

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. 14-0046.01 Michael Dohr x4347

SENATE BILL 14-129

SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

May,

Senate Committees

Judiciary
Finance
Appropriations

House Committees

A BILL FOR AN ACT

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

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>.)

Section 1. The bill adds consumption and possession of marijuana and possession of marijuana paraphernalia to the crime of underage possession or consumption of alcohol. The bill changes the penalty structure for the crime as follows:

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.*

- ! For a first offense, there is a fine of up to \$100 or a requirement to attend substance abuse education classes;
- ! For a second offense, there is a fine of up to \$100; a requirement to attend substance abuse education classes; if appropriate, an order for a substance abuse assessment and any treatment recommended by the assessment; and up to 24 hours of public service; and
- ! For a third or subsequent offense, there is a fine of up to \$250, an order for a substance abuse assessment and any treatment recommended by the assessment, and up to 36 hours of public service.

Section 2. Under current law, the P.O.S.T. board is encouraged to offer an advanced roadside impaired driving training course at basic academy training. The bill encourages the P.O.S.T. board to offer the course as an elective to basic field sobriety training recertification.

Section 3. The bill changes the open marijuana container crime to require that prosecution prove that the container has a broken seal, that the contents were partially removed, and that there is evidence that marijuana was consumed in the vehicle. Current law only requires proof of one of those 3 elements.

Sections 4 through 9. The bill makes conforming amendments.

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

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

4 **18-13-122. Illegal possession or consumption of ethyl alcohol**
 5 **or marijuana by an underage person - illegal possession of marijuana**
 6 **paraphernalia by an underage person - definitions - adolescent**
 7 **substance abuse prevention and treatment fund - legislative**
 8 **declaration.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT
 9 IT IS NECESSARY FOR THE STATE OF COLORADO TO EDUCATE COLORADO
 10 YOUTH ABOUT THE DANGERS OF EARLY USE OF ALCOHOL AND MARIJUANA,
 11 TO ACTIVELY PROMOTE PROGRAMS THAT PREVENT THE ILLEGAL USE OF
 12 ALCOHOL AND MARIJUANA, AND TO TEACH COLORADO YOUTH ABOUT
 13 RESPONSIBLE USE AND THE HEALTHY CHOICES AVAILABLE TO AN ADULT

1 ONCE HE OR SHE IS ABLE TO LEGALLY CONSUME ALCOHOL OR MARIJUANA.

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

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

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

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

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

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

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

27 (f) "POSSESSION OF MARIJUANA" MEANS THAT A PERSON HAS OR

1 HOLDS ANY AMOUNT OF MARIJUANA ANYWHERE ON HIS OR HER PERSON OR
2 THAT A PERSON OWNS OR HAS CUSTODY OF MARIJUANA OR HAS
3 MARIJUANA WITHIN HIS OR HER IMMEDIATE PRESENCE AND CONTROL.

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

8 "PRIVATE PROPERTY" SHALL NOT INCLUDE:

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

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

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

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

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

1 CONSUMPTION OF MARIJUANA BY AN UNDERAGE PERSON IS A STRICT
2 LIABILITY OFFENSE.

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

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

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

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

25 (II) IF DETERMINED NECESSARY AND APPROPRIATE, SUBMIT TO A
26 SUBSTANCE ABUSE ASSESSMENT APPROVED BY THE DIVISION OF
27 BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES AND

1 COMPLETE ANY TREATMENT RECOMMENDED BY THE ASSESSMENT; AND

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

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

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

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

16 (d) NOTHING IN THIS SECTION PROHIBITS A PROSECUTOR FROM
17 ENTERING INTO A DIVERSION OR DEFERRED JUDGMENT AGREEMENT WITH
18 ANY UNDERAGE PERSON FOR ANY OFFENSE UNDER THIS SECTION, AND
19 PROSECUTORS ARE ENCOURAGED TO ENTER INTO THOSE AGREEMENTS
20 WHEN THEY ARE CONSISTENT WITH THE LEGISLATIVE DECLARATION OF
21 THIS SECTION AND IN THE INTERESTS OF JUSTICE.

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

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

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

11 (b) WHEN THE EXISTENCE OF ETHYL ALCOHOL IN A PERSON'S BODY
12 WAS DUE SOLELY TO THE INGESTION OF A CONFECTIONERY WHICH
13 CONTAINED ETHYL ALCOHOL WITHIN THE LIMITS PRESCRIBED BY SECTION
14 25-5-410(1)(i)(II), C.R.S.; OR THE INGESTION OF ANY SUBSTANCE WHICH
15 WAS MANUFACTURED, DESIGNED, OR INTENDED PRIMARILY FOR A PURPOSE
16 OTHER THAN ORAL HUMAN INGESTION; OR THE INGESTION OF ANY
17 SUBSTANCE WHICH WAS MANUFACTURED, DESIGNED, OR INTENDED
18 SOLELY FOR MEDICINAL OR HYGIENIC PURPOSES; OR SOLELY FROM THE
19 INGESTION OF A BEVERAGE WHICH CONTAINED LESS THAN ONE-HALF OF
20 ONE PERCENT OF ETHYL ALCOHOL BY WEIGHT; OR

21 (c) THE PERSON IS A STUDENT WHO:

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

26 (II) IS ENROLLED IN A UNIVERSITY OR A POST-SECONDARY SCHOOL
27 ACCREDITED OR CERTIFIED BY AN AGENCY RECOGNIZED BY THE UNITED

1 STATES DEPARTMENT OF EDUCATION, A NATIONALLY RECOGNIZED
2 ACCREDITING AGENCY OR ASSOCIATION, OR THE "PRIVATE OCCUPATIONAL
3 EDUCATION ACT OF 1981", ARTICLE 59 OF TITLE 12, C.R.S.;

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

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

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

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

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

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

23 (c) THE UNDERAGE PERSON WAS THE FIRST PERSON TO MAKE THE
24 911 REPORT; AND

25 (d) THE UNDERAGE PERSON WHO MADE THE 911 CALL REMAINED
26 ON THE SCENE WITH THE UNDERAGE PERSON IN NEED OF MEDICAL
27 ASSISTANCE UNTIL ASSISTANCE ARRIVED AND COOPERATED WITH MEDICAL

1 ASSISTANCE OR LAW ENFORCEMENT PERSONNEL ON THE SCENE.

2 (8) PRIMA FACIE EVIDENCE OF A VIOLATION OF SUBSECTION (3) OF
3 THIS SECTION SHALL CONSIST OF:

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

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

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

1 SHALL CONSTITUTE PRIMA FACIE EVIDENCE THAT THE CONTENTS OF THE
2 BOTTLE, CAN, OR OTHER CONTAINER WAS COMPOSED IN WHOLE OR IN PART
3 OF ETHYL ALCOHOL.

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

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

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

25 (13) **Sealing of record.** (a) UPON DISMISSAL OF A CASE PURSUANT
26 TO THIS SECTION AFTER COMPLETION OF A DEFERRED JUDGMENT OR
27 DIVERSION OR ANY OTHER ACTION RESULTING IN DISMISSAL OF THE CASE

1 OR UPON COMPLETION OF THE COURT-ORDERED SUBSTANCE ABUSE
2 EDUCATION AND PAYMENT OF ANY FINE FOR A FIRST CONVICTION OF
3 SUBSECTION (3) OF THIS SECTION, THE COURT SHALL IMMEDIATELY ORDER
4 THE CASE SEALED AND PROVIDE TO THE UNDERAGE PERSON AND THE
5 PROSECUTOR A COPY OF THE ORDER SEALING THE CASE FOR DISTRIBUTION
6 BY THE APPROPRIATE PARTY TO ALL LAW ENFORCEMENT AGENCIES IN THE
7 CASE.

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

24 (14) THE QUALITATIVE RESULT OF AN ALCOHOL OR MARIJUANA
25 TEST OR TESTS SHALL BE ADMISSIBLE AT THE TRIAL OF ANY PERSON
26 CHARGED WITH A VIOLATION OF SUBSECTION (3) OF THIS SECTION UPON A
27 SHOWING THAT THE DEVICE OR DEVICES USED TO CONDUCT SUCH TEST OR

1 TESTS HAVE BEEN APPROVED AS ACCURATE IN DETECTING ALCOHOL OR
2 MARIJUANA BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC
3 HEALTH AND ENVIRONMENT.

4 (15) OFFICIAL RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH
5 AND ENVIRONMENT RELATING TO THE CERTIFICATION OF BREATH TEST
6 INSTRUMENTS, CERTIFICATION OF OPERATORS AND OPERATOR
7 INSTRUCTORS OF BREATH TEST INSTRUMENTS, CERTIFICATION OF
8 STANDARD SOLUTIONS, AND CERTIFICATION OF LABORATORIES SHALL BE
9 OFFICIAL RECORDS OF THE STATE. COPIES OF SUCH RECORDS, ATTESTED BY
10 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND
11 ENVIRONMENT OR HIS DEPUTY AND ACCOMPANIED BY A CERTIFICATE
12 BEARING THE OFFICIAL SEAL FOR SAID DEPARTMENT, WHICH STATE THAT
13 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT HAS CUSTODY OF SUCH
14 RECORDS, SHALL BE ADMISSIBLE IN ALL COURTS OF RECORD AND SHALL
15 CONSTITUTE PRIMA FACIE EVIDENCE OF THE INFORMATION CONTAINED IN
16 SUCH RECORDS. THE OFFICIAL SEAL OF THE DEPARTMENT DESCRIBED IN
17 THIS SUBSECTION (15) MAY CONSIST OF A RUBBER STAMP PRODUCING A
18 FACSIMILE OF THE SEAL STAMPED UPON THE DOCUMENT.

19 (16) IN ANY JUDICIAL PROCEEDING IN ANY COURT OF THIS STATE
20 CONCERNING A CHARGE UNDER SUBSECTION (3) OF THIS SECTION, THE
21 COURT SHALL TAKE JUDICIAL NOTICE OF METHODS OF TESTING A PERSON'S
22 BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF ALCOHOL OR
23 MARIJUANA AND OF THE DESIGN AND OPERATION OF DEVICES CERTIFIED BY
24 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR TESTING A
25 PERSON'S BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF
26 ALCOHOL OR MARIJUANA. THIS SUBSECTION (16) SHALL NOT PREVENT THE
27 NECESSITY OF ESTABLISHING DURING A TRIAL THAT THE TESTING DEVICES

1 WERE WORKING PROPERLY AND THAT SUCH TESTING DEVICES WERE
2 PROPERLY OPERATED. NOTHING IN THIS SUBSECTION (16) SHALL PRECLUDE
3 A DEFENDANT FROM OFFERING EVIDENCE CONCERNING THE ACCURACY OF
4 TESTING DEVICES.

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

8 (18) **Cash fund.** THE SURCHARGE COLLECTED PURSUANT TO
9 PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION MUST BE
10 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME
11 TO THE ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT
12 FUND, WHICH FUND IS CREATED AND REFERRED TO IN THIS SECTION AS THE
13 "FUND". THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL
14 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE UNIT IN THE
15 DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL
16 HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO
17 MENTAL HEALTH AND SUBSTANCE ABUSE, ESTABLISHED IN ARTICLE 80 OF
18 TITLE 27, C.R.S., FOR ADOLESCENT SUBSTANCE ABUSE PREVENTION AND
19 TREATMENT PROGRAMS. THE UNIT IN THE DEPARTMENT OF HUMAN
20 SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND
21 SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND
22 SUBSTANCE ABUSE, IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS,
23 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF
24 THIS SECTION. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS,
25 GRANTS, OR DONATIONS MUST BE TRANSMITTED TO THE STATE
26 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ANY
27 UNEXPENDED MONEYS IN THE FUND MAY BE INVESTED BY THE STATE

1 TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED
2 FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND MUST BE
3 CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS
4 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE
5 FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL
6 FUND OR ANOTHER FUND.

7 **SECTION 2.** In Colorado Revised Statutes, 24-31-314, **amend**
8 (1) as follows:

9 **24-31-314. Advanced roadside impaired driving enforcement**
10 **training.** (1) On and after October 1, 2013, the P.O.S.T. board is
11 encouraged to include advanced roadside impaired driving enforcement
12 training ~~in the curriculum for persons who enroll in a training academy~~
13 ~~for basic peace officer training~~ AS AN ELECTIVE TO BASIC FIELD SOBRIETY
14 TEST TRAINING RECERTIFICATION.

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

17 **42-4-1305.5. Open marijuana container - motor vehicle -**
18 **prohibited.** (1) **Definitions.** As used in this section, unless the context
19 otherwise requires:

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

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

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

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

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

1 **10-3-1104. Unfair methods of competition - unfair or deceptive**
2 **acts or practices - repeal.** (4) The following is defined as an unfair
3 practice in the business of insurance: For an insurer to deny, refuse to
4 issue, refuse to renew, refuse to reissue, cancel, or otherwise terminate a
5 motor vehicle insurance policy, to restrict motor vehicle insurance
6 coverage on any person, or to add any surcharge or rating factor to a
7 premium of a motor vehicle insurance policy solely because of:

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

14 **SECTION 5.** In Colorado Revised Statutes, 12-47-801, **amend**
15 (4.5) as follows:

16 **12-47-801. Civil liability - legislative declaration.** (4.5) An
17 instructor or entity that complies with ~~section 18-13-122 (3) (c)~~ SECTION
18 18-13-122 (5) (c), C.R.S., shall not be liable for civil damages resulting
19 from the intoxication of a minor due to the minor's unauthorized
20 consumption of alcohol beverages during instruction in culinary arts, food
21 service, or restaurant management pursuant to ~~section 18-13-122 (3) (c)~~
22 SECTION 18-13-122 (5) (c), C.R.S.

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

25 **18-1-711. Immunity for persons who suffer or report an**
26 **emergency drug or alcohol overdose event - definitions.** (3) The
27 immunity described in subsection (1) of this section shall apply to the

1 following criminal offenses:

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

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

8 **18-18-426. Drug paraphernalia - definitions.** (2) "Drug
9 paraphernalia" does not include any marijuana accessories as defined in
10 section 16 (2) (g) of article XVIII of the state constitution. ~~if possessed~~
11 ~~or used by a person age twenty-one or older.~~

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

14 **18-19-102. Definitions.** As used in this article, unless the context
15 otherwise requires:

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

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

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

25 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,
26 the juvenile court shall have exclusive original jurisdiction in
27 proceedings:

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

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

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

14 **19-2-513. Petition form and content.** (3) (a) Pursuant to the
15 provisions of section 19-1-126, in those delinquency proceedings to
16 which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et
17 seq., applies, including but not limited to status offenses such as the
18 illegal possession or consumption of ethyl alcohol OR MARIJUANA BY AN
19 UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA
20 PARAPHERNALIA by an underage person, as described in section
21 18-13-122, C.R.S., purchase or attempted purchase of cigarettes or
22 tobacco products by a person under eighteen years of age, as described in
23 section 18-13-121, C.R.S., and possession of handguns by juveniles, as
24 described in section 18-12-108.5, C.R.S., the petition shall:

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

27 **42-2-125. Mandatory revocation of license and permit.** (1) The

1 department shall immediately revoke the license or permit of any driver
2 or minor driver upon receiving a record showing that such driver has:

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

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

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

15 **42-2-131. Revocation of license or permit for failing to comply**
16 **with a court order relating to nondriving alcohol convictions.** Upon
17 a plea of guilty or nolo contendere or a verdict of guilty by the court or a
18 jury to an offense under section 12-47-901 (1) (b) or (1) (c) or ~~18-13-122~~
19 ~~(2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal charter or
20 ordinance offense to such section and upon a failure to complete an
21 alcohol evaluation or assessment, an alcohol education program, or an
22 alcohol treatment program ordered by the court in connection with such
23 plea or verdict, the court shall forward to the department a notice of plea
24 or verdict or such failure to complete on the form prescribed by the
25 department. Any revocation pursuant to section 42-2-125 (1) (m) shall
26 begin when the department gives notice of the revocation to the person in
27 accordance with section 42-2-119 (2).

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

3 **12-43.3-501. Marijuana cash fund - repeal.** (1) (b) Moneys in
4 the fund shall be subject to annual appropriation by the general assembly
5 to:

6 (I.5) (A) THE DEPARTMENT OF REVENUE FOR UPDATES TO THE
7 DEPARTMENT'S DRIVER'S LICENSE SYSTEM TO GENERATE REVOCATION
8 LETTERS CONNECTED TO A CONVICTION OF UNDERAGE POSSESSION OR
9 CONSUMPTION OF MARIJUANA.

10 (B) THIS SUBPARAGRAPH (I.5) IS REPEALED, EFFECTIVE JULY 1,
11 2015.

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

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

27 **SECTION 15. Appropriation.** (1) In addition to any other

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

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

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

10 **SECTION 16. Effective date - applicability.** This act takes
11 effect upon passage, and applies to offenses committed on or after July
12 1, 2014.

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