

SENATE BILL No. 287

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-4.

Synopsis: Medical marijuana for the terminally ill. Creates a defense to possession of paraphernalia that: (1) the paraphernalia is for use with marijuana; and (2) a physician has certified in writing that the person suffers from a terminal illness or serious untreatable disease, and, in the professional opinion of the physician, the benefits of treatment with marijuana are greater than the risks. Creates a defense to possession of marijuana that: (1) the person possessed less than two ounces of marijuana; and (2) a physician has certified in writing that the person suffers from a terminal illness or serious untreatable disease, and, in the professional opinion of the physician, the benefits of treatment with marijuana are greater than the risks.

Effective: July 1, 2019.

Stoops

January 7, 2019, read first time and referred to Committee on Health and Provider Services.



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.

SENATE BILL No. 287

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 35-48-4-8.3, AS AMENDED BY P.L.187-2015,
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 8.3. (a) This section does not apply to a rolling
4 paper.
5 (b) A person who knowingly or intentionally possesses an
6 instrument, a device, or another object that the person intends to use
7 for:
8 (1) introducing into the person's body a controlled substance;
9 (2) testing the strength, effectiveness, or purity of a controlled
10 substance; or
11 (3) enhancing the effect of a controlled substance;
12 commits a Class C misdemeanor. However, the offense is a Class A
13 misdemeanor if the person has a prior unrelated judgment or conviction
14 under this section.
15 **(c) It is a defense to a prosecution under this section that:**
16 **(1) the instrument, device, or other object is for use with**
17 **marijuana; and**



1 **(2) a physician treating the patient has certified in a writing**
 2 **executed within the previous year that:**

3 **(A) the person suffers from a terminal illness or serious**
 4 **untreatable disease; and**

5 **(B) in the professional opinion of the physician, the benefits**
 6 **of treatment with marijuana are greater than the risks of**
 7 **treatment with marijuana.**

8 SECTION 2. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,
 9 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 11. (a) A person who:

11 (1) knowingly or intentionally possesses (pure or adulterated)
 12 marijuana, hash oil, hashish, or salvia;

13 (2) knowingly or intentionally grows or cultivates marijuana; or

14 (3) knowing that marijuana is growing on the person's premises,
 15 fails to destroy the marijuana plants;

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

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

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

21 (2) the:

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

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

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

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

28 (2) the person possesses:

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

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

31 **(d) It is a defense to a prosecution under this section that:**

32 **(1) the person possessed less than two (2) ounces of**
 33 **marijuana; and**

34 **(2) a physician treating the patient has certified in a writing**
 35 **executed within the previous year that:**

36 **(A) the person suffers from a terminal illness or serious**
 37 **untreatable disease; and**

38 **(B) in the professional opinion of the physician, the benefits**
 39 **of treatment with medical marijuana are greater than the**
 40 **risks of treatment with medical marijuana.**

