

Second Regular Session  
Sixty-ninth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 14-0046.01 Michael Dohr x4347

SENATE BILL 14-129

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SENATE SPONSORSHIP

Steadman,

HOUSE SPONSORSHIP

May,

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Senate Committees  
Judiciary

House Committees

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A BILL FOR AN ACT

101 CONCERNING CHANGES TO CRIMINAL PROVISIONS RELATED TO  
102 MARIJUANA.

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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/bills summaries>.)*

**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:

! For a first offense, there is a fine of up to \$100 or a

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.*

- ! 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.

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

2           **SECTION 1.** In Colorado Revised Statutes, **repeal and reenact,**  
 3 **with amendments,** 18-13-122 as follows:

4           **18-13-122. Illegal possession or consumption of ethyl alcohol**  
 5 **or marijuana by an underage person - illegal possession of marijuana**  
 6 **paraphernalia by an underage person - definitions - adolescent**  
 7 **substance abuse prevention and treatment fund - legislative**  
 8 **declaration.** (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT  
 9 IT IS NECESSARY FOR THE STATE OF COLORADO TO EDUCATE COLORADO  
 10 YOUTH ABOUT THE DANGERS OF EARLY USE OF ALCOHOL AND MARIJUANA,  
 11 TO ACTIVELY PROMOTE PROGRAMS THAT PREVENT THE ILLEGAL USE OF  
 12 ALCOHOL AND MARIJUANA, AND TO TEACH COLORADO YOUTH ABOUT  
 13 RESPONSIBLE USE AND THE HEALTHY CHOICES AVAILABLE TO AN ADULT  
 14 ONCE HE OR SHE IS ABLE TO LEGALLY CONSUME ALCOHOL OR MARIJUANA.

1 (b) THE COLORADO GENERAL ASSEMBLY FINDS IT IS NECESSARY  
2 FOR THE STATE OF COLORADO TO PROVIDE MORE ADOLESCENT SUBSTANCE  
3 ABUSE EDUCATION AND TREATMENT IN A DEVELOPMENTALLY,  
4 INTELLECTUALLY, AND SOCIALLY APPROPRIATE MANNER. THEREFORE, IT  
5 IS NECESSARY TO CREATE THE ADOLESCENT SUBSTANCE ABUSE  
6 PREVENTION AND TREATMENT FUND FOR THAT PURPOSE.

7 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE  
8 REQUIRES:

9 (a) "ESTABLISHMENT" MEANS A BUSINESS, FIRM, ENTERPRISE,  
10 SERVICE OR FRATERNAL ORGANIZATION, CLUB, INSTITUTION, ENTITY,  
11 GROUP, OR RESIDENCE; ANY REAL PROPERTY, INCLUDING BUILDINGS AND  
12 IMPROVEMENTS, CONNECTED THEREWITH; AND ANY MEMBERS,  
13 EMPLOYEES, AND OCCUPANTS ASSOCIATED THEREWITH.

14 (b) "ETHYL ALCOHOL" MEANS ANY SUBSTANCE WHICH IS OR  
15 CONTAINS ETHYL ALCOHOL.

16 (c) "MARIJUANA" HAS THE SAME MEANING AS IN SECTION 16 (2)  
17 (f) OF ARTICLE XVIII OF THE COLORADO CONSTITUTION.

18 (d) "MARIJUANA PARAPHERNALIA" HAS THE SAME MEANING AS  
19 MARIJUANA ACCESSORIES IN SECTION 16 (2) (g) OF ARTICLE XVIII OF THE  
20 COLORADO CONSTITUTION.

21 (e) "POSSESSION OF ETHYL ALCOHOL" MEANS THAT A PERSON HAS  
22 OR HOLDS ANY AMOUNT OF ETHYL ALCOHOL ANYWHERE ON HIS OR HER  
23 PERSON OR THAT A PERSON OWNS OR HAS CUSTODY OF ETHYL ALCOHOL OR  
24 HAS ETHYL ALCOHOL WITHIN HIS OR HER IMMEDIATE PRESENCE AND  
25 CONTROL.

26 (f) "POSSESSION OF MARIJUANA" MEANS THAT A PERSON HAS OR  
27 HOLDS ANY AMOUNT OF MARIJUANA ANYWHERE ON HIS OR HER PERSON OR

1 THAT A PERSON OWNS OR HAS CUSTODY OF MARIJUANA OR HAS  
2 MARIJUANA WITHIN HIS OR HER IMMEDIATE PRESENCE AND CONTROL.

3 (g) "PRIVATE PROPERTY" MEANS ANY DWELLING AND ITS  
4 CURTILAGE WHICH IS BEING USED BY A NATURAL PERSON OR NATURAL  
5 PERSONS FOR HABITATION AND WHICH IS NOT OPEN TO THE PUBLIC AND  
6 PRIVATELY OWNED REAL PROPERTY WHICH IS NOT OPEN TO THE PUBLIC.

7 "PRIVATE PROPERTY" SHALL NOT INCLUDE:

8 (I) ANY ESTABLISHMENT WHICH HAS OR IS REQUIRED TO HAVE A  
9 LICENSE PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S.;

10 (II) ANY ESTABLISHMENT WHICH SELLS ETHYL ALCOHOL OR UPON  
11 WHICH ETHYL ALCOHOL IS SOLD; OR

12 (III) ANY ESTABLISHMENT WHICH LEASES, RENTS, OR PROVIDES  
13 ACCOMMODATIONS TO MEMBERS OF THE PUBLIC GENERALLY.

14 (3) (a) EXCEPT AS DESCRIBED BY SECTION 18-1-711 AND  
15 SUBSECTION (6) OF THIS SECTION, A PERSON UNDER TWENTY-ONE YEARS  
16 OF AGE WHO POSSESSES OR CONSUMES ETHYL ALCOHOL ANYWHERE IN THE  
17 STATE OF COLORADO COMMITS ILLEGAL POSSESSION OR CONSUMPTION OF  
18 ETHYL ALCOHOL BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OR  
19 CONSUMPTION OF ETHYL ALCOHOL BY AN UNDERAGE PERSON IS A STRICT  
20 LIABILITY OFFENSE.

21 (b) EXCEPT AS DESCRIBED BY SECTION 14 OF ARTICLE XVIII OF  
22 THE COLORADO CONSTITUTION AND SECTION 18-18-406.3, A PERSON  
23 UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES ONE OUNCE OR LESS  
24 OF MARIJUANA OR CONSUMES MARIJUANA ANYWHERE IN THE STATE OF  
25 COLORADO COMMITS ILLEGAL POSSESSION OR CONSUMPTION OF  
26 MARIJUANA BY AN UNDERAGE PERSON. ILLEGAL POSSESSION OR  
27 CONSUMPTION OF MARIJUANA BY AN UNDERAGE PERSON IS A STRICT

1 LIABILITY OFFENSE.

2 (c) EXCEPT AS DESCRIBED BY SECTION 14 OF ARTICLE XVIII OF  
3 THE COLORADO CONSTITUTION AND SECTION 18-18-406.3, A PERSON  
4 UNDER TWENTY-ONE YEARS OF AGE WHO POSSESSES MARIJUANA  
5 PARAPHERNALIA ANYWHERE IN THE STATE OF COLORADO AND KNOWS OR  
6 REASONABLY SHOULD KNOW THAT THE DRUG PARAPHERNALIA COULD BE  
7 USED IN CIRCUMSTANCES IN VIOLATION OF THE LAWS OF THIS STATE  
8 COMMITS ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA BY AN  
9 UNDERAGE PERSON. ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA  
10 BY AN UNDERAGE PERSON IS A STRICT LIABILITY OFFENSE.

11 (4) (a) UPON CONVICTION OF A FIRST OFFENSE OF SUBSECTION (3)  
12 OF THIS SECTION, THE COURT SHALL SENTENCE THE UNDERAGE PERSON TO  
13 A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, OR THE COURT SHALL  
14 ORDER THAT THE UNDERAGE PERSON COMPLETE A SUBSTANCE ABUSE  
15 EDUCATION PROGRAM APPROVED BY THE DIVISION OF BEHAVIORAL  
16 HEALTH IN THE DEPARTMENT OF HUMAN SERVICES.

17 (b) UPON CONVICTION OF A SECOND OFFENSE OF SUBSECTION (3)  
18 OF THIS SECTION, THE COURT SHALL SENTENCE THE UNDERAGE PERSON TO  
19 A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, AND THE COURT  
20 SHALL ORDER THE UNDERAGE PERSON TO:

21 (I) COMPLETE A SUBSTANCE ABUSE EDUCATION PROGRAM  
22 APPROVED BY THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT  
23 OF HUMAN SERVICES;

24 (II) IF DETERMINED NECESSARY AND APPROPRIATE, SUBMIT TO A  
25 SUBSTANCE ABUSE ASSESSMENT APPROVED BY THE DIVISION OF  
26 BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN SERVICES AND  
27 COMPLETE ANY TREATMENT RECOMMENDED BY THE ASSESSMENT; AND

1           (III) PERFORM UP TO TWENTY-FOUR HOURS OF USEFUL PUBLIC  
2 SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN  
3 SECTION 18-1.3-507.

4           (c) UPON CONVICTION OF A THIRD OR SUBSEQUENT OFFENSE OF  
5 SUBSECTION (3) OF THIS SECTION, THE COURT SHALL SENTENCE THE  
6 DEFENDANT TO A FINE OF UP TO TWO HUNDRED FIFTY DOLLARS, AND THE  
7 COURT SHALL ORDER THE UNDERAGE PERSON TO:

8           (I) SUBMIT TO A SUBSTANCE ABUSE ASSESSMENT APPROVED BY  
9 THE DIVISION OF BEHAVIORAL HEALTH IN THE DEPARTMENT OF HUMAN  
10 SERVICES AND COMPLETE ANY TREATMENT RECOMMENDED BY THE  
11 ASSESSMENT; AND

12           (II) PERFORM UP TO THIRTY-SIX HOURS OF USEFUL PUBLIC  
13 SERVICE, SUBJECT TO THE CONDITIONS AND RESTRICTIONS SPECIFIED IN  
14 SECTION 18-1.3-507.

15           (d) NOTHING IN THIS SECTION PROHIBITS A PROSECUTOR FROM  
16 ENTERING INTO A DIVERSION OR DEFERRED JUDGMENT AGREEMENT WITH  
17 ANY UNDERAGE PERSON FOR ANY OFFENSE UNDER THIS SECTION, AND  
18 PROSECUTORS ARE ENCOURAGED TO ENTER INTO THOSE AGREEMENTS  
19 WHEN THEY ARE CONSISTENT WITH THE LEGISLATIVE DECLARATION OF  
20 THIS SECTION AND IN THE INTERESTS OF JUSTICE.

21           (e) A PERSON CONVICTED OF A VIOLATION OF THIS SECTION IS  
22 SUBJECT TO AN ADDITIONAL PENALTY SURCHARGE OF TWENTY-FIVE  
23 DOLLARS, WHICH MAY BE WAIVED BY THE COURT UPON A SHOWING OF  
24 INDIGENCY, THAT SHALL BE TRANSFERRED TO THE ADOLESCENT  
25 SUBSTANCE ABUSE PREVENTION AND TREATMENT FUND CREATED  
26 PURSUANT TO SUBSECTION (18) OF THIS SECTION.

27           (5) IT IS AN AFFIRMATIVE DEFENSE TO THE OFFENSE DESCRIBED IN

1 PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION THAT THE ETHYL  
2 ALCOHOL WAS POSSESSED OR CONSUMED BY A PERSON UNDER  
3 TWENTY-ONE YEARS OF AGE UNDER THE FOLLOWING CIRCUMSTANCES:

4 (a) WHILE SUCH PERSON WAS LEGALLY UPON PRIVATE PROPERTY  
5 WITH THE KNOWLEDGE AND CONSENT OF THE OWNER OR LEGAL POSSESSOR  
6 OF SUCH PRIVATE PROPERTY AND THE ETHYL ALCOHOL WAS POSSESSED OR  
7 CONSUMED WITH THE CONSENT OF HIS OR HER PARENT OR LEGAL  
8 GUARDIAN WHO WAS PRESENT DURING SUCH POSSESSION OR  
9 CONSUMPTION;

10 (b) WHEN THE EXISTENCE OF ETHYL ALCOHOL IN A PERSON'S BODY  
11 WAS DUE SOLELY TO THE INGESTION OF A CONFECTIONERY WHICH  
12 CONTAINED ETHYL ALCOHOL WITHIN THE LIMITS PRESCRIBED BY SECTION  
13 25-5-410(1)(i)(II), C.R.S.; OR THE INGESTION OF ANY SUBSTANCE WHICH  
14 WAS MANUFACTURED, DESIGNED, OR INTENDED PRIMARILY FOR A PURPOSE  
15 OTHER THAN ORAL HUMAN INGESTION; OR THE INGESTION OF ANY  
16 SUBSTANCE WHICH WAS MANUFACTURED, DESIGNED, OR INTENDED  
17 SOLELY FOR MEDICINAL OR HYGIENIC PURPOSES; OR SOLELY FROM THE  
18 INGESTION OF A BEVERAGE WHICH CONTAINED LESS THAN ONE-HALF OF  
19 ONE PERCENT OF ETHYL ALCOHOL BY WEIGHT; OR

20 (c) THE PERSON IS A STUDENT WHO:

21 (I) TASTES BUT DOES NOT IMBIBE AN ALCOHOL BEVERAGE ONLY  
22 WHILE UNDER THE DIRECT SUPERVISION OF AN INSTRUCTOR WHO IS AT  
23 LEAST TWENTY-ONE YEARS OF AGE AND EMPLOYED BY A  
24 POST-SECONDARY SCHOOL;

25 (II) IS ENROLLED IN A UNIVERSITY OR A POST-SECONDARY SCHOOL  
26 ACCREDITED OR CERTIFIED BY AN AGENCY RECOGNIZED BY THE UNITED  
27 STATES DEPARTMENT OF EDUCATION, A NATIONALLY RECOGNIZED

1 ACCREDITING AGENCY OR ASSOCIATION, OR THE "PRIVATE OCCUPATIONAL  
2 EDUCATION ACT OF 1981", ARTICLE 59 OF TITLE 12, C.R.S.;

3 (III) IS PARTICIPATING IN A CULINARY ARTS, FOOD SERVICE, OR  
4 RESTAURANT MANAGEMENT DEGREE PROGRAM; AND

5 (IV) TASTES BUT DOES NOT IMBIBE THE ALCOHOL BEVERAGE FOR  
6 INSTRUCTIONAL PURPOSES AS A PART OF A REQUIRED COURSE IN WHICH  
7 THE ALCOHOL BEVERAGE, EXCEPT THE PORTION THE STUDENT TASTES,  
8 REMAINS UNDER THE CONTROL OF THE INSTRUCTOR.

9 (6) THE POSSESSION OR CONSUMPTION OF ETHYL ALCOHOL OR  
10 MARIJUANA SHALL NOT CONSTITUTE A VIOLATION OF THIS SECTION IF SUCH  
11 POSSESSION OR CONSUMPTION TAKES PLACE FOR RELIGIOUS PURPOSES  
12 PROTECTED BY THE FIRST AMENDMENT TO THE UNITED STATES  
13 CONSTITUTION.

14 (7) AN UNDERAGE PERSON SHALL BE IMMUNE FROM CRIMINAL  
15 PROSECUTION UNDER THIS SECTION IF HE OR SHE ESTABLISHES THE  
16 FOLLOWING:

17 (a) THE UNDERAGE PERSON CALLED 911 AND REPORTED IN GOOD  
18 FAITH THAT ANOTHER UNDERAGE PERSON WAS IN NEED OF MEDICAL  
19 ASSISTANCE DUE TO ALCOHOL OR MARIJUANA CONSUMPTION;

20 (b) THE UNDERAGE PERSON WHO CALLED 911 PROVIDED HIS OR  
21 HER NAME TO THE 911 OPERATOR;

22 (c) THE UNDERAGE PERSON WAS THE FIRST PERSON TO MAKE THE  
23 911 REPORT; AND

24 (d) THE UNDERAGE PERSON WHO MADE THE 911 CALL REMAINED  
25 ON THE SCENE WITH THE UNDERAGE PERSON IN NEED OF MEDICAL  
26 ASSISTANCE UNTIL ASSISTANCE ARRIVED AND COOPERATED WITH MEDICAL  
27 ASSISTANCE OR LAW ENFORCEMENT PERSONNEL ON THE SCENE.

1           (8) PRIMA FACIE EVIDENCE OF A VIOLATION OF SUBSECTION (3) OF  
2 THIS SECTION SHALL CONSIST OF:

3           (a) EVIDENCE THAT THE DEFENDANT WAS UNDER TWENTY-ONE  
4 YEARS OF AGE AND POSSESSED OR CONSUMED ETHYL ALCOHOL OR  
5 MARIJUANA OR POSSESSED MARIJUANA PARAPHERNALIA ANYWHERE IN  
6 THIS STATE; OR

7           (b) EVIDENCE THAT THE DEFENDANT WAS UNDER THE AGE OF  
8 TWENTY-ONE YEARS AND MANIFESTED ANY OF THE CHARACTERISTICS  
9 COMMONLY ASSOCIATED WITH ETHYL ALCOHOL INTOXICATION OR  
10 IMPAIRMENT OR MARIJUANA IMPAIRMENT WHILE PRESENT ANYWHERE IN  
11 THIS STATE.

12           (9) DURING ANY TRIAL FOR A VIOLATION OF SUBSECTION (3) OF  
13 THIS SECTION, ANY BOTTLE, CAN, OR ANY OTHER CONTAINER WITH  
14 LABELING INDICATING THE CONTENTS OF SUCH BOTTLE, CAN, OR  
15 CONTAINER SHALL BE ADMISSIBLE INTO EVIDENCE, AND THE INFORMATION  
16 CONTAINED ON ANY LABEL ON SUCH BOTTLE, CAN, OR OTHER CONTAINER  
17 SHALL BE ADMISSIBLE INTO EVIDENCE AND SHALL NOT CONSTITUTE  
18 HEARSAY. A JURY OR A JUDGE, WHICHEVER IS APPROPRIATE, MAY  
19 CONSIDER THE INFORMATION UPON SUCH LABEL IN DETERMINING  
20 WHETHER THE CONTENTS OF THE BOTTLE, CAN, OR OTHER CONTAINER  
21 WERE COMPOSED IN WHOLE OR IN PART OF ETHYL ALCOHOL OR  
22 MARIJUANA. A LABEL WHICH IDENTIFIES THE CONTENTS OF ANY BOTTLE,  
23 CAN, OR OTHER CONTAINER AS "BEER", "ALE", "MALT BEVERAGE",  
24 "FERMENTED MALT BEVERAGE", "MALT LIQUOR", "WINE", "CHAMPAGNE",  
25 "WHISKEY" OR "WHISKY", "GIN", "VODKA", "TEQUILA", "SCHNAPPS",  
26 "BRANDY", "COGNAC", "LIQUEUR", "CORDIAL", "ALCOHOL", OR "LIQUOR"  
27 SHALL CONSTITUTE PRIMA FACIE EVIDENCE THAT THE CONTENTS OF THE

1 BOTTLE, CAN, OR OTHER CONTAINER WAS COMPOSED IN WHOLE OR IN PART  
2 OF ETHYL ALCOHOL.

3 (10) A PARENT OR LEGAL GUARDIAN OF A PERSON UNDER  
4 TWENTY-ONE YEARS OF AGE OR ANY NATURAL PERSON WHO HAS THE  
5 PERMISSION OF SUCH PARENT OR LEGAL GUARDIAN MAY GIVE OR PERMIT  
6 THE POSSESSION AND CONSUMPTION OF ETHYL ALCOHOL TO OR BY A  
7 PERSON UNDER TWENTY-ONE YEARS OF AGE UNDER THE CONDITIONS  
8 DESCRIBED IN PARAGRAPH (a) OF SUBSECTION (5) OF THIS SECTION. THIS  
9 SUBSECTION (10) SHALL NOT BE CONSTRUED TO PERMIT ANY  
10 ESTABLISHMENT WHICH IS LICENSED OR IS REQUIRED TO BE LICENSED  
11 PURSUANT TO ARTICLE 46, 47, OR 48 OF TITLE 12, C.R.S., OR ANY  
12 MEMBERS, EMPLOYEES, OR OCCUPANTS OF ANY SUCH ESTABLISHMENT TO  
13 GIVE, PROVIDE, MAKE AVAILABLE, OR SELL ETHYL ALCOHOL TO A PERSON  
14 UNDER TWENTY-ONE YEARS OF AGE.

15 (11) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO PROHIBIT  
16 ANY STATUTORY OR HOME RULE MUNICIPALITY FROM ENACTING ANY  
17 ORDINANCE WHICH PROHIBITS PERSONS UNDER TWENTY-ONE YEARS OF  
18 AGE FROM POSSESSING OR CONSUMING ETHYL ALCOHOL OR MARIJUANA OR  
19 POSSESSING MARIJUANA PARAPHERNALIA, WHICH ORDINANCE IS AT LEAST  
20 AS RESTRICTIVE OR MORE RESTRICTIVE THAN THIS SECTION.

21 (12) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT OR  
22 PRECLUDE PROSECUTION FOR ANY OFFENSE PURSUANT TO ARTICLE 46, 47,  
23 OR 48 OF TITLE 12, C.R.S., EXCEPT AS PROVIDED IN SUCH ARTICLES.

24 (13) **Sealing of record.** (a) UPON DISMISSAL OF A CASE PURSUANT  
25 TO THIS SECTION AFTER COMPLETION OF A DEFERRED JUDGMENT OR  
26 DIVERSION OR ANY OTHER ACTION RESULTING IN DISMISSAL OF THE CASE  
27 OR UPON COMPLETION OF THE COURT-ORDERED SUBSTANCE ABUSE

1 EDUCATION AND PAYMENT OF ANY FINE FOR A FIRST CONVICTION OF  
2 SUBSECTION (3) OF THIS SECTION, THE COURT SHALL IMMEDIATELY ORDER  
3 THE CASE SEALED AND PROVIDE TO THE UNDERAGE PERSON AND THE  
4 PROSECUTOR A COPY OF THE ORDER SEALING THE CASE FOR DISTRIBUTION  
5 BY THE APPROPRIATE PARTY TO ALL LAW ENFORCEMENT AGENCIES IN THE  
6 CASE.

7 (b) UPON THE EXPIRATION OF ONE YEAR FROM THE DATE OF A  
8 SECOND OR SUBSEQUENT CONVICTION FOR A VIOLATION OF SUBSECTION  
9 (3) OF THIS SECTION, THE UNDERAGE PERSON CONVICTED OF SUCH  
10 VIOLATION MAY PETITION THE COURT IN WHICH THE CONVICTION WAS  
11 ASSIGNED FOR AN ORDER SEALING THE RECORD OF THE CONVICTION. THE  
12 COURT SHALL GRANT THE PETITION IF THE PETITIONER HAS NOT BEEN  
13 ARRESTED FOR, CHARGED WITH, OR CONVICTED OF ANY FELONY,  
14 MISDEMEANOR, OR PETTY OFFENSE DURING THE PERIOD OF ONE YEAR  
15 FOLLOWING THE DATE OF THE PETITIONER'S CONVICTION FOR A VIOLATION  
16 OF SUBSECTION (3) OF THIS SECTION.

17 (14) THE QUALITATIVE RESULT OF AN ALCOHOL OR MARIJUANA  
18 TEST OR TESTS SHALL BE ADMISSIBLE AT THE TRIAL OF ANY PERSON  
19 CHARGED WITH A VIOLATION OF SUBSECTION (3) OF THIS SECTION UPON A  
20 SHOWING THAT THE DEVICE OR DEVICES USED TO CONDUCT SUCH TEST OR  
21 TESTS HAVE BEEN APPROVED AS ACCURATE IN DETECTING ALCOHOL OR  
22 MARIJUANA BY THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC  
23 HEALTH AND ENVIRONMENT.

24 (15) OFFICIAL RECORDS OF THE DEPARTMENT OF PUBLIC HEALTH  
25 AND ENVIRONMENT RELATING TO THE CERTIFICATION OF BREATH TEST  
26 INSTRUMENTS, CERTIFICATION OF OPERATORS AND OPERATOR  
27 INSTRUCTORS OF BREATH TEST INSTRUMENTS, CERTIFICATION OF

1 STANDARD SOLUTIONS, AND CERTIFICATION OF LABORATORIES SHALL BE  
2 OFFICIAL RECORDS OF THE STATE. COPIES OF SUCH RECORDS, ATTESTED BY  
3 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF PUBLIC HEALTH AND  
4 ENVIRONMENT OR HIS DEPUTY AND ACCOMPANIED BY A CERTIFICATE  
5 BEARING THE OFFICIAL SEAL FOR SAID DEPARTMENT, WHICH STATE THAT  
6 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT HAS CUSTODY OF SUCH  
7 RECORDS, SHALL BE ADMISSIBLE IN ALL COURTS OF RECORD AND SHALL  
8 CONSTITUTE PRIMA FACIE EVIDENCE OF THE INFORMATION CONTAINED IN  
9 SUCH RECORDS. THE OFFICIAL SEAL OF THE DEPARTMENT DESCRIBED IN  
10 THIS SUBSECTION (15) MAY CONSIST OF A RUBBER STAMP PRODUCING A  
11 FACSIMILE OF THE SEAL STAMPED UPON THE DOCUMENT.

12 (16) IN ANY JUDICIAL PROCEEDING IN ANY COURT OF THIS STATE  
13 CONCERNING A CHARGE UNDER SUBSECTION (3) OF THIS SECTION, THE  
14 COURT SHALL TAKE JUDICIAL NOTICE OF METHODS OF TESTING A PERSON'S  
15 BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF ALCOHOL OR  
16 MARIJUANA AND OF THE DESIGN AND OPERATION OF DEVICES CERTIFIED BY  
17 THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR TESTING A  
18 PERSON'S BLOOD, BREATH, SALIVA, OR URINE FOR THE PRESENCE OF  
19 ALCOHOL OR MARIJUANA. THIS SUBSECTION (16) SHALL NOT PREVENT THE  
20 NECESSITY OF ESTABLISHING DURING A TRIAL THAT THE TESTING DEVICES  
21 WERE WORKING PROPERLY AND THAT SUCH TESTING DEVICES WERE  
22 PROPERLY OPERATED. NOTHING IN THIS SUBSECTION (16) SHALL PRECLUDE  
23 A DEFENDANT FROM OFFERING EVIDENCE CONCERNING THE ACCURACY OF  
24 TESTING DEVICES.

25 (17) A LAW ENFORCEMENT OFFICER MAY NOT ENTER UPON ANY  
26 PRIVATE PROPERTY TO INVESTIGATE ANY VIOLATION OF THIS SECTION  
27 WITHOUT PROBABLE CAUSE.

1           (18) **Cash fund.** THE SURCHARGE COLLECTED PURSUANT TO  
2 PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION MUST BE  
3 TRANSMITTED TO THE STATE TREASURER, WHO SHALL CREDIT THE SAME  
4 TO THE ADOLESCENT SUBSTANCE ABUSE PREVENTION AND TREATMENT  
5 FUND, WHICH FUND IS CREATED AND REFERRED TO IN THIS SECTION AS THE  
6 "FUND". THE MONEYS IN THE FUND ARE SUBJECT TO ANNUAL  
7 APPROPRIATION BY THE GENERAL ASSEMBLY TO THE UNIT IN THE  
8 DEPARTMENT OF HUMAN SERVICES THAT ADMINISTERS BEHAVIORAL  
9 HEALTH PROGRAMS AND SERVICES, INCLUDING THOSE RELATED TO  
10 MENTAL HEALTH AND SUBSTANCE ABUSE, ESTABLISHED IN ARTICLE 80 OF  
11 TITLE 27, C.R.S., FOR ADOLESCENT SUBSTANCE ABUSE PREVENTION AND  
12 TREATMENT PROGRAMS. THE UNIT IN THE DEPARTMENT OF HUMAN  
13 SERVICES THAT ADMINISTERS BEHAVIORAL HEALTH PROGRAMS AND  
14 SERVICES, INCLUDING THOSE RELATED TO MENTAL HEALTH AND  
15 SUBSTANCE ABUSE, IS AUTHORIZED TO SEEK AND ACCEPT GIFTS, GRANTS,  
16 OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE PURPOSES OF  
17 THIS SECTION. ALL PRIVATE AND PUBLIC FUNDS RECEIVED THROUGH GIFTS,  
18 GRANTS, OR DONATIONS MUST BE TRANSMITTED TO THE STATE  
19 TREASURER, WHO SHALL CREDIT THE SAME TO THE FUND. ANY  
20 UNEXPENDED MONEYS IN THE FUND MAY BE INVESTED BY THE STATE  
21 TREASURER AS PROVIDED BY LAW. ALL INTEREST AND INCOME DERIVED  
22 FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND MUST BE  
23 CREDITED TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS  
24 REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE  
25 FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL  
26 FUND OR ANOTHER FUND.

27           **SECTION 2.** In Colorado Revised Statutes, 24-31-314, **amend**

1 (1) as follows:

2 **24-31-314. Advanced roadside impaired driving enforcement**  
3 **training.** (1) On and after October 1, 2013, the P.O.S.T. board is  
4 encouraged to include advanced roadside impaired driving enforcement  
5 training ~~in the curriculum for persons who enroll in a training academy~~  
6 ~~for basic peace officer training~~ AS AN ELECTIVE TO BASIC FIELD SOBRIETY  
7 TEST TRAINING RECERTIFICATION.

8 **SECTION 3.** In Colorado Revised Statutes, 42-4-1305.5, **amend**  
9 (1) (c) as follows:

10 **42-4-1305.5. Open marijuana container - motor vehicle -**  
11 **prohibited.** (1) **Definitions.** As used in this section, unless the context  
12 otherwise requires:

13 (c) "Open marijuana container" means a receptacle or marijuana  
14 accessory that contains any amount of marijuana and:

15 (I) That is open or has a broken seal;

16 (II) The contents of which are partially removed; ~~or~~ AND

17 (III) There is evidence that marijuana has been consumed within  
18 the motor vehicle.

19 **SECTION 4.** In Colorado Revised Statutes, 10-3-1104, **amend**  
20 (4) (a) as follows:

21 **10-3-1104. Unfair methods of competition - unfair or deceptive**  
22 **acts or practices - repeal.** (4) The following is defined as an unfair  
23 practice in the business of insurance: For an insurer to deny, refuse to  
24 issue, refuse to renew, refuse to reissue, cancel, or otherwise terminate a  
25 motor vehicle insurance policy, to restrict motor vehicle insurance  
26 coverage on any person, or to add any surcharge or rating factor to a  
27 premium of a motor vehicle insurance policy solely because of:

1 (a) A conviction under section 12-47-901 (1) (b), C.R.S., or  
2 ~~section 18-13-122 (2)~~ SECTION 18-13-122 (3), C.R.S., or any counterpart  
3 municipal charter or ordinance offense or because of any driver's license  
4 revocation resulting from such conviction. This paragraph (a) includes,  
5 but is not limited to, a driver's license revocation imposed under section  
6 42-2-125 (1) (m), C.R.S.

7 **SECTION 5.** In Colorado Revised Statutes, 12-47-801, **amend**  
8 (4.5) as follows:

9 **12-47-801. Civil liability - legislative declaration.** (4.5) An  
10 instructor or entity that complies with ~~section 18-13-122 (3) (c)~~ SECTION  
11 18-13-122 (5) (c), C.R.S., shall not be liable for civil damages resulting  
12 from the intoxication of a minor due to the minor's unauthorized  
13 consumption of alcohol beverages during instruction in culinary arts, food  
14 service, or restaurant management pursuant to ~~section 18-13-122 (3) (c)~~  
15 SECTION 18-13-122 (5) (c), C.R.S.

16 **SECTION 6.** In Colorado Revised Statutes, 18-1-711, **amend** (3)  
17 (h) as follows:

18 **18-1-711. Immunity for persons who suffer or report an**  
19 **emergency drug or alcohol overdose event - definitions.** (3) The  
20 immunity described in subsection (1) of this section shall apply to the  
21 following criminal offenses:

22 (h) Illegal possession or consumption of ethyl alcohol OR  
23 MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF  
24 MARIJUANA PARAPHERNALIA by an underage person, as described in  
25 section 18-13-122.

26 **SECTION 7.** In Colorado Revised Statutes, 18-18-426, **amend**  
27 (2) as follows:

1           **18-18-426. Drug paraphernalia - definitions.** (2) "Drug  
2 paraphernalia" does not include any marijuana accessories as defined in  
3 section 16 (2) (g) of article XVIII of the state constitution. ~~if possessed~~  
4 ~~or used by a person age twenty-one or older.~~

5           **SECTION 8.** In Colorado Revised Statutes, 18-19-102, **amend**  
6 (1) (e) as follows:

7           **18-19-102. Definitions.** As used in this article, unless the context  
8 otherwise requires:

9           (1) "Alcohol- or drug-related offender" means a person convicted  
10 of any of the following offenses or of attempt to commit any of the  
11 following offenses:

12           (e) Illegal possession or consumption of ethyl alcohol OR  
13 MARIJUANA BY AN UNDERAGE PERSON OR ILLEGAL POSSESSION OF  
14 MARIJUANA PARAPHERNALIA by an underage person, as described in  
15 section 18-13-122.

16           **SECTION 9.** In Colorado Revised Statutes, 19-2-104, **amend** (1)  
17 (a) (I) as follows:

18           **19-2-104. Jurisdiction.** (1) Except as otherwise provided by law,  
19 the juvenile court shall have exclusive original jurisdiction in  
20 proceedings:

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

23           (I) Any federal or state law, except nonfelony state traffic, game  
24 and fish, and parks and recreation laws or rules, the offenses specified in  
25 section 18-13-121, C.R.S., concerning tobacco products, the offense  
26 specified in section 18-13-122, C.R.S., concerning the illegal possession  
27 or consumption of ethyl alcohol OR MARIJUANA BY AN UNDERAGE PERSON

1 OR ILLEGAL POSSESSION OF MARIJUANA PARAPHERNALIA by an underage  
2 person, and the offenses specified in section 18-18-406 (5) (a) (I), (5) (b)  
3 (I), and (5) (b) (II), C.R.S., concerning marijuana and marijuana  
4 concentrate;

5 **SECTION 10.** In Colorado Revised Statutes, 19-2-513, **amend**  
6 (3) (a) introductory portion as follows:

7 **19-2-513. Petition form and content.** (3) (a) Pursuant to the  
8 provisions of section 19-1-126, in those delinquency proceedings to  
9 which the federal "Indian Child Welfare Act", 25 U.S.C. sec. 1901, et  
10 seq., applies, including but not limited to status offenses such as the  
11 illegal possession or consumption of ethyl alcohol OR MARIJUANA BY AN  
12 UNDERAGE PERSON OR ILLEGAL POSSESSION OF MARIJUANA  
13 PARAPHERNALIA by an underage person, as described in section  
14 18-13-122, C.R.S., purchase or attempted purchase of cigarettes or  
15 tobacco products by a person under eighteen years of age, as described in  
16 section 18-13-121, C.R.S., and possession of handguns by juveniles, as  
17 described in section 18-12-108.5, C.R.S., the petition shall:

18 **SECTION 11.** In Colorado Revised Statutes, 42-2-125, **amend**  
19 (1) (m) (I) and (1) (m) (II) as follows:

20 **42-2-125. Mandatory revocation of license and permit.** (1) The  
21 department shall immediately revoke the license or permit of any driver  
22 or minor driver upon receiving a record showing that such driver has:

23 (m) (I) Been convicted of violating section 12-47-901 (1) (b) or  
24 (1) (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart  
25 municipal charter or ordinance offense to such sections and having failed  
26 to complete an alcohol evaluation or assessment, an alcohol education  
27 program, or an alcohol treatment program ordered by the court in

1 connection with such conviction; or

2 (II) Been convicted of violating section 12-47-901 (1) (b) or (1)  
3 (c) or ~~18-13-122 (2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal  
4 charter or ordinance offense to such sections and has a previous  
5 conviction for such offenses;

6 **SECTION 12.** In Colorado Revised Statutes, **amend** 42-2-131 as  
7 follows:

8 **42-2-131. Revocation of license or permit for failing to comply**  
9 **with a court order relating to nondriving alcohol convictions.** Upon  
10 a plea of guilty or nolo contendere or a verdict of guilty by the court or a  
11 jury to an offense under section 12-47-901 (1) (b) or (1) (c) or ~~18-13-122~~  
12 ~~(2)~~ 18-13-122 (3), C.R.S., or any counterpart municipal charter or  
13 ordinance offense to such section and upon a failure to complete an  
14 alcohol evaluation or assessment, an alcohol education program, or an  
15 alcohol treatment program ordered by the court in connection with such  
16 plea or verdict, the court shall forward to the department a notice of plea  
17 or verdict or such failure to complete on the form prescribed by the  
18 department. Any revocation pursuant to section 42-2-125 (1) (m) shall  
19 begin when the department gives notice of the revocation to the person in  
20 accordance with section 42-2-119 (2).

21 **SECTION 13. Effective date - applicability.** This act takes  
22 effect July 1, 2014, and applies to offenses committed on or after said  
23 date.

24 **SECTION 14. Safety clause.** The general assembly hereby finds,  
25 determines, and declares that this act is necessary for the immediate  
26 preservation of the public peace, health, and safety.