

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0046.01 Michael Dohr x4347

SENATE BILL 14-129

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

May,

Senate Committees

Judiciary

Finance

Appropriations

House Committees

Judiciary

Finance

A BILL FOR AN ACT

101 **CONCERNING CHANGES TO CRIMINAL PROVISIONS RELATED TO**
102 **MARIJUANA, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Section 1. The bill adds consumption and possession of marijuana and possession of marijuana paraphernalia to the crime of underage possession or consumption of alcohol. The bill changes the penalty structure for the crime as follows:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 26, 2014

SENATE
Amended 2nd Reading
February 25, 2014

- ! For a first offense, there is a fine of up to \$100 or a requirement to attend substance abuse education classes;
- ! For a second offense, there is a fine of up to \$100; a requirement to attend substance abuse education classes; if appropriate, an order for a substance abuse assessment and any treatment recommended by the assessment; and up to 24 hours of public service; and
- ! For a third or subsequent offense, there is a fine of up to \$250, an order for a substance abuse assessment and any treatment recommended by the assessment, and up to 36 hours of public service.

Section 2. Under current law, the P.O.S.T. board is encouraged to offer an advanced roadside impaired driving training course at basic academy training. The bill encourages the P.O.S.T. board to offer the course as an elective to basic field sobriety training recertification.

Section 3. The bill changes the open marijuana container crime to require that prosecution prove that the container has a broken seal, that the contents were partially removed, and that there is evidence that marijuana was consumed in the vehicle. Current law only requires proof of one of those 3 elements.

Sections 4 through 9. The bill makes conforming amendments.

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

2 **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**
 3 **with amendments,** 18-13-122 as follows:

4 **18-13-122. Illegal possession or consumption of ethyl alcohol**
 5 **or marijuana by an underage person - illegal possession of marijuana**
 6 **paraphernalia by an underage person - definitions - adolescent**
 7 **substance abuse prevention and treatment fund - legislative**
 8 **declaration.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
 9 IT IS NECESSARY FOR THE STATE OF COLORADO TO EDUCATE COLORADO
 10 YOUTH ABOUT THE DANGERS OF EARLY USE OF ALCOHOL AND MARIJUANA,
 11 TO ACTIVELY PROMOTE PROGRAMS THAT PREVENT THE ILLEGAL USE OF
 12 ALCOHOL AND MARIJUANA, AND TO TEACH COLORADO YOUTH ABOUT
 13 RESPONSIBLE USE AND THE HEALTHY CHOICES AVAILABLE TO AN ADULT

1 ONCE HE OR SHE IS ABLE TO LEGALLY CONSUME ALCOHOL OR MARIJUANA.

2 (b) THE COLORADO GENERAL ASSEMBLY FINDS IT IS NECESSARY
3 FOR THE STATE OF COLORADO TO PROVIDE MORE ADOLESCENT SUBSTANCE
4 ABUSE EDUCATION AND TREATMENT IN A DEVELOPMENTALLY,
5 INTELLECTUALLY, AND SOCIALLY APPROPRIATE MANNER. THEREFORE, IT
6 IS NECESSARY TO CREATE THE ADOLESCENT SUBSTANCE ABUSE
7 PREVENTION AND TREATMENT FUND FOR THAT PURPOSE.

8 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
9 REQUIRES:

10 (a) "ESTABLISHMENT" MEANS A BUSINESS, FIRM, ENTERPRISE,
11 SERVICE OR FRATERNAL ORGANIZATION, CLUB, INSTITUTION, ENTITY,
12 GROUP, OR RESIDENCE; ANY REAL PROPERTY, INCLUDING BUILDINGS AND
13 IMPROVEMENTS, CONNECTED THEREWITH; AND ANY MEMBERS,
14 EMPLOYEES, AND OCCUPANTS ASSOCIATED THEREWITH.

15 (b) "ETHYL ALCOHOL" MEANS ANY SUBSTANCE WHICH IS OR
16 CONTAINS ETHYL ALCOHOL.

17 (c) "MARIJUANA" HAS THE SAME MEANING AS IN SECTION 16 (2)
18 (f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

19 (d) "MARIJUANA PARAPHERNALIA" HAS THE SAME MEANING AS
20 MARIJUANA ACCESSORIES IN SECTION 16 (2) (g) OF ARTICLE XVIII OF THE
21 COLORADO CONSTITUTION.

22 (e) "POSSESSION OF ETHYL ALCOHOL" MEANS THAT A PERSON HAS
23 OR HOLDS ANY AMOUNT OF ETHYL ALCOHOL ANYWHERE ON HIS OR HER
24 PERSON OR THAT A PERSON OWNS OR HAS CUSTODY OF ETHYL ALCOHOL OR
25 HAS ETHYL ALCOHOL WITHIN HIS OR HER IMMEDIATE PRESENCE AND
26 CONTROL.

27 (f) "POSSESSION OF MARIJUANA" MEANS THAT A PERSON HAS OR

1 HOLDS ANY AMOUNT OF MARIJUANA ANYWHERE ON HIS OR HER PERSON OR
2 THAT A PERSON OWNS OR HAS CUSTODY OF MARIJUANA OR HAS
3 MARIJUANA WITHIN HIS OR HER IMMEDIATE PRESENCE AND CONTROL.

4 (g) "PRIVATE PROPERTY" MEANS ANY DWELLING AND ITS
5 CURTILAGE WHICH IS BEING USED BY A NATURAL PERSON OR NATURAL
6 PERSONS FOR HABITATION AND WHICH IS NOT OPEN TO THE PUBLIC AND
7 PRIVATELY OWNED REAL PROPERTY WHICH IS NOT OPEN TO THE PUBLIC.

8 "PRIVATE PROPERTY" SHALL NOT INCLUDE:

9 (I) ANY ESTABLISHMENT WHICH HAS OR IS REQUIRED TO HAVE A
10 LICENSE PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S.;

11 (II) ANY ESTABLISHMENT WHICH SELLS ETHYL ALCOHOL OR UPON
12 WHICH ETHYL ALCOHOL IS SOLD; OR

13 (III) ANY ESTABLISHMENT WHICH LEASES, RENTS, OR PROVIDES
14 ACCOMMODATIONS TO MEMBERS OF THE PUBLIC GENERALLY.

15 (3) (a) EXCEPT AS DESCRIBED BY SECTION 18-1-711 AND
16 SUBSECTION (6) OF THIS SECTION, A PERSON UNDER TWENTY-ONE YEARS
17 OF AGE WHO POSSESSES OR CONSUMES ETHYL ALCOHOL ANYWHERE IN THE
18 STATE OF COLORADO COMMITS ILLEGAL POSSESSION OR CONSUMPTION OF
19 ETHYL ALCOHOL BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OR
20 CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON IS A STRICT
21 LIABILITY OFFENSE.

22 (b) EXCEPT AS DESCRIBED BY SECTION 14 OF ARTICLE XVIII OF
23 THE COLORADO CONSTITUTION AND SECTION 18-18-406.3, A PERSON
24 UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES ONE OUNCE OR LESS
25 OF MARIJUANA OR CONSUMES MARIJUANA ANYWHERE IN THE STATE OF
26 COLORADO COMMITS ILLEGAL POSSESSION OR CONSUMPTION OF
27 MARIJUANA BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OR

1 CONSUMPTION OF MARIJUANA BY AN UNDERAGE PERSON IS A STRICT
2 LIABILITY OFFENSE.

3 (c) EXCEPT AS DESCRIBED BY SECTION 14 OF ARTICLE XVIII OF
4 THE COLORADO CONSTITUTION AND SECTION 18-18-406.3, A PERSON
5 UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES MARIJUANA
6 PARAPHERNALIA ANYWHERE IN THE STATE OF COLORADO AND KNOWS OR
7 REASONABLY SHOULD KNOW THAT THE DRUG PARAPHERNALIA COULD BE
8 USED IN CIRCUMSTANCES IN VIOLATION OF THE LAWS OF THIS STATE
9 COMMITS ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA BY AN
10 UNDERAGE PERSON. ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA
11 BY AN UNDERAGE PERSON IS A STRICT LIABILITY OFFENSE.

12 (d) A VIOLATION OF THIS SUBSECTION (3) IS AN UNCLASSIFIED
13 PETTY OFFENSE.

14 (4) (a) UPON CONVICTION OF A FIRST OFFENSE OF SUBSECTION (3)
15 OF THIS SECTION, THE COURT SHALL SENTENCE THE UNDERAGE PERSON TO
16 A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, OR THE COURT SHALL
17 ORDER THAT THE UNDERAGE PERSON COMPLETE A SUBSTANCE ABUSE
18 EDUCATION PROGRAM APPROVED BY THE DIVISION OF BEHAVIORAL
19 HEALTH IN THE DEPARTMENT OF HUMAN SERVICES, OR BOTH.

20 (b) UPON CONVICTION OF A SECOND OFFENSE OF SUBSECTION (3)
21 OF THIS SECTION, THE COURT SHALL SENTENCE THE UNDERAGE PERSON TO
22 A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, AND THE COURT
23 SHALL ORDER THE UNDERAGE PERSON TO:

24 (I) COMPLETE A SUBSTANCE ABUSE EDUCATION PROGRAM
25 APPROVED BY THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT
26 OF HUMAN SERVICES;

27 (II) IF DETERMINED NECESSARY AND APPROPRIATE, SUBMIT TO A

1 SUBSTANCE ABUSE ASSESSMENT APPROVED BY THE DIVISION OF
2 BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES AND
3 COMPLETE ANY TREATMENT RECOMMENDED BY THE ASSESSMENT; AND

4 (III) PERFORM UP TO TWENTY-FOUR HOURS OF USEFUL PUBLIC
5 SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN
6 SECTION 18-1.3-507.

7 (c) UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE OF
8 SUBSECTION (3) OF THIS SECTION, THE COURT SHALL SENTENCE THE
9 DEFENDANT TO A FINE OF UP TO TWO HUNDRED FIFTY DOLLARS, AND THE
10 COURT SHALL ORDER THE UNDERAGE PERSON TO:

11 (I) SUBMIT TO A SUBSTANCE ABUSE ASSESSMENT APPROVED BY
12 THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN
13 SERVICES AND COMPLETE ANY TREATMENT RECOMMENDED BY THE
14 ASSESSMENT; AND

15 (II) PERFORM UP TO THIRTY-SIX HOURS OF USEFUL PUBLIC
16 SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN
17 SECTION 18-1.3-507.

18 (d) NOTHING IN THIS SECTION PROHIBITS A PROSECUTOR FROM
19 ENTERING INTO A DIVERSION OR DEFERRED JUDGMENT AGREEMENT WITH
20 ANY UNDERAGE PERSON FOR ANY OFFENSE UNDER THIS SECTION, AND
21 PROSECUTORS ARE ENCOURAGED TO ENTER INTO THOSE AGREEMENTS
22 WHEN THEY ARE CONSISTENT WITH THE LEGISLATIVE DECLARATION OF
23 THIS SECTION AND IN THE INTERESTS OF JUSTICE.

24 (e) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS
25 SUBJECT TO AN ADDITIONAL PENALTY SURCHARGE OF TWENTY-FIVE
26 DOLLARS, WHICH MAY BE WAIVED BY THE COURT UPON A SHOWING OF
27 INDIGENCY, THAT SHALL BE TRANSFERRED TO THE ADOLESCENT

1 SUBSTANCE ABUSE PREVENTION AND TREATMENT FUND CREATED
2 PURSUANT TO SUBSECTION (18) OF THIS SECTION.

3 (5) IT IS AN AFFIRMATIVE DEFENSE TO THE OFFENSE DESCRIBED IN
4 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION THAT THE ETHYL
5 ALCOHOL WAS POSSESSED OR CONSUMED BY A PERSON UNDER
6 TWENTY-ONE YEARS OF AGE UNDER THE FOLLOWING CIRCUMSTANCES:

7 (a) WHILE SUCH PERSON WAS LEGALLY UPON PRIVATE PROPERTY
8 WITH THE KNOWLEDGE AND CONSENT OF THE OWNER OR LEGAL POSSESSOR
9 OF SUCH PRIVATE PROPERTY AND THE ETHYL ALCOHOL WAS POSSESSED OR
10 CONSUMED WITH THE CONSENT OF HIS OR HER PARENT OR LEGAL
11 GUARDIAN WHO WAS PRESENT DURING SUCH POSSESSION OR
12 CONSUMPTION;

13 (b) WHEN THE EXISTENCE OF ETHYL ALCOHOL IN A PERSON'S BODY
14 WAS DUE SOLELY TO THE INGESTION OF A CONFECTIONERY WHICH
15 CONTAINED ETHYL ALCOHOL WITHIN THE LIMITS PRESCRIBED BY SECTION
16 25-5-410(1)(i)(II), C.R.S.; OR THE INGESTION OF ANY SUBSTANCE WHICH
17 WAS MANUFACTURED, DESIGNED, OR INTENDED PRIMARILY FOR A PURPOSE
18 OTHER THAN ORAL HUMAN INGESTION; OR THE INGESTION OF ANY
19 SUBSTANCE WHICH WAS MANUFACTURED, DESIGNED, OR INTENDED
20 SOLELY FOR MEDICINAL OR HYGIENIC PURPOSES; OR SOLELY FROM THE
21 INGESTION OF A BEVERAGE WHICH CONTAINED LESS THAN ONE-HALF OF
22 ONE PERCENT OF ETHYL ALCOHOL BY WEIGHT; OR

23 (c) THE PERSON IS A STUDENT WHO:

24 (I) TASTES BUT DOES NOT IMBIBE AN ALCOHOL BEVERAGE ONLY
25 WHILE UNDER THE DIRECT SUPERVISION OF AN INSTRUCTOR WHO IS AT
26 LEAST TWENTY-ONE YEARS OF AGE AND EMPLOYED BY A
27 POST-SECONDARY SCHOOL;

1 (II) IS ENROLLED IN A UNIVERSITY OR A POST-SECONDARY SCHOOL
2 ACCREDITED OR CERTIFIED BY AN AGENCY RECOGNIZED BY THE UNITED
3 STATES DEPARTMENT OF EDUCATION, A NATIONALLY RECOGNIZED
4 ACCREDITING AGENCY OR ASSOCIATION, OR THE "PRIVATE OCCUPATIONAL
5 EDUCATION ACT OF 1981", ARTICLE 59 OF TITLE 12, C.R.S.;

6 (III) IS PARTICIPATING IN A CULINARY ARTS, FOOD SERVICE, OR
7 RESTAURANT MANAGEMENT DEGREE PROGRAM; AND

8 (IV) TASTES BUT DOES NOT IMBIBE THE ALCOHOL BEVERAGE FOR
9 INSTRUCTIONAL PURPOSES AS A PART OF A REQUIRED COURSE IN WHICH
10 THE ALCOHOL BEVERAGE, EXCEPT THE PORTION THE STUDENT TASTES,
11 REMAINS UNDER THE CONTROL OF THE INSTRUCTOR.

12 (6) THE POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL OR
13 MARIJUANA SHALL NOT CONSTITUTE A VIOLATION OF THIS SECTION IF SUCH
14 POSSESSION OR CONSUMPTION TAKES PLACE FOR RELIGIOUS PURPOSES
15 PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES
16 CONSTITUTION.

17 (7) AN UNDERAGE PERSON SHALL BE IMMUNE FROM CRIMINAL
18 PROSECUTION UNDER THIS SECTION IF HE OR SHE ESTABLISHES THE
19 FOLLOWING:

20 (a) THE UNDERAGE PERSON CALLED 911 AND REPORTED IN GOOD
21 FAITH THAT ANOTHER UNDERAGE PERSON WAS IN NEED OF MEDICAL
22 ASSISTANCE DUE TO ALCOHOL OR MARIJUANA CONSUMPTION;

23 (b) THE UNDERAGE PERSON WHO CALLED 911 PROVIDED HIS OR
24 HER NAME TO THE 911 OPERATOR;

25 (c) THE UNDERAGE PERSON WAS THE FIRST PERSON TO MAKE THE
26 911 REPORT; AND

27 (d) THE UNDERAGE PERSON WHO MADE THE 911 CALL REMAINED

1 ON THE SCENE WITH THE UNDERAGE PERSON IN NEED OF MEDICAL
2 ASSISTANCE UNTIL ASSISTANCE ARRIVED AND COOPERATED WITH MEDICAL
3 ASSISTANCE OR LAW ENFORCEMENT PERSONNEL ON THE SCENE.

4 (8) PRIMA FACIE EVIDENCE OF A VIOLATION OF SUBSECTION (3) OF
5 THIS SECTION SHALL CONSIST OF:

6 (a) EVIDENCE THAT THE DEFENDANT WAS UNDER TWENTY-ONE
7 YEARS OF AGE AND POSSESSED OR CONSUMED ETHYL ALCOHOL OR
8 MARIJUANA OR POSSESSED MARIJUANA PARAPHERNALIA ANYWHERE IN
9 THIS STATE; OR

10 (b) EVIDENCE THAT THE DEFENDANT WAS UNDER THE AGE OF
11 TWENTY-ONE YEARS AND MANIFESTED ANY OF THE CHARACTERISTICS
12 COMMONLY ASSOCIATED WITH ETHYL ALCOHOL INTOXICATION OR
13 IMPAIRMENT OR MARIJUANA IMPAIRMENT WHILE PRESENT ANYWHERE IN
14 THIS STATE.

15 (9) DURING ANY TRIAL FOR A VIOLATION OF SUBSECTION (3) OF
16 THIS SECTION, ANY BOTTLE, CAN, OR ANY OTHER CONTAINER WITH
17 LABELING INDICATING THE CONTENTS OF SUCH BOTTLE, CAN, OR
18 CONTAINER SHALL BE ADMISSIBLE INTO EVIDENCE, AND THE INFORMATION
19 CONTAINED ON ANY LABEL ON SUCH BOTTLE, CAN, OR OTHER CONTAINER
20 SHALL BE ADMISSIBLE INTO EVIDENCE AND SHALL NOT CONSTITUTE
21 HEARSAY. A JURY OR A JUDGE, WHICHEVER IS APPROPRIATE, MAY
22 CONSIDER THE INFORMATION UPON SUCH LABEL IN DETERMINING
23 WHETHER THE CONTENTS OF THE BOTTLE, CAN, OR OTHER CONTAINER
24 WERE COMPOSED IN WHOLE OR IN PART OF ETHYL ALCOHOL OR
25 MARIJUANA. A LABEL WHICH IDENTIFIES THE CONTENTS OF ANY BOTTLE,
26 CAN, OR OTHER CONTAINER AS "BEER", "ALE", "MALT BEVERAGE",
27 "FERMENTED MALT BEVERAGE", "MALT LIQUOR", "WINE", "CHAMPAGNE",

1 "WHISKEY" OR "WHISKY", "GIN", "VODKA", "TEQUILA", "SCHNAPPS",
2 "BRANDY", "COGNAC", "LIQUEUR", "CORDIAL", "ALCOHOL", OR "LIQUOR"
3 SHALL CONSTITUTE PRIMA FACIE EVIDENCE THAT THE CONTENTS OF THE
4 BOTTLE, CAN, OR OTHER CONTAINER WAS COMPOSED IN WHOLE OR IN PART
5 OF ETHYL ALCOHOL.

6 (10) A PARENT OR LEGAL GUARDIAN OF A PERSON UNDER
7 TWENTY-ONE YEARS OF AGE OR ANY NATURAL PERSON WHO HAS THE
8 PERMISSION OF SUCH PARENT OR LEGAL GUARDIAN MAY GIVE OR PERMIT
9 THE POSSESSION AND CONSUMPTION OF ETHYL ALCOHOL TO OR BY A
10 PERSON UNDER TWENTY-ONE YEARS OF AGE UNDER THE CONDITIONS
11 DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION. THIS
12 SUBSECTION (10) SHALL NOT BE CONSTRUED TO PERMIT ANY
13 ESTABLISHMENT WHICH IS LICENSED OR IS REQUIRED TO BE LICENSED
14 PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S., OR ANY
15 MEMBERS, EMPLOYEES, OR OCCUPANTS OF ANY SUCH ESTABLISHMENT TO
16 GIVE, PROVIDE, MAKE AVAILABLE, OR SELL ETHYL ALCOHOL TO A PERSON
17 UNDER TWENTY-ONE YEARS OF AGE.

18 (11) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT
19 ANY STATUTORY OR HOME RULE MUNICIPALITY FROM ENACTING ANY
20 ORDINANCE WHICH PROHIBITS PERSONS UNDER TWENTY-ONE YEARS OF
21 AGE FROM POSSESSING OR CONSUMING ETHYL ALCOHOL OR MARIJUANA OR
22 POSSESSING MARIJUANA PARAPHERNALIA, WHICH ORDINANCE IS AT LEAST
23 AS RESTRICTIVE OR MORE RESTRICTIVE THAN THIS SECTION.

24 (12) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR
25 PRECLUDE PROSECUTION FOR ANY OFFENSE PURSUANT TO ARTICLE 46, 47,
26 OR 48 OF TITLE 12, C.R.S., EXCEPT AS PROVIDED IN SUCH ARTICLES.

27 (13) **Sealing of record.** (a) UPON DISMISSAL OF A CASE PURSUANT

1 TO THIS SECTION AFTER COMPLETION OF A DEFERRED JUDGMENT OR
2 DIVERSION OR ANY OTHER ACTION RESULTING IN DISMISSAL OF THE CASE
3 OR UPON COMPLETION OF THE COURT-ORDERED SUBSTANCE ABUSE
4 EDUCATION AND PAYMENT OF ANY FINE FOR A FIRST CONVICTION OF
5 SUBSECTION (3) OF THIS SECTION, THE COURT SHALL IMMEDIATELY ORDER
6 THE CASE SEALED AND PROVIDE TO THE UNDERAGE PERSON AND THE
7 PROSECUTOR A COPY OF THE ORDER SEALING THE CASE FOR DISTRIBUTION
8 BY THE APPROPRIATE PARTY TO ALL LAW ENFORCEMENT AGENCIES IN THE
9 CASE.

10 (b) UPON THE EXPIRATION OF ONE YEAR FROM THE DATE OF A
11 SECOND OR SUBSEQUENT CONVICTION FOR A VIOLATION OF SUBSECTION
12 (3) OF THIS SECTION, THE UNDERAGE PERSON CONVICTED OF SUCH
13 VIOLATION MAY PETITION THE COURT IN WHICH THE CONVICTION WAS
14 ASSIGNED FOR AN ORDER SEALING THE RECORD OF THE CONVICTION. THE
15 PETITIONER SHALL SUBMIT A VERIFIED COPY OF HIS OR HER CRIMINAL
16 HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY PRIOR TO THE
17 DATE OF THE FILING OF THE PETITION, ALONG WITH THE PETITION AT THE
18 TIME OF FILING, BUT IN NO EVENT LATER THAN THE TENTH DAY AFTER THE
19 PETITION IS FILED. THE PETITIONER SHALL BE RESPONSIBLE FOR OBTAINING
20 AND PAYING FOR HIS OR HER CRIMINAL HISTORY RECORD. THE COURT
21 SHALL GRANT THE PETITION IF THE PETITIONER HAS NOT BEEN ARRESTED
22 FOR, CHARGED WITH, OR CONVICTED OF ANY FELONY, MISDEMEANOR, OR
23 PETTY OFFENSE DURING THE PERIOD OF ONE YEAR FOLLOWING THE DATE
24 OF THE PETITIONER'S CONVICTION FOR A VIOLATION OF SUBSECTION (3) OF
25 THIS SECTION.

26 (14) THE QUALITATIVE RESULT OF AN ALCOHOL OR MARIJUANA
27 TEST OR TESTS SHALL BE ADMISSIBLE AT THE TRIAL OF ANY PERSON

1 CHARGED WITH A VIOLATION OF SUBSECTION (3) OF THIS SECTION UPON A
2 SHOWING THAT THE DEVICE OR DEVICES USED TO CONDUCT SUCH TEST OR
3 TESTS HAVE BEEN APPROVED AS ACCURATE IN DETECTING ALCOHOL OR
4 MARIJUANA BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
5 HEALTH AND ENVIRONMENT.

6 (15) OFFICIAL RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH
7 AND ENVIRONMENT RELATING TO THE CERTIFICATION OF BREATH TEST
8 INSTRUMENTS, CERTIFICATION OF OPERATORS AND OPERATOR
9 INSTRUCTORS OF BREATH TEST INSTRUMENTS, CERTIFICATION OF
10 STANDARD SOLUTIONS, AND CERTIFICATION OF LABORATORIES SHALL BE
11 OFFICIAL RECORDS OF THE STATE. COPIES OF SUCH RECORDS, ATTESTED BY
12 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND
13 ENVIRONMENT OR HIS OR HER DESIGNEE AND ACCOMPANIED BY A
14 CERTIFICATE BEARING THE OFFICIAL SEAL FOR SAID DEPARTMENT, WHICH
15 STATE THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT HAS
16 CUSTODY OF SUCH RECORDS, SHALL BE ADMISSIBLE IN ALL COURTS OF
17 RECORD AND SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE
18 INFORMATION CONTAINED IN SUCH RECORDS. THE OFFICIAL SEAL OF THE
19 DEPARTMENT DESCRIBED IN THIS SUBSECTION (15) MAY CONSIST OF A
20 WATERMARK OF THE STATE SEAL WITHIN THE DOCUMENT.

21 (16) IN ANY JUDICIAL PROCEEDING IN ANY COURT OF THIS STATE
22 CONCERNING A CHARGE UNDER SUBSECTION (3) OF THIS SECTION, THE
23 COURT SHALL TAKE JUDICIAL NOTICE OF METHODS OF TESTING A PERSON'S
24 BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF ALCOHOL OR
25 MARIJUANA AND OF THE DESIGN AND OPERATION OF DEVICES CERTIFIED BY
26 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR TESTING A
27 PERSON'S BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF

1 ALCOHOL OR MARIJUANA. THIS SUBSECTION (16) SHALL NOT PREVENT THE
2 NECESSITY OF ESTABLISHING DURING A TRIAL THAT THE TESTING DEVICES
3 WERE WORKING PROPERLY AND THAT SUCH TESTING DEVICES WERE
4 PROPERLY OPERATED. NOTHING IN THIS SUBSECTION (16) SHALL PRECLUDE
5 A DEFENDANT FROM OFFERING EVIDENCE CONCERNING THE ACCURACY OF
6 TESTING DEVICES.

7 (17) A LAW ENFORCEMENT OFFICER MAY NOT ENTER UPON ANY
8 PRIVATE PROPERTY TO INVESTIGATE ANY VIOLATION OF THIS SECTION
9 WITHOUT PROBABLE CAUSE.

10 (18) **Cash fund.** THE SURCHARGE COLLECTED PURSUANT TO
11 PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION MUST BE
12 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
13 TO THE ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT
14 FUND, WHICH FUND IS CREATED AND REFERRED TO IN THIS SECTION AS THE
15 "FUND". THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL
16 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE UNIT IN THE
17 DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL
18 HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO
19 MENTAL HEALTH AND SUBSTANCE ABUSE, ESTABLISHED IN ARTICLE 80 OF
20 TITLE 27, C.R.S., FOR ADOLESCENT SUBSTANCE ABUSE PREVENTION AND
21 TREATMENT PROGRAMS. THE UNIT IN THE DEPARTMENT OF HUMAN
22 SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND
23 SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND
24 SUBSTANCE ABUSE, IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS,
25 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
26 THIS SECTION. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS,
27 GRANTS, OR DONATIONS MUST BE TRANSMITTED TO THE STATE

1 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ANY
2 UNEXPENDED MONEYS IN THE FUND MAY BE INVESTED BY THE STATE
3 TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED
4 FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND MUST BE
5 CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS
6 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE
7 FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL
8 FUND OR ANOTHER FUND.

9 **SECTION 2.** In Colorado Revised Statutes, **amend 24-31-314** as
10 **follows:**

11 **24-31-314. Advanced roadside impaired driving enforcement**
12 **training.** (1) On and after October 1, 2013, the P.O.S.T. board is
13 encouraged to include advanced roadside impaired driving enforcement
14 training ~~in the curriculum for persons who enroll in a training academy~~
15 ~~for basic peace officer training~~ AS AN ELECTIVE TO BASIC FIELD SOBRIETY
16 TEST TRAINING RECERTIFICATION.

17 (2) Subject to the availability of sufficient moneys, the P.O.S.T.
18 board shall arrange to provide **DRUG RECOGNITION EXPERT training in**
19 ~~advanced roadside impaired driving enforcement to drug recognition~~
20 ~~experts~~ TO CERTIFIED PEACE OFFICERS who will act as trainers in advanced
21 roadside impaired driving enforcement for all peace officers described in
22 section 16-2.5-101, C.R.S.

23 **SECTION 3.** In Colorado Revised Statutes, 42-4-1305.5, **amend**
24 (1) (c) as follows:

25 **42-4-1305.5. Open marijuana container - motor vehicle -**
26 **prohibited.** (1) **Definitions.** As used in this section, unless the context
27 otherwise requires:

1 (c) "Open marijuana container" means a receptacle or marijuana
2 accessory that contains any amount of marijuana and:

3 (I) That is open or has a broken seal;

4 (II) The contents of which are partially removed; ~~or~~ AND

5 (III) There is evidence that marijuana has been consumed within
6 the motor vehicle.

7 **SECTION 4.** In Colorado Revised Statutes, 10-3-1104, **amend**
8 (4) (a) as follows:

9 **10-3-1104. Unfair methods of competition - unfair or deceptive**
10 **acts or practices - repeal.** (4) The following is defined as an unfair
11 practice in the business of insurance: For an insurer to deny, refuse to
12 issue, refuse to renew, refuse to reissue, cancel, or otherwise terminate a
13 motor vehicle insurance policy, to restrict motor vehicle insurance
14 coverage on any person, or to add any surcharge or rating factor to a
15 premium of a motor vehicle insurance policy solely because of:

16 (a) A conviction under section 12-47-901 (1) (b), C.R.S., or
17 ~~section 18-13-122 (2)~~ SECTION 18-13-122 (3), C.R.S., or any counterpart
18 municipal charter or ordinance offense or because of any driver's license
19 revocation resulting from such conviction. This paragraph (a) includes,
20 but is not limited to, a driver's license revocation imposed under section
21 42-2-125 (1) (m), C.R.S.

22 **SECTION 5.** In Colorado Revised Statutes, 12-47-801, **amend**
23 (4.5) as follows:

24 **12-47-801. Civil liability - legislative declaration.** (4.5) An
25 instructor or entity that complies with ~~section 18-13-122 (3) (c)~~ SECTION
26 18-13-122 (5) (c), C.R.S., shall not be liable for civil damages resulting
27 from the intoxication of a minor due to the minor's unauthorized

1 consumption of alcohol beverages during instruction in culinary arts, food
2 service, or restaurant management pursuant to ~~section 18-13-122 (3) (c)~~
3 SECTION 18-13-122 (5) (c), C.R.S.

4 **SECTION 6.** In Colorado Revised Statutes, 18-1-711, **amend** (3)
5 (h) as follows:

6 **18-1-711. Immunity for persons who suffer or report an**
7 **emergency drug or alcohol overdose event - definitions.** (3) The
8 immunity described in subsection (1) of this section shall apply to the
9 following criminal offenses:

10 (h) Illegal possession or consumption of ethyl alcohol OR
11 MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF
12 MARIJUANA PARAPHERNALIA by an underage person, as described in
13 section 18-13-122.

14 **SECTION 7.** In Colorado Revised Statutes, 18-18-426, **amend**
15 (2) as follows:

16 **18-18-426. Drug paraphernalia - definitions.** (2) "Drug
17 paraphernalia" does not include any marijuana accessories as defined in
18 section 16 (2) (g) of article XVIII of the state constitution. ~~if possessed~~
19 ~~or used by a person age twenty-one or older.~~

20 **SECTION 8.** In Colorado Revised Statutes, 18-19-102, **amend**
21 (1) (e) as follows:

22 **18-19-102. Definitions.** As used in this article, unless the context
23 otherwise requires:

24 (1) "Alcohol- or drug-related offender" means a person convicted
25 of any of the following offenses or of attempt to commit any of the
26 following offenses:

27 (e) Illegal possession or consumption of ethyl alcohol OR

1 MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF
2 MARIJUANA PARAPHERNALIA by an underage person, as described in
3 section 18-13-122.

4 **SECTION 9.** In Colorado Revised Statutes, 19-2-104, **amend** (1)
5 (a) (I) as follows:

6 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
7 the juvenile court shall have exclusive original jurisdiction in
8 proceedings:

9 (a) Concerning any juvenile ten years of age or older who has
10 violated:

11 (I) Any federal or state law, except nonfelony state traffic, game
12 and fish, and parks and recreation laws or rules, the offenses specified in
13 section 18-13-121, C.R.S., concerning tobacco products, the offense
14 specified in section 18-13-122, C.R.S., concerning the illegal possession
15 or consumption of ethyl alcohol OR MARIJUANA BY AN UNDERAGE PERSON
16 OR ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA by an underage
17 person, and the offenses specified in section 18-18-406 (5) (a) (I), (5) (b)
18 (I), and (5) (b) (II), C.R.S., concerning marijuana and marijuana
19 concentrate;

20 **SECTION 10.** In Colorado Revised Statutes, 19-2-513, **amend**
21 (3) (a) introductory portion as follows:

22 **19-2-513. Petition form and content.** (3) (a) Pursuant to the
23 provisions of section 19-1-126, in those delinquency proceedings to
24 which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et
25 seq., applies, including but not limited to status offenses such as the
26 illegal possession or consumption of ethyl alcohol OR MARIJUANA BY AN
27 UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA

1 PARAPHERNALIA by an underage person, as described in section
2 18-13-122, C.R.S., purchase or attempted purchase of cigarettes or
3 tobacco products by a person under eighteen years of age, as described in
4 section 18-13-121, C.R.S., and possession of handguns by juveniles, as
5 described in section 18-12-108.5, C.R.S., the petition shall:

6 **SECTION 11.** In Colorado Revised Statutes, 42-2-125, **amend**
7 (1) (m) (I) and (1) (m) (II) as follows:

8 **42-2-125. Mandatory revocation of license and permit.** (1) The
9 department shall immediately revoke the license or permit of any driver
10 or minor driver upon receiving a record showing that such driver has:

11 (m) (I) Been convicted of violating section 12-47-901 (1) (b) or
12 (1) (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart
13 municipal charter or ordinance offense to such sections and having failed
14 to complete an alcohol evaluation or assessment, an alcohol education
15 program, or an alcohol treatment program ordered by the court in
16 connection with such conviction; or

17 (II) Been convicted of violating section 12-47-901 (1) (b) or (1)
18 (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal
19 charter or ordinance offense to such sections and has a previous
20 conviction for such offenses;

21 **SECTION 12.** In Colorado Revised Statutes, **amend** 42-2-131 as
22 follows:

23 **42-2-131. Revocation of license or permit for failing to comply**
24 **with a court order relating to nondriving alcohol convictions.** Upon
25 a plea of guilty or nolo contendere or a verdict of guilty by the court or a
26 jury to an offense under section 12-47-901 (1) (b) or (1) (c) or ~~18-13-122~~
27 ~~(2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal charter or

1 ordinance offense to such section and upon a failure to complete an
2 alcohol evaluation or assessment, an alcohol education program, or an
3 alcohol treatment program ordered by the court in connection with such
4 plea or verdict, the court shall forward to the department a notice of plea
5 or verdict or such failure to complete on the form prescribed by the
6 department. Any revocation pursuant to section 42-2-125 (1) (m) shall
7 begin when the department gives notice of the revocation to the person in
8 accordance with section 42-2-119 (2).

9 **SECTION 13. In Colorado Revised Statutes, 12-43.3-501, add**
10 **(1) (b) (I.5) as follows:**

11 **12-43.3-501. Marijuana cash fund - repeal. (1) (b) Moneys in**
12 **the fund shall be subject to annual appropriation by the general assembly**
13 **to:**

14 **(I.5) (A) THE DEPARTMENT OF REVENUE FOR UPDATES TO THE**
15 **DEPARTMENT'S DRIVER'S LICENSE SYSTEM TO GENERATE REVOCATION**
16 **LETTERS CONNECTED TO A CONVICTION OF UNDERAGE POSSESSION OR**
17 **CONSUMPTION OF MARIJUANA.**

18 **(B) THIS SUBPARAGRAPH (I.5) IS REPEALED, EFFECTIVE JULY 1,**
19 **2015.**

20 **SECTION 14. Appropriation. (1) In addition to any other**
21 **appropriation, there is hereby appropriated, out of any moneys in the**
22 **marijuana cash fund created in section 12-43.3-501 (1) (a), Colorado**
23 **Revised Statutes, not otherwise appropriated, to the department of**
24 **revenue, for the fiscal year beginning July 1, 2013, the sum of \$4,120, or**
25 **so much thereof as may be necessary, for the purchase of computer center**
26 **services related to the implementation of this act.**

27 **(2) In addition to any other appropriation, there is hereby**

1 appropriated to the governor - lieutenant governor - state planning and
2 budgeting, for the fiscal year beginning July 1, 2013, the sum of \$4,120,
3 or so much thereof as may be necessary, for allocation to the office of
4 information technology, for the provision of computer center services for
5 the department of revenue related to the implementation of this act. Said
6 sum is from reappropriated funds received from the department of
7 revenue out of the appropriation made in subsection (1) of this section.

8 **SECTION 15. Appropriation.** (1) In addition to any other
9 appropriation, there is hereby appropriated, out of any moneys in the
10 adolescent substance abuse prevention and treatment fund created in
11 section 18-13-122 (18), Colorado Revised Statutes, not otherwise
12 appropriated, to the department of human services, for the fiscal year
13 beginning July 1, 2014, the sum of \$38,250, to be allocated to behavioral
14 health services for adolescent substance abuse prevention and treatment
15 programs as follows:

16 (a) \$28,687 for treatment and detoxification contracts; and

17 (b) \$9,563 for prevention contracts.

18 **SECTION 16. Effective date - applicability.** This act takes
19 effect upon passage, and applies to offenses committed on or after July
20 1, 2014.

21 **SECTION 17. Safety clause.** The general assembly hereby finds,
22 determines, and declares that this act is necessary for the immediate
23 preservation of the public peace, health, and safety.