

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 10-0902.01 Michael Dohr

**HOUSE BILL 10-1352**

**HOUSE SPONSORSHIP**

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**SENATE SPONSORSHIP**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING CHANGES TO CRIMES INVOLVING CONTROLLED**  
102 **SUBSTANCES, AND MAKING AN APPROPRIATION IN CONNECTION**  
103 **THEREWITH.**

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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 changes the classification, scope, definitions, and other specific provisions of certain drug-related crimes and the crime of fraud and deceit. The bill also includes conforming amendments and an effective date.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

SENATE  
3rd Reading Unamended  
May 10, 2010

SENATE  
Amended 2nd Reading  
May 7, 2010

HOUSE  
Amended 3rd Reading  
April 15, 2010

HOUSE  
Amended 2nd Reading  
April 14, 2010

**Section 1** makes legislative findings and declarations.

**Section 2** lowers the penalty for unlawful use of a controlled substance.

**Sections 3 and 4** separate the crime of possession of a controlled substance, other than marijuana, from the crime of manufacturing, dispensing, selling, distributing, or possessing with intent to manufacture, dispense, sell, or distribute a controlled substance, and change the penalties.

**Section 5** makes changes to marijuana offenses and penalties.

**Section 6** amends the special offender designations for certain drug crimes as follows:

- ! Increases the amount of a schedule I or II controlled substance necessary to designate as a special offender a person who commits unlawful introduction, distribution, or importation into the state; and
- ! Clarifies the conditions under which possession of a firearm in the commission of a drug offense designates an offender as a special offender.

**Section 7** lowers the penalty for fraud and deceit in connection with controlled substances from a class 5 to a class 6 felony.

**Section 8** directs the general assembly to appropriate a portion of the cost savings generated by the bill to the drug offender treatment fund.

**Section 9** requires the division of criminal justice in the department of public safety to analyze annually and report the fiscal savings generated by the bill.

**Sections 10 through 23** make conforming amendments.

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1 *Be it enacted by the General Assembly of the State of Colorado:*  
2           **SECTION 1.** 18-18-401, Colorado Revised Statutes, is amended  
3 to read:  
4           **18-18-401. Legislative declaration.** (1) The general assembly  
5 hereby finds, determines, and declares that: ~~the strict control of controlled~~  
6 ~~substances in this state is necessary for the immediate and future~~  
7 ~~preservation of the public peace, health, and safety.~~  
8           (a) THE REGULATION OF CONTROLLED SUBSTANCES IN THIS STATE  
9 IS IMPORTANT AND NECESSARY FOR THE PRESERVATION OF PUBLIC SAFETY  
10 AND PUBLIC HEALTH;

1 (b) SUCCESSFUL, COMMUNITY-BASED SUBSTANCE ABUSE  
2 TREATMENT AND EDUCATION PROGRAMS, IN CONJUNCTION WITH MENTAL  
3 HEALTH TREATMENT AS NECESSARY, PROVIDE EFFECTIVE TOOLS IN THE  
4 EFFORT TO REDUCE DRUG USAGE AND CRIMINAL BEHAVIOR IN  
5 COMMUNITIES. THERAPEUTIC INTERVENTION AND ONGOING  
6 INDIVIDUALIZED TREATMENT PLANS PREPARED THROUGH THE USE OF  
7 MEANINGFUL AND PROVEN ASSESSMENT TOOLS AND EVALUATIONS OFFER  
8 A POTENTIAL ALTERNATIVE TO INCARCERATION IN APPROPRIATE  
9 CIRCUMSTANCES AND SHOULD BE UTILIZED ACCORDINGLY.

10 (c) SAVINGS RECOGNIZED FROM REDUCTIONS IN INCARCERATION  
11 RATES SHOULD BE DEDICATED TOWARD FUNDING COMMUNITY-BASED  
12 TREATMENT OPTIONS AND OTHER MECHANISMS THAT ARE ACCESSIBLE TO  
13 ALL OF THE STATE'S COUNTIES FOR THE IMPLEMENTATION AND  
14 CONTINUATION OF SUCH PROGRAMS.

15 **SECTION 2.** 18-18-404 (1) (a), (2), and (3), Colorado Revised  
16 Statutes, are amended to read:

17 **18-18-404. Unlawful use of a controlled substance.**  
18 (1) (a) Except as is otherwise provided for offenses concerning  
19 ~~marihuana~~ MARIJUANA and ~~marihuana~~ MARIJUANA concentrate in sections  
20 18-18-406 and 18-18-406.5, any person who uses any controlled  
21 substance, except when it is dispensed by or under the direction of a  
22 person licensed or authorized by law to prescribe, administer, or dispense  
23 ~~such~~ THE controlled substance for bona fide medical needs, commits A  
24 CLASS 2 MISDEMEANOR.

25 ~~(I) A class 6 felony, if the controlled substance is listed in~~  
26 ~~schedule I or II of part 2 of this article;~~

27 ~~(II) A class 1 misdemeanor if the controlled substance is listed in~~

1 schedule III, IV, or V of part 2 of this article:

2 (2) ~~When any person is found guilty of a violation of subsection~~  
3 ~~(1) of this section, after trial or upon a plea of guilty or nolo contendere,~~  
4 ~~the court shall conduct an investigation to determine whether or not the~~  
5 ~~defendant is:~~

6 (a) ~~Addicted to a controlled substance;~~

7 (b) ~~In need of treatment for the use of a controlled substance; or~~

8 (c) ~~Dependent on a controlled substance.~~

9 (3) ~~If the court determines that the defendant is addicted to, a~~  
10 ~~person in need of treatment for, or dependent upon a controlled substance,~~  
11 ~~the court may declare the defendant a person in need of treatment, and the~~  
12 ~~court, without imposing sentence and with the consent of such person,~~  
13 ~~shall suspend further proceedings, shall order the person to participate in~~  
14 ~~a treatment program, and shall order such other reasonable conditions for~~  
15 ~~such person as it may require for such period, not to exceed four years, as~~  
16 ~~the court may prescribe. Upon any violation of a condition of the~~  
17 ~~treatment order, the court may impose sentence and proceed as otherwise~~  
18 ~~provided by law. The court, in its discretion, may dismiss the~~  
19 ~~proceedings against such person and discharge him or her from treatment~~  
20 ~~before the expiration of the period prescribed for the treatment. If, during~~  
21 ~~the period of this treatment, such person does not violate any of the~~  
22 ~~conditions set forth by the court, the court, upon the expiration of such~~  
23 ~~period, shall discharge such person and dismiss any further proceedings~~  
24 ~~against him or her. Such discharge and dismissal shall not be termed a~~  
25 ~~conviction for the purposes of disqualification or disapproval imposed by~~  
26 ~~law upon conviction of a crime, including the penalties prescribed by law~~  
27 ~~for second or subsequent convictions or for any other purpose.~~

1           **SECTION 3.** 18-18-405 (1) (a), the introductory portion to  
2 18-18-405 (2) (a), 18-18-405 (2) (a) (I) (A), (2.3) (a), (2.5) (a), and (2.5)  
3 (b), the introductory portion to 18-18-405 (3) (a), and 18-18-405 (5),  
4 Colorado Revised Statutes, are amended to read:

5           **18-18-405. Unlawful distribution, manufacturing, dispensing,**  
6 **or sale.** (1) (a) Except as authorized by part 3 of article 22 of title 12,  
7 C.R.S., or by part 2 or 3 of this article, it is unlawful for any person  
8 knowingly to manufacture, dispense, sell, OR distribute, ~~possess~~, or to  
9 possess with intent to manufacture, dispense, sell, or distribute, a  
10 controlled substance; or induce, attempt to induce, or conspire with one  
11 or more other persons, to manufacture, dispense, sell, distribute, ~~possess~~,  
12 or possess with intent to manufacture, dispense, sell, or distribute, a  
13 controlled substance; or possess one or more chemicals or supplies or  
14 equipment with intent to manufacture a controlled substance.

15           (2) (a) Except as is otherwise provided ~~in subsection (2.3) of this~~  
16 ~~section for possession offenses not including possession with the intent~~  
17 ~~to distribute involving one gram or less of any material, compound,~~  
18 ~~mixture, or preparation that contains any quantity of a schedule I through~~  
19 ~~IV controlled substance, and for offenses concerning marijuana~~  
20 MARIJUANA and ~~marihuana~~ MARIJUANA concentrate in section 18-18-406  
21 and for offenses involving minors in section 18-18-407 (1) (g), any  
22 person who violates any of the provisions of subsection (1) of this  
23 section:

24           (I) In the case of a controlled substance listed in schedule I or II  
25 of part 2 of this article, commits:

26           (A) A class 3 felony; ~~except that a person commits a class 4 felony~~  
27 ~~if such violation is based on the possession of a controlled substance~~

1 ~~listed in schedule II unless otherwise provided in paragraph (a) of~~  
2 ~~subsection (3) of this section; or~~

3 ~~(2.3) (a) Any person who commits the offense of possession in~~  
4 ~~violation of the provisions of subsection (1) of this section by possessing~~  
5 ~~any material, compound, mixture, or preparation, weighing one gram or~~  
6 ~~less that contains any quantity of a controlled substance listed in~~  
7 ~~schedules I through IV of part 2 of this article commits:~~

8 ~~(I) A class 6 felony; or~~

9 ~~(II) A class 4 felony, if the violation is committed subsequent to~~  
10 ~~any prior conviction under subparagraph (I), (II), or (III) of paragraph (a)~~  
11 ~~of subsection (2) of this section or under this subsection (2.3).~~

12 (2.5) (a) Notwithstanding the provisions of subparagraph (III) of  
13 paragraph (a) of subsection (2) of this section, a person who violates the  
14 provisions of subsection (1) of this section with regard to flunitrazepam  
15 OR KETAMINE commits a class 3 felony; except that the person commits  
16 a class 2 felony if the violation is committed subsequent to a prior  
17 conviction in this or any other state, the United States, or any territory  
18 subject to the jurisdiction of the United States of a violation involving  
19 flunitrazepam OR KETAMINE or to which subparagraph (I) of paragraph (a)  
20 of subsection (2) of this section applies or would apply if convicted in this  
21 state.

22 (b) Any person convicted of violating the provisions of subsection  
23 (1) of this section with regard to flunitrazepam OR KETAMINE shall be  
24 subject to the mandatory sentencing provisions of subsection (3) of this  
25 section.

26 (3) (a) Unless a greater sentence is required pursuant to the  
27 provisions of another statute, any person convicted pursuant to

1 subparagraph (I) of paragraph (a) of subsection (2) of this section for  
2 knowingly manufacturing, dispensing, selling, distributing, ~~possessing,~~  
3 or possessing with intent to manufacture, dispense, sell, or distribute, or  
4 inducing, attempting to induce, or conspiring with one or more other  
5 persons, to manufacture, dispense, sell, distribute, ~~possess,~~ or possess  
6 with intent to manufacture, dispense, sell, or distribute an amount that is  
7 or has been represented to be:

8 (5) When a person commits unlawful distribution, manufacture,  
9 dispensing, sale, or possession with intent to manufacture, dispense, sell,  
10 or distribute any schedule I or schedule II controlled substance, as listed  
11 in section 18-18-203 or 18-18-204, ~~or~~ flunitrazepam, OR KETAMINE,  
12 pursuant to subsection (1) of this section, twice or more within a period  
13 of six months, without having been placed in jeopardy for the prior  
14 offense or offenses, and the aggregate amount of the schedule I or  
15 schedule II controlled substance, ~~or~~ flunitrazepam, OR KETAMINE involved  
16 equals or exceeds twenty-five grams, the defendant shall be sentenced  
17 pursuant to the mandatory sentencing requirements specified in  
18 subsection (3) of this section.

19 **SECTION 4.** Part 4 of article 18 of title 18, Colorado Revised  
20 Statutes, is amended BY THE ADDITION OF A NEW SECTION to  
21 read:

22 **18-18-403.5. Unlawful possession of a controlled substance.**

23 (1) EXCEPT AS AUTHORIZED BY PART 3 OF ARTICLE 22 OF TITLE 12,  
24 C.R.S., OR BY PART 2 OR 3 OF THIS ARTICLE, IT IS UNLAWFUL FOR ANY  
25 PERSON KNOWINGLY TO POSSESS A CONTROLLED SUBSTANCE.

26 (2) A PERSON WHO VIOLATES SUBSECTION (1) BY POSSESSING:

27 (a) (I) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION

1 WEIGHING FOUR GRAMS OR LESS THAT CONTAINS ANY QUANTITY OF  
2 FLUNITRAZEPAM, KETAMINE, OR A CONTROLLED SUBSTANCE LISTED IN  
3 SCHEDULE I OR II OF PART 2 OF THIS ARTICLE EXCEPT METHAMPHETAMINE  
4 COMMITS A CLASS 6 FELONY.

5 (II) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
6 WEIGHING MORE THAN FOUR GRAMS THAT CONTAINS ANY QUANTITY OF  
7 FLUNITRAZEPAM, KETAMINE, OR A CONTROLLED SUBSTANCE LISTED IN  
8 SCHEDULE I OR II OF PART 2 OF THIS ARTICLE EXCEPT METHAMPHETAMINE  
9 COMMITS A CLASS 4 FELONY.

10 (b) (I) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
11 WEIGHING TWO GRAMS OR LESS THAT CONTAINS ANY QUANTITY OF  
12 METHAMPHETAMINE COMMITS A CLASS 6 FELONY.

13 (II) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION  
14 WEIGHING MORE THAN TWO GRAMS THAT CONTAINS ANY QUANTITY OF  
15 METHAMPHETAMINE COMMITS A CLASS 4 FELONY.

16 (c) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION THAT  
17 CONTAINS ANY QUANTITY OF A CONTROLLED SUBSTANCE LISTED IN  
18 SCHEDULE III, IV, OR V OF PART 2 OF THIS ARTICLE EXCEPT  
19 FLUNITRAZEPAM OR KETAMINE COMMITS A CLASS 1 MISDEMEANOR.

20 **SECTION 5.** 18-18-405, Colorado Revised Statutes, is amended  
21 BY THE ADDITION OF A NEW SUBSECTION to read:

22 **18-18-405. Unlawful distribution, manufacturing, dispensing,**  
23 **sale, or possession.** (7) NOTWITHSTANDING THE PROVISIONS OF  
24 SUBSECTION (2) OF THIS SECTION, AND EXCEPT AS OTHERWISE PROVIDED  
25 IN SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF  
26 SUBSECTION (2) OR PARAGRAPH (a) OF SUBSECTION (2.5) OF THIS SECTION,  
27 A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION BY SELLING,



1 DISPENSING, OR DISTRIBUTING A CONTROLLED SUBSTANCE OTHER THAN  
2 MARIJUANA OR MARIJUANA CONCENTRATE TO A MINOR UNDER EIGHTEEN  
3 YEARS OF AGE AND WHO IS AT LEAST EIGHTEEN YEARS OF AGE AND AT  
4 LEAST TWO YEARS OLDER THAN THE MINOR COMMITS A CLASS 3 FELONY  
5 AND, UNLESS A GREATER SENTENCE IS PROVIDED UNDER ANY OTHER  
6 STATUTE, SHALL BE SENTENCED TO THE DEPARTMENT OF CORRECTIONS  
7 FOR A TERM OF AT LEAST THE MINIMUM, BUT NOT MORE THAN TWICE THE  
8 MAXIMUM, OF THE PRESUMPTIVE RANGE PROVIDED FOR SUCH OFFENSE IN  
9 SECTION 18-1.3-401 (1) (a) AS MODIFIED PURSUANT TO SECTION  
10 18-1.3-401 (10).

11

12 **SECTION 6.** 18-18-406 (1), (3), (4), (5), (6), (7), and (8),  
13 Colorado Revised Statutes, are amended, and the said 18-18-406 is  
14 further amended BY THE ADDITION OF THE FOLLOWING NEW  
15 SUBSECTIONS, to read:

16 **18-18-406. Offenses relating to marijuana and marijuana**  
17 **concentrate.** (1) Any person who possesses ~~not more than one ounce~~  
18 TWO OUNCES OR LESS of ~~marihuana~~ MARIJUANA commits a class 2 petty  
19 offense and, upon conviction thereof, shall be punished by a fine of not  
20 more than one hundred dollars.

21 (3) (a) (I) Any person who openly and publicly displays,  
22 consumes, or uses ~~not more than one ounce~~ TWO OUNCES OR LESS of  
23 ~~marihuana~~ MARIJUANA commits a class 2 petty offense and, upon  
24 conviction thereof, shall be punished, at a minimum, by a fine of not less  
25 than one hundred dollars or, at a maximum, by a fine of not more than  
26 one hundred dollars and, notwithstanding the provisions of section  
27 18-1.3-503, by fifteen days in the county jail.

1 (II) Open and public display, consumption, or use of more than  
2 ~~one ounce~~ TWO OUNCES of ~~marihuana~~ MARIJUANA or any amount of  
3 ~~marihuana~~ MARIJUANA concentrate shall be deemed possession thereof,  
4 and violations shall be punished as provided for in subsection (4) OR (4.5)  
5 of this section.

6 (b) Except as is otherwise provided for in paragraph (a) of this  
7 subsection (3), consumption or use of ~~marihuana~~ MARIJUANA or  
8 ~~marihuana~~ MARIJUANA concentrate shall be deemed possession thereof,  
9 and violations shall be punished as provided for in subsections (1), (2),  
10 ~~and~~ (4), AND (4.5) of this section.

11 (4) (a) Any person who possesses more than ~~one ounce~~ TWO  
12 OUNCES of ~~marihuana~~ MARIJUANA but ~~less than eight~~ NO MORE THAN SIX  
13 ounces of ~~marihuana~~ MARIJUANA commits:

14 (I) A ~~class 1~~ CLASS 2 misdemeanor. ~~or~~

15 (II) A ~~class 5 felony~~, if the violation is committed subsequent to  
16 a ~~prior conviction in this or any other state, the United States, or any~~  
17 ~~territory subject to the jurisdiction of the United States of a violation to~~  
18 ~~which this subsection (4) applies or would apply if convicted in this state.~~

19 (b) Any person who possesses ~~eight~~ MORE THAN SIX ounces ~~or~~  
20 ~~more of marihuana or any amount of marihuana concentrate~~ MARIJUANA  
21 BUT NO MORE THAN TWELVE OUNCES OF MARIJUANA OR THREE OUNCES OR  
22 LESS OF MARIJUANA CONCENTRATE commits:

23 (I) A ~~class 5 felony~~; ~~or~~ CLASS 1 MISDEMEANOR.

24 (II) A ~~class 4 felony~~, if the violation is committed subsequent to  
25 a ~~prior conviction in this or any other state, the United States, or any~~  
26 ~~territory subject to the jurisdiction of the United States of a violation to~~  
27 ~~which this subsection (4) applies or would apply if convicted in this state.~~

1 (c) ANY PERSON WHO POSSESSES MORE THAN TWELVE OUNCES OF  
2 MARIJUANA OR MORE THAN THREE OUNCES OF MARIJUANA CONCENTRATE  
3 COMMITS A CLASS 6 FELONY.

4 (5) Transferring or dispensing ~~not more than one ounce~~ TWO  
5 OUNCES OR LESS of ~~marihuana~~ MARIJUANA from one person to another for  
6 no consideration ~~shall be deemed possession~~ IS A CLASS 2 PETTY OFFENSE  
7 and SHALL not BE DEEMED dispensing or sale thereof.

8 (6) (a) (I) ~~The court may utilize treatment, probation, and deferred~~  
9 ~~prosecution or deferred sentencing for any person who violates subsection~~  
10 ~~(4) of this section.~~ A PERSON SHALL NOT KNOWINGLY PROCESS OR  
11 MANUFACTURE ANY MARIJUANA OR MARIJUANA CONCENTRATE OR  
12 KNOWINGLY ALLOW TO BE PROCESSED OR MANUFACTURED ON LAND  
13 OWNED, OCCUPIED, OR CONTROLLED BY HIM OR HER ANY MARIJUANA OR  
14 MARIJUANA CONCENTRATE EXCEPT AS AUTHORIZED PURSUANT TO PART 3  
15 OF ARTICLE 22 OF TITLE 12, C.R.S.

16 (II) ANY PERSON WHO VIOLATES THE PROVISIONS OF  
17 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) COMMITS:

18 (A) A CLASS 4 FELONY; OR

19 (B) A CLASS 3 FELONY IF THE VIOLATION IS COMMITTED  
20 SUBSEQUENT TO A PRIOR CONVICTION IN THIS OR ANY OTHER STATE, THE  
21 UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION OF THE  
22 UNITED STATES OF A VIOLATION TO WHICH SUBPARAGRAPH (I) OF THIS  
23 PARAGRAPH (a) APPLIES OR WOULD APPLY IF COMMITTED IN THIS STATE.

24 (b) (I) EXCEPT AS IS OTHERWISE PROVIDED IN SUBSECTION (7) OF  
25 THIS SECTION AND EXCEPT AS AUTHORIZED BY PART 3 OF ARTICLE 22 OF  
26 TITLE 12, C.R.S., OR BY PART 2 OR 3 OF THIS ARTICLE, IT IS UNLAWFUL FOR  
27 ANY PERSON KNOWINGLY TO DISPENSE, SELL, DISTRIBUTE, OR POSSESS

1 WITH INTENT TO MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE  
2 MARIJUANA OR MARIJUANA CONCENTRATE; OR ATTEMPT, INDUCE,  
3 ATTEMPT TO INDUCE, OR CONSPIRE WITH ONE OR MORE OTHER PERSONS,  
4 TO DISPENSE, SELL, DISTRIBUTE, OR POSSESS WITH INTENT TO  
5 MANUFACTURE, DISPENSE, SELL, OR DISTRIBUTE MARIJUANA OR  
6 MARIJUANA CONCENTRATE.

7 (II) AS USED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH (b),  
8 "DISPENSE" DOES NOT INCLUDE LABELING, AS DEFINED IN SECTION  
9 12-22-102 (16), C.R.S.

10 (III) ANY PERSON WHO VIOLATES ANY OF THE PROVISIONS OF  
11 SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) COMMITS:

12 (A) A CLASS 5 FELONY IF THE AMOUNT OF MARIJUANA IS LESS  
13 THAN FIVE POUNDS OR THE AMOUNT OF MARIJUANA CONCENTRATE IS LESS  
14 THAN ONE POUND;

15 (B) A CLASS 4 FELONY IF THE AMOUNT OF MARIJUANA IS AT LEAST  
16 FIVE POUNDS BUT NOT MORE THAN ONE HUNDRED POUNDS OR THE  
17 AMOUNT OF MARIJUANA CONCENTRATE IS AT LEAST ONE POUND BUT NOT  
18 MORE THAN ONE HUNDRED POUNDS;

19 (C) A CLASS 3 FELONY IF THE AMOUNT OF MARIJUANA OR  
20 MARIJUANA CONCENTRATE IS MORE THAN ONE HUNDRED POUNDS; OR

21 (D) A CLASS 3 FELONY IF THE VIOLATION IS COMMITTED  
22 SUBSEQUENT TO ANY PRIOR CONVICTION IN THIS OR ANY OTHER STATE,  
23 THE UNITED STATES, OR ANY TERRITORY SUBJECT TO THE JURISDICTION  
24 OF THE UNITED STATES OF A VIOLATION TO WHICH SUBPARAGRAPH (I) OF  
25 THIS PARAGRAPH (b) APPLIES OR WOULD APPLY IF COMMITTED IN THIS  
26 STATE.

27 (7) (a) Any provision of this article to the contrary


1 notwithstanding, any person eighteen years of age or older who SELLS,  
2 transfers, or dispenses more than ~~one ounce~~ TWO OUNCES BUT LESS THAN  
3 FIVE POUNDS of ~~marihuana~~ MARIJUANA for consideration to any person  
4 under eighteen years of age but at least fifteen years of age or ~~any amount~~  
5 LESS THAN ONE POUND of ~~marihuana~~ MARIJUANA concentrate, with or  
6 without consideration, to another person under eighteen years of age  
7 commits a class 4 felony and, in addition to the punishment prescribed in  
8 section 18-1.3-401, shall be punished by a fine of not more than five  
9 thousand dollars. For offenses committed on or after July 1, 1985, the  
10 fine shall be in an amount within the presumptive range set out in section  
11 18-1.3-401 (1) (a) (III).

12 (b) THE SALE, TRANSFER, OR DISPENSING OF FIVE OR MORE POUNDS  
13 OF MARIJUANA OR ONE POUND OR MORE OF MARIJUANA CONCENTRATE TO  
14 A PERSON UNDER EIGHTEEN YEARS OF AGE BUT AT LEAST FIFTEEN YEARS  
15 OF AGE IS A CLASS 3 FELONY.

16 (c) Any person eighteen years of age or older who SELLS,  
17 transfers, or dispenses any amount of ~~marihuana~~ MARIJUANA OR  
18 MARIJUANA CONCENTRATE, with or without consideration, to any person  
19 under ~~the age of~~ fifteen years OF AGE commits a ~~class 4~~ CLASS 3 felony,  
20 ~~and, in addition to the punishment provided in section 18-1.3-401, shall~~  
21 ~~be punished by a fine of not more than five thousand dollars~~ AND THE  
22 COURT SHALL BE REQUIRED TO SENTENCE THE DEFENDANT TO THE  
23 DEPARTMENT OF CORRECTIONS FOR A TERM THAT IS AT LEAST THE  
24 MINIMUM IN THE PRESUMPTIVE RANGE BUT NO MORE THAN THE MAXIMUM  
25 TERM AUTHORIZED FOR THE PUNISHMENT OF A CLASS 3 FELONY. For  
26 offenses committed on or after July 1, 1985, the fine shall be in an  
27 amount within the presumptive range set out in section 18-1.3-401 (1) (a)

1 (III).

2 (d) Any person commits a class 3 felony, if the violation is  
3 committed subsequent to a prior conviction in this or any other state, the  
4 United States, or any territory subject to the jurisdiction of the United  
5 States of a violation to which PARAGRAPH (a) OF this subsection (7)  
6 applies or would apply if convicted in this state, and, in addition to the  
7 punishment provided in section 18-1.3-401, the court shall sentence the  
8 defendant to the department of corrections for at least the minimum term  
9 in the presumptive range. For offenses committed on or after July 1,  
10 1985, the fine shall be in an amount within the presumptive range set out  
11 in section 18-1.3-401 (1) (a) (III).

12   
13 (7.5) EXCEPT FOR A PERSON WHO LAWFULLY CULTIVATES MEDICAL  
14 MARIJUANA PURSUANT TO THE AUTHORITY GRANTED IN SECTION 14 OF  
15 ARTICLE XVIII OF THE STATE CONSTITUTION, A PERSON SHALL NOT  
16 KNOWINGLY CULTIVATE, GROW, OR PRODUCE A MARIJUANA PLANT OR  
17 KNOWINGLY ALLOW A MARIJUANA PLANT TO BE CULTIVATED, GROWN, OR  
18 PRODUCED ON LAND THAT THE PERSON OWNS, OCCUPIES, OR CONTROLS.  
19 A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBSECTION (7.5)  
20 COMMITS:

21 (a) A CLASS 1 MISDEMEANOR, IF THE OFFENSE INVOLVES SIX OR  
22 FEWER PLANTS; OR

23 (b) A CLASS 5 FELONY IF THE OFFENSE INVOLVES MORE THAN SIX  
24 BUT FEWER THAN THIRTY PLANTS; OR

25 (c) A CLASS 4 FELONY IF THE OFFENSE INVOLVES THIRTY OR MORE  
26 PLANTS.

27 (8) (a) (I) ~~No person knowingly shall cultivate, grow, produce,~~

1 process, or manufacture any marihuana or marihuana concentrate or  
2 knowingly allow to be cultivated, grown, produced, processed, or  
3 manufactured on land owned, occupied, or controlled by him any  
4 marihuana or marihuana concentrate except as authorized pursuant to part  
5 3 of article 22 of title 12, C.R.S.

6 (H) Any person who violates the provisions of subparagraph (I)  
7 of this paragraph (a) commits:

8 (A) A class 4 felony; or

9 (B) A class 3 felony, if the violation is committed subsequent to  
10 a prior conviction in this or any other state, the United States, or any  
11 territory subject to the jurisdiction of the United States of a violation to  
12 which this subsection (8) applies or would apply if convicted in this state.

13 (b) (I) Except as is otherwise provided in subsection (7) of this  
14 section and except as authorized by part 3 of article 22 of title 12, C.R.S.,  
15 or by part 2 or 3 of this article, it is unlawful for any person knowingly to  
16 manufacture, dispense, sell, distribute, or possess with intent to  
17 manufacture, dispense, sell, or distribute marihuana or marihuana  
18 concentrate; or attempt, induce, attempt to induce, or conspire with one  
19 or more other persons, to manufacture, dispense, sell, distribute, or  
20 possess with intent to manufacture, dispense, sell, or distribute marihuana  
21 or marihuana concentrate.

22 (H) As used in subparagraph (I) of this paragraph (b), "dispense"  
23 does not include labeling, as defined in section 12-22-102 (16), C.R.S.

24 (HH) Any person who violates any of the provisions of  
25 subparagraph (I) of this paragraph (b) commits:

26 (A) A class 4 felony; or

27 (B) A class 3 felony, if the violation is committed subsequent to

1 ~~any prior conviction in this or any other state, the United States, or any~~  
2 ~~territory subject to the jurisdiction of the United States of a violation to~~  
3 ~~which this subsection (8) applies or would apply if convicted in this state.~~

4 **SECTION 7.** 18-18-407 (1) (d), (1) (e), and (1) (f), Colorado  
5 Revised Statutes, are amended to read:

6 **18-18-407. Special offender.** (1) Upon a felony conviction  
7 under this part 4, the presence of any one or more of the following  
8 extraordinary aggravating circumstances designating the defendant a  
9 special offender shall require the court to sentence the defendant to the  
10 department of corrections for a term of at least the minimum term of years  
11 within the presumptive range for a class 2 felony but not more than twice  
12 the maximum term of years within the presumptive range for a class 2  
13 felony:

14 (d) The defendant unlawfully introduced, distributed, or imported  
15 into the state of Colorado MORE THAN FOUR GRAMS OF any schedule I or  
16 II controlled substance ~~contained~~ LISTED in part 2 of this article OR MORE  
17 THAN TWO GRAMS OF METHAMPHETAMINE;

18 (e) The defendant unlawfully sold, dispensed, distributed,  
19 possessed, or imported into the state of Colorado a quantity in excess of  
20 one hundred pounds of ~~marihuana~~ MARIJUANA or ~~marihuana~~ MARIJUANA  
21 concentrate;

22 (f) (I) The defendant used, displayed, OR possessed ~~or had~~  
23 ~~available for use~~ ON HIS OR HER PERSON OR WITHIN HIS OR HER IMMEDIATE  
24 REACH, a deadly weapon as defined in section 18-1-901 (3) (e) AT THE  
25 TIME OF THE COMMISSION OF A VIOLATION OF THIS PART 4; OR

26 (II) THE DEFENDANT OR A CONFEDERATE OF THE DEFENDANT  
27 POSSESSED A FIREARM, AS DEFINED IN SECTION 18-1-901 (3) (h), TO WHICH



1 THE DEFENDANT OR CONFEDERATE HAD ACCESS IN A MANNER THAT POSED  
2 A RISK TO OTHERS OR IN A VEHICLE THE DEFENDANT WAS OCCUPYING  
3 DURING THE COMMISSION OF A VIOLATION OF THIS PART 4;

4 **SECTION 8.** 18-18-415 (2), Colorado Revised Statutes, is  
5 amended to read:

6 **18-18-415. Fraud and deceit.** (2) Any person who violates any  
7 provision of this section commits:

8 (a) A ~~class 5~~ CLASS 6 felony and shall be punished as provided in  
9 section 18-1.3-401. ~~or~~

10 (b) ~~A class 4 felony, if the violation is committed subsequent to~~  
11 ~~a prior conviction for a violation to which this subsection (2) applies and~~  
12 ~~shall be punished as provided in section 18-1.3-401.~~

13 **SECTION 9.** 18-19-103 (4) (a), Colorado Revised Statutes, is  
14 amended, and the said 18-19-103 is further amended BY THE  
15 ADDITION OF A NEW SUBSECTION, to read:

16 **18-19-103. Source of revenues - allocation of moneys.** (3.5)(a)  
17 MONEYS APPROPRIATED BY THE GENERAL ASSEMBLY PURSUANT TO  
18 HOUSE BILL 10-1352, ENACTED IN 2010, SHALL BE DEPOSITED INTO THE  
19 DRUG OFFENDER SURCHARGE FUND CREATED PURSUANT TO SUBSECTION  
20 (4) OF THIS SECTION AND SHALL BE ALLOCATED PURSUANT TO SECTION  
21 16-11.5-102 (3) (c), C.R.S.

22 (b) EACH FISCAL YEAR, THE GENERAL ASSEMBLY SHALL  
23 APPROPRIATE TO THE DRUG OFFENDER SURCHARGE FUND CREATED  
24 PURSUANT TO SUBSECTION (4) OF THIS SECTION THE SAVINGS GENERATED  
25 BY HOUSE BILL 10-1352, ENACTED IN 2010. THE APPROPRIATION SHALL  
26 BE MADE AFTER CONSIDERATION OF THE DIVISION OF CRIMINAL JUSTICE'S  
27 ANNUAL REPORT REQUIRED PURSUANT TO SECTION 24-33.5-503 (1) (u).

1 C.R.S.

2 (4) (a) There is hereby created in the state treasury a drug offender  
3 surcharge fund, which shall consist of moneys received by the state  
4 treasurer pursuant to paragraph (d) of subsection (3) of this section AND  
5 SUBSECTION (3.5) OF THIS SECTION. All interest derived from the deposit  
6 and investment of moneys in the fund shall be credited to the fund. Any  
7 moneys not appropriated by the general assembly shall remain in the drug  
8 offender surcharge fund and shall not be transferred or revert to the  
9 general fund of the state at the end of any fiscal year. All moneys in the  
10 fund shall be subject to annual appropriation by the general assembly to  
11 the judicial department, the department of corrections, the division of  
12 criminal justice of the department of public safety, and the department of  
13 human services, after consideration of the plan developed pursuant to  
14 section 16-11.5-102 (3), C.R.S., to cover the costs associated with  
15 substance abuse assessment, testing, education, and treatment.

16 ==

17 (b) Notwithstanding any provision of paragraph (a) of this  
18 subsection (5.5) to the contrary, on April 20, 2009, the state treasurer  
19 shall deduct three hundred fifty thousand dollars from the ~~drug offender~~  
20 ~~treatment~~ fund and transfer such sum to the general fund.

21 **SECTION 10.** 16-11.5-102 (3), Colorado Revised Statutes, is  
22 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

23 **16-11.5-102. Substance abuse assessment - standardized**  
24 **procedure.** (3) (c) (I) THE MONEYS ALLOCATED TO THE DRUG OFFENDER  
25 SURCHARGE FUND PURSUANT TO SECTION 18-19-103 (3.5), C.R.S., SHALL  
26 ONLY BE USED TO COVER THE COSTS ASSOCIATED WITH THE TREATMENT  
27 OF SUBSTANCE ABUSE OR CO-OCCURRING DISORDERS OF ADULT

1 OFFENDERS WHO ARE ASSESSED TO BE IN NEED OF TREATMENT AND WHO  
2 ARE:

- 3 (A) ON DIVERSION;
- 4 (B) ON PROBATION;
- 5 (C) ON PAROLE;
- 6 (D) IN COMMUNITY CORRECTIONS; OR
- 7 (E) IN JAIL.

8 (II) THE PLAN TO ALLOCATE MONEYS DEPOSITED IN THE DRUG  
9 OFFENDER SURCHARGE FUND PURSUANT TO SECTION 18-19-103 (3.5),  
10 C.R.S., SHALL BE DEVELOPED PURSUANT TO PARAGRAPH (a) OF  
11 SUBSECTION (3) AND SHALL ALSO INCLUDE A REPRESENTATIVE  
12 DESIGNATED BY THE COLORADO DISTRICT ATTORNEY'S COUNCIL, THE  
13 STATE PUBLIC DEFENDER, A REPRESENTATIVE FROM A STATEWIDE  
14 ASSOCIATION REPRESENTING COUNTY SHERIFFS, AND REPRESENTATIVE  
15 FROM A STATEWIDE ASSOCIATION REPRESENTING COUNTIES.

16 **SECTION 11.** 24-33.5-503 (1), Colorado Revised Statutes, is  
17 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

18 **24-33.5-503. Duties of division.** (1) The division has the  
19 following duties:

20 (u) TO ANALYZE THE AMOUNT OF FISCAL SAVINGS THAT HOUSE  
21 BILL 10-1352, ENACTED IN 2010, HAS GENERATED OVER THE PREVIOUS  
22 FISCAL YEAR. BEGINNING JANUARY 15, 2011, THE DIVISION SHALL REPORT  
23 THE ANALYSIS ANNUALLY TO THE JOINT BUDGET COMMITTEE.

24 **SECTION 12.** 12-22-303 (18), Colorado Revised Statutes, is  
25 amended to read:

26 **12-22-303. Definitions.** As used in this part 3, unless the context  
27 otherwise requires:

1 (18) "~~Marihuana concentrate~~" "MARIJUANA CONCENTRATE" means  
2 hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative,  
3 preparation, compound, or mixture, whether natural or synthesized, of  
4 tetrahydrocannabinols.

5 **SECTION 13.** 12-22-304 (7), Colorado Revised Statutes, is  
6 amended to read:

7 **12-22-304. License required - controlled substances - repeal.**  
8 (7) No license shall be issued under this part 3 to a researcher,  
9 manufacturer, or distributor of ~~marihuana~~ MARIJUANA or ~~marihuana~~  
10 MARIJUANA concentrate.

11 **SECTION 14.** 16-13-303 (1) (c) (II), Colorado Revised Statutes,  
12 is amended to read:

13 **16-13-303. Class 1 public nuisance.** (1) Every building or part  
14 of a building including the ground upon which it is situate and all fixtures  
15 and contents thereof, every vehicle, and any real property shall be deemed  
16 a class 1 public nuisance when:

17 (c) (II) Used for unlawful possession of any controlled substance,  
18 as defined in section 18-18-102 (5), C.R.S., except for possession of less  
19 than ~~eight~~ SIXTEEN ounces of ~~marihuana~~ MARIJUANA;

20 **SECTION 15.** 16-13-503 (2), Colorado Revised Statutes, is  
21 amended to read:

22 **16-13-503. Subject acts.** (2) Mere possession of less than ~~eight~~  
23 SIXTEEN ounces of ~~marihuana~~ MARIJUANA shall not be an act subject to  
24 the provisions of this part 5.

25 **SECTION 16.** 18-1.3-201 (2) (c), Colorado Revised Statutes, is  
26 amended to read:

27 **18-1.3-201. Application for probation.** (2) (c) Notwithstanding

1 the provisions of paragraph (a) of this subsection (2) and subsection (4)  
2 of this section, an offender convicted of a violation of ~~section 18-18-405~~  
3 ~~(2.3)~~ SECTION 18-18-403.5 may be eligible for probation upon  
4 recommendation of the district attorney.

5 **SECTION 17.** 18-8-203 (1), Colorado Revised Statutes, is  
6 amended to read:

7 **18-8-203. Introducing contraband in the first degree.** (1) A  
8 person commits introducing contraband in the first degree if he or she  
9 knowingly and unlawfully:

10 (a) Introduces or attempts to introduce a dangerous instrument, ~~as~~  
11 ~~defined in subsection (4) of this section~~, malt, vinous, or spirituous liquor,  
12 as defined in section 12-47-103, C.R.S., fermented malt beverage, as  
13 defined in section 12-46-103, C.R.S., controlled substance, as defined in  
14 section ~~12-22-303 (7), C.R.S.~~ 18-18-102 (5), or ~~marihuana~~ MARIJUANA or  
15 ~~marihuana~~ MARIJUANA concentrate, as defined in section 12-22-303 (17)  
16 and (18), C.R.S., into a detention facility or at any location where an  
17 inmate is or is likely to be located, while ~~such~~ THE inmate is in the  
18 custody and under the jurisdiction of a political subdivision of the state  
19 of Colorado or the department of corrections, but not on parole; or

20 (b) Being a person confined in a detention facility, makes any  
21 dangerous instrument, controlled substance, ~~marihuana~~ MARIJUANA or  
22 ~~marihuana~~ MARIJUANA concentrate, or alcohol.

23 **SECTION 18.** 18-18-102 (5), (18), and (19), Colorado Revised  
24 Statutes, are amended to read:

25 **18-18-102. Definitions.** As used in this article:

26 (5) "Controlled substance" means a drug, substance, or immediate  
27 precursor included in schedules I through V of part 2 of this article,

1 including cocaine, ~~marihuana~~ MARIJUANA, and ~~marihuana~~ MARIJUANA  
2 concentrate.

3 (18) ~~"Marihuana"~~ or "Marijuana" means all parts of the plant  
4 cannabis sativa L., whether growing or not, the seeds thereof, the resin  
5 extracted from any part of the plant, and every compound, manufacture,  
6 salt, derivative, mixture, or preparation of the plant, its seeds, or its resin.  
7 It does not include fiber produced from the stalks, oil or cake made from  
8 the seeds of the plant, or sterilized seed of the plant which is incapable of  
9 germination if these items exist apart from any other item defined as  
10 ~~"marihuana"~~ "MARIJUANA" in this subsection (18). ~~"Marihuana"~~  
11 "MARIJUANA" does not include ~~marihuana~~ MARIJUANA concentrate as  
12 defined in subsection (19) of this section.

13 (19) ~~"Marihuana concentrate"~~ "MARIJUANA CONCENTRATE" means  
14 hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative,  
15 preparation, compound, or mixture, whether natural or synthesized, of  
16 tetrahydrocannabinols.

17 **SECTION 19.** 18-18-406.5 (1) and (2), Colorado Revised  
18 Statutes, are amended to read:

19 **18-18-406.5. Unlawful use of marijuana in a detention facility.**

20 (1) Any person confined in any detention facility in this state who  
21 possesses or uses up to eight ounces of ~~marihuana~~ MARIJUANA commits  
22 a class 6 felony; except that, if the person commits a second or  
23 subsequent violation where both the initial and subsequent violations  
24 involved more than one ounce of ~~marihuana~~ MARIJUANA, the person  
25 commits a class 5 felony.

26 (2) Any person confined in any detention facility in this state who  
27 possesses or uses eight ounces or more of ~~marihuana~~ MARIJUANA shall be

1 subject to the provisions of section 18-18-406 (4) (b).

2

3 **SECTION 20.** 18-18-414 (1) (d), Colorado Revised Statutes, is  
4 amended to read:

5 **18-18-414. Unlawful acts - licenses - penalties.** (1) Except as  
6 otherwise provided in this article or in article 22 of title 12, C.R.S., the  
7 following acts are unlawful:

8 (d) The dispensing of any ~~marihuana~~ MARIJUANA or ~~marihuana~~  
9 MARIJUANA concentrate;

10 **SECTION 21.** 18-18-426 (1) (c), the introductory portion to  
11 18-18-426 (1) (g), and 18-18-426 (1) (g) (V), Colorado Revised Statutes,  
12 are amended to read:

13 **18-18-426. Drug paraphernalia - definitions.** As used in  
14 sections 18-18-425 to 18-18-430, unless the context otherwise requires:

15 (1) "Drug paraphernalia" means all equipment, products, and  
16 materials of any kind which are used, intended for use, or designed for  
17 use in planting, propagating, cultivating, growing, harvesting,  
18 manufacturing, compounding, converting, producing, processing,  
19 preparing, testing, analyzing, packaging, repackaging, storing, containing,  
20 concealing, injecting, ingesting, inhaling, or otherwise introducing into  
21 the human body a controlled substance in violation of the laws of this  
22 state. "Drug paraphernalia" includes, but is not limited to:

23 (c) Separation gins and sifters used, intended for use, or designed  
24 for use in removing twigs and seeds from or in otherwise cleaning or  
25 refining ~~marihuana~~ MARIJUANA;

26 (g) Objects used, intended for use, or designed for use in  
27 ingesting, inhaling, or otherwise introducing ~~marihuana~~ MARIJUANA,

1 cocaine, hashish, or hashish oil into the human body, such as:

2 (V) Roach clips, meaning objects used to hold burning material,  
3 such as a ~~marihuana~~ MARIJUANA cigarette that has become too small or  
4 too short to be held in the hand;

5 **SECTION 22.** 19-2-104 (1) (a) (I), Colorado Revised Statutes, is  
6 amended to read:

7 **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,  
8 the juvenile court shall have exclusive original jurisdiction in  
9 proceedings:

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

12 (I) Any federal or state law, except nonfelony state traffic, game  
13 and fish, and parks and recreation laws or ~~regulations~~ RULES, the offenses  
14 specified in section 18-13-121, C.R.S., concerning tobacco products, the  
15 offense specified in section 18-13-122, C.R.S., concerning the illegal  
16 possession or consumption of ethyl alcohol by an underage person, and  
17 the offenses specified in section 18-18-406 (1) and (3), C.R.S.,  
18 concerning ~~marihuana~~ MARIJUANA and ~~marihuana~~ MARIJUANA  
19 concentrate;

20 **SECTION 23.** 25-5-415 (1) (I), Colorado Revised Statutes, is  
21 amended to read:

22 **25-5-415. Misbranding.** (1) A drug or device shall be deemed  
23 to be misbranded:

24 (I) If it is for use by man and contains any quantity of the narcotic  
25 or hypnotic substance alpha eucaine, barbituric acid, betaeucaine, bromal,  
26 cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, ~~marihuana~~  
27 MARIJUANA, morphine, opium, paraldehyde, peyote, or sulphonmethane,



1 or any chemical derivative of such substance, which derivative, after  
2 investigation, has been found to be and designated as habit-forming by  
3 ~~regulations~~ RULES issued by the department or pursuant to the federal act,  
4 unless its label bears the name and quantity or proportion of ~~such~~ THE  
5 substance or derivative and in juxtaposition therewith the statement  
6 "Warning - May be habit-forming";

7 **SECTION 24.** 26-6-108 (2) (c.5), Colorado Revised Statutes, is  
8 amended to read:

9 **26-6-108. Denial of license - suspension - revocation -**  
10 **probation - refusal to renew license - fines.** (2) The department may  
11 deny an application, or suspend, revoke, or make probationary the license  
12 of any facility regulated and licensed under this part 1 or assess a fine  
13 against the licensee pursuant to section 26-6-114 should the licensee, an  
14 affiliate of the licensee, a person employed by the licensee, or a person  
15 who resides with the licensee at the facility:

16 (c.5) Be convicted of unlawful use of a controlled substance as  
17 specified in section 18-18-404, C.R.S., unlawful distribution,  
18 manufacturing, dispensing, sale, or possession of a controlled substance  
19 as specified in section 18-18-403.5, 18-18-405, OR 18-18-405.5, C.R.S.,  
20 or unlawful offenses relating to ~~marihuana~~ MARIJUANA or ~~marihuana~~  
21 MARIJUANA concentrate as specified in section 18-18-406, C.R.S.; or

22 **SECTION 25.** 18-19-103 (1) (c), (1) (d), (1) (e), (1) (f), (1) (g),  
23 (1) (h), and (2), Colorado Revised Statutes, are amended to read:

24 **18-19-103. Source of revenues - allocation of moneys.** (1) For  
25 offenses committed on and after July 1, 1996, each drug offender who is  
26 convicted, or receives a deferred sentence pursuant to section 18-1.3-102,  
27 shall be required to pay a surcharge to the clerk of the court in the county

1 in which the conviction occurs or in which the deferred sentence is  
2 entered. Such surcharge shall be in the following amounts:

3 (c) For each class 4 felony of which a person is convicted, ~~one~~  
4 TWO thousand ~~five hundred~~ dollars;

5 (d) For each class 5 felony of which a person is convicted, one  
6 thousand ~~one FIVE hundred twenty-five~~ dollars;

7 (e) For each class 6 felony of which a person is convicted, ~~seven~~  
8 ONE THOUSAND TWO hundred fifty dollars;

9 (f) For each class 1 misdemeanor of which a person is convicted,  
10 ~~six hundred~~ ONE THOUSAND dollars;

11 (g) For each class 2 misdemeanor of which a person is convicted,  
12 ~~four~~ SIX hundred fifty dollars;

13 (h) For each class 3 misdemeanor of which a person is convicted,  
14 ~~two~~ THREE hundred ~~twenty-five~~ dollars.

15 (2) Each drug offender convicted of a violation of section  
16 18-18-406 (1), or who receives a deferred sentence pursuant to section  
17 18-1.3-102 for a violation of section 18-18-406 (1), shall be assessed a  
18 surcharge of ~~one~~ TWO hundred dollars.

19 **SECTION 26. Appropriation - adjustments to the 2010 long**  
20 **bill.** (1) In addition to any other appropriation, there is hereby  
21 appropriated, out of any moneys in the general fund not otherwise  
22 appropriated, to the judicial department, for allocation to the probation  
23 and related services division, for probation programs, for the fiscal year  
24 beginning July 1, 2010, the sum of two hundred sixty-three thousand  
25 three hundred seventy-seven dollars (\$263,377) and 4.8 FTE, or so much  
26 thereof as may be necessary, for the implementation of this act.

27 (2) In addition to any other appropriation, there is hereby

1 appropriated, out of any moneys in the general fund not otherwise  
2 appropriated, to the department of public safety, for allocation to the  
3 division of criminal justice, for analyzing and reporting on the annual  
4 fiscal savings generated by House Bill 10-1352, for the fiscal year  
5 beginning July 1, 2010, the sum of thirty-six thousand five hundred  
6 twenty-eight dollars (\$36,528) and 0.5 FTE, or so much thereof as may  
7 be necessary, for the implementation of this act.

8 (3) In addition to any other appropriation, there is hereby  
9 appropriated, out of any moneys in the general fund not otherwise  
10 appropriated, to the judicial department, for allocation to the probation  
11 and related services division, to be credited to the drug offender surcharge  
12 fund created in section 18-19-103 (4), Colorado Revised Statutes, for the  
13 fiscal year beginning July 1, 2010, the sum of one million four hundred  
14 sixty-eight thousand one hundred ninety-six dollars (\$1,468,196).

15 (4) For the implementation of this act, the general fund  
16 appropriation made in the annual general appropriation act for the fiscal  
17 year beginning July 1, 2010, to the department of corrections,  
18 management, external capacity subprogram, for payments to house state  
19 prisoners, is decreased by one million five hundred twenty-three thousand  
20 five hundred eighty-nine dollars (\$1,523,589).

21 (5) For the implementation of this act, the general fund  
22 appropriation made in the annual general appropriation act for the fiscal  
23 year beginning July 1, 2010, to the judicial department, public defender,  
24 for personal services and operating expenses, is decreased by two  
25 hundred forty-four thousand five hundred twelve dollars (\$244,512) and  
26 5.6 FTE.

27 **SECTION 27. Act subject to petition - effective date -**

1     **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
2 following the expiration of the ninety-day period after final adjournment  
3 of the general assembly (August 11, 2010, if adjournment sine die is on  
4 May 12, 2010); except that, if a referendum petition is filed pursuant to  
5 section 1 (3) of article V of the state constitution against this act or an  
6 item, section, or part of this act within such period, then the act, item,  
7 section, or part shall not take effect unless approved by the people at the  
8 general election to be held in November 2010 and shall take effect on the  
9 date of the official declaration of the vote thereon by the governor.

10           (2) The provisions of this act shall apply to offenses committed on  
11 or after the applicable effective date of this act.