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SENATE BILL 14-129

BY SENATOR(S) Steadman, Aguilar, Todd, Ulibarri;
also REPRESENTATIVE(S) May, Fields, Ginal, Hulinghorst, Labuda,
Melton, Pabon, Pettersen, Rosenthal, Ryden, Saine, Schafer.

CONCERNING CHANGES TO CRIMINAL PROVISIONS RELATED TO MARIJUANA,
AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, **repeal and reenact, with amendments**, 18-13-122 as follows:

18-13-122. Illegal possession or consumption of ethyl alcohol or marijuana by an underage person - illegal possession of marijuana paraphernalia by an underage person - definitions - adolescent substance abuse prevention and treatment fund - legislative declaration. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS NECESSARY FOR THE STATE OF COLORADO TO EDUCATE COLORADO YOUTH ABOUT THE DANGERS OF EARLY USE OF ALCOHOL AND MARIJUANA, TO ACTIVELY PROMOTE PROGRAMS THAT PREVENT THE ILLEGAL USE OF ALCOHOL AND MARIJUANA, AND TO TEACH COLORADO YOUTH ABOUT RESPONSIBLE USE AND THE HEALTHY CHOICES AVAILABLE TO AN ADULT ONCE HE OR SHE IS ABLE TO LEGALLY CONSUME ALCOHOL OR MARIJUANA.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(b) THE COLORADO GENERAL ASSEMBLY FINDS IT IS NECESSARY FOR THE STATE OF COLORADO TO PROVIDE MORE ADOLESCENT SUBSTANCE ABUSE EDUCATION AND TREATMENT IN A DEVELOPMENTALLY, INTELLECTUALLY, AND SOCIALLY APPROPRIATE MANNER. THEREFORE, IT IS NECESSARY TO CREATE THE ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT FUND FOR THAT PURPOSE.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "ESTABLISHMENT" MEANS A BUSINESS, FIRM, ENTERPRISE, SERVICE OR FRATERNAL ORGANIZATION, CLUB, INSTITUTION, ENTITY, GROUP, OR RESIDENCE; ANY REAL PROPERTY, INCLUDING BUILDINGS AND IMPROVEMENTS, CONNECTED THEREWITH; AND ANY MEMBERS, EMPLOYEES, AND OCCUPANTS ASSOCIATED THEREWITH.

(b) "ETHYL ALCOHOL" MEANS ANY SUBSTANCE WHICH IS OR CONTAINS ETHYL ALCOHOL.

(c) "MARIJUANA" HAS THE SAME MEANING AS IN SECTION 16 (2) (f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

(d) "MARIJUANA PARAPHERNALIA" HAS THE SAME MEANING AS MARIJUANA ACCESSORIES IN SECTION 16 (2) (g) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

(e) "POSSESSION OF ETHYL ALCOHOL" MEANS THAT A PERSON HAS OR HOLDS ANY AMOUNT OF ETHYL ALCOHOL ANYWHERE ON HIS OR HER PERSON OR THAT A PERSON OWNS OR HAS CUSTODY OF ETHYL ALCOHOL OR HAS ETHYL ALCOHOL WITHIN HIS OR HER IMMEDIATE PRESENCE AND CONTROL.

(f) "POSSESSION OF MARIJUANA" MEANS THAT A PERSON HAS OR HOLDS ANY AMOUNT OF MARIJUANA ANYWHERE ON HIS OR HER PERSON OR THAT A PERSON OWNS OR HAS CUSTODY OF MARIJUANA OR HAS MARIJUANA WITHIN HIS OR HER IMMEDIATE PRESENCE AND CONTROL.

(g) "PRIVATE PROPERTY" MEANS ANY DWELLING AND ITS CURTILAGE WHICH IS BEING USED BY A NATURAL PERSON OR NATURAL PERSONS FOR HABITATION AND WHICH IS NOT OPEN TO THE PUBLIC AND PRIVATELY OWNED

REAL PROPERTY WHICH IS NOT OPEN TO THE PUBLIC. "PRIVATE PROPERTY" SHALL NOT INCLUDE:

(I) ANY ESTABLISHMENT WHICH HAS OR IS REQUIRED TO HAVE A LICENSE PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S.;

(II) ANY ESTABLISHMENT WHICH SELLS ETHYL ALCOHOL OR UPON WHICH ETHYL ALCOHOL IS SOLD; OR

(III) ANY ESTABLISHMENT WHICH LEASES, RENTS, OR PROVIDES ACCOMMODATIONS TO MEMBERS OF THE PUBLIC GENERALLY.

(3)(a) EXCEPT AS DESCRIBED BY SECTION 18-1-711 AND SUBSECTION (6) OF THIS SECTION, A PERSON UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES OR CONSUMES ETHYL ALCOHOL ANYWHERE IN THE STATE OF COLORADO COMMITS ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON IS A STRICT LIABILITY OFFENSE.

(b) EXCEPT AS DESCRIBED BY SECTION 14 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION AND SECTION 18-18-406.3, A PERSON UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES ONE OUNCE OR LESS OF MARIJUANA OR CONSUMES MARIJUANA ANYWHERE IN THE STATE OF COLORADO COMMITS ILLEGAL POSSESSION OR CONSUMPTION OF MARIJUANA BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OR CONSUMPTION OF MARIJUANA BY AN UNDERAGE PERSON IS A STRICT LIABILITY OFFENSE.

(c) EXCEPT AS DESCRIBED BY SECTION 14 OF ARTICLE XVIII OF THE COLORADO CONSTITUTION AND SECTION 18-18-406.3, A PERSON UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES MARIJUANA PARAPHERNALIA ANYWHERE IN THE STATE OF COLORADO AND KNOWS OR REASONABLY SHOULD KNOW THAT THE DRUG PARAPHERNALIA COULD BE USED IN CIRCUMSTANCES IN VIOLATION OF THE LAWS OF THIS STATE COMMITS ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA BY AN UNDERAGE PERSON IS A STRICT LIABILITY OFFENSE.

(d) A VIOLATION OF THIS SUBSECTION (3) IS AN UNCLASSIFIED PETTY OFFENSE.

(4) (a) UPON CONVICTION OF A FIRST OFFENSE OF SUBSECTION (3) OF THIS SECTION, THE COURT SHALL SENTENCE THE UNDERAGE PERSON TO A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, OR THE COURT SHALL ORDER THAT THE UNDERAGE PERSON COMPLETE A SUBSTANCE ABUSE EDUCATION PROGRAM APPROVED BY THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES, OR BOTH.

(b) UPON CONVICTION OF A SECOND OFFENSE OF SUBSECTION (3) OF THIS SECTION, THE COURT SHALL SENTENCE THE UNDERAGE PERSON TO A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, AND THE COURT SHALL ORDER THE UNDERAGE PERSON TO:

(I) COMPLETE A SUBSTANCE ABUSE EDUCATION PROGRAM APPROVED BY THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES;

(II) IF DETERMINED NECESSARY AND APPROPRIATE, SUBMIT TO A SUBSTANCE ABUSE ASSESSMENT APPROVED BY THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES AND COMPLETE ANY TREATMENT RECOMMENDED BY THE ASSESSMENT; AND

(III) PERFORM UP TO TWENTY-FOUR HOURS OF USEFUL PUBLIC SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN SECTION 18-1.3-507.

(c) UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE OF SUBSECTION (3) OF THIS SECTION, THE COURT SHALL SENTENCE THE DEFENDANT TO A FINE OF UP TO TWO HUNDRED FIFTY DOLLARS, AND THE COURT SHALL ORDER THE UNDERAGE PERSON TO:

(I) SUBMIT TO A SUBSTANCE ABUSE ASSESSMENT APPROVED BY THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES AND COMPLETE ANY TREATMENT RECOMMENDED BY THE ASSESSMENT; AND

(II) PERFORM UP TO THIRTY-SIX HOURS OF USEFUL PUBLIC SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN SECTION 18-1.3-507.

(d) NOTHING IN THIS SECTION PROHIBITS A PROSECUTOR FROM ENTERING INTO A DIVERSION OR DEFERRED JUDGMENT AGREEMENT WITH

ANY UNDERAGE PERSON FOR ANY OFFENSE UNDER THIS SECTION, AND PROSECUTORS ARE ENCOURAGED TO ENTER INTO THOSE AGREEMENTS WHEN THEY ARE CONSISTENT WITH THE LEGISLATIVE DECLARATION OF THIS SECTION AND IN THE INTERESTS OF JUSTICE.

(e) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS SUBJECT TO AN ADDITIONAL PENALTY SURCHARGE OF TWENTY-FIVE DOLLARS, WHICH MAY BE WAIVED BY THE COURT UPON A SHOWING OF INDIGENCY, THAT SHALL BE TRANSFERRED TO THE ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT FUND CREATED PURSUANT TO SUBSECTION (18) OF THIS SECTION.

(5) IT IS AN AFFIRMATIVE DEFENSE TO THE OFFENSE DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION THAT THE ETHYL ALCOHOL WAS POSSESSED OR CONSUMED BY A PERSON UNDER TWENTY-ONE YEARS OF AGE UNDER THE FOLLOWING CIRCUMSTANCES:

(a) WHILE SUCH PERSON WAS LEGALLY UPON PRIVATE PROPERTY WITH THE KNOWLEDGE AND CONSENT OF THE OWNER OR LEGAL POSSESSOR OF SUCH PRIVATE PROPERTY AND THE ETHYL ALCOHOL WAS POSSESSED OR CONSUMED WITH THE CONSENT OF HIS OR HER PARENT OR LEGAL GUARDIAN WHO WAS PRESENT DURING SUCH POSSESSION OR CONSUMPTION;

(b) WHEN THE EXISTENCE OF ETHYL ALCOHOL IN A PERSON'S BODY WAS DUE SOLELY TO THE INGESTION OF A CONFECTIONERY WHICH CONTAINED ETHYL ALCOHOL WITHIN THE LIMITS PRESCRIBED BY SECTION 25-5-410 (1) (i) (II), C.R.S.; OR THE INGESTION OF ANY SUBSTANCE WHICH WAS MANUFACTURED, DESIGNED, OR INTENDED PRIMARILY FOR A PURPOSE OTHER THAN ORAL HUMAN INGESTION; OR THE INGESTION OF ANY SUBSTANCE WHICH WAS MANUFACTURED, DESIGNED, OR INTENDED SOLELY FOR MEDICINAL OR HYGIENIC PURPOSES; OR SOLELY FROM THE INGESTION OF A BEVERAGE WHICH CONTAINED LESS THAN ONE-HALF OF ONE PERCENT OF ETHYL ALCOHOL BY WEIGHT; OR

(c) THE PERSON IS A STUDENT WHO:

(I) TASTES BUT DOES NOT IMBIBE AN ALCOHOL BEVERAGE ONLY WHILE UNDER THE DIRECT SUPERVISION OF AN INSTRUCTOR WHO IS AT LEAST TWENTY-ONE YEARS OF AGE AND EMPLOYED BY A POST-SECONDARY SCHOOL;

(II) IS ENROLLED IN A UNIVERSITY OR A POST-SECONDARY SCHOOL ACCREDITED OR CERTIFIED BY AN AGENCY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION, A NATIONALLY RECOGNIZED ACCREDITING AGENCY OR ASSOCIATION, OR THE "PRIVATE OCCUPATIONAL EDUCATION ACT OF 1981", ARTICLE 59 OF TITLE 12, C.R.S.;

(III) IS PARTICIPATING IN A CULINARY ARTS, FOOD SERVICE, OR RESTAURANT MANAGEMENT DEGREE PROGRAM; AND

(IV) TASTES BUT DOES NOT IMBIBE THE ALCOHOL BEVERAGE FOR INSTRUCTIONAL PURPOSES AS A PART OF A REQUIRED COURSE IN WHICH THE ALCOHOL BEVERAGE, EXCEPT THE PORTION THE STUDENT TASTES, REMAINS UNDER THE CONTROL OF THE INSTRUCTOR.

(6) THE POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL OR MARIJUANA SHALL NOT CONSTITUTE A VIOLATION OF THIS SECTION IF SUCH POSSESSION OR CONSUMPTION TAKES PLACE FOR RELIGIOUS PURPOSES PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION.

(7) AN UNDERAGE PERSON SHALL BE IMMUNE FROM CRIMINAL PROSECUTION UNDER THIS SECTION IF HE OR SHE ESTABLISHES THE FOLLOWING:

(a) THE UNDERAGE PERSON CALLED 911 AND REPORTED IN GOOD FAITH THAT ANOTHER UNDERAGE PERSON WAS IN NEED OF MEDICAL ASSISTANCE DUE TO ALCOHOL OR MARIJUANA CONSUMPTION;

(b) THE UNDERAGE PERSON WHO CALLED 911 PROVIDED HIS OR HER NAME TO THE 911 OPERATOR;

(c) THE UNDERAGE PERSON WAS THE FIRST PERSON TO MAKE THE 911 REPORT; AND

(d) THE UNDERAGE PERSON WHO MADE THE 911 CALL REMAINED ON THE SCENE WITH THE UNDERAGE PERSON IN NEED OF MEDICAL ASSISTANCE UNTIL ASSISTANCE ARRIVED AND COOPERATED WITH MEDICAL ASSISTANCE OR LAW ENFORCEMENT PERSONNEL ON THE SCENE.

(8) PRIMA FACIE EVIDENCE OF A VIOLATION OF SUBSECTION (3) OF

THIS SECTION SHALL CONSIST OF:

(a) EVIDENCE THAT THE DEFENDANT WAS UNDER TWENTY-ONE YEARS OF AGE AND POSSESSED OR CONSUMED ETHYL ALCOHOL OR MARIJUANA OR POSSESSED MARIJUANA PARAPHERNALIA ANYWHERE IN THIS STATE; OR

(b) EVIDENCE THAT THE DEFENDANT WAS UNDER THE AGE OF TWENTY-ONE YEARS AND MANIFESTED ANY OF THE CHARACTERISTICS COMMONLY ASSOCIATED WITH ETHYL ALCOHOL INTOXICATION OR IMPAIRMENT OR MARIJUANA IMPAIRMENT WHILE PRESENT ANYWHERE IN THIS STATE.

(9) DURING ANY TRIAL FOR A VIOLATION OF SUBSECTION (3) OF THIS SECTION, ANY BOTTLE, CAN, OR ANY OTHER CONTAINER WITH LABELING INDICATING THE CONTENTS OF SUCH BOTTLE, CAN, OR CONTAINER SHALL BE ADMISSIBLE INTO EVIDENCE, AND THE INFORMATION CONTAINED ON ANY LABEL ON SUCH BOTTLE, CAN, OR OTHER CONTAINER SHALL BE ADMISSIBLE INTO EVIDENCE AND SHALL NOT CONSTITUTE HEARSAY. A JURY OR A JUDGE, WHICHEVER IS APPROPRIATE, MAY CONSIDER THE INFORMATION UPON SUCH LABEL IN DETERMINING WHETHER THE CONTENTS OF THE BOTTLE, CAN, OR OTHER CONTAINER WERE COMPOSED IN WHOLE OR IN PART OF ETHYL ALCOHOL OR MARIJUANA. A LABEL WHICH IDENTIFIES THE CONTENTS OF ANY BOTTLE, CAN, OR OTHER CONTAINER AS "BEER", "ALE", "MALT BEVERAGE", "FERMENTED MALT BEVERAGE", "MALT LIQUOR", "WINE", "CHAMPAGNE", "WHISKEY" OR "WHISKY", "GIN", "VODKA", "TEQUILA", "SCHNAPPS", "BRANDY", "COGNAC", "LIQUEUR", "CORDIAL", "ALCOHOL", OR "LIQUOR" SHALL CONSTITUTE PRIMA FACIE EVIDENCE THAT THE CONTENTS OF THE BOTTLE, CAN, OR OTHER CONTAINER WAS COMPOSED IN WHOLE OR IN PART OF ETHYL ALCOHOL.

(10) A PARENT OR LEGAL GUARDIAN OF A PERSON UNDER TWENTY-ONE YEARS OF AGE OR ANY NATURAL PERSON WHO HAS THE PERMISSION OF SUCH PARENT OR LEGAL GUARDIAN MAY GIVE OR PERMIT THE POSSESSION AND CONSUMPTION OF ETHYL ALCOHOL TO OR BY A PERSON UNDER TWENTY-ONE YEARS OF AGE UNDER THE CONDITIONS DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION. THIS SUBSECTION (10) SHALL NOT BE CONSTRUED TO PERMIT ANY ESTABLISHMENT WHICH IS LICENSED OR IS REQUIRED TO BE LICENSED PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S., OR ANY MEMBERS, EMPLOYEES, OR OCCUPANTS OF

ANY SUCH ESTABLISHMENT TO GIVE, PROVIDE, MAKE AVAILABLE, OR SELL ETHYL ALCOHOL TO A PERSON UNDER TWENTY-ONE YEARS OF AGE.

(11) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT ANY STATUTORY OR HOME RULE MUNICIPALITY FROM ENACTING ANY ORDINANCE WHICH PROHIBITS PERSONS UNDER TWENTY-ONE YEARS OF AGE FROM POSSESSING OR CONSUMING ETHYL ALCOHOL OR MARIJUANA OR POSSESSING MARIJUANA PARAPHERNALIA, WHICH ORDINANCE IS AT LEAST AS RESTRICTIVE OR MORE RESTRICTIVE THAN THIS SECTION.

(12) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR PRECLUDE PROSECUTION FOR ANY OFFENSE PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S., EXCEPT AS PROVIDED IN SUCH ARTICLES.

(13) **Sealing of record.** (a) UPON DISMISSAL OF A CASE PURSUANT TO THIS SECTION AFTER COMPLETION OF A DEFERRED JUDGMENT OR DIVERSION OR ANY OTHER ACTION RESULTING IN DISMISSAL OF THE CASE OR UPON COMPLETION OF THE COURT-ORDERED SUBSTANCE ABUSE EDUCATION AND PAYMENT OF ANY FINE FOR A FIRST CONVICTION OF SUBSECTION (3) OF THIS SECTION, THE COURT SHALL IMMEDIATELY ORDER THE CASE SEALED AND PROVIDE TO THE UNDERAGE PERSON AND THE PROSECUTOR A COPY OF THE ORDER SEALING THE CASE FOR DISTRIBUTION BY THE APPROPRIATE PARTY TO ALL LAW ENFORCEMENT AGENCIES IN THE CASE.

(b) UPON THE EXPIRATION OF ONE YEAR FROM THE DATE OF A SECOND OR SUBSEQUENT CONVICTION FOR A VIOLATION OF SUBSECTION (3) OF THIS SECTION, THE UNDERAGE PERSON CONVICTED OF SUCH VIOLATION MAY PETITION THE COURT IN WHICH THE CONVICTION WAS ASSIGNED FOR AN ORDER SEALING THE RECORD OF THE CONVICTION. THE PETITIONER SHALL SUBMIT A VERIFIED COPY OF HIS OR HER CRIMINAL HISTORY, CURRENT THROUGH AT LEAST THE TWENTIETH DAY PRIOR TO THE DATE OF THE FILING OF THE PETITION, ALONG WITH THE PETITION AT THE TIME OF FILING, BUT IN NO EVENT LATER THAN THE TENTH DAY AFTER THE PETITION IS FILED. THE PETITIONER SHALL BE RESPONSIBLE FOR OBTAINING AND PAYING FOR HIS OR HER CRIMINAL HISTORY RECORD. THE COURT SHALL GRANT THE PETITION IF THE PETITIONER HAS NOT BEEN ARRESTED FOR, CHARGED WITH, OR CONVICTED OF ANY FELONY, MISDEMEANOR, OR PETTY OFFENSE DURING THE PERIOD OF ONE YEAR FOLLOWING THE DATE OF THE PETITIONER'S CONVICTION FOR A VIOLATION OF SUBSECTION (3) OF THIS SECTION.

(14) THE QUALITATIVE RESULT OF AN ALCOHOL OR MARIJUANA TEST OR TESTS SHALL BE ADMISSIBLE AT THE TRIAL OF ANY PERSON CHARGED WITH A VIOLATION OF SUBSECTION (3) OF THIS SECTION UPON A SHOWING THAT THE DEVICE OR DEVICES USED TO CONDUCT SUCH TEST OR TESTS HAVE BEEN APPROVED AS ACCURATE IN DETECTING ALCOHOL OR MARIJUANA BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

(15) OFFICIAL RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT RELATING TO THE CERTIFICATION OF BREATH TEST INSTRUMENTS, CERTIFICATION OF OPERATORS AND OPERATOR INSTRUCTORS OF BREATH TEST INSTRUMENTS, CERTIFICATION OF STANDARD SOLUTIONS, AND CERTIFICATION OF LABORATORIES SHALL BE OFFICIAL RECORDS OF THE STATE. COPIES OF SUCH RECORDS, ATTESTED BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT OR HIS OR HER DESIGNEE AND ACCOMPANIED BY A CERTIFICATE BEARING THE OFFICIAL SEAL FOR SAID DEPARTMENT, WHICH STATE THAT THE EXECUTIVE DIRECTOR OF THE DEPARTMENT HAS CUSTODY OF SUCH RECORDS, SHALL BE ADMISSIBLE IN ALL COURTS OF RECORD AND SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE INFORMATION CONTAINED IN SUCH RECORDS. THE OFFICIAL SEAL OF THE DEPARTMENT DESCRIBED IN THIS SUBSECTION (15) MAY CONSIST OF A WATERMARK OF THE STATE SEAL WITHIN THE DOCUMENT.

(16) IN ANY JUDICIAL PROCEEDING IN ANY COURT OF THIS STATE CONCERNING A CHARGE UNDER SUBSECTION (3) OF THIS SECTION, THE COURT SHALL TAKE JUDICIAL NOTICE OF METHODS OF TESTING A PERSON'S BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF ALCOHOL OR MARIJUANA AND OF THE DESIGN AND OPERATION OF DEVICES CERTIFIED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR TESTING A PERSON'S BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF ALCOHOL OR MARIJUANA. THIS SUBSECTION (16) SHALL NOT PREVENT THE NECESSITY OF ESTABLISHING DURING A TRIAL THAT THE TESTING DEVICES WERE WORKING PROPERLY AND THAT SUCH TESTING DEVICES WERE PROPERLY OPERATED. NOTHING IN THIS SUBSECTION (16) SHALL PRECLUDE A DEFENDANT FROM OFFERING EVIDENCE CONCERNING THE ACCURACY OF TESTING DEVICES.

(17) A LAW ENFORCEMENT OFFICER MAY NOT ENTER UPON ANY PRIVATE PROPERTY TO INVESTIGATE ANY VIOLATION OF THIS SECTION WITHOUT PROBABLE CAUSE.

(18) **Cash fund.** THE SURCHARGE COLLECTED PURSUANT TO PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION MUST BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT FUND, WHICH FUND IS CREATED AND REFERRED TO IN THIS SECTION AS THE "FUND". THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY TO THE UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, ESTABLISHED IN ARTICLE 80 OF TITLE 27, C.R.S., FOR ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT PROGRAMS. THE UNIT IN THE DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND SUBSTANCE ABUSE, IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF THIS SECTION. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS, GRANTS, OR DONATIONS MUST BE TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ANY UNEXPENDED MONEYS IN THE FUND MAY BE INVESTED BY THE STATE TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND MUST BE CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

SECTION 2. In Colorado Revised Statutes, **amend** 24-31-314 as follows:

24-31-314. Advanced roadside impaired driving enforcement training. (1) On and after October 1, 2013, the P.O.S.T. board is encouraged to include advanced roadside impaired driving enforcement training ~~in the curriculum for persons who enroll in a training academy for basic peace officer training~~ AS AN ELECTIVE TO BASIC FIELD SOBRIETY TEST TRAINING RECERTIFICATION.

(2) Subject to the availability of sufficient moneys, the P.O.S.T. board shall arrange to provide DRUG RECOGNITION EXPERT training ~~in advanced roadside impaired driving enforcement to drug recognition experts~~ TO CERTIFIED PEACE OFFICERS who will act as trainers in advanced

roadside impaired driving enforcement for all peace officers described in section 16-2.5-101, C.R.S.

SECTION 3. In Colorado Revised Statutes, 42-4-1305.5, **amend** (1) (c) as follows:

42-4-1305.5. Open marijuana container - motor vehicle - prohibited. (1) **Definitions.** As used in this section, unless the context otherwise requires:

(c) "Open marijuana container" means a receptacle or marijuana accessory that contains any amount of marijuana and:

(I) That is open or has a broken seal;

(II) The contents of which are partially removed; ~~or~~ AND

(III) There is evidence that marijuana has been consumed within the motor vehicle.

SECTION 4. In Colorado Revised Statutes, 10-3-1104, **amend** (4) (a) as follows:

10-3-1104. Unfair methods of competition - unfair or deceptive acts or practices - repeal. (4) The following is defined as an unfair practice in the business of insurance: For an insurer to deny, refuse to issue, refuse to renew, refuse to reissue, cancel, or otherwise terminate a motor vehicle insurance policy, to restrict motor vehicle insurance coverage on any person, or to add any surcharge or rating factor to a premium of a motor vehicle insurance policy solely because of:

(a) A conviction under section 12-47-901 (1) (b), C.R.S., or ~~section 18-13-122 (2)~~ SECTION 18-13-122 (3), C.R.S., or any counterpart municipal charter or ordinance offense or because of any driver's license revocation resulting from such conviction. This paragraph (a) includes, but is not limited to, a driver's license revocation imposed under section 42-2-125 (1) (m), C.R.S.

SECTION 5. In Colorado Revised Statutes, 12-47-801, **amend** (4.5) as follows:

12-47-801. Civil liability - legislative declaration. (4.5) An instructor or entity that complies with ~~section 18-13-122 (3) (c)~~ SECTION 18-13-122 (5) (c), C.R.S., shall not be liable for civil damages resulting from the intoxication of a minor due to the minor's unauthorized consumption of alcohol beverages during instruction in culinary arts, food service, or restaurant management pursuant to ~~section 18-13-122 (3) (c)~~ SECTION 18-13-122 (5) (c), C.R.S.

SECTION 6. In Colorado Revised Statutes, 18-1-711, **amend** (3) (h) as follows:

18-1-711. Immunity for persons who suffer or report an emergency drug or alcohol overdose event - definitions. (3) The immunity described in subsection (1) of this section shall apply to the following criminal offenses:

(h) Illegal possession or consumption of ethyl alcohol OR MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA by an underage person, as described in section 18-13-122.

SECTION 7. In Colorado Revised Statutes, 18-18-426, **amend** (2) as follows:

18-18-426. Drug paraphernalia - definitions. (2) "Drug paraphernalia" does not include any marijuana accessories as defined in section 16 (2) (g) of article XVIII of the state constitution. ~~if possessed or used by a person age twenty-one or older.~~

SECTION 8. In Colorado Revised Statutes, 18-19-102, **amend** (1) (e) as follows:

18-19-102. Definitions. As used in this article, unless the context otherwise requires:

(1) "Alcohol- or drug-related offender" means a person convicted of any of the following offenses or of attempt to commit any of the following offenses:

(e) Illegal possession or consumption of ethyl alcohol OR

MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA by an underage person, as described in section 18-13-122.

SECTION 9. In Colorado Revised Statutes, 19-2-104, **amend** (1) (a) (I) as follows:

19-2-104. Jurisdiction. (1) Except as otherwise provided by law, the juvenile court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any juvenile ten years of age or older who has violated:

(I) Any federal or state law, except nonfelony state traffic, game and fish, and parks and recreation laws or rules, the offenses specified in section 18-13-121, C.R.S., concerning tobacco products, the offense specified in section 18-13-122, C.R.S., concerning the illegal possession or consumption of ethyl alcohol OR MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA by an underage person, and the offenses specified in section 18-18-406 (5) (a) (I), (5) (b) (I), and (5) (b) (II), C.R.S., concerning marijuana and marijuana concentrate;

SECTION 10. In Colorado Revised Statutes, 19-2-513, **amend** (3) (a) introductory portion as follows:

19-2-513. Petition form and content. (3) (a) Pursuant to the provisions of section 19-1-126, in those delinquency proceedings to which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et seq., applies, including but not limited to status offenses such as the illegal possession or consumption of ethyl alcohol OR MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA by an underage person, as described in section 18-13-122, C.R.S., purchase or attempted purchase of cigarettes or tobacco products by a person under eighteen years of age, as described in section 18-13-121, C.R.S., and possession of handguns by juveniles, as described in section 18-12-108.5, C.R.S., the petition shall:

SECTION 11. In Colorado Revised Statutes, 42-2-125, **amend** (1) (m) as follows:

42-2-125. Mandatory revocation of license and permit. (1) The department shall immediately revoke the license or permit of any driver or minor driver upon receiving a record showing that such driver has:

(m) (I) Been convicted of violating section 12-47-901 (1) (b) or (1) (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal charter or ordinance offense to such sections and having failed to complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program ordered by the court in connection with such conviction; or

(II) Been convicted of violating section 12-47-901 (1) (b) or (1) (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal charter or ordinance offense to such sections and has a previous conviction for such offenses;

SECTION 12. In Colorado Revised Statutes, **amend** 42-2-131 as follows:

42-2-131. Revocation of license or permit for failing to comply with a court order relating to nondriving alcohol convictions. Upon a plea of guilty or nolo contendere or a verdict of guilty by the court or a jury to an offense under section 12-47-901 (1) (b) or (1) (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal charter or ordinance offense to such section and upon a failure to complete an alcohol evaluation or assessment, an alcohol education program, or an alcohol treatment program ordered by the court in connection with such plea or verdict, the court shall forward to the department a notice of plea or verdict or such failure to complete on the form prescribed by the department. Any revocation pursuant to section 42-2-125 (1) (m) shall begin when the department gives notice of the revocation to the person in accordance with section 42-2-119 (2).

SECTION 13. In Colorado Revised Statutes, 12-43.3-501, **add** (1) (b) (I.5) as follows:

12-43.3-501. Marijuana cash fund - repeal. (1) (b) Moneys in the fund shall be subject to annual appropriation by the general assembly to:

(I.5) (A) THE DEPARTMENT OF REVENUE FOR UPDATES TO THE

DEPARTMENT'S DRIVER'S LICENSE SYSTEM TO GENERATE REVOCATION LETTERS CONNECTED TO A CONVICTION OF UNDERAGE POSSESSION OR CONSUMPTION OF MARIJUANA.

(B) THIS SUBPARAGRAPH (I.5) IS REPEALED, EFFECTIVE JULY 1, 2015.

SECTION 14. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the marijuana cash fund created in section 12-43.3-501 (1) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2013, the sum of \$4,120, or so much thereof as may be necessary, for the purchase of computer center services related to the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$4,120, or so much thereof as may be necessary, for allocation to the office of information technology, for the provision of computer center services for the department of revenue related to the implementation of this act. Said sum is from reappropriated funds received from the department of revenue out of the appropriation made in subsection (1) of this section.

SECTION 15. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the adolescent substance abuse prevention and treatment fund created in section 18-13-122 (18), Colorado Revised Statutes, not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2014, the sum of \$38,250, to be allocated to behavioral health services for adolescent substance abuse prevention and treatment programs as follows:

(a) \$28,687 for treatment and detoxification contracts; and

(b) \$9,563 for prevention contracts.

SECTION 16. Effective date - applicability. This act takes effect upon passage and applies to offenses committed on or after July 1, 2014.

SECTION 17. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Morgan Carroll
PRESIDENT OF
THE SENATE

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO