

CHAPTER 72

HEALTH AND ENVIRONMENT

HOUSE BILL 24-1081

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also SENATOR(S) Roberts and Pelton B., Buckner, Coleman, Cutter, Danielson, Exum, Fields, Ginal, Hansen, Jaquez Lewis, Kirkmeyer, Kolker, Liston, Marchman, Michaelson Jenet, Mullica, Priola, Rodriguez, Winter F., Fenberg.

AN ACT**CONCERNING REGULATION ON THE SALE OF SODIUM NITRITE.**

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

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

(a) There are increasing concerns about the health effects of the ingestion of sodium nitrite, particularly by people attempting suicide. This is because sodium nitrite has been promoted online as an effective method to complete suicide because it is readily available and fast-acting, and there is a perception that it provides a painless symptomatic course leading to death.

(b) Sodium nitrite is commercially available as a food preservative, as a curing agent, and for certain limited industrial and medical uses. It can be purchased easily and without restriction from multiple online and brick-and-mortar retail vendors.

(c) The National Poison Data System (NPDS) showed an annual increase in the number of reported exposures to sodium nitrite from 2017 to 2020. In 2021, the NPDS annual report revealed sixteen fatalities across all age cohorts related to sodium nitrite, data that likely underreports actual occurrences.

(d) In Colorado, between 2018 and 2023 (partial year), at least twenty-five deaths across all age cohorts were attributable to sodium nitrite ingestion, with deaths

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

increasing each year. Nationally, two hundred twenty-two deaths were linked to sodium nitrite in 2022 by a single private laboratory.

(e) Victims of sodium nitrite ingestion become cyanotic and short of breath within minutes due to methemoglobinemia, which is a blood disorder resulting from an abnormal increase in the hemoglobin methemoglobin. The reversing agent of methylene blue can be ineffective and difficult to administer in an acutely ill patient and is not widely available, even in emergency departments.

(f) On August 22, 2023, the department of public health and environment issued a "Health Action Network" alert to medical providers statewide regarding the dangers associated with sodium nitrite ingestion;

(g) The federal Centers for Disease Control and Prevention reported that in 2021, twenty-two percent of high school students seriously considered attempting suicide during the past year, trending significantly upward since 2011, particularly among female students. One in ten high school students attempted suicide in 2021.

(h) Limiting access to lethal suicide methods, known as "means restriction", is an important strategy for suicide prevention. Although some individuals might seek other methods, many do not and when they do, the means chosen are less lethal and are associated with fewer deaths than when more dangerous methods are available.

(i) Restricting access to sodium nitrite will save lives, particularly among vulnerable and developing young adults, and prevent the deleterious impact of suicide upon families, communities, and the public health system; and

(j) The federal government and other states are currently enacting or considering legislation to restrict access to sodium nitrite and to properly label it by warnings. The enactment of such legislation will result in reduced numbers of suicides and suicide attempts and increase the likelihood that caretakers and health-care providers will be able to intervene and interrupt suicide attempts.

SECTION 2. In Colorado Revised Statutes, **add** part 15 to article 5 of title 25 as follows:

PART 15
REGULATION OF SODIUM NITRITE

25-5-1501. Definitions. AS USED IN THIS PART 15, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMERCIAL BUSINESS" MEANS A BUSINESS OR INSTITUTION, INCLUDING A RESEARCH INSTITUTION, REQUIRING THE USE OF PRODUCTS WITH SODIUM NITRITE IN A CONCENTRATION GREATER THAN TEN PERCENT OF THE MASS OR VOLUME OF THE PRODUCT FOR BUSINESS PURPOSES.

(2) "COVERED ENTITY" MEANS A PERSON SELLING, TRANSFERRING, OR OFFERING TO SELL OR TRANSFER A COVERED PRODUCT.

(3) "COVERED PRODUCT" MEANS A PRODUCT CONTAINING SODIUM NITRITE IN A

CONCENTRATION GREATER THAN TEN PERCENT OF THE MASS OR VOLUME OF THE PRODUCT.

(4) "LABEL" MEANS A REPRESENTATION MADE BY STATEMENT, WORD, PICTURE, DESIGN, OR EMBLEM ON A COVERED PRODUCT PACKAGE, WHETHER AFFIXED TO OR WRITTEN DIRECTLY ON THE PACKAGE.

(5) "PRINCIPAL DISPLAY PANEL" MEANS:

(a) FOR A CYLINDRICAL OR NEARLY CYLINDRICAL PACKAGE, FORTY PERCENT OF THE PRODUCT PACKAGE AS MEASURED BY MULTIPLYING THE HEIGHT OF THE CONTAINER BY THE CIRCUMFERENCE;

(b) FOR A NONCYLINDRICAL OR NEARLY NONCYLINDRICAL PACKAGE, SUCH AS A RECTANGULAR PRISM OR NEARLY RECTANGULAR PRISM, FORTY PERCENT OF THE PRODUCT PACKAGE AS MEASURED BY MULTIPLYING THE LENGTH BY THE WIDTH OF THE SIDE OF THE PACKAGE WHEN IT IS PRESSED FLAT AGAINST ON ALL SIDES OF THE PACKAGING; AND

(c) FOR ELECTRONIC MEDIA, THE SIDE OF A PRODUCT PACKAGE THAT IS MOST LIKELY TO BE DISPLAYED, PRESENTED, OR SHOWN UNDER CUSTOMARY CONDITIONS OF DISPLAY FOR RETAIL SALE.

25-5-1502. Sodium nitrite - restriction of sale - label requirements. (1) A COVERED ENTITY SHALL NOT:

(a) SELL OR TRANSFER A COVERED PRODUCT, EXCEPT TO A COMMERCIAL BUSINESS IN ACCORDANCE WITH SECTION 25-5-1503; OR

(b) SELL OR OFFER TO SELL, DIRECTLY OR INDIRECTLY, A COVERED PRODUCT WITHOUT A LABEL NOTICE THAT MEETS THE REQUIREMENTS OF SECTION 25-5-1504.

25-5-1503. Sale or transfer of covered products to commercial businesses.

(1) A COVERED ENTITY MAY SELL OR TRANSFER A COVERED PRODUCT TO A VERIFIED COMMERCIAL BUSINESS PURSUANT TO THIS SUBSECTION (1). A COMMERCIAL BUSINESS IS VERIFIED IF, PRIOR TO THE SALE OR TRANSFER OF THE COVERED PRODUCT:

(a) THE COMMERCIAL BUSINESS AFFIRMS THAT THE BUSINESS REQUIRES COVERED PRODUCTS; AND

(b) THE COVERED ENTITY HAS A SYSTEM THAT VERIFIES THAT THE COMMERCIAL BUSINESS REQUIRES A COVERED PRODUCT.

(2) THE FOLLOWING SYSTEMS, WHETHER RELIED ON SOLELY OR IN COMBINATION, DO NOT SATISFY THE VERIFICATION OBLIGATION OF THE COVERED ENTITY SPECIFIED IN SUBSECTION (1)(b) OF THIS SECTION:

(a) A SALE VERIFICATION SYSTEM RELYING ON THE PURCHASER OR RECIPIENT SIMPLY PROVIDING A STATEMENT OF COMMERCIAL NEED AND INTENDED USAGE WITHOUT ADDITIONAL VERIFICATION;

(b) A SALE VERIFICATION SYSTEM RELYING ON THE PURCHASER OR RECIPIENT USING TICK BOXES TO CONFIRM THAT THEY ARE IN A COMMERCIAL BUSINESS AND REQUIRE COVERED PRODUCTS; OR

(c) A SALE VERIFICATION SYSTEM RELYING ON THE PURCHASER OR RECIPIENT USING AN "ACCEPT" STATEMENT FOR THE PURCHASER OR RECIPIENT TO CONFIRM THAT THE PURCHASER OR RECIPIENT HAS READ THE TERMS AND CONDITIONS.

25-5-1504. Label requirements. (1) (a) A COVERED ENTITY SHALL LABEL EACH COVERED PRODUCT WITH THE PHRASE "WARNING DANGER: DEADLY IF INGESTED. IN EVENT OF INGESTION, IMMEDIATELY SEEK EMERGENCY MEDICAL ATTENTION FOR INTRAVENOUS ADMINISTRATION OF METHYLENE BLUE. INGESTION OF SODIUM NITRITE, EVEN IN SMALL QUANTITIES, CAUSES SEVERE METHEMOGLOBINEMIA, EXTREME PAIN, OR IMMINENT DEATH. KEEP OUT OF REACH OF CHILDREN."

(b) THE LABEL REQUIRED IN SUBSECTION (1)(a) OF THIS SECTION MUST BE IN A SIZE EQUAL TO AT LEAST TWO PERCENT OF THE SURFACE AREA OF THE PRINCIPAL DISPLAY PANEL, ACCOMPANIED BY A SKULL AND CROSSBONES SYMBOL.

(2) WHERE THE COVERED PRODUCT IS DISPLAYED IN ADVERTISING OR IN ELECTRONIC MEDIA, A LABEL NOTICE MUST ACCOMPANY THE DISPLAY IN NO SMALLER A SIZE THAN IS EQUIVALENT TO THE PRIMARY DESCRIPTION OF THE COVERED PRODUCT.

(3) IF A COVERED PRODUCT IS SHIPPED OR DELIVERED IN PACKAGING THAT OBSCURES OR HIDES THE PRINCIPAL DISPLAY PANEL, OR IS SOLD IN BULK OR WITHIN THE SAME PACKAGING AS ANOTHER PRODUCT, THE PACKAGING MUST INCLUDE A SKULL AND CROSSBONES SYMBOL IN A LOCATION LIKELY TO BE SEEN AND READ BY AN ORDINARY INDIVIDUAL UNDER CUSTOMARY CONDITIONS OF TRANSPORTATION AND DELIVERY.

(4) IF A FEDERAL AGENCY OR STATE DEPARTMENT DOES NOT APPROVE A PRODUCT LABEL THAT OTHERWISE COMPLIES WITH THE LABELING REQUIREMENTS OF THIS SECTION, THE COVERED ENTITY SHALL USE A LABEL THAT COMPLIES WITH AS MANY OF THE REQUIREMENTS OF THIS SECTION AS THE RELEVANT AGENCY HAS APPROVED.

25-5-1505. Records. A COVERED ENTITY SHALL RETAIN SALE AND TRANSFER RECORDS AND DOCUMENTATION FOR EACH PURCHASE OR TRANSFER OF A COVERED PRODUCT FOR THREE YEARS AFTER THE DATE OF SALE OR TRANSFER.

25-5-1506. Violations - penalties. (1) A COVERED ENTITY THAT VIOLATES THIS PART 15 IS SUBJECT TO A CIVIL PENALTY OF TEN THOUSAND DOLLARS FOR THE FIRST VIOLATION, AND A CIVIL PENALTY OF NO MORE THAN ONE MILLION DOLLARS FOR A SECOND OR SUBSEQUENT VIOLATION.

(2) (a) THE ATTORNEY GENERAL OR ANY AGGRIEVED INDIVIDUAL MAY BRING AN ACTION TO IMPOSE A CIVIL PENALTY FOR A VIOLATION OF THIS PART 15. A CIVIL PENALTY IMPOSED PURSUANT TO THIS SECTION DOES NOT EXCLUDE ANY OTHER PUBLIC OR PRIVATE CAUSE OF ACTION.

(b) ANY AGGRIEVED INDIVIDUAL, OTHER THAN THE ATTORNEY GENERAL, WHO

PREVAILS IN A CIVIL ACTION AGAINST A COVERED ENTITY IS ENTITLED TO REASONABLE ATTORNEY FEES, COSTS, AND THE GREATER OF ACTUAL ECONOMIC DAMAGES OR THREE THOUSAND DOLLARS.

SECTION 3. In Colorado Revised Statutes, 24-31-101, **amend** (1)(i)(XVII) and (1)(i)(XVIII); and **add** (1)(i)(XIX) as follows:

24-31-101. Powers and duties of attorney general. (1) The attorney general:

(i) May independently initiate and bring civil and criminal actions to enforce state laws, including actions brought pursuant to:

(XVII) The "Rental Application Fairness Act", part 9 of article 12 of title 38; ~~and~~

(XVIII) The "Reproductive Health Equity Act", part 4 of article 6 of title 25; AND

(XIX) PART 15 OF ARTICLE 5 OF TITLE 25.

SECTION 4. Effective date - applicability. This act takes effect July 1, 2024, and applies to covered products sold or transferred on or after said date.

SECTION 5. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Approved: April 17, 2024