

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. 14-0541.01 Michael Dohr x4347

HOUSE BILL 14-1122

HOUSE SPONSORSHIP

Kagan,

SENATE SPONSORSHIP

Newell,

House Committees
Judiciary

Senate Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING PROVISIONS TO KEEP LEGAL MARIJUANA FROM**
102 **UNDERAGE PERSONS.**

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>.)

Under current law, medical marijuana-infused products must be sold in either child-proof packaging or in packaging warning "medicinal product - keep out of reach of children". The bill removes the option of selling the products in the packaging with the warning. The bill makes an exception to the child-proof packaging if the purchaser has a doctor's note

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.

HOUSE
3rd Reading Unamended
February 14, 2014

HOUSE
Amended 2nd Reading
February 13, 2014

explaining he or she has a condition that makes opening the child-proof packaging difficult.

The bill gives a retail marijuana store the ability to confiscate a fraudulent identification and detain and question the person who provided the fraudulent identification. The bill makes selling marijuana to a person under 21 years of age at a retail marijuana store a class 1 misdemeanor and creates the various licensing penalties for selling to an underage person.

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

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

4 **12-43.3-202. Powers and duties of state licensing authority.**
5 (2) (a) Rules promulgated pursuant to paragraph (b) of subsection (1) of
6 this section may include, but need not be limited to, the following
7 subjects:

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

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

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

1 **SECTION 2.** In Colorado Revised Statutes, 12-43.4-402, **amend**

2 (3) (b) as follows:

3 **12-43.4-402. Retail marijuana store license - repeal.**

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

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

23 (B) IF A RETAIL MARIJUANA STORE LICENSEE OR EMPLOYEE
24 BELIEVES THAT A PERSON IS UNDER TWENTY-ONE YEARS OF AGE AND IS
25 EXHIBITING FRAUDULENT PROOF OF AGE IN AN ATTEMPT TO OBTAIN ANY
26 RETAIL MARIJUANA OR RETAIL MARIJUANA-INFUSED PRODUCT, THE
27 LICENSEE OR EMPLOYEE OR ANY PEACE OR POLICE OFFICER, ACTING IN

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

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

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

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

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

1 **SECTION 4.** In Colorado Revised Statutes, 18-18-102, **add**
2 (14.5) and (16.5) as follows:

3 **18-18-102. Definitions.** As used in this article:

4 (14.5) "ENCLOSED" MEANS A PERMANENT OR SEMI-PERMANENT
5 AREA COVERED AND SURROUNDED ON ALL SIDES. TEMPORARY OPENING OF
6 WINDOWS OR DOORS OR THE TEMPORARY REMOVAL OF WALL OR CEILING
7 PANELS DOES NOT CONVERT THE AREA INTO AN UNENCLOSED SPACE.

8 (16.5) "LOCKED SPACE" MEANS SECURED AT ALL POINTS OF
9 INGRESS OR EGRESS WITH A LOCKING MECHANISM DESIGNED TO LIMIT
10 ACCESS SUCH AS WITH A KEY OR COMBINATION LOCK.

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

13 **18-18-406. Offenses relating to marijuana and marijuana**
14 **concentrate.** (3) (a) It is unlawful for a person to knowingly cultivate,
15 grow, or produce a marijuana plant or knowingly allow a marijuana plant
16 to be cultivated, grown, or produced on land that the person owns,
17 occupies, or controls. A person who violates the provisions of this
18 subsection (3) commits:

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

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

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

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

26 (I) THE PERSON IS LAWFULLY CULTIVATING MEDICAL MARIJUANA
27 PURSUANT TO THE AUTHORITY GRANTED IN SECTION 14 OF ARTICLE XVIII

1 OF THE STATE CONSTITUTION; OR

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

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

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

15 **SECTION 6.** In Colorado Revised Statutes, 12-43.3-104, **add**
16 **(10.5) and (14.5) as follows:**

17 **12-43.3-104. Definitions.** As used in this article, unless the
18 **context otherwise requires:**

19 **(10.5) "OPAQUE" MEANS THAT THE PACKAGING DOES NOT ALLOW**
20 **THE PRODUCT TO BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL.**

21 **(14.5) "RESEALABLE" MEANS THAT THE PACKAGE CONTINUES TO**
22 **FUNCTION WITH EFFECTIVENESS SPECIFICATIONS, WHICH SHALL BE**
23 **ESTABLISHED BY THE STATE LICENSING AUTHORITY SIMILAR TO THE**
24 **FEDERAL "POISON PREVENTION PACKAGING ACT OF 1970", 15 U.S.C. SEC.**
25 **1471 ET SEQ., FOR THE NUMBER OF OPENINGS AND CLOSINGS CUSTOMARY**
26 **FOR ITS SIZE AND CONTENTS, WHICH SHALL BE DETERMINED BY THE STATE**
27 **LICENSING AUTHORITY.**

1 **SECTION 7.** In Colorado Revised Statutes, 12-43.4-103, **add**
2 (10.5) and (14.5) as follows:

3 **12-43.4-103. Definitions.** As used in this article, unless the
4 context otherwise requires:

5 (10.5) "OPAQUE" MEANS THAT THE PACKAGING DOES NOT ALLOW
6 THE PRODUCT TO BE SEEN WITHOUT OPENING THE PACKAGING MATERIAL.

7 (14.5) "RESEALABLE" MEANS THAT THE PACKAGE CONTINUES TO
8 FUNCTION WITH EFFECTIVENESS SPECIFICATIONS, WHICH SHALL BE
9 ESTABLISHED BY THE STATE LICENSING AUTHORITY SIMILAR TO THE
10 FEDERAL "POISON PREVENTION PACKAGING ACT OF 1970", 15 U.S.C. SEC.
11 1471 ET SEQ., FOR THE NUMBER OF OPENINGS AND CLOSINGS CUSTOMARY
12 FOR ITS SIZE AND CONTENTS, WHICH SHALL BE DETERMINED BY THE STATE
13 LICENSING AUTHORITY.

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

16 **12-43.4-202. Powers and duties of state licensing authority -**
17 **rules.** (3) (c) Rules promulgated pursuant to paragraph (b) of subsection
18 (2) of this section must also include the following subjects, and the state
19 licensing authority may seek the assistance of the department of public
20 health and environment when necessary before promulgating the rules:

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

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

27 (B) The product is placed in an OPAQUE AND RESEALABLE exit

1 package or container meeting requirements established by the state
2 licensing authority at the point of sale prior to exiting the store;

3 **SECTION 9. Safety clause.** The general assembly hereby finds,
4 determines, and declares that this act is necessary for the immediate
5 preservation of the public peace, health, and safety.