

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0352.01 Richard Sweetman x4333

SENATE BILL 12-020

SENATE SPONSORSHIP

Aguilar, Steadman

HOUSE SPONSORSHIP

Summers,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING IMMUNITY FROM CERTAIN CRIMINAL OFFENSES WHEN A**
102 **PERSON REPORTS IN GOOD FAITH AN EMERGENCY DRUG OR**
103 **ALCOHOL OVERDOSE EVENT.**

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>.)

A person and one or two other persons acting in concert with the person are immune from arrest and criminal prosecution for any of the following offenses if the offense arises from the same criminal episode or course of events from which an emergency drug or alcohol overdose

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.

event (event) arose; the person reports the event in good faith to a law enforcement agency or to the 911 system; the person and, if applicable, one or two other persons remain at the scene of the event until a law enforcement officer or an emergency medical responder arrives; and the person and, if applicable, one or two other persons identify themselves to, and cooperate with, the law enforcement officer or emergency medical responder:

- ! Unlawful possession of a controlled substance;
- ! Unlawful use of a controlled substance;
- ! Unlawful distribution, manufacturing, dispensing, or sale of a controlled substance if the offense is based upon the transfer of a controlled substance from the person to another person for no remuneration;
- ! Unlawful possession of 12 ounces or less of marijuana or 3 ounces or less of marijuana concentrate;
- ! Open and public display, consumption, or use of less than 2 ounces of marijuana;
- ! Transferring or dispensing 2 ounces or less of marijuana from one person to another for no consideration;
- ! Unlawful use or possession of synthetic cannabinoids or salvia divinorum;
- ! Unlawful distribution, manufacturing, dispensing, sale, or cultivation of synthetic cannabinoids or salvia divinorum if the offense is based upon the transfer of synthetic cannabinoids or salvia divinorum from the person to another person for no consideration;
- ! Possession of drug paraphernalia; and
- ! Illegal possession or consumption of ethyl alcohol by an underage person.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby declares that Colorado has a strong interest in preventing deaths
4 that result from the use of drugs and alcohol.

5 (2) The general assembly further declares that:

6 (a) The creation of a safe haven provision within the state's
7 criminal statutes for a person who reports in good faith an emergency
8 drug or alcohol overdose event serves the state's interest in preventing

1 further deaths from the use of drugs and alcohol; and

2 (b) By creating such a safe haven provision, the general assembly
3 intends to encourage persons who would otherwise be reluctant to report
4 such an event due to a fear of criminal prosecution to do so without delay.

5 **SECTION 2.** In Colorado Revised Statutes, **add** 18-1-711 as
6 follows:

7 **18-1-711. Immunity for persons who suffer or report an**
8 **emergency drug or alcohol overdose event - definitions.** (1) A PERSON
9 AND ONE OR TWO OTHER PERSONS SHALL BE IMMUNE FROM ARREST AND
10 CRIMINAL PROSECUTION FOR AN OFFENSE DESCRIBED IN SUBSECTION (3)
11 OF THIS SECTION IF THE OFFENSE ARISES FROM THE SAME COURSE OF
12 EVENTS FROM WHICH THE EVENT AROSE AND:

13 (a) ONE OF THE PERSONS REPORTS AN EMERGENCY DRUG OR
14 ALCOHOL OVERDOSE EVENT IN GOOD FAITH TO A LAW ENFORCEMENT
15 AGENCY OR TO THE 911 SYSTEM;

16 (b) THE PERSON WHO REPORTS THE EMERGENCY DRUG OR
17 ALCOHOL OVERDOSE EVENT AND, IF APPLICABLE, ONE OR TWO OTHER
18 PERSONS ACTING IN CONCERT WITH THE PERSON REMAIN AT THE SCENE OF
19 THE EVENT UNTIL A LAW ENFORCEMENT OFFICER OR AN EMERGENCY
20 MEDICAL RESPONDER ARRIVES; AND

21 (c) THE PERSON WHO REPORTS THE EMERGENCY DRUG OR
22 ALCOHOL OVERDOSE EVENT AND, IF APPLICABLE, ONE OR TWO OTHER
23 PERSONS ACTING IN CONCERT WITH THE PERSON IDENTIFY THEMSELVES TO,
24 AND COOPERATE WITH, THE LAW ENFORCEMENT OFFICER OR EMERGENCY
25 MEDICAL RESPONDER.

26 (2) THE IMMUNITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION
27 ALSO EXTENDS TO THE PERSON WHO SUFFERED THE EMERGENCY DRUG OR

1 ALCOHOL OVERDOSE EVENT IF ALL OF THE CONDITIONS OF SUBSECTION (1)
2 ARE SATISFIED.

3 (3) THE IMMUNITY DESCRIBED IN SUBSECTION (1) OF THIS SECTION
4 SHALL APPLY TO THE FOLLOWING CRIMINAL OFFENSES:

5 (a) UNLAWFUL POSSESSION OF A CONTROLLED SUBSTANCE, AS
6 DESCRIBED IN SECTION 18-18-403.5 (1); EXCEPT THAT THE IMMUNITY
7 DOES NOT APPLY TO A PERSON WHO POSSESSES:

8 (I) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
9 WEIGHING MORE THAN FOUR GRAMS THAT CONTAINS ANY QUANTITY OF
10 FLUNITRAZEPAM, KETAMINE, OR A CONTROLLED SUBSTANCE LISTED IN
11 SCHEDULE I OR II OF PART 2 OF ARTICLE 18 OF THIS TITLE; OR

12 (II) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
13 WEIGHING MORE THAN TWO GRAMS THAT CONTAINS ANY QUANTITY OF
14 METHAMPHETAMINE;

15 (b) UNLAWFUL USE OF A CONTROLLED SUBSTANCE, AS DESCRIBED
16 IN SECTION 18-18-404;

17 (c) UNLAWFUL DISTRIBUTION, MANUFACTURING, OR DISPENSING
18 == OF A CONTROLLED SUBSTANCE, AS DESCRIBED IN SECTION 18-18-405,
19 IF THE OFFENSE IS BASED UPON THE TRANSFER OF A CONTROLLED
20 SUBSTANCE FROM THE PERSON TO ANOTHER PERSON FOR NO
21 REMUNERATION;

22 (d) UNLAWFUL POSSESSION OF TWO OUNCES OR LESS OF
23 MARIJUANA, AS DESCRIBED IN SECTION 18-18-406 (1); OR MORE THAN TWO
24 OUNCES OF MARIJUANA BUT NO MORE THAN SIX OUNCES OF MARIJUANA,
25 AS DESCRIBED IN SECTION 18-18-406 (4) (a); OR MORE THAN SIX OUNCES
26 OF MARIJUANA BUT NO MORE THAN TWELVE OUNCES OF MARIJUANA OR
27 THREE OUNCES OR LESS OF MARIJUANA CONCENTRATE AS DESCRIBED IN

1 SECTION 18-18-406 (4) (b);

2 (e) OPEN AND PUBLIC DISPLAY, CONSUMPTION, OR USE OF LESS

3 THAN TWO OUNCES OF MARIJUANA AS DESCRIBED IN SECTION 18-18-406

4 (3) (a) (I);

5 (f) TRANSFERRING OR DISPENSING TWO OUNCES OR LESS OF

6 MARIJUANA FROM ONE PERSON TO ANOTHER FOR NO CONSIDERATION, AS

7 DESCRIBED IN SECTION 18-18-406 (5);

8 (g) USE OR POSSESSION OF SYNTHETIC CANNABINOIDS OR SALVIA

9 DIVINORUM, AS DESCRIBED IN SECTION 18-18-406.1;

10 (h) UNLAWFUL DISTRIBUTION, MANUFACTURING, DISPENSING, ==

11 OR CULTIVATION OF SYNTHETIC CANNABINOIDS OR SALVIA DIVINORUM, AS

12 DESCRIBED IN SECTION 18-18-406.2, IF THE OFFENSE IS BASED UPON THE

13 TRANSFER OF SYNTHETIC CANNABINOIDS OR SALVIA DIVINORUM FROM THE

14 PERSON TO ANOTHER PERSON FOR NO REMUNERATION;

15 (i) POSSESSION OF DRUG PARAPHERNALIA, AS DESCRIBED IN

16 SECTION 18-18-428; AND

17 (j) ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY

18 AN UNDERAGE PERSON, AS DESCRIBED IN SECTION 18-13-122.

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

20 REQUIRES, "EMERGENCY DRUG OR ALCOHOL OVERDOSE EVENT" MEANS AN

21 ACUTE CONDITION INCLUDING, BUT NOT LIMITED TO, PHYSICAL ILLNESS,

22 COMA, MANIA, HYSTERIA, OR DEATH RESULTING FROM THE CONSUMPTION

23 OR USE OF A CONTROLLED SUBSTANCE, OR OF ALCOHOL, OR ANOTHER

24 SUBSTANCE WITH WHICH A CONTROLLED SUBSTANCE OR ALCOHOL WAS

25 COMBINED, AND THAT A LAYPERSON WOULD REASONABLY BELIEVE TO BE

26 A DRUG OR ALCOHOL OVERDOSE THAT REQUIRES MEDICAL ASSISTANCE.

27 **SECTION 3.** In Colorado Revised Statutes, 16-11.3-103, **add** (6)

1 as follows:

2 **16-11.3-103. Duties of the commission - mission - staffing -**
3 **repeal.** (6) THE COMMISSION IS ENCOURAGED TO CREATE AND MAKE
4 PUBLICLY AVAILABLE A DOCUMENT DESCRIBING THE PROVISIONS OF
5 SECTION 18-1-711, C.R.S.

6 **SECTION 4.** In Colorado Revised Statutes, 18-18-403.5, **amend**
7 (1) as follows:

8 **18-18-403.5. Unlawful possession of a controlled substance.**
9 (1) Except as authorized by part 3 of article 22 of title 12, C.R.S., BY
10 SECTION 18-1-711, or by part 2 or 3 of this article, it is unlawful for ~~any~~
11 A person knowingly to possess a controlled substance.

12 **SECTION 5.** In Colorado Revised Statutes, 18-18-404, **amend**
13 (1) (a) as follows:

14 **18-18-404. Unlawful use of a controlled substance.**
15 (1)(a) Except as is otherwise provided for offenses concerning marijuana
16 and marijuana concentrate in sections 18-18-406 and 18-18-406.5, ~~any~~
17 AND AS DESCRIBED BY SECTION 18-1-711, A person who uses any
18 controlled substance, except when it is dispensed by or under the
19 direction of a person licensed or authorized by law to prescribe,
20 administer, or dispense the controlled substance for bona fide medical
21 needs, commits a class 2 misdemeanor.

22 **SECTION 6.** In Colorado Revised Statutes, 18-18-405, **amend**
23 (1) (a) as follows:

24 **18-18-405. Unlawful distribution, manufacturing, dispensing,**
25 **or sale.** (1) (a) Except as authorized by part 3 of article 22 of title 12,
26 C.R.S., or by part 2 or 3 of this article OR AS DESCRIBED IN SECTION
27 18-1-711, it is unlawful for ~~any~~ A person knowingly to manufacture,

1 dispense, sell, or distribute, or to possess with intent to manufacture,
2 dispense, sell, or distribute, a controlled substance; or induce, attempt to
3 induce, or conspire with one or more other persons, to manufacture,
4 dispense, sell, distribute, or possess with intent to manufacture, dispense,
5 sell, or distribute, a controlled substance; or possess one or more
6 chemicals or supplies or equipment with intent to manufacture a
7 controlled substance.

8 **SECTION 7.** In Colorado Revised Statutes, 18-18-406, **amend**
9 (1) and (3) (a) (I) as follows:

10 **18-18-406. Offenses relating to marijuana and marijuana**
11 **concentrate.** (1) ~~Any~~ EXCEPT AS DESCRIBED IN SECTION 18-1-711, A
12 person who possesses two ounces or less of marijuana commits a class 2
13 petty offense and, upon conviction thereof, shall be punished by a fine of
14 not more than one hundred dollars.

15 (3) (a) (I) ~~Any~~ EXCEPT AS DESCRIBED IN SECTION 18-1-711, A
16 person who openly and publicly displays, consumes, or uses two ounces
17 or less of marijuana commits a class 2 petty offense and, upon conviction
18 thereof, shall be punished, at a minimum, by a fine of not less than one
19 hundred dollars or, at a maximum, by a fine of not more than one hundred
20 dollars and, notwithstanding the provisions of section 18-1.3-503, by
21 fifteen days in the county jail.

22 **SECTION 8.** In Colorado Revised Statutes, 18-18-428, **amend**
23 (1) as follows:

24 **18-18-428. Possession of drug paraphernalia - penalty.**
25 (1) EXCEPT AS DESCRIBED IN SECTION 18-1-711, a person commits
26 possession of drug paraphernalia if he OR SHE possesses drug
27 paraphernalia and knows or reasonably should know that the drug

1 paraphernalia could be used under circumstances in violation of the laws
2 of this state.

3 **SECTION 9.** In Colorado Revised Statutes, 18-13-122, **amend**
4 (2) (a) as follows:

5 **18-13-122. Illegal possession or consumption of ethyl alcohol**
6 **by an underage person - definitions - adolescent substance abuse**
7 **prevention and treatment fund - legislative declaration.** (2) (a) ~~Any~~
8 EXCEPT AS DESCRIBED BY SECTION 18-1-711 AND SUBSECTION (4.5) OF
9 THIS SECTION, A person under twenty-one years of age who possesses or
10 consumes ethyl alcohol anywhere in the state of Colorado commits illegal
11 possession or consumption of ethyl alcohol by an underage person. Illegal
12 possession or consumption of ethyl alcohol by an underage person is a
13 strict liability offense.

14 **SECTION 10. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, and safety.