

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0120.01 Richard Sweetman x4333

SENATE BILL 12-116

SENATE SPONSORSHIP

Foster, Carroll, Johnston, Mitchell, Scheffel

HOUSE SPONSORSHIP

Brown, Levy, Beezley, Kagan

SENATE
Recall 3rd Reading
March 15, 2012

Senate Committees

Local Government
Appropriations

House Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PENALTIES ASSOCIATED WITH CATHINONES, AND, IN**
102 **CONNECTION THEREWITH, ESTABLISHING A MISDEMEANOR**
103 **PENALTY FOR POSSESSION OF A CATHINONE, REQUIRING A**
104 **POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS**
105 **ACT, AND 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>.)

The bill defines cathinones and establishes criminal penalties for

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
Amended 3rd Reading
March 16, 2012

SENATE
Amended 2nd Reading
March 15, 2012

possession of cathinones and for distributing, manufacturing, dispensing, or selling cathinones. Any person or entity that sells a product that is labeled as a "bath salt" or any other trademark and contains any amount of a cathinone commits a deceptive trade practice and is subject to a civil penalty.

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

2 **SECTION 1. Legislative declaration - post-enactment review**
3 **of this act.** (1) The general assembly hereby determines and declares
4 that:

5 (a) In accordance with section 2-2-1201, Colorado Revised
6 Statutes (C.R.S.), the legislative service agencies of the general assembly
7 shall conduct a post-enactment review of Senate Bill 12-116, enacted in
8 2012, and report their conclusions to the judiciary committees of the
9 house of representatives and senate, or any successor committees, and to
10 the persons described in section 2-2-1201 (3), C.R.S.;

11 (b) Notwithstanding the provisions of section 2-2-1201 (3),
12 C.R.S., the legislative service agencies of the general assembly shall
13 complete the post-enactment review of Senate Bill 12-116, enacted in
14 2012, no later than one hundred eighty days after the one-year anniversary
15 of the enactment of Senate Bill 12-116, enacted in 2012;

16 (c) Notwithstanding the provisions of section 2-2-1201 (2) (a),
17 C.R.S., the review shall not make the determinations described in said
18 section 2-2-1201 (2) (a), C.R.S., but shall include the following
19 information:

20 (I) A comparison of the criminal sanctions for possession of the
21 controlled substances defined as "cathinones" at section 18-18-102 (3.5),
22 C.R.S., enacted in section 2 of this act, to the criminal sanctions for
23 possession of controlled substances, as such criminal sanctions appear in

1 title 18, C.R.S., following the 2013 regular session of the sixty-ninth
2 general assembly;

3 (II) Information indicating whether law enforcement agencies
4 within the state have made efforts since the effective date of Senate Bill
5 12-116, enacted in 2012, pursuant to the provisions of the "Colorado
6 Consumer Protection Act", article 1 of title 6, C.R.S., to bring actions
7 against manufacturers, distributors, or retailers of products containing
8 cathinones, including information regarding the type of enforcement
9 actions that have been employed, the law enforcement agency or agencies
10 involved in each such enforcement action, and the outcome of each such
11 enforcement action, to the extent that such information is available; and

12 (III) Information indicating whether any criminal cases have been
13 filed pursuant to the provisions of section 18-18-406.7 or 18-18-406.8,
14 C.R.S., enacted in section 4 of this act, including the number of such
15 cases, the jurisdiction in which each such case was filed, the nature of the
16 charges filed in each such case, and the disposition of each such case, to
17 the extent that such information is available.

18 **SECTION 2.** In Colorado Revised Statutes, 18-18-102, **amend**
19 (5); and **add** (3.5) as follows:

20 **18-18-102. Definitions.** As used in this article:

21 (3.5) (a) "CATHINONES" MEANS ANY SYNTHETIC OR NATURAL
22 MATERIAL CONTAINING ANY QUANTITY OF A CATHINONE CHEMICAL
23 STRUCTURE, INCLUDING ANY ANALOGS, SALTS, ISOMERS, OR SALTS OF
24 ISOMERS OF ANY SYNTHETIC OR NATURAL MATERIAL CONTAINING A
25 CATHINONE CHEMICAL STRUCTURE, INCLUDING BUT NOT LIMITED TO THE
26 FOLLOWING SUBSTANCES AND ANY ANALOGS, SALTS, ISOMERS, OR SALTS
27 OF ISOMERS ___ OF ANY OF THE FOLLOWING SUBSTANCES:

- 1 (I) ALPHA-PHTHALIMIDOPROPIOPHENONE;
2 (II) N, N-DIMETHYLCATHINONE (METAMFEPRAMONE);
3 (III) N-ETHYLCATHINONE (ETHCATHINONE);
4 (IV) ALPHA-PYRROLIDINOPROPIOPHENONE (ALPHA-PPP);
5 (V) 2-METHYLAMINO-1-PHENYLBUTAN-1-ONE (BUPHEDRONE);
6 (VI) ALPHA-PYRROLIDINOBTIOPHENONE (ALPHA-PBP);
7 (VII) ALPHA-PYRROLIDINOVALEROPHENONE (ALPHA-PVP, PVP);
8 (VIII) 4-METHYLMETHCATHINONE (4-MMC, MEPHEDRONE);
9 (IX) 4'-METHYL-ALPHA-PYRROLIDINOPROPIOPHENONE (MPPP);
10 (X) 4'-METHYL-ALPHA-PYRROLIDINOBTIOPHENONE (MPBP);
11 (XI) 4'-METHYL-ALPHA-PYRROLIDINOHEXIOPHENONE (MPHP);
12 (XII) 4-METHOXYMETHCATHINONE (PMMC, METHEDRONE,
13 BK-PMMA);
14 (XIII) 4'-METHOXY-ALPHA-PYRROLIDINOPROPIOPHENONE
15 (MOPPP);
16 (XIV) FLUOROMETHCATHINONE (4-FMC, FLEPHEDRONE, 3-FMC);
17 (XV) 3,4-METHYLENEDIOXYMETHCATHINONE (METHYLONE,
18 BK-MDMA);
19 (XVI) 3,4-METHYLENEDIOXYETHCATHINONE (ETHYLONE,
20 BK-MDEA);
21 (XVII) 3',4'-METHYLENEDIOXY-ALPHA-
22 PYRROLIDINOPROPIOPHENONE (MDPPP);
23 (XVIII) 2-METHYLAMINO-1-(3,4- METHYLENEDIOXYPHENYL)-
24 1-BUTANONE (BUTYLONE, BK-MDBD);
25 (XIX) 3',4'-METHYLENEDIOXY-ALPHA-
26 PYRROLIDINOBTIOPHENONE (MDPBP);
27 (XX) 2-METHYLAMINO-1-(3,4-METHYLENEDIOXYPHENYL)

1 -1-CPENTANONE (BK-MBDP):
2 (XXI) 3,4-METHYLENEDIOXYPYROVALERONE (MDPV):
3 (XXII) NAPHTHYLPYROVALERONE (NAPHYRONE):
4 (XXIII) 2-(METHYLAMINO)-1-PHENYL-1-PENTANONE
5 PENTEDRONE); AND
6 (XXIV) N-METHYLETHCATHINONE (4-MEC).

7 (b) "CATHINONES" DOES NOT INCLUDE DIETHYLPROPRION OR
8 BUPROPRION.

9 (c) AS USED IN THIS SUBSECTION (3.5), "ANALOG" MEANS ANY
10 CHEMICAL THAT IS SUBSTANTIALLY SIMILAR IN CHEMICAL STRUCTURE TO
11 THE CHEMICAL STRUCTURE OF ANY CATHINONES.

12 (5) "Controlled substance" means a drug, substance, or immediate
13 precursor included in schedules I through V of part 2 of this article,
14 including cocaine, marijuana, marijuana concentrate, ANY CATHINONES,
15 any synthetic cannabinoid, and salvia divinorum.

16 **SECTION 3.** In Colorado Revised Statutes, **repeal** 18-18-203 (2)
17 (e) (I).

18 **SECTION 4.** In Colorado Revised Statutes, **add** 18-18-406.7 and
19 18-18-406.8 as follows:

20 **18-18-406.7. Unlawful possession of cathinones.** (1) IT IS
21 UNLAWFUL FOR ANY PERSON TO POSSESS ANY AMOUNT OF ANY
22 CATHINONES.

23 (2) A PERSON WHO VIOLATES ANY PROVISION OF SUBSECTION (1)
24 OF THIS SECTION COMMITS A CLASS 1 MISDEMEANOR.

25 **18-18-406.8. Unlawful distribution, manufacturing,**
26 **dispensing, or sale of cathinones.** (1) IT IS UNLAWFUL FOR ANY PERSON
27 TO KNOWINGLY:

1 (a) DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, OR TO
2 POSSESS WITH INTENT TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL,
3 ANY AMOUNT OF ANY CATHINONES; OR

4 (b) INDUCE, ATTEMPT TO INDUCE, OR CONSPIRE WITH ONE OR MORE
5 OTHER PERSONS TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL, OR
6 POSSESS WITH INTENT TO DISTRIBUTE, MANUFACTURE, DISPENSE, OR SELL,
7 ANY AMOUNT OF ANY CATHINONES.

8 (2) A PERSON WHO VIOLATES SUBSECTION (1) OF THIS SECTION
9 COMMITS A CLASS 3 FELONY AND SHALL BE SENTENCED AS PROVIDED IN
10 SECTION 18-1.3-401; EXCEPT THAT, UNLESS A GREATER SENTENCE IS
11 PROVIDED UNDER ANY OTHER STATUTE, THE PERSON SHALL BE SENTENCED
12 TO THE DEPARTMENT OF CORRECTIONS FOR A TERM OF AT LEAST THE
13 MINIMUM, BUT NOT MORE THAN TWICE THE MAXIMUM, OF THE
14 PRESUMPTIVE RANGE PROVIDED FOR THE OFFENSE IN SECTION 18-1.3-401
15 (1)(a) AS MODIFIED PURSUANT TO SECTION 18-1.3-401 (10), IF THE PERSON
16 IS AT LEAST EIGHTEEN YEARS OF AGE AND:

17 (a) DISTRIBUTED, DISPENSED, OR SOLD; OR POSSESSED WITH
18 INTENT TO DISTRIBUTE, DISPENSE, OR SELL; ANY AMOUNT OF ANY
19 CATHINONES TO A MINOR UNDER EIGHTEEN YEARS OF AGE WHO IS AT
20 LEAST TWO YEARS YOUNGER THAN SAID PERSON; OR

21 (b) INDUCED, ATTEMPTED TO INDUCE, OR CONSPIRED WITH ONE OR
22 MORE OTHER PERSONS TO DISTRIBUTE, DISPENSE, OR SELL ANY AMOUNT OF
23 ANY CATHINONES TO A MINOR UNDER EIGHTEEN YEARS OF AGE WHO IS AT
24 LEAST TWO YEARS YOUNGER THAN SAID PERSON.

25 **SECTION 5.** In Colorado Revised Statutes, **add** 6-1-723 as
26 follows:

27 **6-1-723. Cathinone bath salts - deceptive trade practice.** (1) IT

1 IS UNLAWFUL FOR ANY PERSON OR ENTITY TO DISTRIBUTE, DISPENSE,
2 MANUFACTURE, OR SELL TO A PURCHASER ANY PRODUCT THAT IS LABELED
3 AS A BATH SALT OR ANY OTHER TRADEMARK IF THE PRODUCT CONTAINS
4 ANY AMOUNT OF ANY CATHINONES, AS DEFINED IN SECTION 18-18-102
5 (3.5), C.R.S.

6 (2) A VIOLATION OF THIS SECTION SHALL BE DEEMED A DECEPTIVE
7 TRADE PRACTICE AS PROVIDED IN SECTION 6-1-105 (1) (e), AND THE
8 VIOLATOR SHALL BE SUBJECT TO A CIVIL PENALTY AS DESCRIBED IN
9 SECTION 6-1-112 (1) (d) IN ADDITION TO ANY APPLICABLE CRIMINAL
10 PENALTY.

11 **SECTION 6.** In Colorado Revised Statutes, 6-1-112, **add** (1) (d)
12 as follows:

13 **6-1-112. Civil penalties.** (1) (d) ANY PERSON WHO VIOLATES OR
14 CAUSES ANOTHER TO VIOLATE THE PROVISIONS OF SECTIONS 6-1-105 (1)
15 (e) AND 6-1-723 BY DISTRIBUTING, DISPENSING, OR SELLING ANY PRODUCT
16 THAT IS LABELED AS A "BATH SALT" OR ANY OTHER TRADEMARK IF THE
17 PRODUCT CONTAINS ANY AMOUNT OF ANY CATHINONES, AS DEFINED IN
18 SECTION 18-18-102 (3.5), C.R.S., SHALL FORFEIT AND PAY TO THE
19 GENERAL FUND OF THE STATE A CIVIL PENALTY OF NOT LESS THAN TEN
20 THOUSAND DOLLARS AND NOT MORE THAN FIVE HUNDRED THOUSAND
21 DOLLARS FOR EACH SUCH VIOLATION; EXCEPT THAT THE PERSON SHALL
22 FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL PENALTY
23 OF NOT LESS THAN TWENTY-FIVE THOUSAND DOLLARS AND NOT MORE
24 THAN FIVE HUNDRED THOUSAND DOLLARS FOR EACH SUCH VIOLATION IF
25 THE PERSON DISTRIBUTES, DISPENSES, OR SELLS THE PRODUCT TO A MINOR
26 UNDER THE AGE OF EIGHTEEN AND THE PERSON IS AT LEAST EIGHTEEN
27 YEARS OF AGE AND AT LEAST TWO YEARS OLDER THAN THE MINOR.

1 **SECTION 7.** In Colorado Revised Statutes, 2-2-1201, **add** (8) as
2 follows:

3 **2-2-1201. Accountability clauses - post-enactment review of**
4 **implementation of bills by legislative service agencies - definitions -**
5 **repeal.** (8) (a) NOTWITHSTANDING ANY OTHER PROVISION OF THIS
6 SECTION, IN CONDUCTING THE POST-ENACTMENT REVIEW OF SENATE BILL
7 12-116, ENACTED IN 2012, THE LEGISLATIVE SERVICE AGENCIES SHALL
8 NOT BE SUBJECT TO:

9 (I) THE REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION; OR

10 (II) THE REQUIREMENT IN SUBSECTION (3) OF THIS SECTION THAT
11 THE LEGISLATIVE SERVICE AGENCIES COMPLETE THE POST-ENACTMENT
12 REVIEW NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE
13 TWO-YEAR OR FIVE-YEAR ANNIVERSARY, AS APPLICABLE, OF THE
14 ENACTMENT OF SENATE BILL 12-116.

15 (b) IN CONDUCTING THE POST-ENACTMENT REVIEW OF SENATE
16 BILL 12-116, THE LEGISLATIVE SERVICE AGENCIES SHALL SUBMIT TO THE
17 MEMBERS OF THE JUDICIARY COMMITTEES OF THE HOUSE OF
18 REPRESENTATIVES AND SENATE, OR ANY SUCCESSOR COMMITTEES, AND TO
19 THE PERSONS DESCRIBED IN SUBSECTION (3) OF THIS SECTION, THE
20 FOLLOWING INFORMATION:

21 (I) A COMPARISON OF THE CRIMINAL SANCTIONS FOR POSSESSION
22 OF THE CONTROLLED SUBSTANCES DEFINED AS "CATHINONES" AT SECTION
23 18-18-102 (3.5), C.R.S., ENACTED IN SENATE BILL 12-116, ENACTED IN
24 2012, AS "CATHINONES", TO THE CRIMINAL SANCTIONS FOR POSSESSION OF
25 CONTROLLED SUBSTANCES, AS SUCH CRIMINAL SANCTIONS APPEAR WITHIN
26 TITLE 18, C.R.S., FOLLOWING THE 2013 REGULAR SESSION OF THE
27 SIXTY-NINTH GENERAL ASSEMBLY;

1 (II) INFORMATION INDICATING WHETHER LAW ENFORCEMENT
2 AGENCIES WITHIN THE STATE HAVE MADE EFFORTS SINCE THE EFFECTIVE
3 DATE OF THIS SUBSECTION (8) PURSUANT TO THE PROVISIONS OF THE
4 "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S.,
5 TO BRING ACTIONS AGAINST MANUFACTURERS, DISTRIBUTORS, OR
6 RETAILERS OF PRODUCTS CONTAINING CATHINONES, INCLUDING
7 INFORMATION REGARDING THE TYPE OF ENFORCEMENT ACTIONS THAT
8 HAVE BEEN EMPLOYED, THE LAW ENFORCEMENT AGENCY OR AGENCIES
9 INVOLVED IN EACH SUCH ENFORCEMENT ACTION, AND THE OUTCOME OF
10 EACH SUCH ENFORCEMENT ACTION, TO THE EXTENT THAT SUCH
11 INFORMATION IS AVAILABLE; AND

12 (III) INFORMATION INDICATING WHETHER ANY CRIMINAL CASES
13 HAVE BEEN FILED PURSUANT TO THE PROVISIONS OF SECTION 18-18-406.7
14 OR 18-18-406.8, C.R.S., ENACTED IN SENATE BILL 12-116, ENACTED IN
15 2012, INCLUDING THE NUMBER OF SUCH CASES, THE JURISDICTION IN
16 WHICH EACH SUCH CASE WAS FILED, THE NATURE OF THE CHARGES FILED
17 IN EACH SUCH CASE, AND THE DISPOSITION OF EACH SUCH CASE, TO THE
18 EXTENT THAT SUCH INFORMATION IS AVAILABLE.

19 (c) THE LEGISLATIVE SERVICE AGENCIES SHALL COMPLETE THE
20 POST-ENACTMENT REVIEW OF SENATE BILL 12-116, ENACTED IN 2012,
21 PURSUANT TO THIS SUBSECTION (8) NO LATER THAN ONE HUNDRED EIGHTY
22 DAYS AFTER THE ONE-YEAR ANNIVERSARY OF THE ENACTMENT OF THE
23 BILL.

24 (d) THIS SUBSECTION (8) IS REPEALED, EFFECTIVE SEPTEMBER 1,
25 2013.

26 **SECTION 8.** In Colorado Revised Statutes, **add** 17-18-108 as
27 follows:

1 **17-18-108. Appropriation to comply with section 2-2-703 - SB**
2 **12-116 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
3 FOLLOWING STATUTORY APPROPRIATIONS, OR SO MUCH THEREOF AS MAY
4 BE NECESSARY, ARE MADE IN ORDER TO IMPLEMENT SENATE BILL 12-116,
5 ENACTED IN 2012:

6 (a) FOR THE FISCAL YEAR BEGINNING JULY 1, 2013, IN ADDITION
7 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
8 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
9 OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND SEVEN
10 HUNDRED SIX DOLLARS (\$20,706).

11 (b) FOR THE FISCAL YEAR BEGINNING JULY 1, 2014, IN ADDITION
12 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
13 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
14 OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND SEVEN
15 HUNDRED SIX DOLLARS (\$20,706).

16 (c) FOR THE FISCAL YEAR BEGINNING JULY 1, 2015, IN ADDITION
17 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
18 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
19 OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND SEVEN
20 HUNDRED SIX DOLLARS (\$20,706).

21 (d) FOR THE FISCAL YEAR BEGINNING JULY 1, 2016, IN ADDITION
22 TO ANY OTHER APPROPRIATION, THERE IS HEREBY APPROPRIATED TO THE
23 DEPARTMENT, OUT OF ANY MONEYS IN THE GENERAL FUND NOT
24 OTHERWISE APPROPRIATED, THE SUM OF TWENTY THOUSAND SEVEN
25 HUNDRED SIX DOLLARS (\$20,706).

26 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2017.

27 **SECTION 9. Accountability.** One year after this act becomes

1 law and in accordance with section 2-2-1201, Colorado Revised Statutes,
2 the legislative service agencies of the Colorado general assembly shall
3 conduct a post-enactment review of the implementation of this act
4 utilizing the information contained in the legislative declaration set forth
5 in section 1 of this act, and report their conclusions to the judiciary
6 committees of the house of representatives and senate, or any successor
7 committees.

8 **SECTION 10. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.