

CHAPTER 128

PROFESSIONS AND OCCUPATIONS
DRUGS AND DRUGGISTS — CONTROLLED SUBSTANCES

HOUSE BILL NO. 1405. BY REPRESENTATIVES Spelts, Mielke, Armstrong, Artist, Bledsoe, DeHerrera, DeNier, Eberle, Faatz, Fine, Heim, Herzog, Hinman, Hume, Kopel, Larson, Lillpop, Lucero, Minahan, Orten, Paulson, Robb, Rogers, Stephenson, Taylor, and Traylor; also SENATORS Schaefer, Zakheim, Allshouse, Baca Barragan, Beno, Fowler, Gallagher, MacManus, Phelps, P. Powers, P. Sandoval, Soash, and Yost.

AN ACT**CONCERNING CONTROLLED SUBSTANCES.**

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

Section 1. Part 3 of article 22 of title 12, Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is **REPEALED AND REENACTED, WITH AMENDMENTS**, to read:

PART 3**CONTROLLED SUBSTANCES**

12-22-301. Short title. This part 3 shall be known and may be cited as the "Colorado Controlled Substances Act".

12-22-302. Legislative declaration. The general assembly finds, determines, and declares that strict control of controlled substances within this state is necessary for the immediate and future preservation of the public peace, health, and safety and that the licensing, record-keeping, penalty, and other provisions contained in this part 3 are necessary for the achievement of such control.

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

(1) "Addict" means a person who has a physical or psychological dependence on a controlled substance, which dependence develops following the use of the controlled substance on a periodic or continuing basis and is demonstrated by appropriate observation and tests by a person licensed to practice medicine pursuant to article 36 of this title.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(2) "Addiction program" means a program, licensed under this part 3, for the detoxification, withdrawal, or maintenance treatment of addicts.

(3) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject.

(4) "Agent" means an authorized person who acts on behalf of or at the direction of a person licensed or otherwise authorized under this part 3. "Agent" does not include a common or contract carrier, a public warehouseman, or an employee of a carrier or warehouseman.

(5) "Board" means the state board of pharmacy.

(6) "Bureau" means the drug enforcement administration, or its successor agency, of the United States department of justice.

(7) "Controlled substance" means a drug or other substance or an immediate precursor which is declared to be a controlled substance under this part 3.

(8) "Deliver" or "delivery" means actual, constructive, or attempted transfer of a controlled substance whether or not there is an agency relationship.

(9) "Department" means the department of health.

(10) "Detoxification treatment" means a program for a short term of not more than three weeks for the administering or dispensing, in decreasing doses, of a controlled substance to an addict while he is receiving appropriate supportive medical treatment, with the immediate goal being to render the addict no longer dependent on the intake of any amount of a controlled substance.

(11) "Dispense" shall have the same meaning as set forth in section 12-22-102 (9).

(12) "Distribute" means to deliver a controlled substance other than by administering or dispensing.

(13) (a) "Drug" means any of the substances:

(I) Recognized as drugs in the official United States pharmacopoeia or a supplement thereof;

(II) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animal;

(III) Other than food, intended to affect the structure or any function of the body of man or animal; or

(IV) Intended for use as a component of any substance specified in subparagraph (I), (II), or (III) of this paragraph (a).

(b) "Drug" does not include devices or their components, parts, or accessories.

(14) "Immediate precursor" means a substance which is a principal compound commonly used or produced primarily for use, and which is an

immediate chemical intermediary used or likely to be used, in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(15) "Maintenance treatment" means a program of more than six months' duration for the administering or dispensing of a controlled substance, approved for such use by federal law or regulation, to an addict for the purpose of continuing his dependence upon a controlled substance in the course of conducting an authorized rehabilitation program for addicts, with a long-term goal of decreasing the addict's controlled substance dependency and leading to his possible withdrawal.

(16) "Manufacturer" means a person who is licensed by this part 3 and who, by compounding, mixing, cultivating, planting, growing, or other process, produces or prepares a controlled substance, but the term does not include a pharmacist who compounds controlled substances to be dispensed pursuant to a prescription, a practitioner who compounds controlled substances for dispensing in the course of his professional practice, or a researcher acting within the provisions of this part 3.

(17) "Marihuana" or "marijuana" means all parts of the plant *cannabis sativa* L., whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, or any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, cake, or sterilized seed of the plant which is incapable of germination.

(18) "Marihuana concentrate" means hashish, tetrahydrocannabinols, or any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized, of tetrahydrocannabinols.

(19) "Narcotic controlled substance" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium or any opiate or any salt, compound, derivative, or preparation of opium or any opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in paragraph (a) of this subsection (19) but not including the isoquinoline alkaloids of opium;

(c) Any opium poppy or poppy straw.

(20) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having an addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under this part 3, the dextrorotatory isomer of 3-methoxy-n-methyl-morphinan and its salts (dextromethorphan). The term does include its racemic and levorotatory forms.

(21) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.

(22) "Peace officer" shall have the same meaning as set forth in section 18-1-901 (3) (I), C.R.S. 1973.

(23) "Person" means any individual, government, governmental subdivision, agency, business trust, estate, trust, partnership, corporation, association, institution, or other legal entity.

(24) "Peyote" means all parts of the plant presently classified botanically as *lophophora williamsii* lemaire, whether growing or not, the seeds thereof, any extraction from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or extracts.

(25) "Pharmacist" means an individual licensed pursuant to part 1 of this article to engage in the practice of pharmacy, as defined in section 12-22-102 (26).

(26) "Pharmacy" or "prescription drug outlet" shall have the same meaning as set forth in section 12-22-102 (25).

(27) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(28) "Practitioner" shall have the same meaning as set forth in section 12-22-102 (27).

(29) "Production" or "produces" means the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(30) "Remuneration" means anything of value, including money, real property, tangible and intangible personal property, contract rights, choses in action, services, and any rights of use or employment or promises or agreements connected therewith.

(31) "Researcher" means any person licensed by the department pursuant to this part 3 to experiment with, study, or test any controlled substance within this state and includes analytical laboratories.

(32) (a) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, sp., or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity, such as the following:

(I) ¹cis or trans tetrahydrocannabinol, and their optical isomers;

(II) ⁶cis or trans tetrahydrocannabinol, and their optical isomers;

(III) ^{3,4}cis or trans tetrahydrocannabinol, and their optical isomers.

(b) Since the nomenclature of the substances listed in paragraph (a) of this subsection (32) is not internationally standardized, compounds of these structures, regardless of the numerical designation of atomic positions, are included in this definition.

(33) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use, for the use of a member of his household, or

for use in administering to an animal owned by him or a member of his household.

(34) "Wholesaler" means any person, licensed pursuant to this part 3, within or outside of this state who distributes a controlled substance without a prescription to any person in this state other than to or for the ultimate user.

(35) "Withdrawal treatment" means a program for an intermediate term, of more than three weeks but less than six months, for the administering or dispensing, in decreasing doses, of a controlled substance, approved for such use by federal law or regulation, to an addict while receiving rehabilitative measures as indicated, with the immediate goal being to render the addict no longer dependent on the intake of any amount of a controlled substance.

12-22-304. License required. (1) A license issued by the department shall be obtained annually for each place of business or professional practice located in this state by:

(a) Every researcher, including analytical laboratories, experimenting with, studying, or testing any controlled substance;

(b) Every addiction program which compounds, administers, or dispenses a controlled substance.

(2) A license issued by the board shall be obtained annually for each place of business or professional practice located in this state by:

(a) Every manufacturer who manufactures or distributes a controlled substance;

(b) Every wholesaler who distributes a controlled substance.

(3) (a) A license issued by the board shall be obtained annually by a humane society as provided in this subsection (3).

(b) On and after July 1, 1979, a humane society which is duly registered with the secretary of state and has been in existence and in business for at least five years in this state as a nonprofit corporation or an animal control agency which is operated by a unit of government may apply to the board for a license for the sole purpose of being authorized to purchase, possess, and administer sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals. Any society or agency so licensed shall not permit a person to administer sodium pentobarbital unless such person has demonstrated adequate knowledge of the potential hazards and proper techniques to be used in administering the drug. The board may issue a limited license to carry out the provisions of this subsection (3). The board shall issue such rules as it deems necessary to insure strict compliance with the provisions of this subsection (3) and shall develop in conjunction with the state board of veterinary medicine criteria for training individuals in the administration of the drug. The board may suspend or revoke the license upon determination that the person administering sodium pentobarbital has not demonstrated adequate knowledge required by this subsection (3). Nothing in this subsection (3) shall be construed to apply to a licensed veterinarian.

(4) Persons licensed as required under this part 3, or otherwise licensed as required by federal law, may possess, manufacture, distribute, dispense,

administer, or conduct or do research with controlled substances only to the extent authorized by their licenses and in conformity with the provisions of this part 3.

(5) The following persons need not be licensed by the department or the board to lawfully possess controlled substances under this part 3:

(a) An agent or employee of any addiction program or of any licensed manufacturer, practitioner, researcher, or wholesaler of any controlled substance, if acting in the usual course of business or employment;

(b) A common or contract carrier or warehouseman, or any employee thereof, whose possession of any controlled substance is in the usual course of business or employment;

(c) Practitioners licensed, registered, or otherwise authorized under the laws of this state to administer, dispense, or distribute a controlled substance, except in the course of conducting maintenance treatment or research with a controlled substance;

(d) Pharmacists or their places of business authorized under the laws of this state to compound or dispense a controlled substance.

(6) Any person who is required to be licensed and who is not so licensed may apply for a license at any time. No person required to be licensed shall engage in any activity for which a license is required until his application is granted and a license is issued to him by the department or the board.

12-22-305. Issuance of license - fees. (1) The department or the board as provided in section 12-22-304 (1) or (2) shall issue the appropriate license to each manufacturer, wholesaler, researcher, and addiction program meeting all the requirements of this part 3 unless it determines that the issuance of the license would be inconsistent with the public interest. In determining the public interest, the department or the board shall consider the following factors:

(a) Maintenance of effective controls against diversion of controlled substances into illegitimate medical, scientific, or industrial channels;

(b) Compliance with applicable state and local laws;

(c) Any conviction of the applicant under any federal or state law relating to a controlled substance;

(d) Past experience in the manufacture or distribution of controlled substances and the existence in the applicant's establishment of effective controls against diversion;

(e) Any false or fraudulent information in an application filed under this part 3;

(f) Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense a controlled substance as authorized by federal law; and

(g) Any other factors relevant to and consistent with the public peace, health, and safety.

(2) Issuance of a license under subsection (1) of this section does not entitle a licensee to wholesale, manufacture, distribute, or professionally use controlled substances beyond the scope of his federal registration.

(3) (a) The initial and annual license fees are as follows:

(I) Addiction program\$ 25.00

(II) Researchers25.00

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), the fees collected by the board under this article shall be determined, collected, and appropriated pursuant to section 24-34-105, C.R.S. 1973.

(4) Any person who is licensed may apply for license renewal not more than sixty days before the expiration date of his license.

(5) Neither the United States nor the state of Colorado or any of its political subdivisions shall pay any license fee required by this part 3.

12-22-306. Disposition of fees. All moneys collected by the department shall be transmitted to the state treasurer, who shall credit the same to the general fund. The general assembly shall make annual appropriations from the general fund for the purposes authorized by this part 3. Expenditures from such appropriations shall be made upon vouchers and warrants drawn pursuant to law.

12-22-307. Qualifications for license. (1) An applicant for a license under this part 3 must have adequate and proper facilities for the handling and storage of controlled substances and maintain proper control over such controlled substances to insure against their being illegally dispensed or distributed.

(2) Any person registered as a researcher by the federal government shall be presumed to possess the qualifications described in this section, so long as his federal registration is valid.

(3) No license shall be granted to any person who has been convicted within the last two years of a willful violation of this part 3 or any other state or federal law regulating controlled substances.

(4) Except for fees, compliance by a registrant with the provisions of the federal law respecting registration entitles the registrant to be licensed under this part 3.

12-22-308. Denial, revocation, or suspension of license. (1) A license issued under this part 3 may be denied, suspended, or revoked by the department or by the board pursuant to article 4 of title 24, C.R.S. 1973, upon a finding that the licensee:

(a) Has furnished false or fraudulent information in an application filed under this part 3;

(b) Has been convicted of a felony under any state or federal law relating to a controlled substance;

(c) Has had his federal registration to manufacture, conduct research on, distribute, or dispense a controlled substance suspended or revoked; or

(d) Has violated any provision of this part 3 or the rules or regulations of the department or of the board.

(2) The department or the board may limit revocation or suspension of a license to the particular controlled substance which was the basis for revocation or suspension.

(3) If the department or the board suspends or revokes a license, all controlled substances owned or possessed by the licensee at the time of the suspension or on the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for making an appeal has elapsed or until all appeals have been concluded unless a court orders otherwise or orders the sale of any perishable controlled substances and the deposit of the proceeds with the court. Upon a revocation order's becoming final, all controlled substances may be forfeited to the state.

(4) The department or the board shall promptly notify the bureau and the appropriate professional licensing agency, if any, of all charges and the final disposition thereof and of all forfeitures of a controlled substance.

12-22-309. Controlled substances - schedule I. (1) The following substances are declared to have no accepted medical use in treatment in the United States or to lack accepted safety for use in treatment under medical supervision and to have a high potential for abuse and are classified as schedule I controlled substances (narcotic):

(a) **Opiates.** Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (I) Acetylmethadol;
- (II) Allylprodine;
- (III) Alphacetylmethadol;
- (IV) Alphameprodine;
- (V) Alphamethadol;
- (VI) Benzathidine;
- (VII) Betacetylmethadol;
- (VIII) Betameprodine;
- (IX) Betamethadol;
- (X) Betaprodine;
- (XI) Clonitazene;
- (XII) Dextromoramide;
- (XIII) Diampromide;
- (XIV) Diethylthiambutene;
- (XV) Difenoxin;
- (XVI) Dimenoxadol;

- (XVII) Dimepheptanol;
- (XVIII) Dimethylthiambutene;
- (XIX) Dioxaphetyl butyrate;
- (XX) Dipipanone;
- (XXI) Ethylmethylthiambutene;
- (XXII) Etonitazene;
- (XXIII) Etoxeridine;
- (XXIV) Furethidine;
- (XXV) Hydroxypethidine;
- (XXVI) Ketobemidone;
- (XXVII) Levomoramide;
- (XXVIII) Levophenacymorphan;
- (XXIX) Morpheridine;
- (XXX) Noracymethadol;
- (XXXI) Norlevorphanol;
- (XXXII) Normethadone;
- (XXXIII) Norpipanone;
- (XXXIV) Phenadoxone;
- (XXXV) Phenampromide;
- (XXXVI) Phenomorphan;
- (XXXVII) Phenoperidine;
- (XXXVIII) Piritramide;
- (XXXIX) Proheptazine;
- (XL) Properidine;
- (XLI) Propiram;
- (XLII) Racemoramide;
- (XLIII) Sufentanil;
- (XLIV) Tilidine;
- (XLV) Trimaperidine.

(b) **Opium derivatives.** Unless specifically excepted or listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (I) Acetorphine;
- (II) Acetyldihydrocodeine;

- (III) Benzylmorphine;
- (IV) Codeine methylbromide;
- (V) Codeine-N-Oxide;
- (VI) Cyprenorphine;
- (VII) Desomorphine;
- (VIII) Dihydromorphine;
- (IX) Drotebanol;
- (X) Etorphine (except hydrochloride salt);
- (XI) Heroin;
- (XII) Hydromorphenol;
- (XIII) Methyldesorphine;
- (XIV) Methyldihydromorphine;
- (XV) Morphine methylbromide;
- (XVI) Morphine methylsulfonate;
- (XVII) Morphine-N-Oxide;
- (XVIII) Myrophine;
- (XIX) Nicocodeine;
- (XX) Nicomorphine;
- (XXI) Normorphine;
- (XXII) Pholcodine;
- (XXIII) Thebacon.

(2) The following substances are declared to have no accepted medical use in treatment in the United States or to lack accepted safety for use in treatment under medical supervision and to have a high potential for abuse and are classified as schedule I controlled substances (hallucinogenic):

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph (a) only, "isomer" includes the optical, position, and geometric isomers):

- (I) 3,4 - methylenedioxy amphetamine;
- (II) 5 - methoxy - 3,4-methylenedioxy amphetamine;
- (III) 3,4,5-trimethoxy amphetamine;
- (IV) Bufotenine;
- (V) Diethyltryptamine;

- (VI) Dimethyltryptamine;
- (VII) 4-methyl-2,5-dimethoxyamphetamine;
- (VIII) Ibogaine;
- (IX) Lysergic acid diethylamide;
- (X) Mecloqualone;
- (XI) Mescaline;
- (XII) N-ethyl-3-piperidyl benzilate;
- (XIII) N-methyl-3-piperidyl benzilate;
- (XIV) Peyote;
- (XV) Psilocybin;
- (XVI) Psilocyn;
- (XVII) Tetrahydrocannabinols;
- (XVIII) Thiophene analog of phencyclidine;
- (XIX) 2,5-dimethoxyamphetamine;
- (XX) 4-bromo-2,5-dimethoxyamphetamine;
- (XXI) 4-methoxyamphetamine;
- (XXII) Ethylamine analog of phencyclidine;
- (XXIII) Pyrrolidine analog of phencyclidine.

12-22-310. Controlled substances - schedule II. (1) The following substances are declared to have a currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions, to have a high potential for abuse, and, if abused, to potentially lead to severe physical or psychological dependence and are classified as schedule II controlled substances (narcotic):

(a) **Substances, vegetable origin or chemical synthesis.** Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(I) Opium or any opiate or any salt, compound, derivative, or preparation of opium or any opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, naltrexone, and their respective salts but including the following:

- (A) Raw opium;
- (B) Opium extracts;
- (C) Opium fluid extracts;
- (D) Powdered opium;
- (E) Granulated opium;

- (F) Tincture of opium;
- (G) Codeine;
- (H) Ethylmorphine;
- (I) Etorphine hydrochloride;
- (J) Hydrocodone;
- (K) Hydromorphone;
- (L) Metopon;
- (M) Morphine;
- (N) Oxycodone;
- (O) Oxymorphone;
- (P) Thebaine;

(II) Any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subparagraph (I) of this paragraph (a); except that these substances shall not include the isoquinoline alkaloids of opium;

(III) Opium poppy and poppy straw;

(IV) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy);

(V) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances; except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine;

(b) **Opiates.** Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (I) Alphaprodine;
- (II) Anileridine;
- (III) Benztiramide;
- (IV) Dihydrocodeine;
- (V) Diphenoxylate;
- (VI) Fentanyl;
- (VII) Isomethadone;
- (VIII) Levomethorphan;
- (IX) Levorphanol;

- (X) Metazocine;
- (XI) Methadone;
- (XII) Methadone-intermediate,
4-cyano-2-dimethylamino-4,4 -diphenyl butane;
- (XIII) Moramide-intermediate, 2-methyl-3-morpholino-1,
1-diphenylpropane-carboxylic acid;
- (XIV) Pethidine; (meperidine)
- (XV) Pethidine-intermediate-A,
4-cyano-1-methyl-4-phenylpiperidine;
- (XVI) Pethidine-intermediate-B, ethyl-4-phenyl-piperidine-4-carboxylate;
- (XVII) Pethidine-intermediate-C, 1-methyl-4-phenylpiperidine-4-
carboxylic acid;
- (XVIII) Phenazocine;
- (XIX) Piminodine;
- (XX) Racemethorphan;
- (XXI) Racemorphan.

(2) The following substances are declared to have a currently accepted medical use in treatment in the United States or currently accepted medical use with severe restrictions, to have a high potential for abuse, and, if abused, to potentially lead to severe physical or psychological dependence and are classified as schedule II controlled substances:

(a) **Stimulants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(I) Amphetamine and its salts, optical isomers, and salts of its optical isomers;

(II) Methamphetamine and its salts, isomers, and salts of its isomers;

(III) Phenmetrazine and its salts;

(IV) Methylphenidate;

(b) **Depressants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including the salts, isomers, and salts of isomers of such substances, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(I) Amobarbital;

(II) Methaqualone;

(III) Pentobarbital;

(IV) Phencyclidine;

(V) Secobarbital;

(c) **Immediate precursors.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any of the following substances:

(I) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone, also known as phenyl-2-propanone, P2P, benzyl methyl ketone, or methyl benzyl ketone;

(II) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine;

(B) 1-piperidinocyclohexanecarbonitrile (PCC).

12-22-311. Controlled substances - schedule III. (I) The following substances are declared to have a currently accepted medical use in treatment in the United States, to have a high potential for abuse but less than that of the controlled substances listed in schedules I and II of this part 3, and, if abused, may lead to moderate or low physical dependence or high psychological dependence and are classified as schedule III controlled substances:

(a) **Stimulants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including the salts, isomers (whether optical, position, or geometric), and salts of isomers of such substances, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(I) Those compounds, mixtures, or preparations in dosage unit form containing any stimulants listed in schedule II of this part 3, which compound, mixture, or preparation was listed on August 25, 1971, as excepted compounds under section 308.32 of the code of federal regulations and any other drug of the quantitative composition shown in that list for those drugs or which is the same except for containing a lesser quantity of stimulants;

(II) Benzphetamine;

(III) Chlorphentermine;

(IV) Clortermine;

(V) Mazindol;

(VI) Phendimetrazine;

(b) **Depressants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(I) Any compound, mixture, or preparation containing amobarbital, secobarbital, or pentobarbital or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule of this part 3;

(II) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital or any salt thereof and approved by the federal food and drug administration for marketing only as a suppository;

(III) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof;

(IV) Chlorhexadol;

(V) Glutethimide;

(VI) Lysergic acid;

(VII) Lysergic acid amide;

(VIII) Methypylon;

(IX) Sulfondiethylmethane;

(X) Sulfonethylmethane;

(XI) Sulfonmethane;

(c) Nalorphine;

(d) **Narcotic controlled substances.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic controlled substances or any salts thereof:

(I) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(II) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(III) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a four-fold or greater quantity of an isoquinoline alkaloid of opium;

(IV) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(V) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(VI) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(VII) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(VIII) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

12-22-312. Controlled substances - schedule IV. (1) The following substances are determined to have a currently accepted medical use in treatment

in the United States, to have a low potential for abuse relative to controlled substances in schedule III of this part 3, and, if abused, may lead to limited physical dependence or psychological dependence relative to the controlled substances in the said schedule III and are classified as schedule IV controlled substances:

(a) **Depressants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including the salts, isomers, and salts of isomers of such substances, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (I) Barbitol;
- (II) Chloral betaine;
- (III) Chloral hydrate;
- (IV) Chlordiazepoxide;
- (V) Clonazepam;
- (VI) Clorazepate;
- (VII) Diazepam;
- (VIII) Ethchlorvynol;
- (IX) Ethinamate;
- (X) Flurazepam;
- (XI) Lorazepam;
- (XII) Mebutamate;
- (XIII) Meprobamate;
- (XIV) Methohexital;
- (XV) Methylphenobarbital (mephobarbital);
- (XVI) Oxazepam;
- (XVII) Paraldehyde;
- (XVIII) Petrichloral;
- (XIX) Phenobarbital;
- (XX) Prazepam;

(b) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine, including the salts, isomers (whether optical, position or geometric), and salts of isomers of such substances, whenever the existence of such salts, isomers, and salts of isomers is possible;

(c) **Stimulants.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including the salts, isomers

(whether optical, position, or geometric), and salts of isomers of such substances, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (I) Diethylpropion;
- (II) Phentermine;
- (III) Pemoline, including organometallic complexes and chelates thereof;
- (IV) Pipradrol;
- (V) SPA [(-)-1-dimethylamino-1, 2-diphenylethane];

(d) **Other substances.** Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts:

(I) Dextropropoxyphene (alpha - (+) - 4 - dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane);

(II) (2)Pentazocine.

12-22-313. Controlled substances - schedule V. (1) The following substances are declared to have a currently accepted medical use in treatment in the United States, to have a low potential for abuse relative to controlled substances in schedule IV of this part 3, and to have limited physical dependence or psychological dependence liability relative to controlled substances listed in the said schedule IV and are classified as schedule V controlled substances:

(a) **Narcotic controlled substances containing nonnarcotic active medicinal ingredients.** Any compound, mixture, or preparation containing any of the following narcotic drugs or their salts, calculated as the free anhydrous base or alkaloid, in limited quantities, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal quantities other than those possessed by the narcotic controlled substance alone:

(I) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(II) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(III) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(IV) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(V) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(VI) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(b) Lopermide.

12-22-314. Unlawful acts - licenses - penalties. (1) Except as otherwise provided in this part 3, the following acts are unlawful:

(a) The dispensing or possession of a schedule I controlled substance except by a researcher who is registered under federal law to conduct research with that schedule I controlled substance;

(b) Except as provided in subsection (2) of this section, the dispensing of any schedule II controlled substance unless such substance is dispensed from a pharmacy pursuant to a written prescription or is dispensed by any practitioner in the course of his professional practice;

(c) The dispensing of any schedule III, IV, or V controlled substance unless such controlled substance is dispensed from a pharmacy pursuant to a written or oral prescription or is dispensed by any practitioner in the course of his professional practice;

(d) The refilling of any schedule III, IV, or V controlled substance more than six months after the date on which such prescription was issued or more than five times;

(e) The failure of a pharmacy to file and retain the prescription as required in section 12-22-318;

(f) The failure of a hospital to record and maintain a record of such dispensing as provided in section 12-22-318;

(g) The refusal to make available for inspection and to accord full opportunity to check any record or file as required by this part 3;

(h) The failure to keep records as required by this part 3;

(i) The failure to obtain a license as required by this part 3;

(j) Except when controlled substances are dispensed by a practitioner for direct administration in the course of his practice or are dispensed for administration to hospital inpatients, the failure to affix to the immediate container a label stating:

(I) The name and address of the person from whom such controlled substance was dispensed;

(II) The date on which such controlled substance was dispensed;

(III) The number of such prescription as filed in the prescription files of the pharmacy which dispensed such prescription;

(IV) The name of the prescribing practitioner;

(V) The directions for use of the controlled substance as contained in the prescription; and

(VI) The name of the patient and, if for an animal, the name of the owner;

(k) The failure of a practitioner, in dispensing a controlled substance other than by direct administration in the course of his practice, to affix to the immediate container a label bearing directions for use of the controlled substance, his name and registry number, the name of the patient, the date, and, if for an animal, the name of the owner;

(l) The administration of a controlled substance other than to the patient for whom prescribed;

(m) The possession of any controlled substance which has been received by any practitioner from any person who is not licensed as a manufacturer, wholesaler, or practitioner, or by a pharmacy from any person who is not licensed as a manufacturer or wholesaler, or by a pharmacy from another pharmacy except when necessary in order to fill an order or prescription from a practitioner or hospital.

(2) (a) A pharmacist in an emergency situation, in lieu of a written prescription, in good faith, may dispense up to a seventy-two-hour supply of any controlled substance listed in schedule II of this part 3 without a written prescription. An "emergency situation", as used in this paragraph (a), means a situation in which the prescribing practitioner determines:

(I) That immediate dispensing of the controlled substance is necessary for proper treatment of the intended ultimate user;

(II) That no alternative prescription drug is available, including drugs which are not controlled substances under schedule II of this part 3;

(III) That it is not reasonably possible for the prescribing practitioner to provide a written prescription to be presented to the person dispensing the controlled substance prior to such dispensing.

(b) Upon receiving such an emergency oral prescription from the practitioner, the pharmacist shall immediately reduce the prescription to writing and shall write on its face "authorization for emergency dispensing" and the date and time of dispensing of the oral prescription. The prescribing practitioner shall reduce to writing and deliver the prescription in person or by mail to the pharmacist within seventy-two hours. If delivered by mail, the envelope must be postmarked within seventy-two hours of prescribing. The pharmacist, upon receipt of the prescription, shall attach the prescription to the oral prescription which has been reduced to writing. The pharmacist shall notify the board if the prescribing practitioner fails to deliver the written prescription to him.

(3) Any person who violates paragraph (d), (e), (f), (g), (h), (i), (j), (k), (l), or (m) of subsection (1) of this section or subsection (2) of this section or any other provision of this part 3 for which a penalty is not specified is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

12-22-315. Fraud and deceit. (1) (a) No person shall obtain a controlled substance or procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge; or by the forgery or alteration of a prescription or of any written order; or by the concealment of a material fact; or by the use of a false name or the giving of a false address.

(b) Information communicated to a practitioner in an effort to procure a controlled substance other than for legitimate treatment purposes or unlawfully to procure the administration of any such controlled substance shall not be deemed a privileged communication.

(c) No person shall willfully make a false statement in any prescription, order, report, or record required by this article.

(d) No person, for the purpose of obtaining a controlled substance, shall falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, practitioner, or other person authorized by law to obtain a controlled substance.

(e) No person shall make or utter any false or forged prescription or false or forged written order.

(f) No person shall affix any false or forged label to a package or receptacle containing a controlled substance.

(2) Any person who violates any provision of this section commits:

(a) A class 5 felony and shall be punished as provided in section 18-1-105, C.R.S. 1973; or

(b) A class 4 felony, if the violation is committed subsequent to a prior conviction for a violation to which this subsection (2) applies and shall be punished as provided in section 18-1-105, C.R.S. 1973.

12-22-316. Notice of conviction. Upon the conviction of any person for a violation of any provision of this part 3, a copy of the judgment, sentence, and opinion, if any, of the court shall be sent by the clerk of the court to the board or department or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business.

12-22-317. Exemptions. (1) The provisions of section 12-22-314 shall not apply to:

(a) Agents of persons licensed under this part 3 acting within the provisions of their licenses; or

(b) Officers or employees of appropriate agencies of federal, state, or local governments acting pursuant to their official duties.

(2) All combination drugs that are exempted by regulation of the attorney general of the United States department of justice, pursuant to section 1006 (b) of Public Law 91-513 (84 Stat. 1236), known as the "Comprehensive Drug Abuse Prevention and Control Act of 1970", on or after July 1, 1981, are exempted from the provisions of this part 3.

(3) The provisions of this part 3 do not apply to peyote if said controlled substance is used in religious ceremonies of any bona fide religious organization.

(4) The provisions of section 12-22-318 shall not apply to a practitioner authorized to prescribe with respect to any controlled substance which is listed in schedules III, IV, or V of this part 3 and which is manufactured, received, or dispensed by him in the course of his professional practice unless he dispenses, other than by direct administration, any such controlled substance to his patients and they are charged therefor either separately or together with charges for other professional services or unless he regularly engages in dispensing any such controlled substance to his patients.

(5) The exemptions set forth in this section shall be available as a defense to any person accused of violating the provisions of section 12-22-314.

(6) It shall not be necessary for the state to negate any exemption or exception in this part 3 in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this part 3. The burden of proof of any such exemption or exception is upon the person claiming it.

12-22-318. Records to be kept - order forms. (1) Each person licensed or otherwise authorized under this part 3 or other laws of this state to manufacture, purchase, distribute, dispense, administer, store, use in research, or otherwise handle controlled substances shall keep and maintain separate detailed and accurate records and inventories relating to controlled substances and retain all such records and inventories for a period of two years after the respective dates of such transactions as shown on such records and inventories.

(2) The record of any controlled substance distributed, administered, dispensed, or otherwise used shall show the date, the name and address of person to whom, for whose use, the controlled substance was distributed, administered, dispensed, used, or otherwise disposed of, and the kind and quantity of such controlled substance.

(3) Manufacturing records of controlled substances shall include the kind and quantity of controlled substances produced or removed from process of manufacture and the dates of such production or removal from process of manufacture.

(4) The keeping of a record required by federal law, containing substantially the same information as set forth in subsections (1) to (3) of this section, shall constitute compliance with the record-keeping requirements of this part 3.

(5) A record shall also be kept of any controlled substance lost, destroyed, or stolen, the kind and quantity of such controlled substance, and the date of such loss, destruction, or theft.

(6) Controlled substances listed in schedule I or II of this part 3 shall be distributed by persons licensed or otherwise authorized under this part 3 or other laws of this state only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed compliance with this section.

12-22-319. Enforcement and cooperation. (1) Each peace officer and district attorney in this state shall enforce all the provisions of this part 3 and shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances.

(2) The board shall make any inspections, investigations, and reports that may be necessary to determine compliance with the provisions of this part 3 as they pertain to pharmacies, pharmacists, and manufacturers and wholesalers of controlled substances and shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances.

(3) The department shall cooperate with all agencies charged with the enforcement of the laws of this state, all other states, and the United States relating to controlled substances. To this end, the department shall:

(a) Arrange for the exchange of information among governmental officials concerning the use and abuse of controlled substances;

(b) Cooperate with the bureau and with local, state, and other federal agencies by maintaining a centralized unit to accept, catalogue, file, and collect statistics, including records of dependent and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement or regulatory purposes. It shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under section 12-22-320.

(c) Respond to referrals, complaints, or other information received regarding possible violations and, upon notification of the appropriate licensing authority, if applicable, and upon a written finding by the executive director of the department that probable cause exists to believe that there is illegal distribution or dispensing of controlled substances, to make any inspections, investigations, and reports that may be necessary to determine compliance with the provisions of this part 3 by all licensed or otherwise authorized individuals who handle controlled substances;

(d) Cooperate with and make information available to appropriate state licensing and registration boards regarding any violations of this part 3 by persons licensed or registered by such boards;

(e) Enter into contracts and encourage and conduct educational and research activities designed to prevent and determine misuse and abuse of controlled substances.

12-22-320. Records confidential. Prescriptions, orders, and records required by this part 3 and stocks of controlled substances shall be open for inspection only to federal, state, county, and municipal officers whose duty it is to enforce the laws of this state or of the United States relating to controlled substances or the regulation of practitioners. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party.

12-22-321. Rules and regulations. The department and the board shall promulgate rules and regulations to implement the provisions of this part 3 pursuant to the procedures of article 4 of title 24, C.R.S. 1973.

12-22-322. Department to promulgate rules and regulations. The department shall promulgate rules and regulations for research programs and for the conduct of detoxification treatment, maintenance treatment, and withdrawal treatment programs for controlled substance addiction. Such rules and regulations shall be promulgated in accordance with the provisions of article 4 of title 24, C.R.S. 1973.

Section 2. Title 18, Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

ARTICLE 18

Offenses Relating to Controlled Substances

18-18-101. Legislative declaration. The general assembly hereby finds, determines, and declares that the strict control of controlled substances in this state is necessary for the immediate and future preservation of the public peace, health, and safety.

18-18-102. Definitions - terms used. As used in this article, unless this article otherwise provides or unless the context otherwise requires, terms used in this article shall have the same meanings as those set forth in part 3 of article 22 of title 12, C.R.S. 1973.

18-18-103. Additional definitions. As used in this article, unless the context otherwise requires:

(1) "Sale" includes a barter, an exchange, or a gift, or an offer therefor, and each such transaction made by any person, whether as the principal, proprietor, agent, servant, or employee.

18-18-104. Unlawful use of a controlled substance. (1) Any person who uses any controlled substance, except when it is dispensed by or under the direction of a person licensed or authorized by law to prescribe, administer, or dispense such controlled substance for bona fide medical needs, commits:

(a) A class 5 felony, if the controlled substance is listed in schedule I or II of part 3 of article 22 of title 12, C.R.S. 1973;

(b) A class 1 misdemeanor, if the controlled substance is listed in schedule III, IV, or V of part 3 of article 22 of title 12, C.R.S. 1973.

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

(a) Addicted to a controlled substance;

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

(c) Dependent on a controlled substance.

(3) If the court determines that the defendant is addicted to, a person in need of treatment for, or dependent upon a controlled substance, the court may declare the defendant a person in need of treatment, and the court, without imposing sentence and with the consent of such person, shall suspend further proceedings, shall order the person to participate in a treatment program, and shall order such other reasonable conditions for such person as it may require for such period, not to exceed one year, as the court may prescribe. Upon any violation of a condition of the treatment order, the court may impose sentence and proceed as otherwise provided by law. The court, in its discretion, may dismiss the proceedings against such person and discharge him from treatment before the expiration of the period prescribed for the treatment. If, during the period of this treatment, such person does not violate any of the conditions set forth by the court, the court, upon the expiration of such period, shall discharge such person and dismiss any further proceedings against him. Such discharge and dismissal shall not be termed a conviction for the purposes of disqualification or disapproval imposed by

law upon conviction of a crime, including the penalties prescribed by law for second or subsequent convictions or for any other purpose.

18-18-105. Unlawful distribution, manufacturing, dispensing, sale, or possession. (1) (a) Except as authorized by part 3 of article 22 of title 12, C.R.S. 1973, it is unlawful for any person knowingly or intentionally to manufacture, dispense, sell, or distribute, with or without remuneration, to possess, or to possess with intent to manufacture, dispense, sell, or distribute, with or without remuneration, a controlled substance; or to induce, attempt to induce, or conspire with one or more other persons to manufacture, distribute, sell, or distribute, with or without remuneration, or to possess with intent to manufacture, dispense, sell, or distribute, with or without remuneration, a controlled substance.

(b) As used in this subsection (1), "dispense" does not include labeling, as defined in section 12-22-102 (16), C.R.S. 1973.

(2) Any person who violates any of the provisions of subsection (1) of this section:

(a) In the case of a controlled substance listed in schedule I or II of part 3 of article 22 of title 12, C.R.S. 1973, commits:

(I) A class 3 felony; or

(II) A class 2 felony, if the violation is committed subsequent to a prior conviction for a violation to which this paragraph (a) applies;

(b) In the case of a controlled substance listed in schedule III of part 3 of article 22 of title 12, C.R.S. 1973, commits:

(I) A class 4 felony; or

(II) A class 3 felony, if the violation is committed subsequent to any prior conviction under paragraph (a) of this subsection (2) or this paragraph (b);

(c) In the case of a controlled substance listed in schedule IV of part 3 of article 22 of title 12, C.R.S. 1973, or marihuana or marihuana concentrate, except as provided in section 18-18-106, commits:

(I) A class 5 felony; or

(II) A class 4 felony, if the violation is committed subsequent to a prior conviction for a violation to which paragraph (a) or (b) of this subsection (2) or this paragraph (c) applies;

(d) In the case of a controlled substance listed in schedule V of part 3 of article 22 of title 12, C.R.S. 1973, commits:

(I) A class 1 misdemeanor; or

(II) A class 5 felony, if the violation is committed subsequent to any prior conviction under paragraph (a), (b), or (c) of this subsection (2) or this paragraph (d).

18-18-106. Possession of marihuana. (1) Any person who possesses not more than one ounce of marihuana commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(2) Whenever a person is arrested or detained for a violation of subsection (1) of this section, the arresting or detaining officer shall prepare a written notice or summons for such person to appear in court. The written notice or summons shall contain the name and address of such arrested or detained person, the date, time, and place where such person shall appear, and a place for the signature of such person indicating the person's written promise to appear on the date and at the time and place indicated on the notice or summons. One copy of said notice or summons shall be given to the person arrested or detained, one copy shall be sent to the court where the arrested or detained person is to appear, and such other copies as may be required by the law enforcement agency employing the arresting or detaining officer shall be sent to the places designated by such law enforcement agency. The date specified in the notice or summons to appear shall be at least five days after such arrest or detention unless the person arrested or detained demands an earlier hearing. The place specified in the notice or summons to appear shall be before a judge having jurisdiction of such class 2 petty offense within the county in which the class 2 petty offense charged is alleged to have been committed. The arrested or detained person, in order to secure release from arrest or detention, shall promise in writing to appear in court by signing the notice or summons prepared by the arresting or detaining officer. Any person who does not honor such written promise to appear commits a class 3 misdemeanor.

(3) Any person who openly and publicly displays or consumes not more than one ounce of marihuana commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars or by a fine of not more than one hundred dollars and, notwithstanding the provisions of section 18-1-107, by fifteen days in the county jail.

(4) Any person who possesses more than one ounce of marihuana or any amount of marihuana concentrate commits:

(a) A class 5 felony; or

(b) A class 4 felony, if the violation is committed subsequent to a prior conviction for a violation to which this subsection (4) applies.

(5) Transferring or dispensing not more than one ounce of marihuana from one person to another for no consideration shall be deemed possession and not dispensing or sale thereof.

(6) The court may utilize treatment, probation, and deferred prosecution or deferred sentencing for any person who violates subsection (4) of this section.

(7) (a) Any provision of this article to the contrary notwithstanding, any person eighteen years of age or older who transfers or dispenses more than one ounce of marihuana for consideration to any person under eighteen years of age but at least fifteen years of age or any amount of marihuana concentrate, with or without consideration, to another person under eighteen years of age commits a class 4 felony and, in addition to the punishment prescribed in section 18-1-105, shall be punished by a fine of not more than five thousand dollars.

(b) Any person eighteen years of age or older who transfers or dispenses any amount of marihuana, with or without consideration, to any person under

the age of fifteen years commits a class 4 felony and, in addition to the punishment provided in section 18-1-105, shall be punished by a fine of not more than five thousand dollars.

(c) Any person commits a class 3 felony, if the violation is committed subsequent to a prior conviction for a violation to which this subsection (7) applies, and, in addition to the punishment provided in section 18-1-105, shall be punished by a fine of not more than ten thousand dollars, and the court shall have no jurisdiction to suspend the sentence of imprisonment or to grant probation to such person.

(8) No person knowingly shall cultivate, grow, produce, process, or manufacture, or knowingly allow to be cultivated, grown, produced, processed, or manufactured, on land owned, occupied, or controlled by him any marihuana or marihuana concentrate without first obtaining a license pursuant to part 3 of article 22 of title 12, C.R.S. 1973.

(9) If the provisions of subsection (7) of this section are found to be invalid, such invalidity shall apply to this entire section. It is hereby declared by the general assembly that, but for the provisions of subsection (7) of this section, the general assembly would not have enacted this section.

(10) The provisions of this section shall not apply to any person who possesses or uses marihuana pursuant to the "Dangerous Drugs Therapeutic Research Act", part 9 of article 5 of title 25, C.R.S. 1973.

18-18-107. Special offender. (1) Upon a felony conviction for a violation of part 3 of article 22 of title 12, C.R.S. 1973, or upon a felony conviction under this article, the presence of any one or more of the following extraordinary aggravating circumstances designating the defendant a special offender shall require the court to sentence the defendant to a term greater than the presumptive range for a class 2 felony but not more than twice the maximum term for a class 2 felony authorized in the presumptive range for the punishment of such felony:

(a) The defendant was previously convicted in courts of the United States or a state or any political subdivision thereof for two or more offenses involving the manufacture, sale, dispensing, or distribution of controlled substances, which offenses did not arise from the same criminal episode or course of events and differ from the pending felony and which were punishable by imprisonment in excess of one year;

(b) The defendant committed an offense as part of a pattern of manufacturing, sale, dispensing, or distributing controlled substances, which offense is a felony under applicable laws of Colorado, which constituted a substantial source of his income, and in which he manifested special skill or expertise;

(c) The defendant committed a felony which was, or was in furtherance of, a conspiracy with one or more persons to engage in a pattern of manufacturing, sale, dispensing, or distributing a controlled substance, which offense is a felony under applicable laws of Colorado, and the defendant did, or agreed that he would, initiate, organize, plan, finance, direct, manage, or supervise all or part of such conspiracy or manufacture, sale, dispensing, or distributing, or give or receive a bribe, or use force in connection with such manufacture, sale, dispensing, or distribution;

(d) The defendant unlawfully introduced, distributed, or imported into the state of Colorado any schedule I or II of part 3 of article 22 of title 12, C.R.S. 1973, controlled substance; or, with the intent to promote or facilitate the introduction, distribution, or importation of any schedule I or II of part 3 of article 22 of title 12, C.R.S. 1973, controlled substance into the state of Colorado, he aided, abetted, or advised another person to introduce, distribute, or import any schedule I or II of part 3 of article 22 of title 12, C.R.S. 1973, controlled substance into the state of Colorado;

(e) The defendant unlawfully sold, dispensed, distributed, possessed, or imported into the state of Colorado a quantity in excess of one hundred pounds of marihuana or marihuana concentrate.

(2) (a) In support of the findings under paragraph (b) of subsection (1) of this section, it may be shown that the defendant has had in his own name or under his control income or property not explained as derived from a source other than such manufacture, sale, dispensing, or distribution of controlled substances.

(b) For the purposes of paragraph (b) of subsection (1) of this section, a "substantial source of income" means a source of income which, for any period of one year or more, exceeds the minimum wage, determined on the basis of a forty-hour week and fifty-week year, or which, for the same period, exceeds fifty percent of the defendant's declared adjusted gross income under Colorado or any other state law or under federal law, whichever adjusted gross income is less.

(c) For the purposes of paragraph (b) of subsection (1) of this section, "special skill or expertise" in such manufacture, sale, dispensing, or distribution includes any unusual knowledge, judgment, or ability, including manual dexterity, facilitating the initiation, organizing, planning, financing, directing, managing, supervising, executing, or concealing of such manufacture, sale, dispensing, or distributing, the enlistment of accomplices in such manufacture, sale, dispensing, or distribution, the escape from detection or apprehension for such manufacture, sale, dispensing, or distribution, or the disposition of the fruits or proceeds of such manufacture, sale, dispensing, or distribution.

(d) For the purposes of paragraphs (b) and (c) of subsection (1) of this section, such manufacture, sale, dispensing, or distribution forms a pattern if it embraces criminal acts which have the same or similar purposes, results, participants, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics and are not isolated events.

(3) Nothing in this section shall preclude the court from considering aggravating circumstances other than those stated in subsection (1) of this section as a basis for sentencing the defendant to a term greater than the presumptive range for the felony.

(4) Nothing in this section shall preclude the court from imposing a greater sentence set forth in any other statute.

18-18-108. Declaration of class 1 public nuisance. Any store, shop, warehouse, dwelling house, building, vehicle, boat, or aircraft or any place whatsoever which is frequented by controlled substance addicts for the unlawful

use of controlled substances or which is used for the unlawful storage, manufacture, sale, or distribution of controlled substances is declared to be a class 1 public nuisance and subject to the provisions of section 16-13-303, C.R.S. 1973. Any real or personal property which is seized or confiscated as a result of an action to abate a public nuisance shall be disposed of pursuant to part 3 of article 13 of title 16, C.R.S. 1973.

18-18-109. Authorized possession of controlled substances. A person to whom or for whose use any controlled substance has been prescribed or dispensed by a practitioner may lawfully possess it, but only in the container in which it was delivered to him unless he is able to show that he is the legal owner of the controlled substance. Any person convicted of violating this section commits a class 1 petty offense.

Section 3. 12-22-102 (20), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

12-22-102. Definitions. (20) "Nonprescription drug" means a medicine or drug which may be sold without a prescription which is prepackaged for use by the consumer, prepared by the manufacturer or producer for use by the consumer, properly labeled and unadulterated in accordance with the requirements of the state food and drug law and the federal "Food, Drug, and Cosmetic Act". The term shall not apply to any drug that is designated under any law or regulation of this state or federal law or regulation as a narcotic; habit-forming or dangerous drug OR A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7).

Section 4. 12-22-121 (1), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

12-22-121. Compounding, dispensing, and sale of drugs and devices. (1) Except as otherwise provided in this section AND PART 3 OF THIS ARTICLE, no drug, CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), or device shall be sold, compounded, dispensed, given, received, or held in possession unless it is sold, compounded, dispensed, given, or received in accordance with this section.

Section 5. 12-22-125 (2) (a) (II), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

12-22-125. Licenses or registrations may be denied, suspended, or revoked. (2) (a) (II) Is habitually intemperate or is addicted to or uses to excess habit-forming dangerous; or narcotic drugs OR CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7);

Section 6. 12-25-102 (12) (b), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

12-25-102. Definitions. (12) (b) To be convicted of a violation of any federal or state law regulating the possession, distribution, or use of any narcotic drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7);

Section 7. The introductory portion to 12-31-103 (2) and 12-31-103 (3), Colorado Revised Statutes 1973, 1978 Repl. Vol., are amended to read:

12-31-103. Limitations on practice. (2) A child health associate may prescribe drugs, except ~~narcotic drugs~~ A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), which have been approved by the board for prescription by child health associates. The board may approve drugs from the following categories for prescription by child health associates upon the recommendation of an advisory committee appointed by the board consisting of a board member, a member of the department of pharmacology of the university of Colorado medical center, a practicing pediatrician, a licensed pharmacist, and a faculty member of the university of Colorado child health associate program:

(3) ~~Narcotic drugs~~ A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), may not be approved for prescription by child health associates.

Section 8. 12-33-117 (1) (d), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

12-33-117. Suspension or revocation of license. (1) (d) Addiction to the use of ~~narcotic drugs~~ A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7);

Section 9. 12-35-113 (1) (d), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

12-35-113. Application for license - fee. (1) (d) Is not presently addicted to the use of ~~narcotic drugs~~ A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), or habitual intemperance in the use of alcoholic liquors.

Section 10. 12-35-118 (1) (c), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

12-35-118. Causes for denial of issuance or renewal - suspension or revocation of licenses - other disciplinary action - unprofessional conduct defined - immunity in professional review. (1) (c) Addiction to the use of ~~narcotic drugs~~ A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7);

Section 11. 12-36-117 (1) (g), (1) (h), and (1) (i), Colorado Revised Statutes 1973, 1978 Repl. Vol., are amended to read:

12-36-117. Unprofessional conduct. (1) (g) Administering, dispensing, or prescribing any ~~narcotic drug; opium; coca leaves; cannabis; or any preparation or derivative of any of them or any other habit-forming drug,~~ AS DEFINED IN SECTION 12-22-102 (13), OR ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), other than in the course of legitimate professional practice and for the prevention, alleviation, or cure of disease or for the relief of suffering, and not for the purpose of catering to the cravings of an addict;

(h) Conviction of violation of any federal or state law regulating the possession, distribution, or use of any ~~narcotic drug; as provided in paragraph (g) of this subsection~~ (1) CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), and, in determining if a license should be denied, revoked, or suspended or if the licensee should be placed on probation, the board shall be governed by the provisions of section 24-5-101, C.R.S. 1973;

(i) Habitual intemperance or excessive use of cocaine, morphine, codeine, opium, heroin, alpha eucaine, beta eucaine, marijuana, novocaine, or chloral hydrate, or any of the salts, derivatives, or compounds of the foregoing substances, or of alcohol or alcoholic beverages, or of any other ANY habit-forming drug, or substance AS DEFINED IN SECTION 12-22-102 (13), OR ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7);

Section 12. 12-38-111 (1) (c), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

12-38-111. Requirements for professional nurse licensure. (1) (c) Submits proof satisfactory to the board upon such forms as the board may require to show that the applicant presently is not and, for the twelve-month period immediately preceding the date of the application, was not addicted to any narcotic drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), or is not a regular user of the same without a prescription therefor and that the applicant is not habitually intemperate in the use of intoxicating liquor;

Section 13. 12-38-112 (1) (c), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

12-38-112. Requirements for practical nurse licensure. (1) (c) Submits proof satisfactory to the board upon such forms as the board may require to show that the applicant presently is not and, for the twelve-month period immediately preceding the date of the application, was not addicted to any narcotic drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), or is not a regular user of the same without a prescription therefor and that the applicant is not habitually intemperate in the use of intoxicating liquor;

Section 14. 12-40-108 (1) (d), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

12-40-108. Application for license. (1) (d) He is not presently addicted to the use of narcotic drugs ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), or habitual intemperance in the use of alcoholic liquors.

Section 15. 12-40-118 (1) (e), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

12-40-118. Unprofessional conduct defined. (1) (e) Addiction to the use of narcotic drugs ANY CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7);

Section 16. 12-64-111 (1) (p), (1) (v), and (1) (y), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, are amended to read:

12-64-111. Discipline of licensees. (1) (p) Conviction of a violation of "COLORADO CONTROLLED SUBSTANCES ACT", the federal "Controlled Substances Act", or the federal "Controlled Substances Import and Export Act", or both ANY OF THEM;

(v) Addiction to or the habitual use of intoxicating liquors narcotics, hallucinogens, or stimulants OR A CONTROLLED SUBSTANCE, AS

DEFINED IN SECTION 12-22-303 (7), to such an extent as to incapacitate or impair him from the performance of his professional obligations and duties;

(y) Engaging in any act prohibited in article 22 of this title, regarding the dispensing of drugs, ~~narcotic drugs~~, medicines, poisons, or dangerous drugs CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7).

Section 17. 16-13-303 (1) (c), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

16-13-303. Class 1 public nuisance. (1) (c) Used for the unlawful manufacture, sale, or distribution or for storage or possession for any unlawful manufacture, sale, or distribution of any ~~narcotic drug~~ CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, or other drug the possession of which is an offense under the laws of this state;

Section 18. 16-13-304 (1) (b), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

16-13-304. Class 2 public nuisance. (1) (b) Any public or private place or premises which encourage professional gambling, ~~unlawful use of drugs, unlawful sale or distribution of drugs~~ UNLAWFUL USE, SALE, OR DISTRIBUTION OF DRUGS, CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, OR OTHER DRUGS THE POSSESSION OF WHICH IS AN OFFENSE UNDER THE LAWS OF THIS STATE, furnishing or selling intoxicating liquor to minors, furnishing or selling fermented malt beverages to persons under the age of eighteen, solicitation for prostitution, or traffic in stolen property; or

Section 19. 16-15-102 (1) (a) (VI), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

16-15-102. Ex parte order for wiretapping and eavesdropping. (1) (a) (VI) Dealing in ~~narcotic or other dangerous drugs~~ CONTROLLED SUBSTANCES as covered by sections 12-22-322 and 12-22-412 PART 3 OF ARTICLE 22 OF TITLE 12, C.R.S. 1973, as such offenses are subject to prosecution as felonies;

Section 20. 18-4-202 (3), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

18-4-202. First degree burglary. (3) If under the circumstances stated in subsection (1) of this section the property involved is ~~narcotic drugs~~ A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, within a pharmacy or other place having lawful possession thereof, such person commits first degree burglary of ~~drugs~~ CONTROLLED SUBSTANCES, which is a class 2 felony.

Section 21. 18-4-303, Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

18-4-303. Aggravated robbery of controlled substances. (1) A person who takes any ~~narcotic drug~~ CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, from any pharmacy or other place having lawful possession thereof under the aggravating circumstances defined

in section 18-4-302 is guilty of aggravated robbery of drugs CONTROLLED SUBSTANCES.

(2) Aggravated robbery of drugs CONTROLLED SUBSTANCES is a class 2 felony.

Section 22. 18-5-116 (1), Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is amended to read:

18-5-116. Controlled substances - inducing consumption by fraudulent means. (1) It is unlawful for any person, surreptitiously or by means of fraud, misrepresentation, suppression of truth, deception, or subterfuge, to cause any other person to unknowingly consume or receive the direct administration of any narcotic drug, as defined in part 3 of article 22 of title 12, C.R.S. 1973; or any dangerous drug, as defined in part 4 of article 22 of title 12, C.R.S. 1973 CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973; except that nothing in this section shall diminish the scope of health care authorized by law.

Section 23. 18-8-203 (1) (a) and (1) (b), Colorado Revised Statutes 1973, 1978 Repl. Vol., are amended to read:

18-8-203. Introducing contraband in the first degree. (1) (a) Introduces or attempts to introduce a dangerous instrument, as defined in subsection (4) of this section, malt, vinous, or spirituous liquor, as defined in section 12-47-103, C.R.S. 1973, fermented malt beverage, as defined in section 12-46-103, C.R.S. 1973, narcotic drug, as defined in section 12-22-301, C.R.S. 1973, or dangerous drug CONTROLLED SUBSTANCE, as defined in section 12-22-303 (7), C.R.S. 1973, into a detention facility; or

(b) Being a person confined in a detention facility, makes any dangerous instrument, narcotic drug, dangerous drug CONTROLLED SUBSTANCE, or alcohol.

Section 24. 18-9-112 (2) (e), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

18-9-112. Loitering - definition. (2) (e) Loiters with one or more persons for the purpose of unlawfully using or possessing a narcotic or dangerous drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973.

Section 25. 18-12-106 (1) (d), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

18-12-106. Prohibited use of weapons. (1) (d) He has in his possession a firearm while he is under the influence of intoxicating liquor or of a narcotic drug or dangerous drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973. Possession of a permit issued under section 18-12-105 (2) (c) is no defense to a violation of this subsection (1).

Section 26. 19-11-105 (2) (e), Colorado Revised Statutes 1973, 1978 Repl. Vol., is amended to read:

19-11-105. Criteria for termination. (2) (e) Excessive use of intoxicating liquors or narcotic or dangerous drugs CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, which affect the ability to care and provide for the child;

Section 27. 25-5-903 (1) and (5), Colorado Revised Statutes 1973, as amended, are amended to read:

25-5-903. Definitions. (1) "Cannabis" means ~~cannabis or cannabis concentrate~~ MARIHUANA, as defined in section 12-22-403 (1.5) and (1.6) 12-22-303 (17), C.R.S. 1973, OR MARIHUANA CONCENTRATE, AS DEFINED IN SECTION 12-22-303 (18), C.R.S. 1973.

(5) "Practitioner" means a person authorized to practice medicine and to prescribe and administer drugs CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, which are subject to the provisions of the "Colorado Dangerous Drug Act", part 4 3 of article 22 of title 12, C.R.S. 1973.

Section 28. 25-5-904 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

25-5-904. Dangerous drugs therapeutic research program establishment - participation. (2) Except as provided in section 25-5-905 (2), the program shall be limited to cancer chemotherapy patients and glaucoma patients who are certified to the committee by a practitioner as being involved in a life-threatening or sense-threatening situation, who are not responding to ~~conventional drugs administered pursuant to the "Colorado Dangerous Drug Act", part 4 of article 22 of title 12; C.R.S. 1973~~ CONTROLLED SUBSTANCES, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, ADMINISTERED PURSUANT TO PART 3 OF ARTICLE 22 OF TITLE 12, C.R.S. 1973, or where the ~~conventional drugs~~ SUBSTANCES administered have proven to be effective but where the patient has SUCH PATIENTS HAVE incurred severe side effects, and who have resided in the state of Colorado for at least one year. Such certification shall issue without unnecessary delay where a practitioner has determined that the possession and use of cannabis is necessary to alleviate the side effects of cancer chemotherapy or necessary for the treatment of glaucoma. The cost of any blood test required by the food and drug administration prior to entrance into the program shall be borne by the patient seeking entrance into the program.

Section 29. 25-5-905 (2), Colorado Revised Statutes 1973, as amended by House Bill No. 1224, enacted at the First Regular Session of the Fifty-third General Assembly and approved by the Governor on May 21, 1981, is amended to read:

25-5-905. Pharmacy and therapeutic committee - organization powers and duties. (2) The committee may include other disease groups for participation in the program after pertinent medical data has been presented by a clinical researcher with an investigative new drug number issued by the food and drug administration and approved by both the chancellor and the committee. For the purposes of this subsection (2), "clinical researcher" means any person licensed pursuant to section 12-22-408 (4) 12-22-304 (1) (a), C.R.S. 1973, to experiment with, study, or test any dangerous drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, within this state.

Section 30. 33-6-112, Colorado Revised Statutes 1973, as amended, is amended to read:

33-6-112. Hunting under influence of or while ability impaired by liquor or controlled substances. Hunting wildlife while under the influence of or while ability is impaired by intoxicating liquor or any narcotic or dangerous drug CONTROLLED SUBSTANCE, as defined in section 12-22-301 (46); C.R.S. 1973, and section 12-22-403 (4) 12-22-303 (7), C.R.S. 1973, is a misdemeanor, and the violator, upon conviction thereof, shall be punished as provided in section 33-6-127.

Section 31. 33-6-128 (3) (pp), Colorado Revised Statutes 1973, as amended, is amended to read:

33-6-128. Cancellation and suspension of license and privileges point system. (3) (pp) Hunting while under the influence of or while ability impaired by alcohol or narcotic or dangerous drug A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973.18 points

Section 32. 33-31-107 (2), Colorado Revised Statutes 1973, as amended, is amended to read:

33-31-107. Prohibited operation. (2) No person shall operate a vessel or be in actual physical control of a vessel while under the influence of alcohol, a narcotic drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, any other drug which renders him incapable of safely operating a vessel, or any combination thereof, nor shall the owner or operator of a vessel knowingly authorize or permit such vessel to be operated by or under the actual physical control of any other person if such person is under the influence of alcohol, a narcotic drug CONTROLLED SUBSTANCE, any other drug which renders him incapable of safely operating a vessel, or any combination thereof.

Section 33. 33-31-109 (1) (b), Colorado Revised Statutes 1973, as amended, is amended to read:

33-31-109. Water skis, aquaplanes, and similar devices. (1) (b) While under the influence of alcohol, a narcotic drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, any other drug which renders him incapable of THE safe operation of such device, or any combination thereof.

Section 34. 42-2-103 (2) (c), Colorado Revised Statutes 1973, is amended to read:

42-2-103. Licenses issued - denied. (2) (c) Who has been adjudged or determined by a court of competent jurisdiction to be an habitual drunkard or addicted to the use of narcotic drugs A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973;

Section 35. 42-2-122 (1) (b), Colorado Revised Statutes 1973, is amended to read:

42-2-122. Mandatory revocation of license. (1) (b) Been convicted of driving a motor vehicle while under the influence of narcotic drugs A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, or while an habitual user of narcotic drugs SUCH A CONTROLLED SUBSTANCE;

Section 36. 42-4-108 (1) (d), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-108. Provisions uniform throughout the state. (1) (d) In no event shall local authorities have the power to enact by ordinance regulations governing the driving of vehicles by persons under the influence of intoxicating liquor or narcotic drugs A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, or whose ability to operate a vehicle is impaired by the consumption of alcohol, the registration of vehicles and the licensing of drivers, the duties and obligations of persons involved in traffic accidents, and vehicle equipment requirements in conflict with the provisions of this article; but said local authorities within their respective jurisdictions shall enforce the state laws pertaining to these subjects, and in every charge of violation the complaint shall specify the section of state law under which the charge is made and the state court having jurisdiction.

Section 37. 42-4-1202 (1) (c), Colorado Revised Statutes 1973, is amended to read:

42-4-1202. Driving under the influence - driving while impaired implied consent to chemical tests - penalties - alcohol and drug driving safety program. (1) (c) It is a misdemeanor for any person who is an habitual user of or under the influence of any narcotic drug CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973, or who is under the influence of any other drug to a degree which renders him incapable of safely operating a vehicle to drive a vehicle in this state. The fact that any person charged with a violation of this paragraph (c) is or has been entitled to use such CONTROLLED SUBSTANCE OR drug under the laws of this state shall not constitute a defense against any charge of violating this paragraph (c).

Section 38. 42-4-1504 (1) (c), Colorado Revised Statutes 1973, as amended, is amended to read:

42-4-1504. Person arrested to be taken before the proper court. (1) (c) When the person is arrested upon a charge of driving while under the influence of intoxicating liquor or narcotic drugs A CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 12-22-303 (7), C.R.S. 1973;

Section 39. **Repeal.** Part 4 of article 22 of title 12, Colorado Revised Statutes 1973, 1978 Repl. Vol., as amended, is repealed.

Section 40. **Effective date.** This act shall take effect July 1, 1981.

Section 41. **Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 19, 1981