

NOTE: The governor signed this measure on 3/17/2014.

An Act

HOUSE BILL 14-1122

BY REPRESENTATIVE(S) Kagan, Becker, Conti, Court, Duran, Fields, Fischer, Ginal, Hamner, Hulinghorst, Labuda, Lee, May, Melton, Mitsch Bush, Pabon, Pettersen, Priola, Rankin, Rosenthal, Ryden, Schafer, Scott, Singer, Tyler, Williams, Young, Coram, Exum, Ferrandino; also SENATOR(S) Newell, Crowder, Guzman, Heath, Herpin, Jones, Kefalas, Kerr, King, Nicholson, Rivera, Schwartz, Todd.

CONCERNING PROVISIONS TO KEEP LEGAL MARIJUANA FROM UNDERAGE PERSONS.

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

SECTION 1. In Colorado Revised Statutes, 12-43.3-202, **amend** (2) (a) (XIV.5) as follows:

12-43.3-202. Powers and duties of state licensing authority.
(2) (a) Rules promulgated pursuant to paragraph (b) of subsection (1) of this section may include, but need not be limited to, the following subjects:

(XIV.5) Prohibiting the sale of MEDICAL MARIJUANA AND medical marijuana-infused products unless the product is: ~~packaged:~~

(A) ~~In special packaging that is designed or constructed to be~~

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

~~significantly difficult for children under five years of age to open and not difficult for normal adults to use properly and that does not allow the product to be seen without opening the packaging material~~ PACKAGED IN PACKAGING MEETING REQUIREMENTS ESTABLISHED BY THE STATE LICENSING AUTHORITY SIMILAR TO THE FEDERAL "POISON PREVENTION PACKAGING ACT OF 1970", 15 U.S.C. SEC. 1471 ET SEQ.; or

~~(B) In packaging that is labeled "Medicinal product - keep out of reach of children";~~ PLACED IN AN OPAQUE AND RESEALABLE EXIT PACKAGE OR CONTAINER AT THE POINT OF SALE PRIOR TO EXITING THE STORE, AND THE CONTAINER OR PACKAGE MEETS THE REQUIREMENTS ESTABLISHED BY THE STATE LICENSING AUTHORITY.

SECTION 2. In Colorado Revised Statutes, 12-43.4-402, **amend** (3) (b) as follows:

12-43.4-402. Retail marijuana store license - repeal.

(3) (b) (I) Prior to initiating a sale, the employee of the retail marijuana store making the sale shall verify that the purchaser has a valid identification card showing the purchaser is twenty-one years of age or older. If a person under twenty-one years of age presents a fraudulent proof of age, any action relying on the fraudulent proof of age shall not be grounds for the revocation or suspension of any license issued under this article.

(II) (A) IF A RETAIL MARIJUANA STORE LICENSEE OR EMPLOYEE HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON IS UNDER TWENTY-ONE YEARS OF AGE AND IS EXHIBITING FRAUDULENT PROOF OF AGE IN AN ATTEMPT TO OBTAIN ANY RETAIL MARIJUANA OR MARIJUANA-INFUSED PRODUCT, THE LICENSEE OR EMPLOYEE IS AUTHORIZED TO CONFISCATE SUCH FRAUDULENT PROOF OF AGE, IF POSSIBLE, AND SHALL, WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION, REMIT TO A STATE OR LOCAL LAW ENFORCEMENT AGENCY. THE FAILURE TO CONFISCATE SUCH FRAUDULENT PROOF OF AGE OR TO REMIT TO A STATE OR LOCAL LAW ENFORCEMENT AGENCY WITHIN SEVENTY-TWO HOURS AFTER THE CONFISCATION DOES NOT CONSTITUTE A CRIMINAL OFFENSE.

(B) IF A RETAIL MARIJUANA STORE LICENSEE OR EMPLOYEE BELIEVES THAT A PERSON IS UNDER TWENTY-ONE YEARS OF AGE AND IS EXHIBITING FRAUDULENT PROOF OF AGE IN AN ATTEMPT TO OBTAIN ANY RETAIL

MARIJUANA OR RETAIL MARIJUANA-INFUSED PRODUCT, THE LICENSEE OR EMPLOYEE OR ANY PEACE OR POLICE OFFICER, ACTING IN GOOD FAITH AND UPON PROBABLE CAUSE BASED UPON REASONABLE GROUNDS THEREFOR, MAY DETAIN AND QUESTION SUCH PERSON IN A REASONABLE MANNER FOR THE PURPOSE OF ASCERTAINING WHETHER THE PERSON IS GUILTY OF ANY UNLAWFUL ACT REGARDING THE PURCHASE OF RETAIL MARIJUANA. THE QUESTIONING OF A PERSON BY AN EMPLOYEE OR A PEACE OR POLICE OFFICER DOES NOT RENDER THE LICENSEE, THE EMPLOYEE, OR THE PEACE OR POLICE OFFICER CIVILLY OR CRIMINALLY LIABLE FOR SLANDER, FALSE ARREST, FALSE IMPRISONMENT, MALICIOUS PROSECUTION, OR UNLAWFUL DETENTION.

SECTION 3. In Colorado Revised Statutes, 12-43.4-901, **amend** (4) (e) and (6) as follows:

12-43.4-901. Unlawful acts - exceptions - repeal. (4) It is unlawful for any person licensed to sell retail marijuana or retail marijuana products pursuant to this article:

(e) To sell OR PERMIT THE SALE OF retail marijuana or retail marijuana products to a person under twenty-one years of age; ~~without checking the person's identification;~~

(6) A person who commits any acts that are unlawful pursuant to this article or the rules authorized and adopted pursuant to this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.; ~~except for violations that would also constitute~~ THAT A VIOLATION OF PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION IS A CLASS 1 MISDEMEANOR AND SHALL BE PUNISHED AS PROVIDED IN SECTION 18-1.3-501, C.R.S. IF A VIOLATION OF THIS ARTICLE OR THE RULES AUTHORIZED AND ADOPTED PURSUANT TO THIS ARTICLE ALSO CONSTITUTES a violation of title 18, C.R.S., ~~which~~ THE violation shall be charged and prosecuted pursuant to title 18, C.R.S.

SECTION 4. In Colorado Revised Statutes, 18-18-102, **add** (14.5) and (16.5) as follows:

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

(14.5) "ENCLOSED" MEANS A PERMANENT OR SEMI-PERMANENT AREA COVERED AND SURROUNDED ON ALL SIDES. TEMPORARY OPENING OF

WINDOWS OR DOORS OR THE TEMPORARY REMOVAL OF WALL OR CEILING PANELS DOES NOT CONVERT THE AREA INTO AN UNENCLOSED SPACE.

(16.5) "LOCKED SPACE" MEANS SECURED AT ALL POINTS OF INGRESS OR EGRESS WITH A LOCKING MECHANISM DESIGNED TO LIMIT ACCESS SUCH AS WITH A KEY OR COMBINATION LOCK.

SECTION 5. In Colorado Revised Statutes, 18-18-406, **amend** (3) as follows:

18-18-406. Offenses relating to marijuana and marijuana concentrate. (3) (a) It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls. A person who violates the provisions of this subsection (3) commits:

(a) (I) A level 3 drug felony if the offense involves more than thirty plants;

(b) (II) A level 4 drug felony if the offense involves more than six but not more than thirty plants; or

(c) (III) A level 1 drug misdemeanor if the offense involves not more than six plants.

(b) IT IS NOT A VIOLATION OF THIS SUBSECTION (3) IF:

(I) THE PERSON IS LAWFULLY CULTIVATING MEDICAL MARIJUANA PURSUANT TO THE AUTHORITY GRANTED IN SECTION 14 OF ARTICLE XVIII OF THE STATE CONSTITUTION; OR

(II) THE PERSON IS LAWFULLY CULTIVATING MARIJUANA IN AN ENCLOSED AND LOCKED SPACE PURSUANT TO THE AUTHORITY GRANTED IN SECTION 16 OF ARTICLE XVIII OF THE STATE CONSTITUTION; EXCEPT THAT, IF THE CULTIVATION AREA IS LOCATED IN A RESIDENCE AND:

(A) A PERSON UNDER TWENTY-ONE YEARS OF AGE LIVES AT THE RESIDENCE, THE CULTIVATION AREA ITSELF MUST BE ENCLOSED AND LOCKED; AND

(B) IF NO PERSON UNDER TWENTY-ONE YEARS OF AGE LIVES AT THE RESIDENCE, THE EXTERNAL LOCKS OF THE RESIDENCE CONSTITUTES AN ENCLOSED AND LOCKED SPACE. IF A PERSON UNDER TWENTY-ONE YEARS OF AGE ENTERS THE RESIDENCE, THE PERSON MUST ENSURE THAT ACCESS TO THE CULTIVATION SITE IS REASONABLY RESTRICTED FOR THE DURATION OF THAT PERSON'S PRESENCE IN THE RESIDENCE.

SECTION 6. In Colorado Revised Statutes, 12-43.3-104, **add** (10.5) and (14.5) as follows:

12-43.3-104. Definitions. As used in this article, unless the context otherwise requires:

(10.5) "OPAQUE" MEANS THAT THE PACKAGING DOES NOT ALLOW THE PRODUCT TO BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL.

(14.5) "RESEALABLE" MEANS THAT THE PACKAGE CONTINUES TO FUNCTION WITH EFFECTIVENESS SPECIFICATIONS, WHICH SHALL BE ESTABLISHED BY THE STATE LICENSING AUTHORITY SIMILAR TO THE FEDERAL "POISON PREVENTION PACKAGING ACT OF 1970", 15 U.S.C. SEC. 1471 ET SEQ., FOR THE NUMBER OF OPENINGS AND CLOSINGS CUSTOMARY FOR ITS SIZE AND CONTENTS, WHICH SHALL BE DETERMINED BY THE STATE LICENSING AUTHORITY.

SECTION 7. In Colorado Revised Statutes, 12-43.4-103, **add** (10.5) and (14.5) as follows:

12-43.4-103. Definitions. As used in this article, unless the context otherwise requires:

(10.5) "OPAQUE" MEANS THAT THE PACKAGING DOES NOT ALLOW THE PRODUCT TO BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL.

(14.5) "RESEALABLE" MEANS THAT THE PACKAGE CONTINUES TO FUNCTION WITH EFFECTIVENESS SPECIFICATIONS, WHICH SHALL BE ESTABLISHED BY THE STATE LICENSING AUTHORITY SIMILAR TO THE FEDERAL "POISON PREVENTION PACKAGING ACT OF 1970", 15 U.S.C. SEC. 1471 ET SEQ., FOR THE NUMBER OF OPENINGS AND CLOSINGS CUSTOMARY FOR ITS SIZE AND CONTENTS, WHICH SHALL BE DETERMINED BY THE STATE LICENSING AUTHORITY.

SECTION 8. In Colorado Revised Statutes, 12-43.4-202, **amend** (3) (c) (I) introductory portion and (3) (c) (III) (B) as follows:

12-43.4-202. Powers and duties of state licensing authority - rules. (3) (c) Rules promulgated pursuant to paragraph (b) of subsection (2) of this section must also include the following subjects, and the state licensing authority may seek the assistance of the department of public health and environment when necessary before promulgating the rules:

(I) Signage, marketing, and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching ~~minors~~ PERSONS UNDER TWENTY-ONE YEARS OF AGE and other such rules that may include:

(III) Prohibiting the sale of retail marijuana and retail marijuana products unless:

(B) The product is placed in an OPAQUE AND RESEALABLE exit package or container meeting requirements established by the state licensing authority at the point of sale prior to exiting the store;

SECTION 9. 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.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
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Cindi L. Markwell
SECRETARY OF
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APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO