

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

ENGROSSED

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

LLS NO. 12-0120.01 Richard Sweetman x4333

SENATE BILL 12-116

SENATE SPONSORSHIP

Foster, Carroll, Johnston, Mitchell, Scheffel

HOUSE SPONSORSHIP

Brown, Levy, Beezley, Kagan

Senate Committees

Local Government
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PENALTIES ASSOCIATED WITH CATHINONES, AND, IN**
102 **CONNECTION THEREWITH, ESTABLISHING A MISDEMEANOR**
103 **PENALTY FOR POSSESSION OF A CATHINONE.**

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 defines cathinones and establishes criminal penalties for possession of cathinones and for distributing, manufacturing, dispensing, or selling cathinones. Any person or entity that sells a product that is labeled as a "bath salt" or any other trademark and contains any amount

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.

SENATE
Amended 2nd Reading
March 8, 2012

of a cathinone commits a deceptive trade practice and is subject to a civil penalty.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-18-102, **amend**
3 (5); and **add** (3.5) as follows:

4 **18-18-102. Definitions.** As used in this article:

5 (3.5) (a) "CATHINONE" MEANS ANY SYNTHETIC OR NATURAL
6 MATERIAL CONTAINING ANY QUANTITY OF A CATHINONE CHEMICAL
7 STRUCTURE, INCLUDING ANY ANALOGS, SALTS, ISOMERS, OR SALTS OF
8 ISOMERS OF ANY SYNTHETIC OR NATURAL MATERIAL CONTAINING A
9 CATHINONE CHEMICAL STRUCTURE, INCLUDING BUT NOT LIMITED TO THE
10 FOLLOWING SUBSTANCES AND ANY ANALOG, SALT, ISOMER, OR SALT OF AN
11 ISOMER OF ANY OF THE FOLLOWING SUBSTANCES:

- 12 (I) ALPHA-PHTHALIMIDOPROPIOPHENONE;
13 (II) N, N-DIMETHYLCATHINONE;
14 (III) N-ETHYLCATHINONE;
15 (IV) ALPHA-PYRROLIDINOPROPIOPHENONE;
16 (V) 2-METHYLAMINO-1-PHENYLBUTAN-1-ONE;
17 (VI) ALPHA-PYRROLIDINOBUTIOPHENONE;
18 (VII) ALPHA-PYRROLIDINOVALEROPHENONE;
19 (VIII) 4-METHYLMETHCATHINONE;
20 (IX) 4'-METHYL-ALPHA-PYRROLIDINOPROPIOPHENONE;
21 (X) 4'-METHYL-ALPHA-PYRROLIDINOBUTIOPHENONE;
22 (XI) 4'-METHYL-ALPHA-PYRROLIDINOHEXIOPHENONE;
23 (XII) 4-METHOXYMETHCATHINONE;
24 (XIII) 4'-METHOXY-ALPHA-PYRROLIDINOPROPIOPHENONE;
25 (XIV) FLUOROMETHCATHINONE;

- 1 (XV) 3,4-METHYLENEDIOXYMETHCATHINONE;
2 (XVI) 3,4-METHYLENEDIOXYETHCATHINONE;
3 (XVII) 3',4'-METHYLENEDIOXY-ALPHA-
4 PYRROLIDINOPROPIOPHENONE;
5 (XVIII) 2-METHYLAMINO-1-(3,4-METHYLENEDIOXYPHENYL)-1-
6 BUTANONE;
7 (XIX) 3',4'-METHYLENEDIOXY-ALPHA-
8 PYRROLIDINOBUTIOPHENONE;
9 (XX) 3',4'-2-METHYLAMINO-1-(3,4-METHYLENEDIOXYPHENYL)-
10 1-PENTANONE;
11 (XXI) 3,4-METHYLENEDIOXYPYROVALERONE;
12 (XXII) NAPHTHYLPYROVALERONE;
13 (XXIII) 2-(METHYLAMINO)-1-PHENYL-1-PENTANONE; AND
14 (XXIV) N-METHYLETHCATHINONE.

15 (b) "CATHINONE" DOES NOT MEAN DIETHYLPROPRION OR
16 BUPROPRION.

17 (c) AS USED IN THIS SUBSECTION (3.5), "ANALOG" MEANS ANY
18 CHEMICAL THAT IS SUBSTANTIALLY SIMILAR IN CHEMICAL STRUCTURE TO
19 THE CHEMICAL STRUCTURE OF A CATHINONE.

20 (5) "Controlled substance" means a drug, substance, or immediate
21 precursor included in schedules I through V of part 2 of this article,
22 including cocaine, marijuana, marijuana concentrate, A CATHINONE, any
23 synthetic cannabinoid, and salvia divinorum.

24 **SECTION 2.** In Colorado Revised Statutes, **repeal** 18-18-203 (2)
25 (e) (I).

26 **SECTION 3.** In Colorado Revised Statutes, **add** 18-18-406.7 and
27 18-18-406.8 as follows:

1 **18-18-406.7. Unlawful possession of cathinones.** (1) IT IS
2 UNLAWFUL FOR ANY PERSON TO POSSESS ANY AMOUNT OF ANY
3 CATHINONE.

4 (2) A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1)
5 OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR.

6 **18-18-406.8. Unlawful distribution, manufacturing,**
7 **dispensing, or sale of cathinones.** (1) IT IS UNLAWFUL FOR ANY PERSON
8 TO KNOWINGLY:

9 (a) DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, OR TO
10 POSSESS WITH INTENT TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL,
11 ANY AMOUNT OF ANY CATHINONE; OR

12 (b) INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE WITH ONE OR MORE
13 OTHER PERSONS TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, OR
14 POSSESS WITH INTENT TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL,
15 ANY AMOUNT OF ANY CATHINONE.

16 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION
17 COMMITS A CLASS 3 FELONY AND SHALL BE SENTENCED AS PROVIDED IN
18 SECTION 18-1.3-401; EXCEPT THAT, UNLESS A GREATER SENTENCE IS
19 PROVIDED UNDER ANY OTHER STATUTE, THE PERSON SHALL BE SENTENCED
20 TO THE DEPARTMENT OF CORRECTIONS FOR A TERM OF AT LEAST THE
21 MINIMUM, BUT NOT MORE THAN TWICE THE MAXIMUM, OF THE
22 PRESUMPTIVE RANGE PROVIDED FOR THE OFFENSE IN SECTION 18-1.3-401
23 (1)(a) AS MODIFIED PURSUANT TO SECTION 18-1.3-401 (10), IF THE PERSON
24 IS AT LEAST EIGHTEEN YEARS OF AGE AND:

25 (a) DISTRIBUTED, DISPENSED, OR SOLD; OR POSSESSED WITH
26 INTENT TO DISTRIBUTE, DISPENSE, OR SELL; ANY AMOUNT OF ANY
27 CATHINONE TO A MINOR UNDER EIGHTEEN YEARS OF AGE WHO IS AT LEAST

1 TWO YEARS YOUNGER THAN SAID PERSON; OR

2 (b) INDUCED, ATTEMPTED TO INDUCE, OR CONSPIRED WITH ONE OR
3 MORE OTHER PERSONS TO DISTRIBUTE, DISPENSE, OR SELL ANY AMOUNT OF
4 ANY CATHINONE TO A MINOR UNDER EIGHTEEN YEARS OF AGE WHO IS AT
5 LEAST TWO YEARS YOUNGER THAN SAID PERSON.

6 **SECTION 4.** In Colorado Revised Statutes, **add** 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,
10 MANUFACTURE, OR SELL TO A PURCHASER ANY PRODUCT THAT IS LABELED
11 AS A BATH SALT OR ANY OTHER TRADEMARK IF THE PRODUCT CONTAINS
12 ANY AMOUNT OF A CATHINONE, AS DEFINED IN SECTION 18-18-102 (3.5),
13 C.R.S.

14 (2) A VIOLATION OF THIS SECTION SHALL BE DEEMED A DECEPTIVE
15 TRADE PRACTICE AS PROVIDED IN SECTION 6-1-105 (1) (e), AND THE
16 VIOLATOR SHALL BE SUBJECT TO A CIVIL PENALTY AS DESCRIBED IN
17 SECTION 6-1-112 (1) (d) IN ADDITION TO ANY APPLICABLE CRIMINAL
18 PENALTY.

19 **SECTION 5.** In Colorado Revised Statutes, 6-1-112, **add** (1) (d)
20 as follows:

21 **6-1-112. Civil penalties.** (1) (d) ANY PERSON WHO VIOLATES OR
22 CAUSES ANOTHER TO VIOLATE THE PROVISIONS OF SECTIONS 6-1-105 (1)
23 (e) AND 6-1-723 BY DISTRIBUTING, DISPENSING, OR SELLING ANY PRODUCT
24 THAT IS LABELED AS A "BATH SALT" OR ANY OTHER TRADEMARK IF THE
25 PRODUCT CONTAINS ANY AMOUNT OF A CATHINONE, AS DEFINED IN
26 SECTION 18-18-102 (3.5), C.R.S., SHALL FORFEIT AND PAY TO THE
27 GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TEN

1 THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND
2 DOLLARS FOR EACH SUCH VIOLATION; EXCEPT THAT THE PERSON SHALL
3 FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY
4 OF NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS AND NOT MORE
5 THAN FIVE HUNDRED THOUSAND DOLLARS FOR EACH SUCH VIOLATION IF
6 THE PERSON DISTRIBUTES, DISPENSES, OR SELLS THE PRODUCT TO A MINOR
7 UNDER THE AGE OF EIGHTEEN AND THE PERSON IS AT LEAST EIGHTEEN
8 YEARS OF AGE AND AT LEAST TWO YEARS OLDER THAN THE MINOR.

9 **SECTION 6. Exception to the requirements of section 2-2-703,**
10 **Colorado Revised Statutes.** The general assembly hereby finds that
11 section 18-18-406.8, Colorado Revised Statutes, which is added to statute
12 in section 3 of this act, will result in the minor fiscal impact of one
13 additional offender being convicted and sentenced to the department of
14 corrections during the five years following passage of this act. Because
15 of the relative insignificance of this degree of fiscal impact, these
16 amendments are an exception to the five-year appropriation requirements
17 specified in section 2-2-703, Colorado Revised Statutes.

18 **SECTION 7. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.