

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0218.01 Richard Sweetman x4333

HOUSE BILL 14-1037

HOUSE SPONSORSHIP

Landgraf, Gardner, Murray, Stephens

SENATE SPONSORSHIP

Baumgardner, Aguilar

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ENFORCEMENT OF LAWS AGAINST DESIGNER DRUGS.

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>.)

It is unlawful to distribute, dispense, manufacture, or sell any product that is labeled as incense or any other trademark if the product contains any amount of any synthetic cannabinoid. A violation is a deceptive trade practice, and the violator shall be subject to a civil penalty of not less than \$10,000 and not more than \$500,000 for each violation. A person shall forfeit and pay to the general fund of the state a civil penalty of not less than \$25,000 and not more than \$500,000 for each

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.

violation if the person distributes, dispenses, or sells the product to a minor under the age of 18 and the person is at least 18 years of age and at least 2 years older than the minor.

The statute of limitations shall be tolled while a law enforcement agency awaits the results of a requested laboratory analysis of material, including but not limited to product samples or blood, urine, or saliva samples, to determine whether the material contains any amount of any synthetic cannabinoid.

On or before September 1, 2014, the director of the Colorado bureau of investigation (bureau) shall establish a division within the bureau to address the enforcement of laws prohibiting the possession and distribution of synthetic cannabinoids, cathinones, and other designer drugs. The duties of the division shall include the purchase and maintenance of at least 10 field testing units, which shall be made available by the bureau to law enforcement agencies of the state for the purpose of analyzing and identifying illegal substances in a timely manner.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 6-1-725 as
3 follows:

4 **6-1-725. Synthetic cannabinoids - incense - deceptive trade**
5 **practice.** (1) IT IS UNLAWFUL FOR ANY PERSON OR ENTITY TO DISTRIBUTE,
6 DISPENSE, MANUFACTURE, OR SELL TO A PURCHASER ANY PRODUCT THAT
7 IS LABELED AS INCENSE OR ANY OTHER TRADEMARK IF THE PRODUCT
8 CONTAINS ANY AMOUNT OF ANY SYNTHETIC CANNABINOID, AS DEFINED IN
9 SECTION 18-18-102 (34.5), C.R.S.

10 (2) A VIOLATION OF THIS SECTION IS A DECEPTIVE TRADE PRACTICE
11 AS PROVIDED IN SECTION 6-1-105 (1) (e), AND THE VIOLATOR SHALL BE
12 SUBJECT TO A CIVIL PENALTY AS DESCRIBED IN SECTION 6-1-112 (1) (e) IN
13 ADDITION TO ANY APPLICABLE CRIMINAL PENALTY.

14 **SECTION 2.** In Colorado Revised Statutes, 6-1-112, **add** (1) (e)
15 as follows:

16 **6-1-112. Civil penalties.** (1) The attorney general or a district

1 attorney may bring a civil action on behalf of the state to seek the
2 imposition of civil penalties as follows:

3 (e) ANY PERSON WHO VIOLATES OR CAUSES ANOTHER TO VIOLATE
4 THE PROVISIONS OF SECTIONS 6-1-105 (1) (e) AND 6-1-725 BY
5 DISTRIBUTING, DISPENSING, OR SELLING ANY PRODUCT THAT IS LABELED
6 AS INCENSE OR ANY OTHER TRADEMARK IF THE PRODUCT CONTAINS ANY
7 AMOUNT OF ANY SYNTHETIC CANNABINOID, AS DEFINED IN SECTION
8 18-18-102 (34.5), C.R.S., SHALL FORFEIT AND PAY TO THE GENERAL FUND
9 OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TEN THOUSAND
10 DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS FOR
11 EACH VIOLATION; EXCEPT THAT THE PERSON SHALL FORFEIT AND PAY TO
12 THE GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN
13 TWENTY-FIVE THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED
14 THOUSAND DOLLARS FOR EACH VIOLATION IF THE PERSON DISTRIBUTES,
15 DISPENSES, OR SELLS THE PRODUCT TO A MINOR UNDER THE AGE OF
16 EIGHTEEN AND THE PERSON IS AT LEAST EIGHTEEN YEARS OF AGE AND AT
17 LEAST TWO YEARS OLDER THAN THE MINOR.

18 **SECTION 3.** In Colorado Revised Statutes, 16-5-401, **add** (2.5)
19 as follows:

20 **16-5-401. Limitation for commencing criminal proceedings**
21 **and juvenile delinquency proceedings.** (2.5) THE TIME LIMITATIONS
22 IMPOSED BY THIS SECTION SHALL BE TOLLED WHILE A LAW ENFORCEMENT
23 AGENCY AWAITS THE RESULTS OF A REQUESTED LABORATORY ANALYSIS
24 OF MATERIAL, INCLUDING BUT NOT LIMITED TO PRODUCT SAMPLES OR
25 BLOOD, URINE, OR SALIVA SAMPLES, TO DETERMINE WHETHER THE
26 MATERIAL CONTAINS ANY AMOUNT OF ANY SYNTHETIC CANNABINOID IN
27 VIOLATION OF SECTION 6-1-723, 18-18-406.1, OR 18-18-406.2, C.R.S.

1 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-412, **add** (8)
2 as follows:

3 **24-33.5-412. Functions of bureau - legislative review -**
4 **interagency cooperation with reporting functions - processing time**
5 **for criminal history record checks - designer drugs enforcement**
6 **division.** (8) ON OR BEFORE SEPTEMBER 1, 2014, THE DIRECTOR SHALL
7 ESTABLISH A DIVISION WITHIN THE BUREAU TO ADDRESS THE
8 ENFORCEMENT OF LAWS PROHIBITING THE POSSESSION AND DISTRIBUTION
9 OF SYNTHETIC CANNABINOIDS, CATHINONES, AND OTHER DESIGNER
10 DRUGS. THE DUTIES OF THE DIVISION SHALL INCLUDE THE PURCHASE AND
11 MAINTENANCE OF AT LEAST TEN FIELD TESTING UNITS, WHICH SHALL BE
12 MADE AVAILABLE BY THE BUREAU TO LAW ENFORCEMENT AGENCIES OF
13 THE STATE FOR THE PURPOSE OF ANALYZING AND IDENTIFYING ILLEGAL
14 SUBSTANCES IN A TIMELY MANNER.

15 **SECTION 5. Act subject to petition - effective date -**
16 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
17 the expiration of the ninety-day period after final adjournment of the
18 general assembly (August 6, 2014, if adjournment sine die is on May 7,
19 2014); except that, if a referendum petition is filed pursuant to section 1
20 (3) of article V of the state constitution against this act or an item, section,
21 or part of this act within such period, then the act, item, section, or part
22 will not take effect unless approved by the people at the general election
23 to be held in November 2014 and, in such case, will take effect on the
24 date of the official declaration of the vote thereon by the governor.

25 (2) This act applies to offenses committed on or after the
26 applicable effective date of this act.