

# HOUSE BILL No. 1460

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-30; IC 35-46-9-6; IC 35-48-4-11; IC 35-52-9-54.5.

**Synopsis:** Marijuana. Permits a person at least 21 years of age to lawfully possess up to one ounce of marijuana. Makes possession of marijuana in the passenger compartment of a motor vehicle a Class C infraction, and makes ingesting marijuana while operating a motor vehicle a Class B misdemeanor. Establishes a per se intoxication level of 10 nanograms of THC per milliliter of whole blood for purposes of operating while intoxicated laws, and requires that the analysis of controlled substances in a person's blood measure only the controlled substance and not metabolites of the controlled substance.

**Effective:** July 1, 2019.

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January 15, 2019, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1460

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 9-30-5-1, AS AMENDED BY P.L.63-2018,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2019]: Sec. 1. (a) A person who operates a vehicle with an  
4 alcohol concentration equivalent to at least eight-hundredths (0.08)  
5 gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol  
6 per:  
7 (1) one hundred (100) milliliters of the person's blood; or  
8 (2) two hundred ten (210) liters of the person's breath;  
9 commits a Class C misdemeanor.  
10 (b) A person who operates a vehicle with an alcohol concentration  
11 equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:  
12 (1) one hundred (100) milliliters of the person's blood; or  
13 (2) two hundred ten (210) liters of the person's breath;  
14 commits a Class A misdemeanor.  
15 (c) A person who operates a vehicle with:  
16 (1) a controlled substance, **other than tetrahydrocannabinol**,  
17 listed in schedule I or II of IC 35-48-2 ~~or its metabolite~~ in the



1 person's ~~body~~ **blood; or**

2 **(2) ten (10) or more nanograms of tetrahydrocannabinol per**  
 3 **milliliter of the person's whole blood;**

4 commits a Class C misdemeanor.

5 (d) It is a defense to subsection (c) that the accused person  
 6 consumed the controlled substance in accordance with a valid  
 7 prescription or order of a practitioner (as defined in IC 35-48-1) who  
 8 acted in the course of the practitioner's professional practice.

9 SECTION 2. IC 9-30-5-4, AS AMENDED BY P.L.63-2018,  
 10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2019]: Sec. 4. (a) A person who causes serious bodily injury  
 12 to another person when operating a vehicle:

13 (1) with an alcohol concentration equivalent to at least  
 14 eight-hundredths (0.08) gram of alcohol per:

15 (A) one hundred (100) milliliters of the person's blood; or

16 (B) two hundred ten (210) liters of the person's breath;

17 (2) with:

18 (A) a controlled substance, **other than**  
 19 **tetrahydrocannabinol**, listed in schedule I or II of IC 35-48-2  
 20 **or its metabolite** in the person's ~~body~~ **blood; or**

21 **(B) ten (10) or more nanograms of tetrahydrocannabinol**  
 22 **per milliliter of the person's whole blood; or**

23 (3) while intoxicated;

24 commits a Level 6 felony. However, the offense is a Level 5 felony if  
 25 the person has a previous conviction of operating while intoxicated  
 26 within the five (5) years preceding the commission of the offense.

27 (b) A person who violates subsection (a) commits a separate offense  
 28 for each person whose serious bodily injury is caused by the violation  
 29 of subsection (a).

30 (c) It is a defense under subsection (a)(2) that the accused person  
 31 consumed the controlled substance in accordance with a valid  
 32 prescription or order of a practitioner (as defined in IC 35-48-1) who  
 33 acted in the course of the practitioner's professional practice.

34 SECTION 3. IC 9-30-5-5, AS AMENDED BY P.L.63-2018,  
 35 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2019]: Sec. 5. (a) A person who causes the death of another  
 37 person when operating a vehicle:

38 (1) with an alcohol concentration equivalent to at least  
 39 eight-hundredths (0.08) gram of alcohol per:

40 (A) one hundred (100) milliliters of the person's blood; or

41 (B) two hundred ten (210) liters of the person's breath;

42 (2) with:



- 1 (A) a controlled substance, **other than**  
 2 **tetrahydrocannabinol**, listed in schedule I or II of IC 35-48-2  
 3 **or its metabolite** in the person's blood; **or**  
 4 **(B) ten (10) or more nanograms of tetrahydrocannabinol**  
 5 **per milliliter of the person's whole blood;** **or**  
 6 (3) while intoxicated;  
 7 commits a Level 5 felony, except as provided in subsection (b).  
 8 (b) A person who causes the death of another person when operating  
 9 a vehicle under the conditions set forth in subsection (a)(1), (a)(2), or  
 10 (a)(3) commits a Level 4 felony if:  
 11 (1) the person operating the vehicle has a previous conviction of  
 12 operating while intoxicated within the ten (10) years preceding  
 13 the commission of the offense;  
 14 (2) the person operating the vehicle knows that the person's  
 15 driver's license, driving privilege, or permit is suspended or  
 16 revoked for a previous conviction for operating a vehicle while  
 17 intoxicated; or  
 18 (3) the driving privileges of the person operating the vehicle are  
 19 suspended under IC 9-30-10 because the person is a habitual  
 20 traffic violator.  
 21 (c) A person who causes the death of another person when operating  
 22 a vehicle:  
 23 (1) with an alcohol concentration equivalent to at least  
 24 fifteen-hundredths (0.15) gram of alcohol per:  
 25 (A) one hundred (100) milliliters of the person's blood; or  
 26 (B) two hundred ten (210) liters of the person's breath; or  
 27 (2) with a ~~controlled substance~~ **cocaine or a narcotic drug, pure**  
 28 **or adulterated**, listed in schedule I or II of IC 35-48-2 **or its**  
 29 **metabolite** in the person's blood;  
 30 commits a Level 4 felony.  
 31 (d) A person who causes the death of a law enforcement animal (as  
 32 defined in IC 35-46-3-4.5) when operating a vehicle:  
 33 (1) with an alcohol concentration equivalent to at least  
 34 eight-hundredths (0.08) gram of alcohol per:  
 35 (A) one hundred (100) milliliters of the person's blood; or  
 36 (B) two hundred ten (210) liters of the person's breath; or  
 37 (2) with:  
 38 (A) a controlled substance, **other than**  
 39 **tetrahydrocannabinol**, listed in schedule I or II of IC 35-48-2  
 40 **or its metabolite** in the person's blood; **or**  
 41 **(B) ten (10) or more nanograms of tetrahydrocannabinol**  
 42 **per milliliter of the person's whole blood;**



1 commits a Level 6 felony.

2 (e) A person who commits an offense under subsection (a), (b), (c),  
3 or (d) commits a separate offense for each person or law enforcement  
4 animal whose death is caused by the violation of subsection (a), (b),  
5 (c), or (d).

6 (f) It is a defense under subsection (a), (b), (c), or (d) that the person  
7 accused of causing the death of another person or a law enforcement  
8 animal when operating a vehicle with a controlled substance listed in  
9 schedule I or II of IC 35-48-2 ~~or its metabolite~~ in the person's blood  
10 consumed the controlled substance in accordance with a valid  
11 prescription or order of a practitioner (as defined in IC 35-48-1) who  
12 acted in the course of the practitioner's professional practice.

13 SECTION 4. IC 9-30-15-3.5 IS ADDED TO THE INDIANA CODE  
14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
15 1, 2019]: **Sec. 3.5. (a) This section does not apply to the following:**

16 **(1) Marijuana possessed by a person, other than the operator  
17 of the motor vehicle, who is in the:**

18 **(A) passenger compartment of a motor vehicle designed,  
19 maintained, or used primarily for the transportation of  
20 persons for compensation; or**

21 **(B) living quarters of a house coach or house trailer.**

22 **(2) Marijuana located in a fixed center console or other  
23 similar fixed compartment that is locked.**

24 **(3) Marijuana located:**

25 **(A) behind the last upright seat; or**

26 **(B) in an area not normally occupied by a person;  
27 in a motor vehicle that is not equipped with a trunk.**

28 **(b) A person in a motor vehicle who, while the motor vehicle is  
29 in operation or while the motor vehicle is located on the  
30 right-of-way of a public highway, possesses marijuana in the  
31 passenger compartment of the motor vehicle commits a Class C  
32 infraction.**

33 **(c) A violation of this section is not considered a moving traffic  
34 violation:**

35 **(1) for purposes of IC 9-14-12-3; and**

36 **(2) for which points are assessed by the bureau under the  
37 point system.**

38 SECTION 5. IC 9-30-15-4.5 IS ADDED TO THE INDIANA CODE  
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2019]: **Sec. 4.5. The operator of a motor vehicle who knowingly  
41 or intentionally consumes marijuana while the motor vehicle is  
42 being operated upon a public highway commits a Class B**



1 **misdemeanor.**

2 SECTION 6. IC 35-46-9-6, AS AMENDED BY P.L.63-2018,  
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2019]: Sec. 6. (a) Except as provided in subsections (b) and  
5 (c), a person who operates a motorboat while:

6 (1) having an alcohol concentration equivalent (as defined in  
7 IC 9-13-2-2.4) to at least eight-hundredths (0.08) gram of alcohol  
8 per:

9 (A) one hundred (100) milliliters of the person's blood; or

10 (B) two hundred ten (210) liters of the person's breath;

11 (2) having:

12 (A) a controlled substance, **other than**  
13 **tetrahydrocannabinol**, listed in schedule I or II of IC 35-48-2  
14 **or its metabolite in the person's body blood; or**

15 **(B) ten (10) or more nanograms of tetrahydrocannabinol**  
16 **per milliliter of the person's whole blood; or**

17 (3) intoxicated;

18 commits a Class C misdemeanor.

19 (b) The offense is a Level 6 felony if:

20 (1) the person has a previous conviction under:

21 (A) IC 14-1-5 (repealed);

22 (B) IC 14-15-8-8 (repealed); or

23 (C) this chapter; or

24 (2) the offense results in serious bodily injury to another person.

25 (c) The offense is a Level 5 felony if the offense results in the death  
26 of another person.

27 (d) It is a defense to a prosecution under subsection (a)(2) that the  
28 accused person consumed the controlled substance in accordance with  
29 a valid prescription or order of a practitioner (as defined in  
30 IC 35-48-1-24) who acted in the course of the practitioner's  
31 professional practice.

32 SECTION 7. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,  
33 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2019]: Sec. 11. (a) A person who:

35 (1) knowingly or intentionally possesses (pure or adulterated):

36 (A) **more than one (1) ounce of marijuana, if the person is at**  
37 **least twenty-one (21) years of age;**

38 (B) **marijuana, if the person is less than twenty-one (21)**  
39 **years of age;**

40 (C) hash oil;

41 (D) hashish; or

42 (E) salvia;



- 1 (2) knowingly or intentionally grows or cultivates marijuana; or  
 2 (3) knowing that marijuana is growing on the person's premises,  
 3 fails to destroy the marijuana plants;  
 4 commits possession of marijuana, hash oil, hashish, or salvia, a Class  
 5 B misdemeanor, except as provided in subsections (b) through (c).  
 6 (b) The offense described in subsection (a) is a Class A  
 7 misdemeanor if:  
 8 (1) the person has a prior conviction for a drug offense; or  
 9 (2) the:  
 10 (A) marijuana, hash oil, hashish, or salvia is packaged in a  
 11 manner that appears to be low THC hemp extract; and  
 12 (B) person knew or reasonably should have known that the  
 13 product was marijuana, hash oil, hashish, or salvia.  
 14 (c) The offense described in subsection (a) is a Level 6 felony if:  
 15 (1) the person has a prior conviction for a drug offense; and  
 16 (2) the person possesses:  
 17 (A) at least thirty (30) grams of marijuana; or  
 18 (B) at least five (5) grams of hash oil, hashish, or salvia.  
 19 SECTION 8. IC 35-52-9-54.5 IS ADDED TO THE INDIANA  
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 21 [EFFECTIVE JULY 1, 2019]: **Sec. 54.5. IC 9-30-15-4.5 defines a**  
 22 **crime concerning consuming marijuana while operating a vehicle.**

