actions in violation of subsection (2)(c)(V) of this section are the proximate cause of the death of another person who used or consumed the material, compound, mixture, or preparation that contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g), is not subject to the mandatory sentencing requirement as described in section 18-1.3-401.5 (7).~~

(b) Commits a level 2 drug felony if:

(I) The violation involves any material, compound, mixture, or preparation that weighs:

(B) More than seven grams, but not more than one hundred twelve grams, and contains methamphetamine, heroin, ketamine, or cathinones; OR

(C) More than ten milligrams, but not more than fifty milligrams, and contains flunitrazepam; ~~or~~

~~(D) More than four grams, but not more than fifty grams, and contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g);~~

(c) Except as provided in subsection (8) of this section, commits a level 3 drug felony if the violation involves any material, compound, mixture, or preparation that weighs:

(III) Not more than ten milligrams and contains flunitrazepam; OR

(IV) More than four grams and contains a schedule III or schedule IV controlled substance; ~~or~~

~~(V) Not more than four grams and contains fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g).~~

(8) Except for a prosecution for manufacturing, a person commits a level 1 drug misdemeanor for a violation of subsection (2)(c)(I), (2)(c)(II), ~~(2)(c)(V)~~, or (2)(d) of this section if:

(a) The distribution, dispensing, transfer, or sale involves a material, compound, mixture, or preparation that weighs not more than four grams and contains any amount of a controlled substance identified in subsection (2)(c)(I), (2)(c)(II), ~~(2)(c)(V)~~, or (2)(d) of this section;

SECTION 2. In Colorado Revised Statutes, 18-1-711, **amend** (3)(h); and repeal (3)(i) as follows:

18-1-711. Immunity for persons who suffer or report an emergency drug or alcohol overdose event - definitions - repeal.

(3) The immunity described in subsection (1) of this section applies to the following criminal offenses:

(h) Illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person, as described in section 18-13-122; AND

~~(i) A violation of section 18-18-405 (2)(a)(III)(A), if the unlawful distribution, manufacturing, dispensing, or sale of the material, compound, mixture, or preparation weighs not more than four grams and contains any amount of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g); and~~

SECTION 3. In Colorado Revised Statutes, 18-1.3-401.5, **amend** (7), (10)(a)(III.5), and (10)(a)(IV); and **repeal** (10)(a)(V) as follows:

18-1.3-401.5. Drug felonies classified - presumptive and aggravated penalties - legislative intent.

(7) ~~Except as provided in section 18-18-405 (2)(a)(III)(B), n~~Notwithstanding any provision of this section to the contrary, if the defendant is convicted of a level 1 drug felony, the court shall sentence the defendant to a term of incarceration in the department of corrections of at least eight years but not more than thirty-two years. The presence of one or more of the aggravating circumstances provided in subsection (10)(a) of this section or in section 18-18-407 (1) requires the court to sentence a defendant convicted of a level 1 drug felony to a term of incarceration in the department of corrections of at least twelve years but no more than thirty-two years. The court may impose a fine in addition to imprisonment.

(10)(a) Except for a level 1 drug felony, the presence of one or more of the following aggravating circumstances at the time of the commission of a drug felony offense requires the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than the maximum term of the aggravated range:

(III.5) The defendant was on appeal bond following ~~his or her~~ THE DEFENDANT'S conviction for a previous felony;

(IV) The defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult; ~~or~~

~~(V) The defendant committed a violation of section 18-18-405 (2)(a)(III)(A), and the unlawful distribution, manufacturing, dispensing, or sale of the material, compound, mixture, or preparation weighed more than fifty grams and contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g).~~

SECTION 4. In Colorado Revised Statutes, 18-18-407, **amend** (1)(h) as follows:

18-18-407. Special offender - definitions.

(1) A person who commits a felony offense pursuant to this part 4 under any one or more of the following aggravating circumstances commits a level 1 drug felony and is a special

offender:

(h) The defendant committed a violation of section 18-18-405 (2)(a)(I)(D), ~~(2)(b)(I)(D), or (2)(e)(V)~~; and the defendant possessed pill or tablet manufacturing equipment with the intent to use the equipment in the manufacture of a controlled substance.

SECTION 5. In Colorado Revised Statutes, 18-1-711, **amend (3)(h)**; and **repeal (3)(i)** as follows:

18-1-711. Immunity for persons who suffer or report an emergency drug or alcohol overdose event - definitions - repeal.

(3) The immunity described in subsection (1) of this section applies to the following criminal offenses:

(h) Illegal possession or consumption of ethyl alcohol or marijuana by an underage person or illegal possession of marijuana paraphernalia by an underage person, as described in section 18-13-122; AND

~~(i) A violation of section 18-18-405 (2)(a)(III)(A), if the unlawful distribution, manufacturing, dispensing, or sale of the material, compound, mixture, or preparation weighs not more than four grams and contains any amount of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g); and~~

SECTION 6. In Colorado Revised Statutes, 18-1.3-401.5, **amend (7)**, (10)(a)(III.5), and (10)(a)(IV); and **repeal (10)(a)(V)** as follows:

18-1.3-401.5. Drug felonies classified - presumptive and aggravated penalties - legislative intent.

(7) ~~Except as provided in section 18-18-405 (2)(a)(III)(B)~~, Notwithstanding any provision of this section to the contrary, if the defendant is convicted of a level 1 drug felony, the court shall sentence the defendant to a term of incarceration in the department of corrections of at least eight years but not more than thirty-two years. The presence of one or more of the aggravating circumstances provided in subsection (10)(a) of this section or in section 18-18-407 (1) requires the court to sentence a defendant convicted of a level 1 drug felony to a term of incarceration in the department of corrections of at least twelve years but ~~no~~ NOT more than thirty-two years. The court may impose a fine in addition to imprisonment.

(10)(a) Except for a level 1 drug felony, the presence of one or more of the following aggravating circumstances at the time of the commission of a drug felony offense requires the court, if it sentences the defendant to incarceration, to sentence the defendant to a term of at least the midpoint in the presumptive range but not more than the maximum term of the aggravated range:

(III.5) The defendant was on appeal bond following ~~his or her~~ THE DEFENDANT'S conviction for a previous felony; OR

(IV) The defendant was on probation for or on bond while awaiting sentencing following revocation of probation for a delinquent act that would have constituted a felony if committed by an adult. ~~or~~

~~(V) The defendant committed a violation of section 18-18-405(2)(a)(III)(A), and the unlawful distribution, manufacturing, dispensing, or sale of the material, compound, mixture, or preparation weighed more than fifty grams and contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g).~~

SECTION 7. In Colorado Revised Statutes, 18-18-403.5, **amend** (2.5) as follows:

18-18-403.5. Unlawful possession of a controlled substance - notice to revisor of statutes - repeal.

(2.5)(a) Notwithstanding ~~subsection (2)(e)~~ SUBSECTION (2) of this section, on or after July 1, 2022 JULY 1, 2025 , a person who violates subsection (1) of this section by knowingly possessing ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT CONTAINS MORE THAN 6 MILLIGRAMS OF FENTANYL, CARFENTANIL, BENZIMIDAZOLE OPIATE, OR AN ANALOG THEREOF, AS DESCRIBED IN SECTION 18-18-204 (2)(G), COMMITS A LEVEL 4 DRUG FELONY.

(I) Any material, compound, mixture, or preparation that weighs more than ~~one gramsix milligrams and not more than four grams~~ and contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g), commits a level 4 drug felony;

(II) Any material, compound, mixture, or preparation that weighs not more than ~~one gramsix milligrams~~ and contains any quantity of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g), commits a level 1 drug misdemeanor; except that a fourth or subsequent offense for a violation of this subsection (2.5)(a)(II) is a level 4 drug felony.

~~(b) Notwithstanding the provisions of section 18-18-403.5(2.5)(a)(I) of this section, when a defendant shows supporting evidence to establish that he or she made a reasonable mistake of fact and did not know that the controlled substance he or she possessed contained fentanyl, carfentanil, benzimidazole opiate, or an analog thereof as described in section 18-18-204 (2)(g), the matter shall be submitted to the finder of fact in the form of an interrogatory included in the verdict form. Should the finder of fact determine the defendant made such a reasonable mistake of fact, the defendant commits a level 1 drug misdemeanor.~~

SECTION 8. In Colorado Revised Statutes, 18-1.3-103.5, **amend** (2)(a), (3)(c), and (3)(d); and **repeal** (3)(e) as follows:

18-1.3-103.5. Felony convictions - vacate and enter conviction on misdemeanor after successful completion.

(2)(a) In a case in which the defendant enters a plea of guilty or is found guilty by the court or a jury for a crime listed in subsection (3) of this section, the court shall order, upon successful completion of any community-based sentence to probation or to a community corrections program, the drug felony conviction vacated and shall enter a conviction for a level 1 drug misdemeanor offense of possession of a controlled substance pursuant to section 18-18-403.5.

Upon entry of the judgment of conviction pursuant to section 18-18-403.5, OTHER THAN SECTION 18-18-403.5 (2.5)(a), the court shall indicate in its order that the judgment of conviction is entered pursuant to the provisions of this section.

(3) This section applies to convictions for the following offenses:

(c) Possession of more than twelve ounces of marijuana or more than three ounces of marijuana concentrate; OR

(d) A violation of section 18-18-415. ~~or~~

~~(e) A violation of section 18-18-403.5 (2.5)(a).~~

SECTION 9. In Colorado Revised Statutes, 18-1.3-801, **repeal** (2)(c) as follows:

18-1.3-801. Punishment for habitual criminals.

~~(2)(c) The provisions of subsection (2)(a) of this section do not apply to a conviction for a level 4 drug felony committed on or after July 1, 2022, pursuant to section 18-18-403.5 (2.5), or a conviction for a level 4 drug felony committed on or after July 1, 2022, for attempt or conspiracy to commit unlawful possession of fentanyl, carfentanil, benzimidazole opiate, or an analog thereof, as described in section 18-18-403.5 (2.5), even if the person has been previously convicted of three or more qualifying felony convictions.~~