

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0172.02 Michael Dohr x4347

HOUSE BILL 15-1305

HOUSE SPONSORSHIP

Foote and Willett,

SENATE SPONSORSHIP

Grantham and Johnston,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A PROHIBITION ON MANUFACTURING MARIJUANA
102 CONCENTRATE IN AN UNREGULATED ENVIRONMENT USING AN
103 INHERENTLY HAZARDOUS SUBSTANCE.

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>.)

The bill makes it a class 2 drug felony for an unlicensed person to manufacture marijuana concentrate or permit marijuana concentrate manufacturing on any premises using an inherently hazardous substance.

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.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The adoption of section 14 of article XVIII of the Colorado
5 constitution created an affirmative defense and a limited exception to
6 state criminal laws for patients and primary caregivers who possess or
7 produce a limited amount of marijuana concentrate for medical use to
8 treat a debilitating medical condition;

9 (b) The adoption of section 16 of article XVIII of the Colorado
10 constitution allows persons twenty-one years of age and older in Colorado
11 now to claim immunity from prosecution under state or local laws for
12 possessing or processing marijuana concentrate in a quantity of one ounce
13 or less for personal use or for distribution to others without compensation;

14 (c) Section 14 of article XVIII of the Colorado constitution
15 prohibits both patients and primary caregivers from acquiring or
16 producing marijuana concentrate in a way that endangers the health or
17 well-being of any person;

18 (d) Section 16 of article XVIII of the Colorado constitution
19 provides that, in the interest of the health and public safety of our
20 citizenry, marijuana sold in Colorado will be subject to additional
21 regulations to ensure that consumers are protected;

22 (e) Both constitutional provisions lack clarity on the question of
23 how and where marijuana concentrate may be processed or manufactured
24 for medical or personal use;

25 (f) Section 18-18-406 (2) (a), Colorado Revised Statutes, currently
26 makes processing and manufacturing marijuana concentrate a level 3
27 drug felony, but questions remain as to its applicability in the face of

1 sections 14 and 16 of article XVIII of the Colorado constitution; and
2 (g) The lack of clarity in the law regarding residential production
3 of marijuana concentrate has led to numerous examples of persons using
4 inherently hazardous methods of extracting marijuana concentrate in
5 inappropriate, unregulated settings, including residential locations.

6 (2) Therefore, it is necessary to specifically prohibit the
7 manufacture of marijuana concentrate outside of the regulated medical
8 and retail marijuana markets when using an inherently hazardous
9 substance to extract the marijuana concentrate, and it is necessary to
10 distinguish that activity from the current provisions in section 18-18-406
11 (2) (a), Colorado Revised Statutes, due to its elevated danger.

12 **SECTION 2.** In Colorado Revised Statutes, **add** 18-18-406.6 as
13 follows:

14 **18-18-406.6. Extraction of marijuana concentrate - definitions.**

15 (1) IT SHALL BE UNLAWFUL FOR ANY PERSON WHO IS NOT LICENSED
16 PURSUANT TO ARTICLE 43.3 OR 43.4 OF TITLE 12, C.R.S., TO KNOWINGLY
17 MANUFACTURE MARIJUANA CONCENTRATE USING AN INHERENTLY
18 HAZARDOUS SUBSTANCE.

19 (2) IT SHALL BE UNLAWFUL FOR ANY PERSON WHO IS NOT LICENSED
20 PURSUANT TO ARTICLE 43.3 OR 43.4 OF TITLE 12, C.R.S., WHO OWNS,
21 MANAGES, OPERATES, OR OTHERWISE CONTROLS THE USE OF ANY
22 PREMISES TO KNOWINGLY ALLOW MARIJUANA CONCENTRATE TO BE
23 MANUFACTURED ON THE PREMISES USING AN INHERENTLY HAZARDOUS
24 SUBSTANCE.

25 (3) A PERSON WHO VIOLATES THIS SECTION COMMITS A CLASS 2
26 DRUG FELONY.

27 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE

1 REQUIRES, "INHERENTLY HAZARDOUS SUBSTANCE" MEANS ANY LIQUID
2 CHEMICAL, COMPRESSED GAS, OR COMMERCIAL PRODUCT THAT HAS A
3 FLASH POINT AT OR LOWER THAN THIRTY-EIGHT DEGREES CELSIUS OR ONE
4 HUNDRED DEGREES FAHRENHEIT, INCLUDING BUTANE, PROPANE, AND
5 DIETHYL ETHER AND EXCLUDING ALL FORMS OF ALCOHOL AND ETHANOL.

6 **SECTION 3. Potential appropriation.** Pursuant to section
7 2-2-703, C.R.S., any bill that results in a net increase in periods of
8 imprisonment in the state correctional facilities must include an
9 appropriation of moneys that is sufficient to cover any increased capital
10 construction and operational costs for the first five fiscal years in which
11 there is a fiscal impact. Because this act may increase periods of
12 imprisonment, this act may require a five-year appropriation.

13 **SECTION 4. Effective date - applicability.** This act takes effect
14 July 1, 2015, and applies to offenses committed on or after said date.

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