

First Regular Session
Sixty-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 03-0475.01 Stephen Miller

HOUSE BILL 03-1011

HOUSE SPONSORSHIP

Fritz

SENATE SPONSORSHIP

(None)

House Committees

Business Affairs & Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING A PROHIBITION AGAINST CERTAIN CORPORATE ACTS
102 INVOLVING REGULATED CHEMICALS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes it unlawful for a corporation to market, sell, or distribute a regulated chemical if an agent of the corporation negligently sells the regulated chemical to a person or entity who uses or intends to use it to manufacture a controlled substance.

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

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 **SECTION 1.** Part 4 of article 18 of title 18, Colorado Revised
2 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
3 read:

4 **18-18-412.7. Unlawful marketing, sale, or distribution of**
5 **regulated chemicals.** (1) IT IS UNLAWFUL FOR A CORPORATION TO
6 MARKET, SELL, OR DISTRIBUTE A REGULATED CHEMICAL, OR THE SALTS,
7 ISOMERS, OR SALTS OF ISOMERS OF A REGULATED CHEMICAL IF AN AGENT
8 OF THE CORPORATION NEGLIGENTLY MARKETS, SELLS, OR DISTRIBUTES THE
9 REGULATED CHEMICAL OR ITS SALTS, ISOMERS, OR SALTS OF ISOMERS TO
10 A PERSON WHO USES OR INTENDS TO USE IT TO MANUFACTURE A
11 CONTROLLED SUBSTANCE.

12 (2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
13 REQUIRES:

14 (a) "CORPORATION" MEANS A DOMESTIC OR FOREIGN
15 CORPORATION.

16 (b) "MARKET" MEANS TO ADVERTISE OR PROMOTE.

17 (c) (I) "REGULATED CHEMICAL" MEANS A CHEMICAL THAT IS USED
18 DIRECTLY OR INDIRECTLY TO MANUFACTURE A CONTROLLED SUBSTANCE
19 OR OTHER REGULATED CHEMICAL, OR THAT IS USED AS A CONTROLLED
20 SUBSTANCE ANALOG, IN VIOLATION OF THE LAWS OF THIS STATE. THE
21 FACT THAT A CHEMICAL MAY BE USED FOR A PURPOSE OTHER THAN THE
22 MANUFACTURING OF A CONTROLLED SUBSTANCE OR REGULATED
23 CHEMICAL DOES NOT EXEMPT THE CHEMICAL FROM THE PROVISIONS OF
24 THIS SECTION.

25 (II) "REGULATED CHEMICAL" MEANS:

26 (A) ACETIC ANHYDRIDE (CAS No. 108-24-7);

27 (B) BENZALDEHYDE (CAS No. 100-52-7);

- 1 (C) BENZYL CHLORIDE (CAS No. 100-44-7);
- 2 (D) BENZYL CYANIDE (CAS No. 140-29-4);
- 3 (E) DIETHYLAMINE AND ITS SALTS (CAS No. 109-89-7);
- 4 (F) EPHEDRINE, ITS SALTS, OPTICAL ISOMERS AND SALTS OF
- 5 OPTICAL ISOMERS (CAS No. 299-42-3), EXCEPT PRODUCTS CONTAINING
- 6 EPHEDRA OR MA HUANG, WHICH DO NOT CONTAIN ANY CHEMICALLY
- 7 SYNTHESIZED EPHEDRINE ALKALOIDS, AND ARE LAWFULLY MARKETED AS
- 8 DIETARY SUPPLEMENTS UNDER FEDERAL LAW;
- 9 (G) HYDRIODIC ACID (CAVES No. 10034-85-2);
- 10 (H) IODINE (CAVES No. 7553-56-2);
- 11 (I) LITHIUM (CAVES No. 7439-93-2);
- 12 (J) METHYL AMINE AND ITS SALTS (CAVES No. 74-89-5);
- 13 (K) NITROETHANE (CAS No. 79-24-3);
- 14 (L) CHLOROEPHEDRINE, ITS SALTS, OPTICAL ISOMERS, AND SALTS
- 15 OF OPTICAL ISOMERS (CAS No. 30572-91-9);
- 16 (M) PHENYLACETIC ACID, ITS ESTERS AND SALTS (CAS No.
- 17 103-82-2);
- 18 (N) PHENYLPROPANOLAMINE, ITS SALTS, OPTICAL ISOMERS, AND
- 19 SALTS OF OPTICAL ISOMERS (CAS No. 14838-15-4);
- 20 (O) PIPERIDINE AND ITS SALTS (CAS No. 110-89-4);
- 21 (P) PSEUDOEPHEDRINE, ITS SALTS, OPTICAL ISOMERS, AND SALTS
- 22 OF OPTICAL ISOMERS (CAS No. 90-82-4);
- 23 (Q) RED PHOSPHOROUS (CAS No. 7723-14-0);
- 24 (R) SODIUM (CAS No. 7440-23-5);
- 25 (S) THIONYLCHLORIDE (CAS No. 7719-09-7);
- 26 (T) GAMMA BUTYROLACTONE (GBL), INCLUDING
- 27 BUTYROLACTONE; BUTYROLACTONE GAMMA; 4-BUTYROLACTONE;

1 2(3H)-FURANONE DIHYDRO; DIHYDRO-2(3H)-FURANONE;
2 TETRAHYDRO-2-FURANONE; 1,2-BUTANOLIDE; 1,4-BUTANOLIDE;
3 4-BUTANOLIDE; GAMMA-HYDROXYBUTYRIC ACID LACTONE;
4 3-HYDROXYBUTYRIC ACID LACTONE AND 4-HYDROXYBUTANOIC ACID
5 LACTONE; CAS No. 96-48-0;

6 (U) 1,4BUTANEDIOL, INCLUDING BUTANEDIOL; BUTANE-1,4-DIOL;
7 1,4-BUTYLENE GLYCOL; BUTYLENE GLYCOL; 1,4-DIHYDROXYBUTANE;
8 1,4-TETRAMETHYLENE GLYCOL; TETRAMETHYLENE GLYCOL;
9 TETRAMETHYLENE 1,4-DIOL; CAS No. 110-63-4.

10 (3) (a) THE CRIMINAL LIABILITY OF A CORPORATION CHARGED
11 WITH A VIOLATION OF THIS SECTION SHALL BE DETERMINED IN
12 ACCORDANCE WITH THE PROVISIONS OF SECTION 18-1-606. FOR PURPOSES
13 OF SECTION 18-1-606 (1) (a), A VIOLATION OF THIS SECTION SHALL BE
14 DEEMED TO CONSTITUTE AN OMISSION TO DISCHARGE A SPECIFIC DUTY OF
15 AFFIRMATIVE PERFORMANCE IMPOSED ON CORPORATIONS BY LAW.

16 (b) NOTHING IN THIS SUBSECTION (3) SHALL BE CONSTRUED TO
17 PRECLUDE A PROSECUTION FOR A VIOLATION OF THIS SECTION FROM BEING
18 BROUGHT PURSUANT TO SECTION 18-1-606 (1) (b).

19 (4) A VIOLATION OF THIS SECTION IS A MISDEMEANOR, AND, UPON
20 CONVICTION THEREOF, AN OFFENDER SHALL BE PUNISHED BY A FINE OF TEN
21 THOUSAND DOLLARS.

22 **SECTION 2.** 18-1-606 (3), Colorado Revised Statutes, is
23 amended to read:

24 **18-1-606. Criminal liability of corporations.** (3) Every offense
25 committed by a corporation prior to July 1, 1985, which would be a
26 felony if committed by an individual shall subject the corporation to the
27 payment of a fine of not less than one thousand dollars nor more than

1 fifteen thousand dollars. For such offenses committed on or after July 1,
2 1985, the corporation shall be subject to the payment of a fine within the
3 presumptive ranges authorized by section 18-1.3-401 (1) (a) (III).
4 EXCEPT AS OTHERWISE PROVIDED IN SECTION 18-18-412.7, every offense
5 committed by a corporation which would be a misdemeanor or petty
6 offense if committed by an individual shall subject the corporation to the
7 payment of a fine within the minimum and maximum fines authorized by
8 sections 18-1.3-501 and 18-1.3-503 for the particular offense of which
9 the corporation is convicted.

10 **SECTION 3. Effective date - applicability.** This act shall take
11 effect July 1, 2003, and shall apply to offenses committed on or after said
12 date.

13 **SECTION 4. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.