

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

March 22, 2010
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB10-1352 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 7, line 19, strike "THE FOLLOWING" and
2 substitute "A".

3 Page 7, line 20, strike "SECTIONS" and substitute "SECTION".

4 Page 7, strike lines 22 through 27 and substitute:

5 (1) EXCEPT AS AUTHORIZED BY PART 3 OF ARTICLE 22 OF TITLE
6 12, C.R.S., OR BY PART 2 OR 3 OF THIS ARTICLE, IT IS UNLAWFUL FOR ANY
7 PERSON KNOWINGLY TO POSSESS A CONTROLLED SUBSTANCE.

8 (2) A PERSON WHO VIOLATES SUBSECTION (1) BY POSSESSING:

9 (a) (I) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
10 WEIGHING FOUR GRAMS OR LESS THAT CONTAINS ANY QUANTITY OF
11 FLUNITRAZEPAM, KETAMINE, OR A CONTROLLED SUBSTANCE LISTED IN
12 SCHEDULE I OR II OF PART 2 OF THIS ARTICLE EXCEPT METHAMPHETAMINE
13 COMMITS A CLASS 6 FELONY.

14 (II) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
15 WEIGHING MORE THAN FOUR GRAMS THAT CONTAINS ANY QUANTITY OF
16 FLUNITRAZEPAM, KETAMINE, OR A CONTROLLED SUBSTANCE LISTED IN
17 SCHEDULE I OR II OF PART 2 OF THIS ARTICLE EXCEPT METHAMPHETAMINE
18 COMMITS A CLASS 4 FELONY.

1 (b) (I) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
2 WEIGHING TWO GRAMS OR LESS THAT CONTAINS ANY QUANTITY OF
3 METHAMPHETAMINE COMMITS A CLASS 6 FELONY.

4 (II) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
5 WEIGHING MORE THAN TWO GRAMS THAT CONTAINS ANY QUANTITY OF
6 METHAMPHETAMINE COMMITS A CLASS 4 FELONY.

7 (c) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT
8 CONTAINS ANY QUANTITY OF A CONTROLLED SUBSTANCE LISTED IN
9 SCHEDULE III, IV, OR V OF PART 2 OF THIS ARTICLE EXCEPT
10 FLUNITRAZEPAM OR KETAMINE COMMITS A CLASS 1 MISDEMEANOR."

11 Strike page 8 and substitute:

12 "SECTION 5. 18-18-405, Colorado Revised Statutes, is amended
13 BY THE ADDITION OF A NEW SUBSECTION to read:

14 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
15 **sale, or possession.** (7) NOTWITHSTANDING THE PROVISIONS OF
16 SUBSECTION (2) OF THIS SECTION, AND EXCEPT AS OTHERWISE PROVIDED
17 IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF
18 SUBSECTION (2) OR PARAGRAPH (a) OF SUBSECTION (2.5) OF THIS SECTION,
19 A PERSON VIOLATES SUBSECTION (1) OF THIS SECTION BY SELLING,
20 DISPENSING, OR DISTRIBUTING A CONTROLLED SUBSTANCE OTHER THAN
21 MARIJUANA OR MARIJUANA CONCENTRATE TO A MINOR UNDER EIGHTEEN
22 YEARS OF AGE AND WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND AT
23 LEAST TWO YEARS OLDER THAN THE MINOR COMMITS A CLASS 3 FELONY
24 AND, UNLESS A GREATER SENTENCE IS PROVIDED UNDER ANY OTHER
25 STATUTE, SHALL BE SENTENCED TO THE DEPARTMENT OF CORRECTIONS
26 FOR TERM OF AT LEAST THE MINIMUM, BUT NOT MORE THAN TWICE THE
27 MAXIMUM, OF THE PRESUMPTIVE RANGE PROVIDED FOR SUCH OFFENSE IN
28 SECTION 18-1.3-401 (1) (a) AS MODIFIED PURSUANT TO SECTION
29 18-1.3-410 (10)."

30 Page 9, strike lines 1 through 10.

31 Renumber succeeding sections accordingly.

32 Page 12, line 27, strike "transfers" and substitute "SELLS, transfers,".

1 Page 13, line 3, strike "any amount" and substitute "~~any amount~~ LESS
2 THAN ONE POUND".

3 Page 13, after line 9 insert:

4 "(b) THE SALE, TRANSFER, OR DISPENSING OF FIVE OR MORE
5 POUNDS OF MARIJUANA OR ONE POUND OR MORE OF MARIJUANA
6 CONCENTRATE TO A PERSON UNDER EIGHTEEN YEARS OF AGE BUT AT
7 LEAST FIFTEEN YEARS OF AGE IS A CLASS 3 FELONY."

8 Reletter succeeding paragraphs accordingly.

9 Page 13, line 10, strike "transfers" and substitute "SELLS, transfers,".

10 Page 14, strike lines 5 through 8.

11 Page 17, strike lines 9 through 12 and substitute:

12 "SECTION 9. 18-19-103 (4) (a) and (5.5), Colorado Revised
13 Statutes, are amended, and the said 18-19-103 is further amended BY
14 THE ADDITION OF A NEW SUBSECTION, to read:

15 **18-19-103. Source of revenues - allocation of moneys.**
16 (3.5) MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY PURSUANT TO
17 HOUSE BILL 10-1352, ENACTED IN 2010, SHALL BE DEPOSITED INTO THE
18 DRUG OFFENDER SURCHARGE FUND CREATED PURSUANT TO SUBSECTION
19 (4) OF THIS SECTION AND SHALL BE ALLOCATED PURSUANT TO SECTION
20 16-11.5-102 (3) (c), C.R.S.

21 (4) (a) There is hereby created in the state treasury a drug offender
22 surcharge fund, which shall consist of moneys received by the state
23 treasurer pursuant to paragraph (d) of subsection (3) of this section AND
24 SUBSECTION (3.5) OF THIS SECTION. All interest derived from the deposit
25 and investment of moneys in the fund shall be credited to the fund. Any
26 moneys not appropriated by the general assembly shall remain in the drug
27 offender surcharge fund and shall not be transferred or revert to the
28 general fund of the state at the end of any fiscal year. All moneys in the
29 fund shall be subject to annual appropriation by the general assembly to
30 the judicial department, the department of corrections, the division of
31 criminal justice of the department of public safety, and the department of
32 human services, after consideration of the plan developed pursuant to

1 section 16-11.5-102 (3), C.R.S., to cover the costs associated with
2 substance abuse assessment, testing, education, and treatment.

3 (5.5) (a) There is hereby created".

4 Page 17, line 25, strike "A PORTION OF", and strike "SENATE BILL 10-___,"
5 and substitute "HOUSE BILL 10-1352,".

6 Page 18, after line 5 insert:

7 "SECTION 10. 16-11.5-102 (3), Colorado Revised Statutes, is
8 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

9 **16-11.5-102. Substance abuse assessment - standardized**
10 **procedure.** (3) (c) (I) THE MONEYS ALLOCATED TO THE DRUG OFFENDER
11 SURCHARGE FUND PURSUANT TO SECTION 18-19-103 (3.5), C.R.S., SHALL
12 ONLY BE USED TO COVER THE COSTS ASSOCIATED WITH THE TREATMENT
13 OF SUBSTANCE ABUSE OR CO-OCCURRING DISORDERS OF ADULT
14 OFFENDERS WHO ARE ASSESSED TO BE IN NEED OF TREATMENT AND WHO
15 ARE:

16 (A) ON DIVERSION;

17 (B) ON PROBATION;

18 (C) ON PAROLE;

19 (D) IN COMMUNITY CORRECTIONS; OR

20 (E) IN JAIL.

21 (II) THE PLAN TO ALLOCATE MONEYS DEPOSITED IN THE DRUG
22 OFFENDER SURCHARGE FUND PURSUANT TO SECTION 18-19-103 (3.5),
23 C.R.S., SHALL BE DEVELOPED PURSUANT TO PARAGRAPH (a) OF
24 SUBSECTION (3) AND SHALL ALSO INCLUDE A REPRESENTATIVE
25 DESIGNATED BY THE COLORADO DISTRICT ATTORNEY'S COUNCIL, THE
26 STATE PUBLIC DEFENDER, A REPRESENTATIVE FROM A STATEWIDE
27 ASSOCIATION REPRESENTING COUNTY SHERIFFS, AND REPRESENTATIVE
28 FROM A STATEWIDE ASSOCIATION REPRESENTING COUNTIES."

29 Renumber succeeding sections accordingly.

- 1 Page 18, line 10, strike "SENATE" and substitute "HOUSE".
- 2 Page 18, line 11, strike "10-____," and substitute "10-1352,".

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