

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 15-0172.02 Michael Dohr x4347

HOUSE BILL 15-1305

HOUSE SPONSORSHIP

Foote and Willett,

SENATE SPONSORSHIP

Grantham and Johnston,

House Committees

Judiciary
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION ON MANUFACTURING MARIJUANA**
102 **CONCENTRATE IN AN UNREGULATED ENVIRONMENT USING AN**
103 **INHERENTLY HAZARDOUS SUBSTANCE, AND, IN CONNECTION**
104 **THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill makes it a class 2 drug felony for an unlicensed person to manufacture marijuana concentrate or permit marijuana concentrate manufacturing on any premises using an inherently hazardous substance.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) The adoption of section 14 of article XVIII of the Colorado
5 constitution created an affirmative defense and a limited exception to
6 state criminal laws for patients and primary caregivers who possess or
7 produce a limited amount of marijuana concentrate for medical use to
8 treat a debilitating medical condition;

9 (b) The adoption of section 16 of article XVIII of the Colorado
10 constitution allows persons twenty-one years of age and older in Colorado
11 now to claim immunity from prosecution under state or local laws for
12 possessing or processing marijuana concentrate in a quantity of one ounce
13 or less for personal use or for distribution to others without compensation;

14 (c) Section 14 of article XVIII of the Colorado constitution
15 prohibits both patients and primary caregivers from acquiring or
16 producing marijuana concentrate in a way that endangers the health or
17 well-being of any person;

18 (d) Section 16 of article XVIII of the Colorado constitution
19 provides that, in the interest of the health and public safety of our
20 citizenry, marijuana sold in Colorado will be subject to additional
21 regulations to ensure that consumers are protected;

22 (e) Both constitutional provisions lack clarity on the question of
23 how and where marijuana concentrate may be processed or manufactured
24 for medical or personal use;

25 (f) Section 18-18-406 (2) (a), Colorado Revised Statutes, currently
26 makes processing and manufacturing marijuana concentrate a level 3

1 drug felony, but questions remain as to its applicability in the face of
2 sections 14 and 16 of article XVIII of the Colorado constitution; and

3 (g) The lack of clarity in the law regarding residential production
4 of marijuana concentrate has led to numerous examples of persons using
5 inherently hazardous methods of extracting marijuana concentrate in
6 inappropriate, unregulated settings, including residential locations.

7 (2) Therefore, it is necessary to specifically prohibit the
8 manufacture of marijuana concentrate outside of the regulated medical
9 and retail marijuana markets when using an inherently hazardous
10 substance to extract the marijuana concentrate, and it is necessary to
11 distinguish that activity from the current provisions in section 18-18-406
12 (2) (a), Colorado Revised Statutes, due to its elevated danger.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 18-18-406.6 as
14 follows:

15 **18-18-406.6. Extraction of marijuana concentrate - definitions.**

16 (1) IT SHALL BE UNLAWFUL FOR ANY PERSON WHO IS NOT LICENSED
17 PURSUANT TO ARTICLE 43.3 OR 43.4 OF TITLE 12, C.R.S., TO KNOWINGLY
18 MANUFACTURE MARIJUANA CONCENTRATE USING AN INHERENTLY
19 HAZARDOUS SUBSTANCE.

20 (2) IT SHALL BE UNLAWFUL FOR ANY PERSON WHO IS NOT LICENSED
21 PURSUANT TO ARTICLE 43.3 OR 43.4 OF TITLE 12, C.R.S., WHO OWNS,
22 MANAGES, OPERATES, OR OTHERWISE CONTROLS THE USE OF ANY
23 PREMISES TO KNOWINGLY ALLOW MARIJUANA CONCENTRATE TO BE
24 MANUFACTURED ON THE PREMISES USING AN INHERENTLY HAZARDOUS
25 SUBSTANCE.

26 (3) A PERSON WHO VIOLATES THIS SECTION COMMITS A **LEVEL 2**
27 DRUG FELONY.

1 (4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
2 REQUIRES, "INHERENTLY HAZARDOUS SUBSTANCE" MEANS ANY LIQUID
3 CHEMICAL, COMPRESSED GAS, OR COMMERCIAL PRODUCT THAT HAS A
4 FLASH POINT AT OR LOWER THAN THIRTY-EIGHT DEGREES CELSIUS OR ONE
5 HUNDRED DEGREES FAHRENHEIT, INCLUDING BUTANE, PROPANE, AND
6 DIETHYL ETHER AND EXCLUDING ALL FORMS OF ALCOHOL AND ETHANOL.

7 **SECTION 3.** In Colorado Revised Statutes, **add 17-18-117** as
8 follows:

9 **17-18-117. Appropriation to comply with section 2-2-703 - HB**
10 **15-1305 - repeal.** (1) PURSUANT TO SECTION 2-2-703, C.R.S., THE
11 FOLLOWING STATUTORY APPROPRIATIONS ARE MADE IN ORDER TO
12 IMPLEMENT HOUSE BILL 15-1305, ENACTED IN 2015:

13 (a) FOR THE 2016-17 STATE FISCAL YEAR, TWENTY-TWO THOUSAND
14 SIXTY-EIGHT DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE
15 GENERAL FUND.

16 (b) FOR THE 2017-18 STATE FISCAL YEAR, TWENTY-TWO THOUSAND
17 SIXTY-EIGHT DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE
18 GENERAL FUND.

19 (c) FOR THE 2018-19 STATE FISCAL YEAR, ELEVEN THOUSAND
20 THIRTY-FOUR DOLLARS IS APPROPRIATED TO THE DEPARTMENT FROM THE
21 GENERAL FUND.

22 (2) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2020.

23 **SECTION 4. Effective date - applicability.** This act takes effect
24 July 1, 2015, and applies to offenses committed on or after said date.

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