

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1028

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 IC 7.1-5-10-21 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 21. (a) A person who knowingly or intentionally visits a building, structure, vehicle, or other place when it is being used by any person to buy an alcoholic beverage (if the sale is in violation of section 5 of this chapter) commits visiting a common nuisance, a Class B misdemeanor.

(b) A person who knowingly or intentionally maintains a building, structure, vehicle, or other place that is used for the sale of alcoholic beverages (if the sale is in violation of section 5 of this chapter) commits maintaining a common nuisance, a Level 6 felony.

SECTION 2. IC 16-31-3-14, AS AMENDED BY P.L.168-2014, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. (a) A person holding a certificate or license issued under this article must comply with the applicable standards and rules established under this article. A certificate holder or license holder is subject to disciplinary sanctions under subsection (b) if the department of homeland security determines that the certificate holder or license holder:

- (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate or license, including cheating on a certification or licensure examination;

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- (2) engaged in fraud or material deception in the course of professional services or activities;
- (3) advertised services or goods in a false or misleading manner;
- (4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;
- (5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder or license holder should be entrusted to provide emergency medical services;
- (6) is convicted of violating IC 9-19-14.5;
- (7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;
- (8) continues to practice if the certificate holder or license holder becomes unfit to practice due to:
 - (A) professional incompetence that includes the undertaking of professional activities that the certificate holder or license holder is not qualified by training or experience to undertake;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's or license holder's ability to practice safely;
- (9) engages in a course of lewd or immoral conduct in connection with the delivery of services to the public;
- (10) allows the certificate holder's or license holder's name or a certificate or license issued under this article to be used in connection with a person who renders services beyond the scope of that person's training, experience, or competence;
- (11) is subjected to disciplinary action in another state or jurisdiction on grounds similar to those contained in this chapter. For purposes of this subdivision, a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction;
- (12) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or
- (13) allows a certificate or license issued by the commission to be:



(A) used by another person; or

(B) displayed to the public when the certificate or license is expired, inactive, invalid, revoked, or suspended.

(b) The department of homeland security may issue an order under IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if the department of homeland security determines that a certificate holder or license holder is subject to disciplinary sanctions under subsection (a):

(1) Revocation of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.

(2) Suspension of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.

(3) Censure of a certificate holder or license holder.

(4) Issuance of a letter of reprimand.

(5) Assessment of a civil penalty against the certificate holder or license holder in accordance with the following:

(A) The civil penalty may not exceed five hundred dollars (\$500) per day per violation.

(B) If the certificate holder or license holder fails to pay the civil penalty within the time specified by the department of homeland security, the department of homeland security may suspend the certificate holder's certificate or license holder's license without additional proceedings.

(6) Placement of a certificate holder or license holder on probation status and requirement of the certificate holder or license holder to:

(A) report regularly to the department of homeland security upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department of homeland security;

(C) continue or renew professional education approved by the department of homeland security until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department of homeland security considers appropriate to the public interest or to the rehabilitation or treatment of the certificate holder or license holder.

The department of homeland security may withdraw or modify this probation if the department of homeland security finds after a hearing that the deficiency that required disciplinary action is



remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a certificate holder or license holder has engaged in or knowingly cooperated in fraud or material deception to obtain a certificate or license, including cheating on the certification or licensure examination, the department of homeland security may rescind the certificate or license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the certificate or license for a length of time established by the department of homeland security.

(d) The department of homeland security may deny certification or licensure to an applicant who would be subject to disciplinary sanctions under subsection (b) if that person were a certificate holder or license holder, has had disciplinary action taken against the applicant or the applicant's certificate or license to practice in another state or jurisdiction, or has practiced without a certificate or license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department of homeland security may order a certificate holder or license holder to submit to a reasonable physical or mental examination if the certificate holder's or license holder's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department of homeland security order to submit to a physical or mental examination makes a certificate holder or license holder liable to temporary suspension under subsection (i).

(f) Except as provided under subsection (a), subsection (g), and section 14.5 of this chapter, a certificate or license may not be denied, revoked, or suspended because the applicant, certificate holder, or license holder has been convicted of an offense. The acts from which the applicant's, certificate holder's, or license holder's conviction resulted may be considered as to whether the applicant or certificate holder or license holder should be entrusted to serve the public in a specific capacity.

(g) The department of homeland security may deny, suspend, or revoke a certificate or license issued under this article if the individual who holds or is applying for the certificate or license is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under



IC 35-48-4-7(c).

(5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).

(6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).

(7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony (for a crime committed before July 1, 2014) or Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013).

(10) Maintaining a common nuisance under IC 35-48-4-13 **(repealed) or IC 35-45-1-5, if the common nuisance involves a controlled substance.**

(11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this section.

(14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

(h) A decision of the department of homeland security under subsections (b) through (g) may be appealed to the commission under IC 4-21.5-3-7.

(i) The department of homeland security may temporarily suspend a certificate holder's certificate or license holder's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department of homeland security finds that a certificate holder or license holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder or license holder were allowed to continue to practice.

(j) On receipt of a complaint or information alleging that a person



certified or licensed under this chapter or IC 16-31-3.5 has engaged in or is engaging in a practice that is subject to disciplinary sanctions under this chapter, the department of homeland security must initiate an investigation against the person.

(k) The department of homeland security shall conduct a factfinding investigation as the department of homeland security considers proper in relation to the complaint.

(l) The department of homeland security may reinstate a certificate or license that has been suspended under this section if the department of homeland security is satisfied that the applicant is able to practice with reasonable skill, competency, and safety to the public. As a condition of reinstatement, the department of homeland security may impose disciplinary or corrective measures authorized under this chapter.

(m) The department of homeland security may not reinstate a certificate or license that has been revoked under this chapter.

(n) The department of homeland security must be consistent in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department of homeland security's findings or orders.

(o) A certificate holder may not surrender the certificate holder's certificate, and a license holder may not surrender the license holder's license, without the written approval of the department of homeland security, and the department of homeland security may impose any conditions appropriate to the surrender or reinstatement of a surrendered certificate or license.

(p) For purposes of this section, "certificate holder" means a person who holds:

- (1) an unlimited certificate;
- (2) a limited or probationary certificate; or
- (3) an inactive certificate.

(q) For purposes of this section, "license holder" means a person who holds:

- (1) an unlimited license;
- (2) a limited or probationary license; or
- (3) an inactive license.

SECTION 3. IC 16-42-19-24 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 24. (a) ~~A store, shop, warehouse, dwelling house, apartment, building, vehicle, boat, aircraft, or any other place that is used:~~

- ~~(1) by a person for the purpose of unlawfully using a legend drug;~~
or



(2) for the unlawful keeping or selling of the legend drug;
is a common nuisance:

(b) A person may not:

(1) keep or maintain a common nuisance; or

(2) frequent or visit a place knowing the place to be used for a purpose;

as described in subsection (a):

SECTION 4. IC 16-42-19-27, AS AMENDED BY P.L.187-2015, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 27. (a) Unless otherwise specified, a person who knowingly violates this chapter, except sections ~~24~~, 25(b) and 30(c) of this chapter, commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or IC 16-6-8-10(a) before its repeal.

~~(b) A person who violates section 24 of this chapter commits a Class B misdemeanor.~~

~~(c)~~ (b) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Level 5 felony. However, the offense is a Level 4 felony if the person delivered the anabolic steroid to a person who is:

(1) less than eighteen (18) years of age; and

(2) at least three (3) years younger than the delivering person.

~~(d)~~ (c) A person who violates section 30(c) of this chapter commits a Class A infraction.

SECTION 5. IC 22-15-5-16, AS AMENDED BY P.L.238-2015, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 16. (a) A practitioner shall comply with the standards established under this licensing program. A practitioner is subject to the exercise of the disciplinary sanctions under subsection (b) if the department finds that a practitioner has:

(1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice, including cheating on a licensing examination;

(2) engaged in fraud or material deception in the course of professional services or activities;

(3) advertised services or goods in a false or misleading manner;

(4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses provided under this chapter;

(5) been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(6) knowingly violated a state statute or rule or federal statute or



regulation regulating the profession for which the practitioner is licensed;

(7) continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency on alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(8) engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(9) allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual or business who renders services beyond the scope of that individual's or business's training, experience, or competence;

(10) had disciplinary action taken against the practitioner or the practitioner's license to practice in another state or jurisdiction on grounds similar to those under this chapter;

(11) assisted another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(12) allowed a license issued by the department to be:

(A) used by another person; or

(B) displayed to the public when the license has expired, is inactive, is invalid, or has been revoked or suspended.

For purposes of subdivision (10), a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction.

(b) The department may impose one (1) or more of the following sanctions if the department finds that a practitioner is subject to disciplinary sanctions under subsection (a):

(1) Permanent revocation of a practitioner's license.

(2) Suspension of a practitioner's license.

(3) Censure of a practitioner.

(4) Issuance of a letter of reprimand.

(5) Assess a civil penalty against the practitioner in accordance with the following:

(A) The civil penalty may not be more than one thousand dollars (\$1,000) for each violation listed in subsection (a), except for a finding of incompetency due to a physical or



mental disability.

(B) When imposing a civil penalty, the department shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the department, the department may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(6) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the department upon the matters that are the basis of probation;

(B) limit practice to those areas prescribed by the department;

(C) continue or renew professional education approved by the department until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

The department may withdraw or modify this probation if the department finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

(c) If an applicant or a practitioner has engaged in or knowingly cooperated in fraud or material deception to obtain a license to practice, including cheating on the licensing examination, the department may rescind the license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the license for a length of time established by the department.

(d) The department may deny licensure to an applicant who has had disciplinary action taken against the applicant or the applicant's license to practice in another state or jurisdiction or who has practiced without a license in violation of the law. A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action.

(e) The department may order a practitioner to submit to a reasonable physical or mental examination if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding. Failure to comply with a department order to submit to a physical or mental examination makes a practitioner liable



to temporary suspension under subsection (j).

(f) Except as provided under subsection (g) or (h), a license may not be denied, revoked, or suspended because the applicant or holder has been convicted of an offense. The acts from which the applicant's or holder's conviction resulted may, however, be considered as to whether the applicant or holder should be entrusted to serve the public in a specific capacity.

(g) The department may deny, suspend, or revoke a license issued under this chapter if the individual who holds the license is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
- (5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.
- (9) Possession of a synthetic drug or synthetic drug lookalike substance as a:
 - (A) Class D felony for a crime committed before July 1, 2014, under:
 - (i) IC 35-48-4-11, before its amendment in 2013; or
 - (ii) IC 35-48-4-11.5; or
 - (B) Level 6 felony for a crime committed after June 30, 2014, under IC 35-48-4-11.5.
- (10) Maintaining a common nuisance under IC 35-48-4-13 **(repealed) or IC 35-45-1-5, if the common nuisance involves a controlled substance.**
- (11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.



- (12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.
- (13) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.
- (14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.
- (h) The department shall deny, revoke, or suspend a license issued under this chapter if the individual who holds the license is convicted of any of the following:
- (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
 - (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 - (3) Dealing in a schedule I, II, or III controlled substance under IC 35-48-4-2.
 - (4) Dealing in a schedule IV controlled substance under IC 35-48-4-3.
 - (5) Dealing in a schedule V controlled substance under IC 35-48-4-4.
 - (6) Dealing in a substance represented to be a controlled substance under IC 35-48-4-4.5.
 - (7) Knowingly or intentionally manufacturing, advertising, distributing, or possessing with intent to manufacture, advertise, or distribute a substance represented to be a controlled substance under IC 35-48-4-4.6.
 - (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 - (9) Dealing in marijuana, hash oil, hashish, or salvia as a felony under IC 35-48-4-10.
 - (10) Dealing in a synthetic drug or synthetic drug lookalike substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).
 - (11) Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.
 - (12) Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.
 - (13) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this subsection.
 - (14) A violation of any federal or state drug law or rule related to wholesale legend drug distributors licensed under IC 25-26-14.
- (i) A decision of the department under subsections (b) through (h) may be appealed to the commission under IC 4-21.5-3-7.
- (j) The department may temporarily suspend a practitioner's license



under IC 4-21.5-4 before a final adjudication or during the appeals process if the department finds that a practitioner represents a clear and immediate danger to the public's health, safety, or property if the practitioner is allowed to continue to practice.

(k) On receipt of a complaint or an information alleging that a person licensed under this chapter has engaged in or is engaging in a practice that jeopardizes the public health, safety, or welfare, the department shall initiate an investigation against the person.

(l) Any complaint filed with the office of the attorney general alleging a violation of this licensing program shall be referred to the department for summary review and for its general information and any authorized action at the time of the filing.

(m) The department shall conduct a fact finding investigation as the department considers proper in relation to the complaint.

(n) The department may reinstate a license that has been suspended under this section if, after a hearing, the department is satisfied that the applicant is able to practice with reasonable skill, safety, and competency to the public. As a condition of reinstatement, the department may impose disciplinary or corrective measures authorized under this chapter.

(o) The department may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

(p) The department shall seek to achieve consistency in the application of sanctions authorized in this chapter. Significant departures from prior decisions involving similar conduct must be explained in the department's findings or orders.

(q) A practitioner may petition the department to accept the surrender of the practitioner's license instead of having a hearing before the commission. The practitioner may not surrender the practitioner's license without the written approval of the department, and the department may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

(r) A practitioner who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. The costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.



- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

SECTION 6. IC 25-1-1.1-2, AS AMENDED BY P.L.168-2014, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. Notwithstanding IC 25-1-7, a board, a commission, or a committee may suspend, deny, or revoke a license or certificate issued under this title by the board, the commission, or the committee without an investigation by the office of the attorney general if the individual who holds the license or certificate is convicted of any of the following and the board, commission, or committee determines, after the individual has appeared in person, that the offense affects the individual's ability to perform the duties of the profession:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(c).
- (5) Manufacture of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, hashish, or salvia as a Class D felony (for a crime committed before July 1, 2014) or a Level 6 felony (for a crime committed after June 30, 2014) under IC 35-48-4-11.
- (9) Possession of a synthetic drug or synthetic drug lookalike substance as a:
 - (A) Class D felony for a crime committed before July 1, 2014, under:
 - (i) IC 35-48-4-11, before its amendment in 2013; or
 - (ii) IC 35-48-4-11.5; or
 - (B) Level 6 felony for a crime committed after June 30, 2014,



under IC 35-48-4-11.5.

(10) Maintaining a common nuisance under IC 35-48-4-13 **(repealed) or IC 35-45-1-5, if the common nuisance involves a controlled substance.**

(11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

(12) Conspiracy under IC 35-41-5-2 to commit an offense listed in this section.

(13) Attempt under IC 35-41-5-1 to commit an offense listed in this section.

(14) A sex crime under IC 35-42-4.

(15) A felony that reflects adversely on the individual's fitness to hold a professional license.

(16) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section.

SECTION 7. IC 35-45-1-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5. (a) As used in this section, "common nuisance" means a building, structure, vehicle, or other place that is used for (1) or more of the following purposes:**

(1) To buy an alcoholic beverage in violation of IC 7.1-5-10-5.

(2) To unlawfully use, keep, or sell a legend drug.

(3) To unlawfully:

(A) use;

(B) manufacture;

(C) keep;

(D) offer for sale;

(E) sell;

(F) deliver; or

(G) finance the delivery of;

a controlled substance or an item of drug paraphernalia (as described in IC 35-48-4-8.5).

(4) To provide a location for a person to pay, offer to pay, or agree to pay money or other property to another person for an individual whom the person knows has been forced into:

(A) forced labor;

(B) involuntary servitude; or

(C) prostitution.

(5) To provide a location for a person to commit a violation of IC 35-42-3.5-1(a) through IC 35-42-3.5-1(d) (human trafficking).



(b) A person who knowingly or intentionally visits a common nuisance described in subsections (a)(1) through (a)(4) commits visiting a common nuisance. The offense is a:

(1) Class B misdemeanor if the common nuisance is used for the unlawful:

(A) sale of an alcoholic beverage as set forth in subsection (a)(1); or

(B) use, keeping, or sale of a legend drug as set forth in subsection (a)(2); or

(C) use, manufacture, keeping, offer for sale, sale, delivery, or financing the delivery of a controlled substance or item of drug paraphernalia (as described in IC 35-48-4-8.5), as set forth in subsection (a)(3);

(2) Class A misdemeanor if:

(A) the common nuisance is used as a location for a person to pay, offer to pay, or agree to pay for a person who has been forced into forced labor, involuntary servitude, or prostitution as set forth in subsection (a)(4); or

(B) the person knowingly, intentionally, or recklessly takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a common nuisance used to unlawfully:

(i) use;

(ii) manufacture;

(iii) keep;

(iv) offer for sale;

(v) sell;

(vi) deliver; or

(vii) finance the delivery of;

a controlled substance or an item of drug paraphernalia, as set forth in subsection (a)(3); and

(3) Level 6 felony if the person:

(A) knowingly, intentionally, or recklessly takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a common nuisance used to unlawfully:

(i) use;

(ii) manufacture;

(iii) keep;

(iv) offer for sale;

(v) sell;

(vi) deliver; or



(vii) finance the delivery of;
 a controlled substance or an item of drug paraphernalia,
 as set forth in subsection (a)(3); and
 (B) has a prior unrelated conviction for a violation of this
 section involving a controlled substance or drug
 paraphernalia.

(c) A person who knowingly or intentionally maintains a
 common nuisance commits maintaining a common nuisance, a
 Level 6 felony.

SECTION 8. IC 35-48-4-13 IS REPEALED [EFFECTIVE JULY 1,
 2016]. Sec. 13. (a) A person who knowingly or intentionally visits a
 building, structure, vehicle, or other place that is used by any person to
 unlawfully use a controlled substance commits visiting a common
 nuisance, a Class B misdemeanor:

(b) A person who knowingly or intentionally maintains a building,
 structure, vehicle, or other place that is used one (1) or more times:

(1) by persons to unlawfully use controlled substances; or
 (2) for unlawfully:

(A) manufacturing;
 (B) keeping;
 (C) offering for sale;
 (D) selling;
 (E) delivering; or
 (F) financing the delivery of;

controlled substances; or items of drug paraphernalia as described
 in IC 35-48-4-8.5;

commits maintaining a common nuisance, a Level 6 felony.

SECTION 9. IC 35-48-4-13.3 IS REPEALED [EFFECTIVE JULY
 1, 2016]. Sec. 13.3. A person who recklessly, knowingly, or
 intentionally takes a person less than eighteen (18) years of age or an
 endangered adult (as defined in IC 12-10-3-2) into a building,
 structure, vehicle, or other place that is being used by any person to:

(1) unlawfully possess drugs or controlled substances; or
 (2) unlawfully:

(A) manufacture;
 (B) keep;
 (C) offer for sale;
 (D) sell;
 (E) deliver; or
 (F) finance the delivery of;

drugs or controlled substances;

commits a Class A misdemeanor. However, the offense is a Level 6



felony if the person has a prior unrelated conviction under this section:

SECTION 10. IC 35-52-7-77 IS REPEALED [EFFECTIVE JULY 1, 2016]. Sec. 77. IC 7.1-5-10-21 defines a crime concerning alcohol.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1028 — Concur

