

# HOUSE BILL No. 1150

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 7.1-2-3-7; IC 7.1-5-1-13; 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 Repeals superseded provisions relating to cannabidiol registration. Authorizes the alcohol and tobacco commission (ATC) to adopt rules concerning: (1) the testing of the THC concentration in certain substances; (2) the approval of a laboratory to conduct THC testing; (3) the certification of THC test results; and (4) the manner in which CBD oil may be sold. Makes violation of ATC rules relating to the sale of CBD oil a Class B infraction.

**Effective:** July 1, 2018.

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January 9, 2018, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session of the 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.

# HOUSE BILL No. 1150

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 7.1-2-3-7 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. ~~Rules and~~  
3 ~~Regulations~~. The commission shall have the power to promulgate rules  
4 and regulations governing:  
5 (a) The conduct of the meetings and business of the commission;  
6 (b) The conduct of hearings before any of the commission's  
7 representatives;  
8 (c) The conduct of the business of a permittee authorized or  
9 governed by the provisions of this title;  
10 (d) The enforcement of the provisions of this title and of the rules  
11 and regulations of the commission;  
12 (e) The standards of purity and methods of manufacturing used in  
13 the production of alcohol and alcoholic beverages;  
14 (f) The prevention of misbranding or adulteration of alcohol or  
15 alcoholic beverages; and  
16 (g) The prevention of fraud, evasion, trickery, or deceit in the  
17 manufacture, labeling, importation, advertisement, transportation, or



1 sale of alcohol or alcoholic beverages, or the evasion of other laws of  
2 Indiana relating to alcohol or alcoholic beverages.

3 **(h) The manner of:**

- 4 **(1) testing whether a particular substance is CBD oil;**  
5 **(2) approving a laboratory to conduct the test described in**  
6 **subdivision (1); and**  
7 **(3) certifying the results of the test described in subdivision (1)**  
8 **conducted by a laboratory described in subdivision (2).**

9 **(i) The sale of CBD oil by a retailer. Rules adopted under this**  
10 **subsection shall authorize the sale of CBD oil by a retailer if the**  
11 **product packaging contains the following information:**

12 **(1) A scannable bar code or QR code linked to a document**  
13 **that contains information with respect to the manufacture of**  
14 **the CBD oil, including the:**

- 15 **(A) batch identification number;**  
16 **(B) product name;**  
17 **(C) batch date;**  
18 **(D) expiration date, which must be not more than two (2)**  
19 **years from the date of manufacture;**  
20 **(E) batch size;**  
21 **(F) total quantity produced;**  
22 **(G) ingredients used, including the:**  
23 **(i) ingredient name;**  
24 **(ii) name of the company that manufactured the**  
25 **ingredient;**  
26 **(iii) company or product identification number or code,**  
27 **if applicable; and**  
28 **(iv) ingredient lot number; and**  
29 **(H) download link for a certificate of analysis for the CBD**  
30 **oil.**

31 **(2) The batch number.**

32 **(3) The Internet address of a web site to obtain batch**  
33 **information.**

34 **(4) The expiration date.**

35 **(5) The number of milligrams of CBD oil.**

36 **(6) The percentage of tetrahydrocannabinol by volume.**

37 **(7) The manufacturer.**

38 SECTION 2. IC 7.1-5-1-13 IS ADDED TO THE INDIANA CODE  
39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
40 1, 2018]: Sec. 13. (a) A person who sells CBD oil at retail in  
41 violation of rules adopted by the commission under IC 7.1-2-3-7  
42 commits a Class B infraction. In addition to any penalty imposed



1 **for a violation of this section, the commission may seize and**  
 2 **destroy any substances found to have been sold or offered for sale**  
 3 **in violation of the rules adopted by the commission under**  
 4 **IC 7.1-2-3-7.**

5 SECTION 3. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE JULY  
 6 1, 2018]. Sec. 45.5: "Cannabidiol", for purposes of IC 16-42-28.6, has  
 7 the meaning set forth in IC 16-42-28.6-1.

8 SECTION 4. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE JULY  
 9 1, 2018]. Sec. 48.7: "Caregiver", for purposes of IC 16-42-28.6, has the  
 10 meaning set forth in IC 16-42-28.6-2.

11 SECTION 5. IC 16-18-2-272, AS AMENDED BY P.L.188-2017,  
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2018]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has  
 14 the meaning set forth in IC 16-27-1-6.

15 (b) "Patient", for purposes of IC 16-28 and IC 16-29, means an  
 16 individual who has been accepted and assured care by a health facility.

17 (c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth  
 18 in IC 16-36-1.5-3.

19 (d) "Patient", for purposes of IC 16-39, means an individual who has  
 20 received health care services from a provider for the examination,  
 21 treatment, diagnosis, or prevention of a physical or mental condition.

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

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

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

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

33 (1) was the physician last in attendance (as defined in section  
 34 282.2 of this chapter); or

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

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

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

40 SECTION 7. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE JULY  
 41 1, 2018]. Sec. 342.6: "Substance containing cannabidiol", for purposes  
 42 of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-5.



1 SECTION 8. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE JULY  
2 1, 2018]. ~~Sec. 354.7. "Treatment resistant epilepsy", for purposes of~~  
3 ~~IC 16-42-28.6; has the meaning set forth in IC 16-42-28.6-6.~~

4 SECTION 9. IC 16-42-28.6 IS REPEALED [EFFECTIVE JULY 1,  
5 2018]. (Drugs: Use of Cannabidiol for the Treatment of Epilepsy).

6 SECTION 10. IC 35-31.5-2-33.7 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2018]: **Sec. 33.7. "CBD oil", for purposes of**  
9 **IC 35-48, has the meaning set forth in IC 35-48-1-6.7.**

10 SECTION 11. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA  
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2018]: **Sec. 150.5. "Hashish", for purposes of**  
13 **IC 35-48, has the meaning set forth in IC 35-48-1-16.8.**

14 SECTION 12. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA  
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
16 [EFFECTIVE JULY 1, 2018]: **Sec. 150.6. "Hash oil", for purposes**  
17 **of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.**

18 SECTION 13. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE  
19 JULY 1, 2018]. ~~Sec. 316.9. "Substance containing cannabidiol", for~~  
20 ~~purposes of IC 35-48; has the meaning set forth in IC 35-48-1-26.7.~~

21 SECTION 14. IC 35-48-1-6.5, AS ADDED BY P.L.188-2017,  
22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2018]: Sec. 6.5. "Cannabidiol" has the meaning set forth in  
24 ~~IC 16-42-28.6-1. means~~ **2-(6-isopropenyl-3- methyl-2-**  
25 **cyclohexen-1-yl)- 5- pentyl- 1,3-benzenediol.**

26 SECTION 15. IC 35-48-1-6.7 IS ADDED TO THE INDIANA  
27 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
28 [EFFECTIVE JULY 1, 2018]: **Sec. 6.7. "CBD oil" means a product**  
29 **that contains:**

- 30 **(1) not more than three-tenths percent (0.3%) total**  
31 **tetrahydrocannabinol (THC) by weight, including its**  
32 **precursors and derivatives;**  
33 **(2) at least five percent (5%) cannabidiol by weight; and**  
34 **(3) no other controlled substances.**

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

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

42 **The term does not include CBD oil or a substance certified by an**



1 **approved laboratory as being CBD oil under rules adopted by the**  
 2 **alcohol and tobacco commission under IC 7.1-2-3-7(h).**

3 SECTION 17. IC 35-48-1-9.3 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9.3. (a) "Controlled  
 5 substance analog" means a substance:

6 (1) the chemical structure of which is substantially similar to that  
 7 of a controlled substance included in schedule I or II and that has;

8 or

9 (2) that a person represents or intends to have;

10 a narcotic, stimulant, depressant, or hallucinogenic effect on the central  
 11 nervous system substantially similar to or greater than the narcotic,  
 12 stimulant, depressant, or hallucinogenic effect on the central nervous  
 13 system of a controlled substance included in schedule I or II.

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

15 (1) a controlled substance;

16 (2) a substance for which there is an approved new drug  
 17 application;

18 (3) a substance for which an exemption is in effect for  
 19 investigational use by a person under Section 505 of the federal  
 20 Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21  
 21 U.S.C. 355)), to the extent that conduct with respect to the  
 22 substance is permitted under the exemption; ~~or~~

23 (4) a substance to the extent not intended for human consumption  
 24 before an exemption takes effect regarding the substance; ~~or~~

25 **(5) CBD oil or a substance certified by an approved**  
 26 **laboratory as being CBD oil under rules adopted by the**  
 27 **alcohol and tobacco commission under IC 7.1-2-3-7(h).**

28 SECTION 18. IC 35-48-1-16.8 IS ADDED TO THE INDIANA  
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 30 [EFFECTIVE JULY 1, 2018]: **Sec. 16.8. "Hashish" does not include**  
 31 **CBD oil or a substance certified by an approved laboratory as**  
 32 **being CBD oil under rules adopted by the alcohol and tobacco**  
 33 **commission under IC 7.1-2-3-7(h).**

34 SECTION 19. IC 35-48-1-16.9 IS ADDED TO THE INDIANA  
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2018]: **Sec. 16.9. "Hash oil" does not include**  
 37 **CBD oil or a substance certified by an approved laboratory as**  
 38 **being CBD oil under rules adopted by the alcohol and tobacco**  
 39 **commission under IC 7.1-2-3-7(h).**

40 SECTION 20. IC 35-48-1-19, AS AMENDED BY P.L.165-2014,  
 41 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2018]: Sec. 19. (a) "Marijuana" means any part of the plant



1 genus Cannabis whether growing or not; the seeds thereof; the resin  
 2 extracted from any part of the plant, including hashish and hash oil; any  
 3 compound, manufacture, salt, derivative, mixture, or preparation of the  
 4 plant, its seeds or resin.

5 (b) The term does not include:

- 6 (1) the mature stalks of the plant;  
 7 (2) fiber produced from the stalks;  
 8 (3) oil or cake made from the seeds of the plant;  
 9 (4) any other compound, manufacture, salt, derivative, mixture,  
 10 or preparation of the mature stalks (except the resin extracted  
 11 therefrom);  
 12 (5) the sterilized seed of the plant which is incapable of  
 13 germination; ~~or~~  
 14 (6) industrial hemp (as defined by IC 15-15-13-6); **or**  
 15 **(7) CBD oil or a substance certified by an approved**  
 16 **laboratory as being CBD oil under rules adopted by the**  
 17 **alcohol and tobacco commission under IC 7.1-2-3-7(h).**

18 SECTION 21. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE JULY  
 19 1, 2018]. ~~Sec. 26.7. "Substance containing cannabidiol" has the~~  
 20 ~~meaning set forth in IC 16-42-28.6-5.~~

21 SECTION 22. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017,  
 22 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2018]: Sec. 8.5. (a) A person who keeps for sale, offers for  
 24 sale, delivers, or finances the delivery of a raw material, an instrument,  
 25 a device, or other object that is intended to be or that is designed or  
 26 marketed to be used primarily for:

- 27 (1) ingesting, inhaling, or otherwise introducing into the human  
 28 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a  
 29 controlled substance;  
 30 (2) testing the strength, effectiveness, or purity of marijuana, hash  
 31 oil, hashish, salvia, a synthetic drug, or a controlled substance;  
 32 (3) enhancing the effect of a controlled substance;  
 33 (4) manufacturing, compounding, converting, producing,  
 34 processing, or preparing marijuana, hash oil, hashish, salvia, a  
 35 synthetic drug, or a controlled substance;  
 36 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a  
 37 synthetic drug, or a controlled substance by individuals; or  
 38 (6) any purpose announced or described by the seller that is in  
 39 violation of this chapter;

40 commits a Class A infraction for dealing in paraphernalia.

41 (b) A person who knowingly or intentionally violates subsection (a)  
 42 commits a Class A misdemeanor. However, the offense is a Level 6



1 felony if the person has a prior unrelated judgment or conviction under  
2 this section.

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

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

8 (2) Items marketed for or historically and customarily used in  
9 connection with the planting, propagating, cultivating, growing,  
10 harvesting, manufacturing, compounding, converting, producing,  
11 processing, preparing, testing, analyzing, packaging, repackaging,  
12 storing, containing, concealing, injecting, ingesting, or inhaling  
13 of tobacco, **CBD oil**, or any other lawful substance. ~~excluding the~~  
14 ~~lawful possession of a substance containing cannabidiol under~~  
15 ~~IC 35-48-4-11.~~

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

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

21 SECTION 23. IC 35-48-4-11, AS AMENDED BY P.L.188-2017,  
22 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2018]: Sec. 11. (a) A person who:

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

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

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

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

31 (b) The offense described in subsection (a) is a Class A  
32 misdemeanor if the person has a prior conviction for a drug offense.

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

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

35 (2) the person possesses:

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

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

38 (d) It is a defense to a prosecution under subsection (a)(1) based on  
39 the possession of a substance containing cannabidiol that:

40 (1) the person is a patient or caregiver registered under  
41 IC 16-42-28-6 for the use of a substance containing cannabidiol;

42 (2) the person reasonably believed that the substance possessed





- 1 by the person was a substance containing cannabidiol; and  
2 (3) the substance containing cannabidiol is packaged in a  
3 container labeled with the origin, volume, and concentration by  
4 weight of total THC, including its precursors and derivatives, and  
5 cannabidiol.
- 6 (e) It is a defense to a prosecution under this section based on the  
7 possession of a substance containing cannabidiol that:
- 8 (1) the substance containing cannabidiol has been approved by  
9 the federal Food and Drug Administration or the federal Drug  
10 Enforcement Agency as a prescription drug; and  
11 (2) the substance was prescribed and dispensed in accordance  
12 with the federal approval described in subdivision (1).

