

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

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, AND,**
102 **IN CONNECTION THEREWITH, MAKING AND REDUCING**
103 **APPROPRIATIONS.**

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

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
Amended 2nd Reading
April 14, 2014

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 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.

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

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

6-1-725. Synthetic cannabinoids - incense - deceptive trade practice. (1) IT IS UNLAWFUL FOR ANY PERSON OR ENTITY TO DISTRIBUTE, DISPENSE, MANUFACTURE, DISPLAY FOR SALE, OFFER FOR SALE, ATTEMPT TO SELL, OR SELL TO A PURCHASER ANY PRODUCT THAT CONTAINS ANY AMOUNT OF ANY SYNTHETIC CANNABINOID, AS DEFINED IN SECTION 18-18-102 (34.5), C.R.S.

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

(b) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE

1 DEEMED TO HAVE COMMITTED A VIOLATION FOR EACH INDIVIDUALLY
2 PACKAGED PRODUCT THAT HE OR SHE DISTRIBUTED, DISPENSED,
3 MANUFACTURED, DISPLAYED FOR SALE, OFFERED FOR SALE, ATTEMPTED
4 TO SELL, OR SOLD IN VIOLATION OF SUBSECTION (1) OF THIS SECTION.

5 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **add** (1) (fff)
6 and (1) (ggg) as follows:

7 **6-1-105. Deceptive trade practices.** (1) A person engages in a
8 deceptive trade practice when, in the course of the person's business,
9 vocation, or occupation, the person:

10 (fff) VIOLATES SECTION 6-1-723;

11 (ggg) VIOLATES SECTION 6-1-725.

12 **SECTION 3.** In Colorado Revised Statutes, 6-1-112, **amend** (1)
13 (d); and **add** (1) (e) as follows:

14 **6-1-112. Civil penalties.** (1) The attorney general or a district
15 attorney may bring a civil action on behalf of the state to seek the
16 imposition of civil penalties as follows:

17 (d) Any person who violates or causes another to violate the
18 provisions of ~~sections 6-1-105 (1) (e) and 6-1-723~~ SECTION 6-1-105 (1)
19 (fff) by distributing, dispensing, DISPLAYING FOR SALE, OFFERING FOR
20 SALE, ATTEMPTING TO SELL, or selling any product that is labeled as a
21 "bath salt" or any other trademark if the product contains any amount of
22 any cathinones, as defined in section 18-18-102 (3.5), C.R.S., shall forfeit
23 and pay to the general fund of the state a civil penalty of not less than ten
24 thousand dollars and not more than five hundred thousand dollars for
25 each such violation; except that the person shall forfeit and pay to the
26 general fund of the state a civil penalty of not less than twenty-five
27 thousand dollars and not more than five hundred thousand dollars for

1 each such violation if the person distributes, dispenses, DISPLAYS FOR
2 SALE, OFFERS FOR SALE, ATTEMPTS TO SELL, or sells the product to a minor
3 under the age of eighteen and the person is at least eighteen years of age
4 and at least two years older than the minor.

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

21 ■■■
22 **SECTION 4.** In Colorado Revised Statutes, 24-33.5-412, **add** (8)
23 as follows:

24 **24-33.5-412. Functions of bureau - legislative review -**
25 **interagency cooperation with reporting functions - processing time**
26 **for criminal history record checks - synthetic cannabinoids**
27 **enforcement.** (8) ON AND AFTER SEPTEMBER 1, 2014, THE BUREAU

1 SHALL PURCHASE AND MAINTAIN MATERIALS AND EQUIPMENT TO BE MADE
2 AVAILABLE BY THE BUREAU TO LAW ENFORCEMENT AGENCIES AND TO THE
3 LIQUOR ENFORCEMENT DIVISION CREATED IN SECTION 24-35-401, FOR THE
4 PRESUMPTIVE IDENTIFICATION OF SYNTHETIC CANNABINOIDS OR ANY
5 OTHER DESIGNER DRUGS.

6 **SECTION 5.** In Colorado Revised Statutes, **amend** 6-1-723 as
7 follows:

8 **6-1-723. Cathinone bath salts - deceptive trade practice.** (1) It
9 is unlawful for any person or entity to distribute, dispense, manufacture,
10 DISPLAY FOR SALE, OFFER FOR SALE, ATTEMPT TO SELL, or sell to a
11 purchaser any product that is labeled as a bath salt or any other trademark
12 if the product contains any amount of any cathinones, as defined in
13 section 18-18-102 (3.5), C.R.S.

14 (2) (a) A violation of this section shall be deemed a deceptive
15 trade practice as provided in ~~section 6-1-105 (1) (e)~~ SECTION 6-1-105 (1)
16 (fff), and the violator shall be subject to a civil penalty as described in
17 section 6-1-112 (1) (d) in addition to any applicable criminal penalty.

18 (b) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE
19 DEEMED TO HAVE COMMITTED A VIOLATION FOR EACH INDIVIDUALLY
20 PACKAGED PRODUCT THAT HE OR SHE DISTRIBUTED, DISPENSED,
21 MANUFACTURED, DISPLAYED FOR SALE, OFFERED FOR SALE, ATTEMPTED
22 TO SELL, OR SOLD IN VIOLATION OF SUBSECTION (1) OF THIS SECTION.

23 **SECTION 6. Appropriation - adjustments to 2014 long bill.**

24 (1) For the implementation of this act, the general fund appropriation
25 made in the annual general appropriation act to the controlled
26 maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado
27 Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased

1 by \$339,602.

2 (2) In addition to any other appropriation, there is hereby
3 appropriated, out of any moneys in the general fund, not otherwise
4 appropriated, to the department of public safety, for the fiscal year
5 beginning July 1, 2014, the sum of \$339,602 and 0.6 FTE, or so much
6 thereof as may be necessary, to be allocated to laboratory and
7 investigative services for the implementation of this act as follows:

8 (a) \$36,844 and 0.6 FTE for personal services;

9 (b) \$5,258 for operating expenses and capital outlay; and

10 (c) \$297,500 for equipment, training, and supplies.

11 **SECTION 7.** In Colorado Revised Statutes, **add** 17-18-111 as
12 follows:

13 **17-18-111. Appropriation to comply with section 2-2-703 - HB**
14 **14-1037 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
15 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
16 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT HOUSE BILL 14-1037,
17 ENACTED IN 2014:

18 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION
19 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
20 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
21 OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR
22 HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

23 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, IN ADDITION
24 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
25 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
26 OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR
27 HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

1 (c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2017, IN ADDITION
2 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
3 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
4 OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR
5 HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

6 (d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2018, IN ADDITION
7 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
8 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
9 OTHERWISE APPROPRIATED, THE SUM OF TWENTY-ONE THOUSAND FOUR
10 HUNDRED EIGHTY-FOUR DOLLARS (\$21,484).

11 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2019.

12 **SECTION 8. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
14 the expiration of the ninety-day period after final adjournment of the
15 general assembly (August 6, 2014, if adjournment sine die is on May 7,
16 2014); except that, if a referendum petition is filed pursuant to section 1
17 (3) of article V of the state constitution against this act or an item, section,
18 or part of this act within such period, then the act, item, section, or part
19 will not take effect unless approved by the people at the general election
20 to be held in November 2014 and, in such case, will take effect on the
21 date of the official declaration of the vote thereon by the governor.

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