

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 52

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 6-2.5-8-7, AS AMENDED BY P.L.97-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection. Good cause for revocation may include the following:

- (1) Failure to:
 - (A) file a return required under this chapter or for any tax collected for the state in trust; or
 - (B) remit any tax collected for the state in trust.
- (2) Being charged with a violation of any provision under IC 35.
- (3) Being subject to a court order under IC 7.1-2-6-7, IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.
- (4) Being charged with a violation of IC 23-15-12.

The department may revoke a certificate before a criminal adjudication or without a criminal charge being filed. If the department gives notice of an intent to revoke based on an alleged violation of subdivision (2), the department shall hold a public hearing to determine whether good cause exists. If the department finds in a public hearing by a preponderance of the evidence that a person has committed a violation



described in subdivision (2), the department shall proceed in accordance with subsection (i) (if the violation resulted in a criminal conviction) or subsection (j) (if the violation resulted in a judgment for an infraction).

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

- (1) file the returns required by IC 6-2.5-6-1; or
- (2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

- (1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and
- (2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

- (1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and
- (2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

- (1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and
- (2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate



holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.

(h) If a person makes a payment for the certificate under section 1 or 3 of this chapter with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment of the check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels, the department shall notify the person by mail that the check, credit card, debit card, or electronic funds transfer was not honored and that the person has five (5) days after the notice is mailed to pay the fee in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the five (5) day period, the department shall revoke the certificate.

(i) If the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for a violation of IC 35-48-4-10.5 and the conviction involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

- (1) shall suspend the registered retail merchant certificate for the place of business for one (1) year; and
- (2) may not issue another retail merchant certificate under section 1 of this chapter for one (1) year to any person:

(A) that:

- (i) applied for; or
- (ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

- (i) owned or co-owned, directly or indirectly; or
- (ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

(j) If the department finds in a public hearing by a preponderance of the evidence that a person has a judgment for a violation of IC 35-48-4-10.5 as an infraction and the violation involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered



retail merchant certificate under section 1 of this chapter, the department:

- (1) may suspend the registered retail merchant certificate for the place of business for six (6) months; and
- (2) may withhold issuance of another retail merchant certificate under section 1 of this chapter for six (6) months to any person:
 - (A) that:
 - (i) applied for; or
 - (ii) made a retail transaction under;
 - the retail merchant certificate suspended under subdivision (1); or
 - (B) that:
 - (i) owned or co-owned, directly or indirectly; or
 - (ii) was an officer, a director, a manager, or a partner of;
 - the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

(k) If the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for a violation of IC 35-48-4-10(d)(3) and the conviction involved an offense committed by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

- (1) shall suspend the registered retail merchant certificate for the place of business for one (1) year; and**
- (2) may not issue another retail merchant certificate under section 1 of this chapter for one (1) year to any person:**
 - (A) that:**
 - (i) applied for; or**
 - (ii) made a retail transaction under;**
 - the retail merchant certificate suspended under subdivision (1); or**
 - (B) that:**
 - (i) owned or co-owned, directly or indirectly; or**
 - (ii) was an officer, a director, a manager, or a partner of;**
 - the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).**

SECTION 2. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 45.5: "Cannabidiol", for purposes of IC 16-42-28.6; has the meaning set forth in IC 16-42-28.6-1.

SECTION 3. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 48.7: "Caregiver", for purposes of IC 16-42-28.6; has



~~the meaning set forth in IC 16-42-28.6-2.~~

SECTION 4. IC 16-18-2-272, AS AMENDED BY P.L.188-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-6.

(b) "Patient", for purposes of IC 16-28 and IC 16-29, means an individual who has been accepted and assured care by a health facility.

(c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth in IC 16-36-1.5-3.

(d) "Patient", for purposes of IC 16-39, means an individual who has received health care services from a provider for the examination, treatment, diagnosis, or prevention of a physical or mental condition.

~~(e) "Patient", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-3.~~

SECTION 5. IC 16-18-2-282, AS AMENDED BY P.L.188-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 282. (a) "Physician", except as provided in subsections (b) **and (c)**, ~~through (d)~~, means a licensed physician (as defined in section 202 of this chapter).

(b) "Physician", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-7.

(c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5, means an individual who:

(1) was the physician last in attendance (as defined in section 282.2 of this chapter); or

(2) is licensed under IC 25-22.5.

~~(d) "Physician", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-4.~~

~~(e)~~ **(d)** "Physician", for purposes of IC 16-48-1, is subject to IC 16-48-1-2.

SECTION 6. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 342.6. ~~"Substance containing cannabidiol", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-5.~~

SECTION 7. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 354.7. ~~"Treatment resistant epilepsy", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-6.~~

SECTION 8. IC 16-42-28.6 IS REPEALED [EFFECTIVE UPON PASSAGE]. (Drugs: Use of Cannabidiol for the Treatment of Epilepsy).

SECTION 9. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS



A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 21. Distribution of Low THC Hemp Extract

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Certificate of analysis" means a certificate from an independent testing laboratory describing the results of the laboratory's testing of a sample.
- (2) "Independent testing laboratory" means a laboratory:
 - (A) with respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a facility that:
 - (i) processes, distributes, or sells low THC hemp extract, or a substantially similar substance in another jurisdiction;
 - (ii) cultivates, processes, distributes, dispenses, or sells marijuana; or
 - (iii) cultivates, processes, or distributes industrial hemp; and
 - (B) that is accredited as a testing laboratory to International Organization for Standardization (ISO) 17025 by a third party accrediting body such as the American Association for Laboratory Accreditation (A2LA) or Assured Calibration and Laboratory Accreditation Select Services (ACLASS).
- (3) "Low THC hemp extract" has the meaning set forth in IC 35-48-1-17.5.

Sec. 2. A person may distribute low THC hemp extract in Indiana only if the product:

- (1) has been approved by the federal Food and Drug Administration or the federal Drug Enforcement Agency as a prescription or over the counter drug; or
- (2) meets the requirements of this chapter.

Sec. 3. (a) Except as provided in subsection (b), a person may distribute low THC hemp extract in Indiana only if the distributor has a certificate of analysis prepared by an independent testing laboratory showing that:

- (1) the low THC hemp extract is the product of a batch tested by the independent testing laboratory; and
- (2) the independent testing laboratory determined that the batch contained not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC), including precursors, by weight, based on the testing of a random



sample of the batch.

(b) Before July 1, 2018, a person may distribute low THC hemp extract in Indiana without having met the requirements described in subsection (a).

Sec. 4. (a) Except as provided in subsection (b), low THC hemp extract must be distributed in packaging that contains the following information:

(1) A scannable bar code or QR code linked to a document that contains information with respect to the manufacture of the low THC hemp extract, including the:

(A) batch identification number;

(B) product name;

(C) batch date;

(D) expiration date, which must be not more than two (2) years from the date of manufacture;

(E) batch size;

(F) total quantity produced;

(G) ingredients used, including the:

(i) ingredient name;

(ii) name of the company that manufactured the ingredient;

(iii) company or product identification number or code, if applicable; and

(iv) ingredient lot number; and

(H) download link for a certificate of analysis for the low THC hemp extract.

(2) The batch number.

(3) The Internet address of a web site to obtain batch information.

(4) The expiration date.

(5) The number of milligrams of low THC hemp extract.

(6) The manufacturer.

(7) The fact that the product contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC), including precursors, by weight.

(b) Before July 1, 2018, low THC hemp extract may be distributed in Indiana without having met the requirements described in subsection (a).

Sec. 5. This section applies after June 30, 2018. A person who distributes low THC hemp extract in violation of this chapter commits a Class B infraction. However, the offense is a Class A



infraction if the person has a prior unrelated judgment for a violation of this chapter. These penalties are in addition to any criminal penalties that may be imposed for unlawful possession or distribution of a controlled substance.

SECTION 10. IC 24-4-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 22. Low THC Hemp Extract Sales

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Certificate of analysis" has the meaning set forth in IC 24-4-21-1.
- (2) "Low THC hemp extract" has the meaning set forth in IC 35-48-1-17.5.

Sec. 2. This chapter does not apply to the sale of a product that has been approved by the federal Food and Drug Administration or the federal Drug Enforcement Agency as a prescription or over the counter drug.

Sec. 3. (a) Except as provided in subsection (b), a person may sell low THC hemp extract at retail only if the packaging complies with the requirements of IC 24-4-21-4.

(b) Before July 1, 2018, a person may sell low THC hemp extract at retail even if the packaging does not comply with the requirements of IC 24-4-21-4.

Sec. 4. This section applies after June 30, 2018. A person who violates section 3 of this chapter commits a Class C infraction. However, the violation is a Class B infraction if the person has one (1) prior unrelated judgment for a violation of section 3 of this chapter, and a Class A infraction if the person has two (2) or more prior unrelated judgments for a violation of section 3 of this chapter. These penalties are in addition to any criminal penalties that may be imposed for unlawful possession or distribution of a controlled substance.

SECTION 11. IC 35-31.5-2-33.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. **Sec. 33.5. "Cannabidiol", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-6.5.**

SECTION 12. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 150.5. "Hashish", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.8.**

SECTION 13. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 150.6. "Hash oil", for**



purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.

SECTION 14. IC 35-31.5-2-189.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 189.9. "Low THC hemp extract", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-17.5.**

SECTION 15. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 316.9. "Substance containing cannabidiol", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.~~

SECTION 16. IC 35-48-1-6.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 6.5. "Cannabidiol" has the meaning set forth in IC 16-42-28.6-1.~~

SECTION 17. IC 35-48-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Controlled substance" means a drug, substance, or immediate precursor in schedule I, II, III, IV, or V under:

- (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
- (2) a rule adopted by the board, if IC 35-48-2-14 applies.

The term does not include low THC hemp extract.

SECTION 18. IC 35-48-1-9.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.3. (a) "Controlled substance analog" means a substance:

- (1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or
- (2) that a person represents or intends to have;

a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

(b) The definition set forth in subsection (a) does not include:

- (1) a controlled substance;
- (2) a substance for which there is an approved new drug application;
- (3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; ~~or~~
- (4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance; ~~or~~



(5) low THC hemp extract.

SECTION 19. IC 35-48-1-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. "Hashish" does not include low THC hemp extract.**

SECTION 20. IC 35-48-1-16.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.9. "Hash oil" does not include low THC hemp extract.**

SECTION 21. IC 35-48-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. "Low THC hemp extract" means a substance or compound that:**

- (1) is derived from or contains any part of the plant Cannabis sativa L. that meets the definition of industrial hemp under IC 15-15-13-6;**
- (2) contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC), including precursors, by weight; and**
- (3) contains no other controlled substances.**

SECTION 22. IC 35-48-1-19, AS AMENDED BY P.L.165-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 19. (a) "Marijuana" means any part of the plant genus Cannabis whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.**

(b) The term does not include:

- (1) the mature stalks of the plant;**
- (2) fiber produced from the stalks;**
- (3) oil or cake made from the seeds of the plant;**
- (4) any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom);**
- (5) the sterilized seed of the plant which is incapable of germination; or**
- (6) industrial hemp (as defined by IC 15-15-13-6); or**
- (7) low THC hemp extract.**

SECTION 23. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE UPON PASSAGE]. **Sec. 26.7. "Substance containing cannabidiol" has the meaning set forth in IC 16-42-28.6-5.**

SECTION 24. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017,



SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (3) enhancing the effect of a controlled substance;
- (4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of this chapter;

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

(c) This section does not apply to the following:

- (1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- (2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance. ~~excluding the lawful possession of a substance containing cannabidiol under IC 35-48-4-11.~~
- (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides a syringe or needle as part of a program under IC 16-41-7.5.
- (4) Any entity or person that provides funding to a qualified entity (as defined in IC 16-41-7.5-3) to operate a program described in IC 16-41-7.5.

SECTION 25. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,



SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

marijuana, hash oil, hashish, or salvia, pure or adulterated;

commits dealing in marijuana, hash oil, hashish, or salvia, a Class A misdemeanor, except as provided in subsections (b) through (d).

(b) A person may be convicted of an offense under subsection (a)(2) only if:

(1) there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug; or

(2) the amount of the drug involved is at least:

- (A) ten (10) pounds, if the drug is marijuana; or
- (B) three hundred (300) grams, if the drug is hash oil, hashish, or salvia.

(c) The offense is a Level 6 felony if:

(1) the person has a prior conviction for a drug offense and the amount of the drug involved is:

- (A) less than thirty (30) grams of marijuana; or
- (B) less than five (5) grams of hash oil, hashish, or salvia; or

(2) the amount of the drug involved is:

- (A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or
- (B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia.

(d) The offense is a Level 5 felony if:

(1) the person has a prior conviction for a drug dealing offense and the amount of the drug involved is:

- (A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or
- (B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia; or



(2) the:

(A) amount of the drug involved is:

- (i) at least ten (10) pounds of marijuana; or
- (ii) at least three hundred (300) grams of hash oil, hashish, or salvia; or

(B) offense involved a sale to a minor; **or**

(3) the:

(A) person is a retailer;

(B) marijuana, hash oil, hashish, or salvia is packaged in a manner that appears to be low THC hemp extract; and

(C) person knew or reasonably should have known that the product was marijuana, hash oil, hashish, or salvia.

SECTION 26. IC 35-48-4-11, AS AMENDED BY P.L.188-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A person who:

- (1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, or salvia;
- (2) knowingly or intentionally grows or cultivates marijuana; or
- (3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

commits possession of marijuana, hash oil, hashish, or salvia, a Class B misdemeanor, except as provided in subsections (b) through (c).

(b) The offense described in subsection (a) is a Class A misdemeanor if:

(1) the person has a prior conviction for a drug offense; or

(2) the:

(A) marijuana, hash oil, hashish, or salvia is packaged in a manner that appears to be low THC hemp extract; and

(B) person knew or reasonably should have known that the product was marijuana, hash oil, hashish, or salvia.

(c) The offense described in subsection (a) is a Level 6 felony if:

(1) the person has a prior conviction for a drug offense; and

(2) the person possesses:

(A) at least thirty (30) grams of marijuana; or

(B) at least five (5) grams of hash oil, hashish, or salvia.

~~(d) It is a defense to a prosecution under subsection (a)(1) based on the possession of a substance containing cannabidiol that:~~

~~(1) the person is a patient or caregiver registered under~~

~~IC 16-42-28.6 for the use of a substance containing cannabidiol;~~

~~(2) the person reasonably believed that the substance possessed by the person was a substance containing cannabidiol; and~~

~~(3) the substance containing cannabidiol is packaged in a~~



container labeled with the origin, volume, and concentration by weight of total THC, including its precursors and derivatives; and cannabidiol.

(e) It is a defense to a prosecution under this section based on the possession of a substance containing cannabidiol that:

- (1) the substance containing cannabidiol has been approved by the federal Food and Drug Administration or the federal Drug Enforcement Agency as a prescription drug; and
- (2) the substance was prescribed and dispensed in accordance with the federal approval described in subdivision (1).

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) The following definitions apply throughout this SECTION:

(1) "Industrial hemp" means:

(A) all nonseed parts and varieties of the Cannabis sativa plant, including resins, whether growing or not, that contain a crop wide average tetrahydrocannabinol (THC) concentration that does not exceed three-tenths of one percent (0.3%) on a dry weight basis; or

(B) any Cannabis sativa seed that is:

- (i) part of a growing crop;**
- (ii) retained by a grower for future planting; or**
- (iii) for processing into, or use as, agricultural hemp seed.**

(2) "Industrial hemp product" means any product that is derived from or contains derivatives of industrial hemp that is cultivated in:

- (A) Indiana; or**
- (B) another jurisdiction.**

The term includes, without limitation, raw oils and fibers, food and supplement products, cosmetics, construction materials, hurds, products containing cannabinoids regardless of concentration, and any other product derived from industrial hemp as defined in this chapter.

(3) "Low THC hemp extract" has the meaning set forth in IC 35-48-1-17.5.

(b) The legislative council is urged to assign to an appropriate interim study committee the task of studying the regulation of industrial hemp, industrial hemp products, and the manufacture of low THC hemp extract.

(c) If the task described in subsection (b) is assigned to an interim study committee, the committee:

- (1) may not study legalizing medical marijuana; and**



(2) shall consider the following:

(A) The methods, tools, and resources necessary to regulate industrial hemp and industrial hemp products.

(B) The federal laws related to industrial hemp and industrial hemp products and what is permissible under federal law.

(C) A comparison of other states that regulate industrial hemp and industrial hemp products, including a study of the effectiveness of the statutory regulation of those states.

(D) The necessary costs, staff, and resources required to regulate industrial hemp, industrial hemp products, and the manufacture of low THC hemp extract.

(E) Inspection of low THC hemp extract manufacturing facilities.

(F) The criminal penalties necessary to regulate industrial hemp, industrial hemp products, and the manufacture of low THC hemp extract.

(d) This SECTION expires January 1, 2019.

SECTION 29. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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