

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 11-0812.01 Richard Sweetman

SENATE BILL 11-196

SENATE SPONSORSHIP

Boyd,

HOUSE SPONSORSHIP

Summers,

Senate Committees

Health and Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING THE CLASSIFICATION OF CERTAIN METHAMPHETAMINE
102 PRECURSOR DRUGS AS SCHEDULE III CONTROLLED SUBSTANCES.

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/billssummaries>.)

The bill removes ephedrine from the statutory list of schedule II controlled substances, repeals certain provisions concerning the unlawful possession and retail sale of methamphetamine precursor drugs, and adds ephedrine, pseudoephedrine, and phenylpropanolamine to the statutory list of schedule III controlled substances.

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.

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

2 **SECTION 1.** 18-18-205 (2), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

4 **18-18-205. Schedule III.** (2) Unless specifically excepted by
5 Colorado or federal law, or Colorado or federal regulation, or more
6 specifically included in another schedule, the following controlled
7 substances are listed in schedule III:

8 (c.5) ANY MATERIAL, COMPOUND, MIXTURE, OR PREPARATION
9 THAT CONTAINS ANY QUANTITY OF EPHEDRINE, PSEUDOEPHEDRINE, OR
10 PHENYLPROPANOLAMINE.

11 **SECTION 2.** 18-18-204 (2) (f) (I), Colorado Revised Statutes, is
12 amended to read:

13 **18-18-204. Schedule II.** (2) Unless specifically excepted by
14 Colorado or federal law or Colorado or federal regulation or more
15 specifically included in another schedule, the following controlled
16 substances are listed in schedule II:

17 (f) Any material, compound, mixture, or preparation containing
18 any quantity of the following substances:

19 (I) Immediate precursor to amphetamine and methamphetamine:
20 phenylacetone (Some trade or other names: phenyl-2-propanone; P2P;
21 benzyl methyl ketone; methyl benzyl ketone.), ~~ephedrine~~,
22 alpha-phenylacetoacetonitrile, phenylacetic acid, and
23 1-phenyl-2-nitropropene;

24 **SECTION 3. Repeal.** 18-18-412.8, Colorado Revised Statutes,
25 is repealed as follows:

26 **18-18-412.8. Retail sale of methamphetamine precursor drugs**

1 **- unlawful acts - penalty.**

2 (1) ~~(Deleted by amendment, L. 2006, p. 1705, § 3, effective July~~
3 ~~1, 2006.)~~

4 (2) (a) ~~A person may not knowingly deliver in or from a store to~~
5 ~~the same individual during any twenty-four-hour period more than three~~
6 ~~and six-tenths grams of a methamphetamine precursor drug or a~~
7 ~~combination of two or more methamphetamine precursor drugs.~~

8 (b) ~~A person may not purchase more than three and six-tenths~~
9 ~~grams of a methamphetamine precursor drug or a combination of two or~~
10 ~~more methamphetamine precursor drugs during any twenty-four-hour~~
11 ~~period.~~

12 (c) ~~It is unlawful for a methamphetamine precursor drug that is~~
13 ~~offered for retail sale in or from a store to be offered for sale or stored or~~
14 ~~displayed prior to sale in an area of the store to which the public is~~
15 ~~allowed access.~~

16 (2.5) (a) ~~A person may not deliver in a retail sale in or from a store~~
17 ~~a methamphetamine precursor drug to a minor under eighteen years of~~
18 ~~age.~~

19 (b) ~~It shall be an affirmative defense to a prosecution under this~~
20 ~~subsection (2.5) that the person performing the retail sale was presented~~
21 ~~with and reasonably relied upon a document that identified the person~~
22 ~~receiving the methamphetamine precursor drug as being eighteen years~~
23 ~~of age or older.~~

24 (3) (a) ~~A person who knowingly violates a provision of this~~
25 ~~section commits a class 2 misdemeanor and, upon conviction, shall be~~
26 ~~punished as provided in section 18-1.3-501.~~

27 (b) ~~A person who is an owner, operator, manager, or supervisor~~

1 at a store in which, or from which, a retail sale of a methamphetamine
2 precursor drug in violation of this section is made shall not be liable
3 under this section if he or she:

4 (I) ~~Did not have knowledge of the sale; and~~

5 (II) ~~Did not participate in the sale; and~~

6 (III) ~~Did not knowingly direct the person making the sale to~~
7 ~~commit a violation of this section.~~

8 (4) ~~For purposes of this section:~~

9 (a) (I) ~~Except as otherwise provided in subparagraph (II) of this~~
10 ~~paragraph (a), "methamphetamine precursor drug" means ephedrine,~~
11 ~~pseudoephedrine, or phenylpropanolamine or their salts, isomers, or salts~~
12 ~~of isomers.~~

13 (II) ~~"Methamphetamine precursor drug" does not include a~~
14 ~~substance contained in any package or container that is labeled by the~~
15 ~~manufacturer as intended for pediatric use.~~

16 (b) ~~"Person" means an individual who owns, operates, is~~
17 ~~employed by, or is an agent of a store.~~

18 (c) ~~"Store" means any establishment primarily engaged in the sale~~
19 ~~of goods at retail.~~

20 (5) ~~Nothing in this section shall be construed to restrict the~~
21 ~~discretion of a district attorney to bring charges under this section against~~
22 ~~a person who also is charged with violating section 18-18-412.7.~~

23 **SECTION 4.** 12-61-113 (1) (m), Colorado Revised Statutes, is
24 amended to read:

25 **12-61-113. Investigation - revocation - actions against licensee**
26 **- repeal.** (1) The commission, upon its own motion, may, and, upon the
27 complaint in writing of any person, shall, investigate the activities of any

1 licensee or any person who assumes to act in such capacity within the
2 state, and the commission, after the holding of a hearing pursuant to
3 section 12-61-114, has the power to impose an administrative fine not to
4 exceed two thousand five hundred dollars for each separate offense and
5 to censure a licensee, to place the licensee on probation and to set the
6 terms of probation, or to temporarily suspend or permanently revoke a
7 license when the licensee has performed, is performing, or is attempting
8 to perform any of the following acts and is guilty of:

9 (m) Conviction of, entering a plea of guilty to, or entering a plea
10 of nolo contendere to any crime in article 3 of title 18, C.R.S.; parts 1, 2,
11 3, and 4 of article 4 of title 18, C.R.S.; part 1, 2, 3, 4, 5, 7, 8, or 9 of
12 article 5 of title 18, C.R.S.; article 5.5 of title 18, C.R.S.; parts 1, 3, 4, 6,
13 7, and 8 of article 6 of title 18, C.R.S.; parts 1, 3, 4, 5, 6, 7, and 8 of
14 article 7 of title 18, C.R.S.; part 3 of article 8 of title 18, C.R.S.; article 15
15 of title 18, C.R.S.; article 17 of title 18, C.R.S.; section 18-18-404,
16 18-18-405, 18-18-406, 18-18-411, ~~18-18-412.5~~, 18-18-412.7,
17 ~~18-18-412.8~~, 18-18-415, 18-18-416, 18-18-422, or 18-18-423, C.R.S., or
18 any other like crime under Colorado law, federal law, or the laws of other
19 states. A certified copy of the judgment of a court of competent
20 jurisdiction of such conviction or other official record indicating that such
21 plea was entered shall be conclusive evidence of such conviction or plea
22 in any hearing under this part 1.

23 **SECTION 5. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.