

SENATE BILL No. 294

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-42-28.6-7; IC 35-48-4.

Synopsis: Sale of CBD oil. Requires the state department of health to include a unique identification number and bar code on cards issued to persons on the cannabidiol (CBD) registry (registry). Authorizes a retailer to possess and sell CBD if the retailer stores the CBD in a locked case and takes certain steps to verify that the purchaser is on the registry. Makes conforming amendments.

Effective: July 1, 2018.

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January 4, 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. 294

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 16-42-28.6-7, AS ADDED BY P.L.188-2017,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 7. (a) The state department shall develop and
4 implement a cannabidiol registry for the registration of:
5 (1) patients; and
6 (2) caregivers;
7 for the use of a substance containing cannabidiol in the treatment of
8 patients who have been diagnosed with treatment resistant epilepsy.
9 (b) The cannabidiol registry must include a secure, electronic online
10 data base that is accessible by law enforcement agencies in order to
11 verify the registration of an individual.
12 (c) The state department shall register and issue an individual
13 described in subsection (a) a registration card under this section only
14 if the individual meets the following requirements:
15 (1) The individual is:
16 (A) a caregiver at least eighteen (18) years of age; or
17 (B) a patient.



1 (2) The individual is an Indiana resident.

2 (3) The individual provides a certified statement by a physician
3 that the patient or a patient in the care of the caregiver has been
4 examined and diagnosed by the physician to have treatment
5 resistant epilepsy.

6 (4) The patient submits a completed registration application.

7 (5) The patient pays the registration fee set by the state
8 department.

9 **(d) A registration card issued under this section must include a**
10 **unique identification number:**

11 **(1) printed in plain text; and**

12 **(2) encoded in a bar code, QR code, or similar code that may**
13 **be scanned by a retailer at the point of sale.**

14 ~~(d)~~ **(e)** The state department shall develop the cannabidiol
15 registration application. The registration application for a caregiver
16 must ask for the following information:

17 (1) The caregiver's name, address, and relationship to the patient.

18 (2) The patient's name and address.

19 (3) A copy of the caregiver's valid government issued photo
20 identification card.

21 (4) The name and business address of the physician who
22 diagnosed the patient with treatment resistant epilepsy.

23 (5) Any other relevant information the state department considers
24 necessary to implement this section.

25 ~~(e)~~ **(f)** The state department shall charge a registration fee of not
26 more than fifty dollars (\$50) for an individual's initial registration
27 under this section to cover the costs of implementing and administering
28 the cannabidiol registry. The state department may adopt rules under
29 IC 4-22-2 permitting a fee reduction or fee waiver for a patient who is
30 indigent.

31 ~~(f)~~ **(g)** Registration under this section is valid for one (1) year from
32 the date of issuance, unless the physician requests a shorter expiration
33 date. The state department shall renew registration under this section
34 for an individual if the initial registration is current or has been updated
35 by the individual and the individual continues to meet the registration
36 requirements under this chapter. The state department shall charge a
37 renewal fee of not more than twenty-five dollars (\$25). The state
38 department may adopt rules under IC 4-22-2 permitting a fee reduction
39 or fee waiver for a patient who is indigent.

40 ~~(g)~~ **(h)** The state department may execute a contract with a vendor
41 designated by the state department to perform any function associated
42 with the administration of the cannabidiol registry.



1 SECTION 2. IC 35-48-4-2, AS AMENDED BY P.L.44-2016,
 2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2018]: Sec. 2. (a) A person who:

4 (1) knowingly or intentionally:

5 (A) manufactures;

6 (B) finances the manufacture of;

7 (C) delivers; or

8 (D) finances the delivery of;

9 a controlled substance, pure or adulterated, classified in schedule
 10 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
 11 synthetic drug; or

12 (2) possesses, with intent to:

13 (A) manufacture;

14 (B) finance the manufacture of;

15 (C) deliver; or

16 (D) finance the delivery of;

17 a controlled substance, pure or adulterated, classified in schedule
 18 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
 19 synthetic drug;

20 commits dealing in a schedule I, II, or III controlled substance, a Level
 21 6 felony, except as provided in subsections (b) through (f).

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

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

27 (2) the amount of the drug involved is at least twenty-eight (28)
 28 grams.

29 (c) The offense is a Level 5 felony if:

30 (1) the amount of the drug involved is at least one (1) gram but
 31 less than five (5) grams; or

32 (2) the amount of the drug involved is less than one (1) gram and
 33 an enhancing circumstance applies.

34 (d) The offense is a Level 4 felony if:

35 (1) the amount of the drug involved is at least five (5) grams but
 36 less than ten (10) grams; or

37 (2) the amount of the drug involved is at least one (1) gram but
 38 less than five (5) grams and an enhancing circumstance applies.

39 (e) The offense is a Level 3 felony if:

40 (1) the amount of the drug involved is at least ten (10) grams but
 41 less than twenty-eight (28) grams; or

42 (2) the amount of the drug involved is at least five (5) grams but



1 less than ten (10) grams and an enhancing circumstance applies.

2 (f) The offense is a Level 2 felony if:

3 (1) the amount of the drug involved is at least twenty-eight (28)
4 grams; or

5 (2) the amount of the drug involved is at least ten (10) grams but
6 less than twenty-eight (28) grams and an enhancing circumstance
7 applies.

8 **(g) It is a defense to a prosecution under this section with
9 respect to a substance containing cannabidiol that the person:**

10 **(1) is a retailer or employee of a retailer that sells a substance
11 containing cannabidiol;**

12 **(2) possessed, delivered, or financed the possession or delivery
13 of the cannabidiol in the course of the person's retail business
14 or employment in the retail business;**

15 **(3) stores the cannabidiol in a locked case;**

16 **(4) verifies that a purchaser is a patient or caregiver
17 registered under IC 16-42-28.6 for the use of a substance
18 containing cannabidiol by requiring the purchaser to present:**

19 **(A) government issued photographic identification; and**

20 **(B) the purchaser's valid registration card issued under
21 IC 16-42-28.6-7; and**

22 **(5) records the purchaser's identification and registration
23 card number in a log or electronic data base.**

24 SECTION 3. IC 35-48-4-7, AS AMENDED BY P.L.158-2013,
25 SECTION 633, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) A person who, without a valid
27 prescription or order of a practitioner acting in the course of the
28 practitioner's professional practice, knowingly or intentionally
29 possesses a controlled substance (pure or adulterated) classified in
30 schedule I, II, III, or IV, except marijuana, hashish, salvia, or a
31 synthetic cannabinoid, commits possession of a controlled substance,
32 a Class A misdemeanor, except as provided in subsection (b).

33 (b) The offense is a Level 6 felony if the person commits the offense
34 and an enhancing circumstance applies.

35 (c) A person who, without a valid prescription or order of a
36 practitioner acting in the course of the practitioner's professional
37 practice, knowingly or intentionally obtains:

38 (1) more than four (4) ounces of schedule V controlled substances
39 containing codeine in any given forty-eight (48) hour period
40 unless pursuant to a prescription;

41 (2) a schedule V controlled substance pursuant to written or
42 verbal misrepresentation; or



1 (3) possession of a schedule V controlled substance other than by
 2 means of a prescription or by means of signing an exempt
 3 narcotic register maintained by a pharmacy licensed by the
 4 Indiana state board of pharmacy;
 5 commits a Class A misdemeanor.

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

8 **(1) the person is a patient or caregiver registered under**
 9 **IC 16-42-28.6 for the use of a substance containing**
 10 **cannabidiol;**

11 **(2) the person reasonably believed that the substance**
 12 **possessed by the person was a substance containing**
 13 **cannabidiol; and**

14 **(3) the substance containing cannabidiol is packaged in a**
 15 **container labeled with the origin, volume, and concentration**
 16 **by weight of total THC, including its precursors and**
 17 **derivatives, and cannabidiol.**

18 **(e) It is a defense to a prosecution under subsection (a) based on**
 19 **the possession of a substance containing cannabidiol that:**

20 **(1) the substance containing cannabidiol has been approved**
 21 **by the federal Food and Drug Administration or the federal**
 22 **Drug Enforcement Agency as a prescription drug; and**

23 **(2) the substance was prescribed and dispensed in accordance**
 24 **with the federal approval described in subdivision (1).**

25 **(f) It is a defense to a prosecution for an offense described in**
 26 **subsection (a) based on the possession of a substance containing**
 27 **cannabidiol that the person:**

28 **(1) is a retailer or employee of a retailer that sells a substance**
 29 **containing cannabidiol;**

30 **(2) possessed the cannabidiol in the course of the person's**
 31 **retail business or employment in the retail business;**

32 **(3) stores the cannabidiol in a locked case;**

33 **(4) verifies that a purchaser is a patient or caregiver**
 34 **registered under IC 16-42-28.6 for the use of a substance**
 35 **containing cannabidiol by requiring the purchaser to present:**

36 **(A) government issued photographic identification; and**

37 **(B) the purchaser's valid registration card issued under**
 38 **IC 16-42-28.6-7; and**

39 **(5) records the purchaser's identification and registration**
 40 **card number in a log or electronic data base.**

41 SECTION 4. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
 42 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 JULY 1, 2018]: Sec. 10. (a) A person who:
 2 (1) knowingly or intentionally:
 3 (A) manufactures;
 4 (B) finances the manufacture of;
 5 (C) delivers; or
 6 (D) finances the delivery of;
 7 marijuana, hash oil, hashish, or salvia, pure or adulterated; or
 8 (2) possesses, with intent to:
 9 (A) manufacture;
 10 (B) finance the manufacture of;
 11 (C) deliver; or
 12 (D) finance the delivery of;
 13 marijuana, hash oil, hashish, or salvia, pure or adulterated;
 14 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
 15 misdemeanor, except as provided in subsections (b) through (d).
 16 (b) A person may be convicted of an offense under subsection (a)(2)
 17 only if:
 18 (1) there is evidence in addition to the weight of the drug that the
 19 person intended to manufacture, finance the manufacture of,
 20 deliver, or finance the delivery of the drug; or
 21 (2) the amount of the drug involved is at least:
 22 (A) ten (10) pounds, if the drug is marijuana; or
 23 (B) three hundred (300) grams, if the drug is hash oil, hashish,
 24 or salvia.
 25 (c) The offense is a Level 6 felony if:
 26 (1) the person has a prior conviction for a drug offense and the
 27 amount of the drug involved is:
 28 (A) less than thirty (30) grams of marijuana; or
 29 (B) less than five (5) grams of hash oil, hashish, or salvia; or
 30 (2) the amount of the drug involved is:
 31 (A) at least thirty (30) grams but less than ten (10) pounds of
 32 marijuana; or
 33 (B) at least five (5) grams but less than three hundred (300)
 34 grams of hash oil, hashish, or salvia.
 35 (d) The offense is a Level 5 felony if:
 36 (1) the person has a prior conviction for a drug dealing offense
 37 and the amount of the drug involved is:
 38 (A) at least thirty (30) grams but less than ten (10) pounds of
 39 marijuana; or
 40 (B) at least five (5) grams but less than three hundred (300)
 41 grams of hash oil, hashish, or salvia; or
 42 (2) the:



- 1 (A) amount of the drug involved is:
 2 (i) at least ten (10) pounds of marijuana; or
 3 (ii) at least three hundred (300) grams of hash oil, hashish,
 4 or salvia; or
 5 (B) offense involved a sale to a minor.
- 6 **(e) It is a defense to a prosecution under this section with respect**
 7 **to a substance containing cannabidiol that the person:**
 8 **(1) is a retailer or employee of a retailer that sells a substance**
 9 **containing cannabidiol;**
 10 **(2) possessed, delivered, or financed the possession or delivery**
 11 **of the cannabidiol in the course of the person's retail business**
 12 **or employment in the retail business;**
 13 **(3) stores the cannabidiol in a locked case;**
 14 **(4) verifies that a purchaser is a patient or caregiver**
 15 **registered under IC 16-42-28.6 for the use of a substance**
 16 **containing cannabidiol by requiring the purchaser to present:**
 17 **(A) government issued photographic identification; and**
 18 **(B) the purchaser's valid registration card issued under**
 19 **IC 16-42-28.6-7; and**
 20 **(5) records the purchaser's identification and registration**
 21 **card number in a log or electronic data base.**
- 22 SECTION 5. IC 35-48-4-11, AS AMENDED BY P.L.188-2017,
 23 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2018]: Sec. 11. (a) A person who:
 25 (1) knowingly or intentionally possesses (pure or adulterated)
 26 marijuana, hash oil, hashish, or salvia;
 27 (2) knowingly or intentionally grows or cultivates marijuana; or
 28 (3) knowing that marijuana is growing on the person's premises,
 29 fails to destroy the marijuana plants;
 30 commits possession of marijuana, hash oil, hashish, or salvia, a Class
 31 B misdemeanor, except as provided in subsections (b) through (c).
 32 (b) The offense described in subsection (a) is a Class A
 33 misdemeanor if the person has a prior conviction for a drug offense.
 34 (c) The offense described in subsection (a) is a Level 6 felony if:
 35 (1) the person has a prior conviction for a drug offense; and
 36 (2) the person possesses:
 37 (A) at least thirty (30) grams of marijuana; or
 38 (B) at least five (5) grams of hash oil, hashish, or salvia.
 39 (d) It is a defense to a prosecution under subsection (a)(1) based on
 40 the possession of a substance containing cannabidiol that:
 41 (1) the person is a patient or caregiver registered under
 42 IC 16-42-28.6 for the use of a substance containing cannabidiol;



- 1 (2) the person reasonably believed that the substance possessed
2 by the person was a substance containing cannabidiol; and
3 (3) the substance containing cannabidiol is packaged in a
4 container labeled with the origin, volume, and concentration by
5 weight of total THC, including its precursors and derivatives, and
6 cannabidiol.
- 7 (e) It is a defense to a prosecution under this section based on the
8 possession of a substance containing cannabidiol that:
9 (1) the substance containing cannabidiol has been approved by
10 the federal Food and Drug Administration or the federal Drug
11 Enforcement Agency as a prescription drug; and
12 (2) the substance was prescribed and dispensed in accordance
13 with the federal approval described in subdivision (1).
- 14 **(f) It is a defense to a prosecution under this section based on the**
15 **possession of a substance containing cannabidiol that the person:**
16 **(1) is a retailer or employee of a retailer that sells a substance**
17 **containing cannabidiol;**
18 **(2) possessed the cannabidiol in the course of the person's**
19 **retail business or employment in the retail business;**
20 **(3) stores the cannabidiol in a locked case;**
21 **(4) verifies that a purchaser is a patient or caregiver**
22 **registered under IC 16-42-28.6 for the use of a substance**
23 **containing cannabidiol by requiring the purchaser to present:**
24 **(A) government issued photographic identification; and**
25 **(B) the purchaser's valid registration card issued under**
26 **IC 16-42-28.6-7; and**
27 **(5) records the purchaser's identification and registration**
28 **card number in a log or electronic data base.**

