

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. 14-0218.01 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, DISPLAY FOR SALE, OFFER FOR SALE, ATTEMPT
7 TO SELL, OR SELL TO A PURCHASER ANY PRODUCT THAT CONTAINS ANY
8 AMOUNT OF ANY SYNTHETIC CANNABINOID, AS DEFINED IN SECTION
9 18-18-102 (34.5), C.R.S.

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

14 (b) FOR THE PURPOSES OF THIS SECTION, A PERSON SHALL BE
15 DEEMED TO HAVE COMMITTED A VIOLATION FOR EACH INDIVIDUALLY
16 PACKAGED PRODUCT THAT HE OR SHE DISTRIBUTED, DISPENSED,

1 MANUFACTURED, DISPLAYED FOR SALE, ATTEMPTED TO SELL, OR SOLD IN
2 VIOLATION OF SUBSECTION (1) OF THIS SECTION.

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

5 **6-1-105. Deceptive trade practices.** (1) A person engages in a
6 deceptive trade practice when, in the course of the person's business,
7 vocation, or occupation, the person:

8 (fff) VIOLATES SECTION 6-1-725.

9 **SECTION 3.** In Colorado Revised Statutes, 6-1-112, **add** (1) (e)
10 as follows:

11 **6-1-112. Civil penalties.** (1) The attorney general or a district
12 attorney may bring a civil action on behalf of the state to seek the
13 imposition of civil penalties as follows:

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

1 OLDER THAN THE MINOR.

2

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

5 **24-33.5-412. Functions of bureau - legislative review -**
6 **interagency cooperation with reporting functions - processing time**
7 **for criminal history record checks - synthetic cannabinoids**
8 **enforcement.** (8) ON AND AFTER SEPTEMBER 1, 2014, THE BUREAU
9 SHALL PURCHASE AND MAINTAIN MATERIALS AND EQUIPMENT TO BE MADE
10 AVAILABLE BY THE BUREAU TO LAW ENFORCEMENT AGENCIES AND TO THE
11 LIQUOR ENFORCEMENT DIVISION CREATED IN SECTION 24-35-401, FOR THE
12 PRESUMPTIVE IDENTIFICATION OF SYNTHETIC CANNABINOIDS OR ANY
13 OTHER DESIGNER DRUGS.

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

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