

SENATE BILL No. 214

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-42-28.6; IC 35-31.5-2; IC 35-48.

Synopsis: CBD oil. Defines "CBD oil" as a product that contains: (1) not more than 0.3% THC; (2) at least 5% cannabidiol; and (3) no other controlled substances. Legalizes CBD oil. Repeals superseded provisions relating to cannabidiol registration.

Effective: July 1, 2018.

Tomes

January 3, 2018, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session 120th General Assembly (2018)

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 BILL No. 214

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

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

- 1 SECTION 1. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE JULY
- 2 1, 2018]. ~~Sec. 45.5. "Cannabidiol", for purposes of IC 16-42-28.6, has~~
- 3 ~~the meaning set forth in IC 16-42-28.6-1.~~
- 4 SECTION 2. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE JULY
- 5 1, 2018]. ~~Sec. 48.7. "Caregiver", for purposes of IC 16-42-28.6, has the~~
- 6 ~~meaning set forth in IC 16-42-28.6-2.~~
- 7 SECTION 3. IC 16-18-2-272, AS AMENDED BY P.L.188-2017,
- 8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2018]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has
- 10 the meaning set forth in IC 16-27-1-6.
- 11 (b) "Patient", for purposes of IC 16-28 and IC 16-29, means an
- 12 individual who has been accepted and assured care by a health facility.
- 13 (c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth
- 14 in IC 16-36-1.5-3.
- 15 (d) "Patient", for purposes of IC 16-39, means an individual who has
- 16 received health care services from a provider for the examination,
- 17 treatment, diagnosis, or prevention of a physical or mental condition.



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

3 SECTION 4. IC 16-18-2-282, AS AMENDED BY P.L.188-2017,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2018]: Sec. 282. (a) "Physician", except as provided in
6 subsections (b) **and (c)**, ~~through (d)~~; means a licensed physician (as
7 defined in section 202 of this chapter).

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

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

12 (1) was the physician last in attendance (as defined in section
13 282.2 of this chapter); or

14 (2) is licensed under IC 25-22.5.

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

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

19 SECTION 5. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE JULY
20 1, 2018]. Sec. 342.6. "~~Substance containing cannabidiol~~", for purposes
21 of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-5.

22 SECTION 6. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE JULY
23 1, 2018]. Sec. 354.7. "~~Treatment resistant epilepsy~~"; for purposes of
24 IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-6.

25 SECTION 7. IC 16-42-28.6 IS REPEALED [EFFECTIVE JULY 1,
26 2018]. (Drugs: Use of Cannabidiol for the Treatment of Epilepsy).

27 SECTION 8. IC 35-31.5-2-33.7 IS ADDED TO THE INDIANA
28 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
29 [EFFECTIVE JULY 1, 2018]: **Sec. 33.7. "CBD oil", for purposes of**
30 **IC 35-48, has the meaning set forth in IC 35-48-1-6.7.**

31 SECTION 9. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA
32 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
33 [EFFECTIVE JULY 1, 2018]: **Sec. 150.5. "Hashish", for purposes of**
34 **IC 35-48, has the meaning set forth in IC 35-48-1-16.8.**

35 SECTION 10. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA
36 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
37 [EFFECTIVE JULY 1, 2018]: **Sec. 150.6. "Hash oil", for purposes**
38 **of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.**

39 SECTION 11. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE
40 JULY 1, 2018]. Sec. 316.9. "~~Substance containing cannabidiol~~", for
41 purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.

42 SECTION 12. IC 35-48-1-6.5, AS ADDED BY P.L.188-2017,



1 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2018]: Sec. 6.5. "Cannabidiol" ~~has the meaning set forth in~~
3 ~~IC 16-42-28.6-1.~~ **means 2-(6-isopropenyl-3- methyl-2-**
4 **cyclohexen-1-yl)- 5- pentyl- 1,3-benzenediol.**

5 SECTION 13. IC 35-48-1-6.7 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2018]: Sec. 6.7. "CBD oil" means a product
8 **that contains:**

- 9 (1) **not more than three-tenths percent (0.3%) total**
10 **tetrahydrocannabinol (THC) by weight, including its**
11 **precursors and derivatives;**
12 (2) **at least five percent (5%) cannabidiol by weight; and**
13 (3) **no other controlled substances.**

14 SECTION 14. IC 35-48-1-9 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. "Controlled
16 substance" means a drug, substance, or immediate precursor in
17 schedule I, II, III, IV, or V under:

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

21 **The term does not include CBD oil.**

22 SECTION 15. IC 35-48-1-9.3 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9.3. (a) "Controlled
24 substance analog" means a substance:

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

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

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

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



1 before an exemption takes effect regarding the substance; **or**

2 **(5) CBD oil.**

3 SECTION 16. IC 35-48-1-16.8 IS ADDED TO THE INDIANA
4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2018]: **Sec. 16.8. "Hashish" does not include**
6 **CBD oil.**

7 SECTION 17. IC 35-48-1-16.9 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2018]: **Sec. 16.9. "Hash oil" does not include**
10 **CBD oil.**

11 SECTION 18. IC 35-48-1-19, AS AMENDED BY P.L.165-2014,
12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2018]: Sec. 19. (a) "Marijuana" means any part of the plant
14 genus Cannabis whether growing or not; the seeds thereof; the resin
15 extracted from any part of the plant, including hashish and hash oil; any
16 compound, manufacture, salt, derivative, mixture, or preparation of the
17 plant, its seeds or resin.

18 (b) The term does not include:

- 19 (1) the mature stalks of the plant;
20 (2) fiber produced from the stalks;
21 (3) oil or cake made from the seeds of the plant;
22 (4) any other compound, manufacture, salt, derivative, mixture,
23 or preparation of the mature stalks (except the resin extracted
24 therefrom);
25 (5) the sterilized seed of the plant which is incapable of
26 germination; **or**
27 (6) industrial hemp (as defined by IC 15-15-13-6); **or**
28 **(7) CBD oil.**

29 SECTION 19. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE JULY
30 1, 2018]. ~~Sec. 26.7. "Substance containing cannabidiol" has the~~
31 ~~meaning set forth in IC 16-42-28.6-5.~~

32 SECTION 20. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017,
33 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2018]: Sec. 8.5. (a) A person who keeps for sale, offers for
35 sale, delivers, or finances the delivery of a raw material, an instrument,
36 a device, or other object that is intended to be or that is designed or
37 marketed to be used primarily for:

- 38 (1) ingesting, inhaling, or otherwise introducing into the human
39 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a
40 controlled substance;
41 (2) testing the strength, effectiveness, or purity of marijuana, hash
42 oil, hashish, salvia, a synthetic drug, or a controlled substance;



- 1 (3) enhancing the effect of a controlled substance;
 2 (4) manufacturing, compounding, converting, producing,
 3 processing, or preparing marijuana, hash oil, hashish, salvia, a
 4 synthetic drug, or a controlled substance;
 5 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 6 synthetic drug, or a controlled substance by individuals; or
 7 (6) any purpose announced or described by the seller that is in
 8 violation of this chapter;

9 commits a Class A infraction for dealing in paraphernalia.

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

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

15 (1) Items marketed for use in the preparation, compounding,
 16 packaging, labeling, or other use of marijuana, hash oil, hashish,
 17 salvia, a synthetic drug, or a controlled substance as an incident
 18 to lawful research, teaching, or chemical analysis and not for sale.

19 (2) Items marketed for or historically and customarily used in
 20 connection with the planting, propagating, cultivating, growing,
 21 harvesting, manufacturing, compounding, converting, producing,
 22 processing, preparing, testing, analyzing, packaging, repackaging,
 23 storing, containing, concealing, injecting, ingesting, or inhaling
 24 of tobacco, **CBD oil**, or any other lawful substance. ~~excluding the~~
 25 ~~lawful possession of a substance containing cannabidiol under~~
 26 ~~IC 35-48-4-11.~~

27 (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides
 28 a syringe or needle as part of a program under IC 16-41-7.5.

29 (4) Any entity or person that provides funding to a qualified entity
 30 (as defined in IC 16-41-7.5-3) to operate a program described in
 31 IC 16-41-7.5.

32 SECTION 21. IC 35-48-4-11, AS AMENDED BY P.L.188-2017,
 33 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2018]: Sec. 11. (a) A person who:

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

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

42 (b) The offense described in subsection (a) is a Class A



- 1 misdemeanor if the person has a prior conviction for a drug offense.
2 (c) The offense described in subsection (a) is a Level 6 felony if:
3 (1) the person has a prior conviction for a drug offense; and
4 (2) the person possesses:
5 (A) at least thirty (30) grams of marijuana; or
6 (B) at least five (5) grams of hash oil, hashish, or salvia.
7 (d) It is a defense to a prosecution under subsection (a)(1) based on
8 the possession of a substance containing cannabidiol that:
9 (1) the person is a patient or caregiver registered under
10 IC 16-42-28.6 for the use of a substance containing cannabidiol;
11 (2) the person reasonably believed that the substance possessed
12 by the person was a substance containing cannabidiol; and
13 (3) the substance containing cannabidiol is packaged in a
14 container labeled with the origin, volume, and concentration by
15 weight of total THC, including its precursors and derivatives; and
16 cannabidiol.
17 (e) It is a defense to a prosecution under this section based on the
18 possession of a substance containing cannabidiol that:
19 (1) the substance containing cannabidiol has been approved by
20 the federal Food and Drug Administration or the federal Drug
21 Enforcement Agency as a prescription drug; and
22 (2) the substance was prescribed and dispensed in accordance
23 with the federal approval described in subdivision (1).

