SENATE BILL 14-129

A BILL FOR AN ACT
CONCERNING CHANGES TO CRIMINAL PROVISIONS RELATED TO MARIJUANA, AND, IN CONNECTION THEREWITH, MAKING AN 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.

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.

(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",

-9-
"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.


(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

(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) of 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.
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.
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) (I) and (1) (m) (II) 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.