

### **18-18-102. Definitions**

As used in this article:

(1) "Administer", unless the context otherwise requires, 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 by:

- (a) A practitioner (or, in the practitioner's presence, by the practitioner's authorized agent); or
- (b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Agent" means an authorized person who acts on behalf of or at the direction of a person licensed or otherwise authorized under this article or under part 2 of article 80 of title 27, C.R.S. "Agent" does not include a common or contract carrier, a public warehouseman, or an employee of a carrier or warehouseman.

(3)(a) "Anabolic steroid" means any material, drug, hormonal compound, salt, isomer or salts of isomers of testosterone, or synthetic or natural derivatives of testosterone having pronounced anabolic properties which is used primarily to promote growth of muscle tissue, which includes, but is not limited to, any of the following:

- (I) Boldenone;
- (II) Chlorotestosterone;
- (III) Clostebol;
- (IV) Dehydrochlormethyltestosterone;
- (V) Dihydrotestosterone;
- (VI) Drostanolone;
- (VII) Ethylestrenol;
- (VIII) Fluoxymesterone;
- (IX) Formebolone;
- (X) Human chorionic gonadotropin;
- (XI) Human growth hormone;
- (XII) Mesterolone;
- (XIII) Methandienone;
- (XIV) Methandranone;
- (XV) Methandriol;
- (XVI) Methandrostenolone;
- (XVII) Methenolone;
- (XVIII) Methyltestosterone;
- (XIX) Mibolerone;
- (XX) Nandrolone;
- (XXI) Norethandrolone;
- (XXII) Oxandrolone;
- (XXIII) Oxymesterone;
- (XXIV) Oxymetholone;
- (XXV) Stanolone;
- (XXVI) Stanozolol;
- (XXVII) Testolactone;
- (XXVIII) Testosterone;
- (XXIX) Trenbolone;

(XXX) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph (a) if that salt, ester, or isomer promotes muscle growth.

(b)(I) Except as provided in subparagraph (II) of this paragraph (b), such term does not include an anabolic steroid which is expressly intended for administration through implants to

cattle or other nonhuman species and which has been approved by the secretary of health and human services for such administration.

(II) If any person prescribes, dispenses, or distributes a steroid described in subparagraph (I) of this paragraph (b) for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of paragraph (a) of this subsection (3).

(3.5)(a) "Cathinones" means any synthetic or natural material containing any quantity of a cathinone chemical structure, including any analogs, salts, isomers, or salts of isomers of any synthetic or natural material containing a cathinone chemical structure, including but not limited to the following substances and any analogs, salts, isomers, or salts of isomers of any of the following substances:

- (I) alpha-Phthalimidopropiophenone;
- (II) N, N-Dimethylcathinone (Metamfepramone);
- (III) N-Ethylcathinone (Ethcathinone);
- (IV) alpha-Pyrrolidinopropiophenone (agr;-PPP);
- (V) 2-Methylamino-1-phenylbutan-1-one (Buphedrone);
- (VI) alpha-Pyrrolidinobutiophenone (agr;-PBP);
- (VII) alpha-Pyrrolidinovalerophenone (agr;-PVP, PVP);
- (VIII) 4-Methylmethcathinone (4-MMC, Mephedrone);
- (IX) 4'-Methyl-alpha-pyrrolidinopropiophenone (MePPP);
- (X) 4'-Methyl-alpha-pyrrolidinobutiophenone (MPBP);
- (XI) 4'-Methyl-alpha-pyrrolidinohexiophenone (MPHP);
- (XII) 4-Methoxymethcathinone (PMMC, Methedrone, bk-PMMA);
- (XIII) 4'-Methoxy-alpha-pyrrolidinopropiophenone (MOPPP);
- (XIV) Fluoromethcathinone (4-FMC, Flephedrone, 3-FMC);
- (XV) 3,4-Methylenedioxyethcathinone (methylone, bk-MDMA);
- (XVI) 3,4-Methylenedioxyethcathinone (Ethylone, bk-MDEA);
- (XVII) 3',4'-Methylenedioxy-alpha-pyrrolidinopropiophenone (MDPPP);
- (XVIII) 2-Methylamino-1-(3,4-methylenedioxyphenyl)-1-butanone (Butylone, bk-MDBD);
- (XIX) 3',4'-Methylenedioxy-alpha-pyrrolidinobutiophenone (MDPBP);
- (XX) 2-Methylamino-1-(3,4-methylenedioxyphenyl)-1-pentanone (bk-MBDP);
- (XXI) 3,4-Methylenedioxyprovalerone (MDPV);
- (XXII) Naphthylpyrovalerone (Naphyrone);
- (XXIII) 2-(Methylamino)-1-phenyl-1-pentanone Pentedrone);
- (XXIV) N-methylethcathinone (4-MEC); and
- (XXV) (S)-2-Amino-1-phenyl-1-propanone (cathinone).

(b) "Cathinones" does not include diethylpropion or bupropion.

(c) As used in this subsection (3.5), "analog" means any chemical that is substantially similar in chemical structure to the chemical structure of any cathinones.

(4) "Cocaine" means coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this subsection (4).

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

(6)(a) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in or added to schedule I or II and:

(I) Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II; or

(II) With respect to a particular individual, which the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The term does not include:

(I) A controlled substance;

(II) A substance for which there is an approved drug application, so long as such substance is in its intended and unconverted form;

(III) A substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the "Federal Food, Drug, and Cosmetic Act", 21 U.S.C. sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(IV) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(7) "Deliver" or "delivery", unless the context otherwise requires, means to transfer or attempt to transfer a substance, actually or constructively, from one person to another, whether or not there is an agency relationship.

(8) "Department" means the department of human services.

(9) "Dispense" means to deliver a controlled substance to an ultimate user, patient, or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(10) "Dispenser" means a practitioner who dispenses.

(11) "Distribute" means to deliver other than by administering or dispensing a controlled substance, with or without remuneration.

(12) "Distributor" means a person who distributes.

(13) (a) "Drug" means:

(I) Substances recognized as drugs in the official United States pharmacopoeia, national formulary, or the official homeopathic pharmacopoeia of the United States, or any supplement to any of them;

(II) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals;

(III) Substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and

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

(b) The term does not include devices or their components, parts, or accessories.

(14) "Drug enforcement administration" means the drug enforcement administration in the United States department of justice, or its successor agency.

(14.5) "Enclosed" means a permanent or semi-permanent area covered and surrounded on all sides. Temporary opening of windows or doors or the temporary removal of wall or ceiling panels does not convert the area into an unenclosed space.

(15) "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.

(16) "Isomer" means an optical isomer, but in paragraph (e) of subsection (20) of this section and sections 18-18-203 (2) (a) (XII) and (2) (a) (XXXIV) and 18-18-204 (2) (a) (IV) the term includes a geometric isomer; in sections 18-18-203 (2) (a) (VIII) and (2) (a) (XLII) and 18-18-206 (2) (c) the term includes a positional isomer; and in sections 18-18-206 (2) (b) (XXXV) and (2) (c) and 18-18-205 (2) (a) the term includes any positional or geometric isomer.

(16.5) "Locked space" means secured at all points of ingress or egress with a locking mechanism designed to limit access such as with a key or combination lock.

(17) "Manufacture" means to produce, prepare, propagate, compound, convert, or process a controlled substance, directly or indirectly, by extraction from substances of natural origin, chemical synthesis, or a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(a) By a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(b) By a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(18) "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 fiber produced from the stalks, oil, or cake made from the seeds of the plant, or sterilized seed of the plant which is incapable of germination if these items exist apart from any other item defined as "marijuana" in this subsection (18). "Marijuana" does not include marijuana concentrate as defined in subsection (19) of this section.

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

(20) "Narcotic drug" means any of the following, however manufactured:

(a) Opium, opium derivative, and any derivative of either including any salts, isomers, and salts of isomers of them that are theoretically possible within the specific chemical designation, but not isoquinoline alkaloids of opium;

(b) Synthetic opiate and any derivative of synthetic opiate, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, of them that are theoretically possible within the specific chemical designation;

(c) Poppy straw and concentrate of poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, or any salt, isomer, or salt of isomer of cocaine;

(f) Cocaine base;

(g) Ecgonine, or any derivative, salt, isomer, or salt of isomer of ecgonine;

(h) Any compound, mixture, or preparation containing any quantity of a substance listed in this subsection (20).

(21) "Opiate" means a substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, opium derivatives, and synthetic opiates. The term does not include, unless specifically scheduled as a controlled substance under section 18-18-201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

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

(23) "Order" means:

(a) A prescription order which is any order, other than a chart order, authorizing the dispensing of drugs or devices that is written, mechanically produced, computer generated, transmitted electronically or by facsimile, or produced by other means of communication by a practitioner and that includes the name or identification of the patient, the date, the symptom or purpose for which the drug is being prescribed, if included by the practitioner at the patient's authorization, and sufficient information for compounding, dispensing, and labeling; or

(b) A chart order which is an order for inpatient drugs or medications to be dispensed by a pharmacist, or pharmacy intern under the direct supervision of a pharmacist, which is to be administered by an authorized person only during the patient's stay in a hospital facility. It shall contain the name of the patient and of the medicine ordered and such directions as the practitioner may prescribe concerning strength, dosage, frequency, and route of administration.

(24) "Peace officer" shall have the same meaning as set forth in section 16-2.5-101, C.R.S.

(25) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government or governmental subdivision or agency, or any other legal or commercial entity.

(26) "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.

(27) "Pharmacy" means a prescription drug outlet as defined in section 12-42.5-102 (35), C.R.S.

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

(29) "Practitioner" means a physician, podiatrist, dentist, optometrist, veterinarian, researcher, pharmacist, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by this state, to distribute, dispense, conduct research with respect to, administer, or to use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(30) "Production", unless the context otherwise requires, includes the manufacturing of a controlled substance and the planting, cultivating, growing, or harvesting of a plant from which a controlled substance is derived.

(31) "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.

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

(33) "Sale" means 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.

(33.5) "Salvia divinorum" means salvia divinorum, salvinorin A, and any part of the plant classified as salvia divinorum, whether growing or not, including the seeds thereof, any extract from any part of the plant, and any compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds, or its extracts.

(34) "State", unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(34.5) (a) "Synthetic cannabinoid" means any chemical compound that is chemically synthesized and either:

(I) Has been demonstrated to have binding activity at one or more cannabinoid receptors; or

(II) Is a chemical analog or isomer of a compound that has been demonstrated to have binding activity at one or more cannabinoid receptors.

(b) "Synthetic cannabinoid" includes but is not limited to the following substances:

(I) HU-210: (6aR, 10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(II) HU-211: dexanabinol, (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydrobenzo[c]chromen-1-ol;

(III) JWH-018: 1-pentyl-3-(1-naphthoyl)indole;

(IV) JWH-073: 1-butyl-3-(1-naphthoyl)indole;

(V) JWH-081: 1-pentyl-3-(4-methoxy-1-naphthoyl)indole, also known as 4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone;

(VI) JWH-200: 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole;

(VII) JWH-250: 1-pentyl-3-(2-methoxyphenylacetyl)indole, also known as 2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone; and

(VIII) CP 47, 497, and homologues: 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol.

(c) "Synthetic cannabinoid" does not mean:

(I) Any tetrahydrocannabinols, as defined in subsection (35) of this section; or

(II) Nabilone.

(d) As used in this subsection (34.5), "analog" means any chemical that is substantially similar in chemical structure to a chemical compound that has been determined to have binding activity at one or more cannabinoid receptors.

(35)(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) sup1;Cis or trans tetrahydrocannabinol, and their optical isomers;

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

(III) 3,4Cis or trans tetrahydrocannabinol, and their optical isomers.

(b) Since the nomenclature of the substances listed in paragraph (a) of this subsection (35) is not internationally standardized, compounds of these structures, regardless of the numerical designation of atomic positions, are included in this definition.

(36) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

### **18-18-406. Offenses relating to marijuana and marijuana concentrate**

(1)(a) The sale, transfer, or dispensing of more than two and one-half pounds of marijuana or more than one pound of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 1 drug felony subject to the mandatory sentencing provision in section 18-1.3-401.5 (7).

(b) The sale, transfer, or dispensing of more than six ounces, but not more than two and one-half pounds of marijuana or more than three ounces, but not more than one pound of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 2 drug felony.

(c) The sale, transfer, or dispensing of more than one ounce, but not more than six ounces of marijuana or more than one-half ounce, but not more than three ounces, of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 3 drug felony.

(d) The sale, transfer, or dispensing of not more than one ounce of marijuana or not more than one-half ounce of marijuana concentrate to a minor if the person is an adult and two years older than the minor is a level 4 drug felony.

(2)(a)(I) It is unlawful for a person to knowingly process or manufacture any marijuana or marijuana concentrate or knowingly allow to be processed or manufactured on land owned, occupied, or controlled by him or her any marijuana or marijuana concentrate except as authorized pursuant to part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.

(II) A person who violates the provisions of subparagraph (I) of this paragraph (a) commits a level 3 drug felony.

(b)(I) Except as otherwise provided in subsection (7) of this section and except as authorized by part 1 of article 42.5 of title 12, C.R.S., part 2 of article 80 of title 27, C.R.S., or part 2 or 3 of this article, it is unlawful for a person to knowingly dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate; or attempt, induce, attempt to induce, or conspire with one or more other persons, to dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute marijuana or marijuana concentrate.

(II) As used in subparagraph (I) of this paragraph (b), "dispense" does not include labeling, as defined in section 12-42.5-102 (18), C.R.S.

(III) A person who violates any of the provisions of subparagraph (I) of this paragraph (b) commits:

(A) A level 1 drug felony and is subject to the mandatory sentencing provision in section 18-1.3-401.5 (7) if the amount of marijuana is more than fifty pounds or the amount of marijuana concentrate is more than twenty-five pounds;

(B) A level 2 drug felony if the amount of marijuana is more than five pounds but not more than fifty pounds or the amount of marijuana concentrate is more than two and one-half pounds but not more than twenty-five pounds;

(C) A level 3 drug felony if the amount is more than twelve ounces but not more than five pounds of marijuana or more than six ounces but not more than two and one-half pounds of marijuana concentrate;

(D) A level 4 drug felony if the amount is more than four ounces, but not more than twelve ounces of marijuana or more than two ounces but not more than six ounces of marijuana concentrate; or

(E) A level 1 drug misdemeanor if the amount is not more than four ounces of marijuana or not more than two ounces of marijuana concentrate.

(3)(a) It is unlawful for a person to knowingly cultivate, grow, or produce a marijuana plant or knowingly allow a marijuana plant to be cultivated, grown, or produced on land that the person owns, occupies, or controls. A person who violates the provisions of this subsection (3) commits:

(I) A level 3 drug felony if the offense involves more than thirty plants;

(II) A level 4 drug felony if the offense involves more than six but not more than thirty plants;

or

(III) A level 1 drug misdemeanor if the offense involves not more than six plants.

(b) It is not a violation of this subsection (3) if:

(I) The person is lawfully cultivating medical marijuana pursuant to the authority granted in section 14 of article XVIII of the state constitution; or

(II) The person is lawfully cultivating marijuana in an enclosed and locked space pursuant to the authority granted in section 16 of article XVIII of the state constitution; except that, if the cultivation area is located in a residence and:

(A) A person under twenty-one years of age lives at the residence, the cultivation area itself must be enclosed and locked; and

(B) If no person under twenty-one years of age lives at the residence, the external locks of the residence constitutes an enclosed and locked space. If a person under twenty-one years of age enters the residence, the person must ensure that access to the cultivation site is reasonably restricted for the duration of that person's presence in the residence.

(4)(a) A person who possesses more than twelve ounces of marijuana or more than three ounces of marijuana concentrate commits a level 4 drug felony.

(b) A person who possesses more than six ounces of marijuana but not more than twelve ounces of marijuana or not more than three ounces of marijuana concentrate commits a level 1 drug misdemeanor.

(c) A person who possesses more than two ounces of marijuana but not more than six ounces of marijuana commits a level 2 drug misdemeanor.

(5) (a) (I) Except as described in section 18-1-711, a person who possesses not more than two ounces of marijuana commits a drug petty offense and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

(II) Whenever a person is arrested or detained for a violation of subparagraph (I) of this paragraph (a), the arresting or detaining officer shall prepare a written notice or summons for the person to appear in court. The written notice or summons must contain the name and address of the arrested or detained person, the date, time, and place where such person shall appear, and a place for the signature of the 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 the notice or summons must be given to the person arrested or detained, one copy must 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 must be sent to the places designated by such law enforcement agency. The date specified in the notice or summons to appear must be at least seven days after the arrest or detention unless the person arrested or detained demands an earlier hearing. The place specified in the notice or summons to appear must be before a judge having jurisdiction of the drug petty offense within the county in which the drug petty offense charged is alleged to have been committed. The arrested or detained person, in order to secure release from arrest or detention, must 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 the written promise to appear commits a class 3 misdemeanor.

(b)(I) Except as described in section 18-1-711, a person who openly and publicly displays, consumes, or uses two ounces or less of marijuana commits a drug petty offense and, upon

conviction thereof, shall be punished by a fine of up to one hundred dollars and up to twenty-four hours of community service.

(II) Open and public display, consumption, or use of more than two ounces of marijuana or any amount of marijuana concentrate is deemed possession thereof, and violations shall be punished as provided for in subsection (4) of this section.

(III) Except as otherwise provided for in subparagraph (I) of this paragraph (b), consumption or use of marijuana or marijuana concentrate is deemed possession thereof, and violations must be punished as provided for in paragraph (a) of this subsection (5) and subsection (4) of this section.

(c) Transferring or dispensing not more than two ounces of marijuana from one person to another for no consideration is a drug petty offense and is not deemed dispensing or sale thereof.

(6) The provisions of this section do not apply to any person who possesses, uses, prescribes, dispenses, or administers any drug classified under group C guidelines of the national cancer institute, as amended, approved by the federal food and drug administration.

(7) The provisions of this section do not apply to any person who possesses, uses, prescribes, dispenses, or administers dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a federal food and drug administration approved drug product, pursuant to part 1 of article 42.5 of title 12, C.R.S., or part 2 of article 80 of title 27, C.R.S.

#### **18-18-406.2. Unlawful distribution, manufacturing, dispensing, sale, or cultivation of synthetic cannabinoids or salvia divinorum**

(1) It is unlawful for any person knowingly to:

(a) Manufacture, dispense, sell, or distribute, or to possess with intent to manufacture, dispense, sell, or distribute, any amount of any synthetic cannabinoid or salvia divinorum;

(b) Induce, attempt to induce, or conspire with one or more other persons, to manufacture, dispense, sell, distribute, or possess with intent to manufacture, dispense, sell, or distribute, any amount of any synthetic cannabinoid or salvia divinorum; or

(c) Cultivate salvia divinorum with intent to dispense, sell, or distribute any amount of the salvia divinorum.

(2) A person who violates any provision of subsection (1) of this section commits a level 3 drug felony.

(3) Notwithstanding the provisions of subsection (2) of this section, a person who violates any provision of subsection (1) of this section by dispensing, selling, or distributing any amount of any synthetic cannabinoid or salvia divinorum commits a level 2 drug felony if the person:

(a) Dispenses, sells, or distributes the synthetic cannabinoid or salvia divinorum to a minor who is less than eighteen years of age; and

(b) Is at least eighteen years of age and at least two years older than said minor.

(4) As used in this section, "dispense" does not include labeling, as defined in section 12-42.5-102 (18), C.R.S.

#### **18-18-406.3. Medical use of marijuana by persons diagnosed with debilitating medical conditions - unlawful acts - penalty - medical marijuana program cash fund**

(1) The general assembly hereby finds and declares that:

(a) Section 14 of article XVIII of the state constitution was approved by the registered electors of this state at the 2000 general election;

(b) Section 14 of article XVIII of the state constitution creates limited exceptions to the criminal laws of this state for patients, primary care givers, and physicians concerning the

medical use of marijuana by a patient to alleviate an appropriately diagnosed debilitating medical condition;

(c) Section 14 of article XVIII of the state constitution requires a state health agency designated by the governor to establish and maintain a confidential registry of patients authorized to engage in the medical use of marijuana;

(d) The governor, in accordance with paragraph (h) of subsection (1) of section 14 of article XVIII of the state constitution, has designated the department of public health and environment, referred to in this section as the department, to be the state health agency responsible for the administration of the medical marijuana program;

(e) Section 14 of article XVIII of the state constitution requires the department to process the applications of patients who wish to qualify for and be placed on the confidential registry for the medical use of marijuana, and to issue registry identification cards to patients who qualify for placement on the registry;

(f) Section 14 of article XVIII of the state constitution sets forth the lawful limits on the medical use of marijuana;

(g) Section 14 of article XVIII of the state constitution requires the general assembly to determine and enact criminal penalties for specific acts described in the constitutional provision;

(h) In interpreting the provisions of section 14 of article XVIII of the state constitution, the general assembly has applied the definitions contained in subsection (1) of the constitutional provision and has attempted to give the remaining words of the constitutional provision their plain meaning;

(i) This section reflects the considered judgment of the general assembly regarding the meaning and implementation of the provisions of section 14 of article XVIII of the state constitution.

(2)(a) Any person who fraudulently represents a medical condition to a physician, the department, or a state or local law enforcement official for the purpose of falsely obtaining a marijuana registry identification card from the department, or for the purpose of avoiding arrest and prosecution for a marijuana-related offense, commits a class 1 misdemeanor.

(b) If an officer or employee of the department receives information that causes such officer or employee reasonably to believe that fraudulent representation, as described in paragraph (a) of this subsection (2), has occurred, such officer or employee shall report the information to either the district attorney of the county in which the applicant for the marijuana registry identification card resides, or to the attorney general.

(3) The fraudulent use or theft of any person's marijuana registry identification card, including, but not limited to, any card that is required to be returned to the department pursuant to section 14 of article XVIII of the state constitution, is a class 1 misdemeanor.

(4) The fraudulent production or counterfeiting of, or tampering with, one or more marijuana registry identification cards is a class 1 misdemeanor.

(5) Any person including, but not limited to, any officer, employee, or agent of the department, or any officer, employee, or agent of any state or local law enforcement agency, who releases or makes public any confidential record or any confidential information contained in any such record that is provided to or by the marijuana registry of the department without the written authorization of the marijuana registry patient commits a class 1 misdemeanor.

(6) The use, possession, manufacturing, dispensing, selling, or distribution of a synthetic cannabinoid, as defined in section 18-18-102 (34.5), shall not be considered an exception to the criminal laws of this state for the purposes of this section or of section 14 of article XVIII of the state constitution.

(7) An owner, officer, or employee of a business licensed pursuant to article 43.3 of title 12, C.R.S., or an employee of the state medical marijuana licensing authority, a local medical marijuana licensing authority, or the department of public health and environment, who releases or makes public a patient's medical record or any confidential information contained in any such record that is provided to or by the business licensed pursuant to article 43.3 of title 12, C.R.S., without the written authorization of the patient commits a class 1 misdemeanor; except that the owner, officer, or employee shall release the records or information upon request by the state or local medical marijuana licensing authority. The records or information produced for review by the state or local licensing authority shall not become public records by virtue of the disclosure and may be used only for a purpose authorized by article 43.3 of title 12, C.R.S., or for another state or local law enforcement purpose. The records or information shall constitute medical data as defined by section 24-72-204 (3) (a) (I), C.R.S. The state or local medical marijuana licensing authority may disclose any records or information so obtained only to those persons directly involved with any investigation or proceeding authorized by article 43.3 of title 12, C.R.S., or for any state or local law enforcement purpose.