

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. 14-0032.01 Jerry Barry x4341

**HOUSE BILL 14-1040**

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**HOUSE SPONSORSHIP**

McNulty,

**SENATE SPONSORSHIP**

(None),

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**House Committees**

Business, Labor, Economic, & Workforce Development

Judiciary

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING CRIMINAL PROVISIONS RELATING TO DRUG TESTING.**

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**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 establishes a level 1 drug misdemeanor for an employee who is legally required to undergo drug testing as a condition of the person's job and who:

- ! Uses a controlled substance without a prescription; or
- ! Knowingly defrauds the administration of the drug test.

The bill establishes a level 2 drug misdemeanor for any other person who knowingly defrauds a drug test.

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.

The bill also creates a level 1 drug misdemeanor for a person to offer for sale or to manufacture or sell a device adapted or designed to defraud the administration of a drug test. It also creates a level 2 drug misdemeanor for the possession of such a device.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add 18-18-434**

3 as follows:

4 **18-18-434. Employee's use of controlled substance - defrauding**  
5 **the administration of a drug test - definitions.** (1) (a) IT IS UNLAWFUL

6 FOR ANY PERSON TO KNOWINGLY DEFRAUD THE ADMINISTRATION OF A  
7 DRUG TEST IF THE PERSON IS REQUIRED, PURSUANT TO RULE OR  
8 REGULATION OF THE STATE, OF A LOCAL AGENCY OR PUBLIC AUTHORITY,  
9 OR OF THE FEDERAL GOVERNMENT, TO HAVE A DRUG TEST ADMINISTERED  
10 AS A CONDITION OF EMPLOYMENT OR CONTINUED EMPLOYMENT AS:

11 (I) A LAW ENFORCEMENT OFFICER;

12 (II) A CORRECTIONS OFFICER;

13 (III) A DRIVER OF A COMMERCIAL MOTOR VEHICLE, AS DEFINED IN  
14 SECTION 42-2-402, C.R.S.;

15 (IV) AN EMPLOYEE OF A RAIL PASSENGER SERVICE;

16 (V) A FIREFIGHTER;

17 (VI) A PROVIDER OF EMERGENCY FIRST-AID OR MEDICAL SERVICES;

18 OR

19 (VII) ANY OTHER OCCUPATION THAT A LAW REQUIRES THE  
20 ADMINISTRATION OF A DRUG TEST AS A CONDITION OF EMPLOYMENT OR  
21 CONTINUED EMPLOYMENT.

22 (b) IT IS UNLAWFUL FOR ANY PERSON OTHER THAN A PERSON  
23 DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1) TO KNOWINGLY

1 DEFRAUD THE ADMINISTRATION OF A DRUG TEST.

2

3 (2) (a) A PERSON WHO VIOLATES A PROVISION OF PARAGRAPH (a)  
4 OF SUBSECTION (1) OF THIS SECTION COMMITS AN UNCLASSIFIED PETTY  
5 OFFENSE AND SHALL BE PUNISHED:

6 (I) FOR A FIRST OFFENSE, BY A FINE OF ONE THOUSAND DOLLARS;

7 (II) FOR A SECOND OFFENSE, BY A FINE OF TWO THOUSAND FIVE  
8 HUNDRED DOLLARS; AND

9 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, BY A FINE OF FIVE  
10 THOUSAND DOLLARS.

11 (b) A PERSON WHO VIOLATES A PROVISION OF PARAGRAPH (b) OF  
12 SUBSECTION (1) OF THIS SECTION COMMITS AN UNCLASSIFIED PETTY  
13 OFFENSE AND SHALL BE PUNISHED:

14 (I) FOR A FIRST OFFENSE, BY A FINE OF FIVE HUNDRED DOLLARS;

15 (II) FOR A SECOND OFFENSE, BY A FINE OF ONE THOUSAND  
16 DOLLARS; AND

17 (III) FOR A THIRD OR SUBSEQUENT OFFENSE, BY A FINE OF TWO  
18 THOUSAND FIVE HUNDRED DOLLARS.

19 (3) AS USED IN THIS SECTION, "DEFRAUD THE ADMINISTRATION OF  
20 A DRUG TEST" MEANS TO SUBMIT A SUBSTANCE THAT PURPORTS TO BE  
21 FROM A PERSON OTHER THAN ITS ACTUAL SOURCE, OR PURPORTS TO HAVE  
22 BEEN EXCRETED OR COLLECTED AT A TIME OTHER THAN WHEN IT WAS  
23 ACTUALLY EXCRETED OR COLLECTED, OR TO OTHERWISE ENGAGE IN  
24 CONDUCT INTENDED TO PRODUCE A FALSE OR MISLEADING OUTCOME OF  
25 A TEST FOR THE PRESENCE OF A CONTROLLED SUBSTANCE, OR A  
26 METABOLITE OF A CONTROLLED SUBSTANCE, IN THE HUMAN BODY.  
27 "DEFRAUD THE ADMINISTRATION OF A DRUG TEST" SPECIFICALLY

1 INCLUDES, BUT IS NOT LIMITED TO, THE FURNISHING OF URINE WITH THE  
2 PURPOSE THAT THE URINE BE SUBMITTED FOR URINALYSIS AS A TRUE  
3 SPECIMEN OF THE PERSON BEING TESTED.

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5 **SECTION 2. Effective date - applicability.** This act takes effect  
6 July 1, 2014, and applies to offenses committed on or after said date.

7 **SECTION 3. Safety clause.** The general assembly hereby finds,  
8 determines, and declares that this act is necessary for the immediate  
9 preservation of the public peace, health, and safety.