



February 28, 2018

ENGROSSED HOUSE BILL No. 1214

DIGEST OF HB 1214 (Updated February 27, 2018 11:58 am - DI 106)

Citations Affected: IC 16-18; IC 16-42; IC 24-4; IC 35-31.5; IC 35-48.

Synopsis: Low THC hemp extract. Repeals all provisions concerning the cannabidiol registry and a "substance containing cannabidiol" (all added by HEA 1148-2017). Defines "low THC hemp extract" as a product derived from Cannabis sativa L. that contains not more than 0.3% delta-9-THC and no other controlled substances. Establishes requirements for the manufacture and sale of low THC hemp extract. Makes conforming amendments.

Effective: Upon passage.

Friend, Davisson, Clere, Goodin

(SENATE SPONSORS — YOUNG M, HEAD, DORIOT, TAYLOR G,
LANANE)

January 9, 2018, read first time and referred to Committee on Agriculture and Rural Development.

January 11, 2018, reassigned to Committee on Courts and Criminal Code.

January 25, 2018, amended, reported — Do Pass.

January 29, 2018, read second time, ordered engrossed. Engrossed.

January 30, 2018, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 1, 2018, read first time and referred to Committee on Corrections and Criminal Law.

February 27, 2018, amended, reported favorably — Do Pass.

EH 1214—LS 6775/DI 77



February 28, 2018

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.

ENGROSSED HOUSE BILL No. 1214

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE UPON
2 PASSAGE]. Sec. 45.5: "~~Cannabidiol~~", for purposes of IC 16-42-28.6;
3 has the meaning set forth in IC 16-42-28.6-1.
4 SECTION 2. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE UPON
5 PASSAGE]. Sec. 48.7: "~~Caregiver~~", for purposes of IC 16-42-28.6, has
6 the meaning set forth in IC 16-42-28.6-2.
7 SECTION 3. IC 16-18-2-272, AS AMENDED BY P.L.188-2017,
8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1,
10 has the meaning set forth in IC 16-27-1-6.
11 (b) "Patient", for purposes of IC 16-28 and IC 16-29, means an
12 individual who has been accepted and assured care by a health facility.
13 (c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth
14 in IC 16-36-1.5-3.
15 (d) "Patient", for purposes of IC 16-39, means an individual who has
16 received health care services from a provider for the examination,
17 treatment, diagnosis, or prevention of a physical or mental condition.

EH 1214—LS 6775/DI 77



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

3 SECTION 4. IC 16-18-2-282, AS AMENDED BY P.L.188-2017,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 282. (a) "Physician", except as provided in
6 subsections (b) **and (c)**, ~~through (d)~~; means a licensed physician (as
7 defined in section 202 of this chapter).

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

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

12 (1) was the physician last in attendance (as defined in section
13 282.2 of this chapter); or

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

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

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

19 SECTION 5. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE
20 UPON PASSAGE]. Sec. 342.6. "~~Substance containing cannabidiol~~",
21 for purposes of IC 16-42-28.6, has the meaning set forth in
22 IC 16-42-28.6-5.

23 SECTION 6. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE
24 UPON PASSAGE]. Sec. 354.7. "~~Treatment resistant epilepsy~~", for
25 purposes of IC 16-42-28.6, has the meaning set forth in
26 IC 16-42-28.6-6.

27 SECTION 7. IC 16-42-28.6 IS REPEALED [EFFECTIVE UPON
28 PASSAGE]. (Drugs: Use of Cannabidiol for the Treatment of
29 Epilepsy).

30 SECTION 8. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS
31 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
32 PASSAGE]:

33 **Chapter 21. Low THC Hemp Extract Production**

34 **Sec. 1. The following definitions apply throughout this chapter:**

35 (1) "Certificate of analysis" means a certificate from an
36 independent testing laboratory describing the results of the
37 laboratory's testing of a sample.

38 (2) "Independent testing laboratory" means a laboratory:

39 (A) with respect to which no person having a direct or
40 indirect interest in the laboratory also has a direct or
41 indirect interest in a facility that:

42 (i) processes, distributes, or sells low THC hemp extract,



1 or a substantially similar substance in another
2 jurisdiction;

3 (ii) cultivates, processes, distributes, dispenses, or sells
4 marijuana; or

5 (iii) cultivates, processes, or distributes industrial hemp;
6 and

7 (B) that is accredited as a testing laboratory to
8 International Organization for Standardization (ISO)
9 17025 by a third party accrediting body such as the
10 American Association for Laboratory Accreditation
11 (A2LA) or Assured Calibration and Laboratory
12 Accreditation Select Services (ACLASS).

13 (3) "Low THC hemp extract" has the meaning set forth in
14 IC 35-48-1-17.5.

15 Sec. 2. A person may:

16 (1) manufacture low THC hemp extract for distribution in
17 Indiana; and

18 (2) distribute low THC hemp extract to a retailer or
19 independent testing laboratory in Indiana;

20 if the person meets the requirements of this chapter.

21 Sec. 3. A manufacturer shall submit a random sample of each
22 batch of product to an independent testing laboratory for testing
23 before the batch may be distributed. The manufacturer shall select
24 and submit the sample in a manner determined by the independent
25 testing laboratory. A manufacturer may not distribute a batch
26 until the manufacturer has obtained a certificate of analysis from
27 the independent testing laboratory showing that the sample
28 contains not more than three-tenths percent (0.3%) total
29 delta-9-tetrahydrocannabinol (THC) by dry weight.

30 Sec. 4. If testing by the independent testing laboratory
31 demonstrates that a sample contains more than three-tenths
32 percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry
33 weight, the manufacturer:

34 (1) may not distribute the batch; and

35 (2) may reprocess the batch.

36 A manufacturer shall treat a reprocessed batch as a new batch for
37 all purposes, and shall submit a new sample from the batch to the
38 independent testing laboratory for testing in accordance with
39 section 3 of this chapter.

40 Sec. 5. After receiving a certificate of analysis showing that the
41 product contains not more than three-tenths percent (0.3%) total
42 delta-9-tetrahydrocannabinol (THC) by dry weight, the



1 manufacturer shall package the low THC hemp extract in
 2 packaging that contains the following information:

3 (1) A scannable bar code or QR code linked to a document
 4 that contains information with respect to the manufacture of
 5 the low THC hemp extract, including the:

6 (A) batch identification number;

7 (B) product name;

8 (C) batch date;

9 (D) expiration date, which must be not more than two (2)
 10 years from the date of manufacture;

11 (E) batch size;

12 (F) total quantity produced;

13 (G) ingredients used, including the:

14 (i) ingredient name;

15 (ii) name of the company that manufactured the
 16 ingredient;

17 (iii) company or product identification number or code,
 18 if applicable; and

19 (iv) ingredient lot number; and

20 (H) download link for a certificate of analysis for the low
 21 THC hemp extract.

22 (2) The batch number.

23 (3) The Internet address of a web site to obtain batch
 24 information.

25 (4) The expiration date.

26 (5) The number of milligrams of low THC hemp extract.

27 (6) The manufacturer.

28 (7) The fact that the product contains not more than
 29 t h r e e - t e n t h s p e r c e n t (0 . 3 %) t o t a l
 30 delta-9-tetrahydrocannabinol (THC) by dry weight.

31 **Sec. 6. A person who violates sections 3 through 5 of this chapter**
 32 **commits a Class B infraction. However, the offense is a Class A**
 33 **infraction if the person has a prior unrelated judgment for a**
 34 **violation of this chapter.**

35 SECTION 9. IC 24-4-22 IS ADDED TO THE INDIANA CODE AS
 36 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 37 PASSAGE]:

38 **Chapter 22. Low THC Hemp Extract Sales**

39 **Sec. 1. The following definitions apply throughout this chapter:**

40 (1) "Certificate of analysis" has the meaning set forth in
 41 IC 24-4-21-1.

42 (2) "Low THC hemp extract" has the meaning set forth in



- 1 **IC 35-48-1-17.5.**
- 2 **Sec. 2. A person may sell low THC hemp extract at retail if the**
- 3 **packaging complies with the requirements of IC 24-4-21-5.**
- 4 **Sec. 3. A person who violates section 2 of this chapter commits**
- 5 **a Class C infraction. However, the violation is a Class B infraction**
- 6 **if the person has one (1) prior unrelated judgment for a violation**
- 7 **of section 2 of this chapter, and a Class A infraction if the person**
- 8 **has two (2) or more prior unrelated judgments for a violation of**
- 9 **section 2 of this chapter.**
- 10 SECTION 10. IC 35-31.5-2-33.5 IS REPEALED [EFFECTIVE
- 11 UPON PASSAGE]. ~~Sec. 33.5. "Cannabidiol", for purposes of IC 35-48,~~
- 12 ~~has the meaning set forth in IC 35-48-1-6.5.~~
- 13 SECTION 11. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA
- 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 15 [EFFECTIVE UPON PASSAGE]: **Sec. 150.5. "Hashish", for**
- 16 **purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.8.**
- 17 SECTION 12. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA
- 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 19 [EFFECTIVE UPON PASSAGE]: **Sec. 150.6. "Hash oil", for**
- 20 **purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.**
- 21 SECTION 13. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE
- 22 UPON PASSAGE]. ~~Sec. 316.9. "Substance containing cannabidiol",~~
- 23 ~~for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.~~
- 24 SECTION 14. IC 35-31.5-2-189.9 IS ADDED TO THE INDIANA
- 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 26 [EFFECTIVE UPON PASSAGE]: **Sec. 189.9. "Low THC hemp**
- 27 **extract", for purposes of IC 35-48, has the meaning set forth in**
- 28 **IC 35-48-1-17.5.**
- 29 SECTION 15. IC 35-48-1-6.5 IS REPEALED [EFFECTIVE UPON
- 30 PASSAGE]. ~~Sec. 6.5. "Cannabidiol" has the meaning set forth in~~
- 31 ~~IC 16-42-28.6-1.~~
- 32 SECTION 16. IC 35-48-1-9 IS AMENDED TO READ AS
- 33 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Controlled
- 34 substance" means a drug, substance, or immediate precursor in
- 35 schedule I, II, III, IV, or V under:
- 36 (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or
- 37 IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
- 38 (2) a rule adopted by the board, if IC 35-48-2-14 applies.
- 39 **The term does not include low THC hemp extract.**
- 40 SECTION 17. IC 35-48-1-9.3 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.3. (a) "Controlled
- 42 substance analog" means a substance:



1 (1) the chemical structure of which is substantially similar to that
 2 of a controlled substance included in schedule I or II and that has;
 3 or
 4 (2) that a person represents or intends to have;
 5 a narcotic, stimulant, depressant, or hallucinogenic effect on the central
 6 nervous system substantially similar to or greater than the narcotic,
 7 stimulant, depressant, or hallucinogenic effect on the central nervous
 8 system of a controlled substance included in schedule I or II.

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

10 (1) a controlled substance;

11 (2) a substance for which there is an approved new drug
 12 application;

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

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

20 **(5) Low THC hemp extract.**

21 SECTION 18. IC 35-48-1-16.8 IS ADDED TO THE INDIANA
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. "Hashish" does not**
 24 **include low THC hemp extract.**

25 SECTION 19. IC 35-48-1-16.9 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: **Sec. 16.9. "Hash oil" does not**
 28 **include low THC hemp extract.**

29 SECTION 20. IC 35-48-1-17.5 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. "Low THC hemp**
 32 **extract" means a substance or compound that:**

33 **(1) is derived from or contains any part of the plant Cannabis**
 34 **sativa L.;**

35 **(2) contains not more than three-tenths percent (0.3%) total**
 36 **delta-9-tetrahydrocannabinol (THC) by dry weight; and**

37 **(3) contains no other controlled substances.**

38 SECTION 21. IC 35-48-1-19, AS AMENDED BY P.L.165-2014,
 39 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: Sec. 19. (a) "Marijuana" means any part of the
 41 plant genus Cannabis whether growing or not; the seeds thereof; the
 42 resin extracted from any part of the plant, including hashish and hash



1 oil; any compound, manufacture, salt, derivative, mixture, or
2 preparation of the plant, its seeds or resin.

3 (b) The term does not include:

4 (1) the mature stalks of the plant;

5 (2) fiber produced from the stalks;

6 (3) oil or cake made from the seeds of the plant;

7 (4) any other compound, manufacture, salt, derivative, mixture,
8 or preparation of the mature stalks (except the resin extracted
9 therefrom);

10 (5) the sterilized seed of the plant which is incapable of
11 germination; ~~or~~

12 (6) industrial hemp (as defined by IC 15-15-13-6); **or**

13 **(7) low THC hemp extract.**

14 SECTION 22. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE
15 UPON PASSAGE]. ~~Sec. 26.7. "Substance containing cannabidiol" has
16 the meaning set forth in IC 16-42-28.6-5.~~

17 SECTION 23. IC 35-48-3.5 IS ADDED TO THE INDIANA CODE
18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
19 UPON PASSAGE]:

20 **Chapter 3.5. Defenses Relating to Controlled Substances**

21 **Sec. 1. (a) This section does not apply to a person who sells
22 marijuana, hashish, hash oil, or tetrahydrocannabinol:**

23 **(1) without having obtained a certificate of analysis (as
24 defined in IC 24-4-21-1) showing that the substance contains
25 not more than three-tenths percent (0.3%) total
26 delta-9-tetrahydrocannabinol (THC) by dry weight; or**

27 **(2) after having obtained a certificate of analysis showing that
28 the substance contains more than three-tenths percent (0.3%)
29 total delta-9-tetrahydrocannabinol (THC) by dry weight.**

30 **(b) It is a defense to a prosecution under IC 35-48-4-2 (dealing
31 in a schedule I, II, or III controlled substance), IC 35-48-4-7
32 (possession of a controlled substance), IC 35-48-4-10 (dealing in
33 marijuana, hash oil, or hashish), or IC 35-48-4-11 (possession of
34 marijuana, hash oil, or hashish) that all of the following apply:**

35 **(1) The person is:**

36 **(A) a manufacturer of low THC hemp extract as described
37 in IC 24-4-21; or**

38 **(B) an independent testing laboratory (as defined in
39 IC 24-4-21-1).**

40 **(2) The person is charged with an offense relating to
41 marijuana, hashish, hash oil, or tetrahydrocannabinol.**

42 **(3) The person possessed, delivered, or manufactured the**



1 **marijuana, hashish, hash oil, or tetrahydrocannabinol within**
 2 **the scope of manufacturing or testing low THC hemp extract**
 3 **under IC 24-4-21.**

4 **(4) The person substantially complied with the requirements**
 5 **of IC 24-4-21.**

6 SECTION 24. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017,
 7 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers
 9 for sale, delivers, or finances the delivery of a raw material, an
 10 instrument, a device, or other object that is intended to be or that is
 11 designed or marketed to be used primarily for:

12 (1) ingesting, inhaling, or otherwise introducing into the human
 13 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a
 14 controlled substance;

15 (2) testing the strength, effectiveness, or purity of marijuana, hash
 16 oil, hashish, salvia, a synthetic drug, or a controlled substance;

17 (3) enhancing the effect of a controlled substance;

18 (4) manufacturing, compounding, converting, producing,
 19 processing, or preparing marijuana, hash oil, hashish, salvia, a
 20 synthetic drug, or a controlled substance;

21 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 22 synthetic drug, or a controlled substance by individuals; or

23 (6) any purpose announced or described by the seller that is in
 24 violation of this chapter;

25 commits a Class A infraction for dealing in paraphernalia.

26 (b) A person who knowingly or intentionally violates subsection (a)
 27 commits a Class A misdemeanor. However, the offense is a Level 6
 28 felony if the person has a prior unrelated judgment or conviction under
 29 this section.

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

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

35 (2) Items marketed for or historically and customarily used in
 36 connection with the planting, propagating, cultivating, growing,
 37 harvesting, manufacturing, compounding, converting, producing,
 38 processing, preparing, testing, analyzing, packaging, repackaging,
 39 storing, containing, concealing, injecting, ingesting, or inhaling
 40 of tobacco or any other lawful substance. ~~excluding the lawful~~
 41 ~~possession of a substance containing cannabidiol under~~
 42 ~~IC 35-48-4-11.~~



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

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

6 SECTION 25. IC 35-48-4-11, AS AMENDED BY P.L.188-2017,
7 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 UPON PASSAGE]: Sec. 11. (a) A person who:

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

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

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

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

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

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

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

20 (2) the person possesses:

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

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

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

25 ~~(1) the person is a patient or caregiver registered under
26 IC 16-42-28.6 for the use of a substance containing cannabidiol;~~

27 ~~(2) the person reasonably believed that the substance possessed
28 by the person was a substance containing cannabidiol; and~~

29 ~~(3) the substance containing cannabidiol is packaged in a
30 container labeled with the origin, volume, and concentration by
31 weight of total THC, including its precursors and derivatives, and
32 cannabidiol.~~

33 ~~(e) It is a defense to a prosecution under this section based on the
34 possession of a substance containing cannabidiol that:~~

35 ~~(1) the substance containing cannabidiol has been approved by
36 the federal Food and Drug Administration or the federal Drug
37 Enforcement Agency as a prescription drug; and~~

38 ~~(2) the substance was prescribed and dispensed in accordance
39 with the federal approval described in subdivision (1).~~

40 SECTION 26. **An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1214, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 1 through 42, begin a new paragraph and insert:

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

SECTION 3. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~48.7~~: "~~Caregiver~~", for purposes of IC ~~16-42-28.6~~; has the meaning set forth in IC ~~16-42-28.6-2~~.

SECTION 4. IC 16-18-2-272, AS AMENDED BY P.L.188-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-6.

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

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

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

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

SECTION 3. IC 16-18-2-282, AS AMENDED BY P.L.188-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 282. (a) "Physician", except as provided in subsections (b) **and (c)**, ~~through (d)~~; means a licensed physician (as defined in section 202 of this chapter).

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

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

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

(2) is licensed under IC 25-22.5.

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

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



SECTION 4. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 342.6. "Substance containing cannabidiol", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-5.~~

SECTION 5. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 354.7. "Treatment resistant epilepsy"; for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-6.~~

SECTION 6. IC 16-42-28.6 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Drugs: Use of Cannabidiol for the Treatment of Epilepsy).

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

SECTION 8. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 150.5. "Hashish", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.8.**

SECTION 9. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 150.6. "Hash oil", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.**

SECTION 10. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE JULY 1, 2018]. ~~Sec. 316.9. "Substance containing cannabidiol", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.~~

SECTION 11. IC 35-48-1-6.5, AS ADDED BY P.L.188-2017, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: ~~Sec. 6.5. "Cannabidiol" has the meaning set forth in IC 16-42-28.6-1.~~ **means 2-(6-isopropenyl-3-methyl-2-cyclohexen-1-yl)-5-pentyl-1,3-benzenediol.**

SECTION 12. IC 35-48-1-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 6.7. "CBD oil" means a product that contains:**

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

SECTION 13. IC 35-48-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: ~~Sec. 9. "Controlled substance" means a drug, substance, or immediate precursor in schedule I, II, III, IV, or V under:~~

- ~~(1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or~~



- IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
 (2) a rule adopted by the board, if IC 35-48-2-14 applies.

The term does not include CBD oil.

SECTION 14. IC 35-48-1-9.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9.3. (a) "Controlled substance analog" means a substance:

- (1) the chemical structure of which is substantially similar to that of a controlled substance included in schedule I or II and that has; or
- (2) that a person represents or intends to have; a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

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

- (1) a controlled substance;
- (2) a substance for which there is an approved new drug application;
- (3) a substance for which an exemption is in effect for investigational use by a person under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), to the extent that conduct with respect to the substance is permitted under the exemption; ~~or~~
- (4) a substance to the extent not intended for human consumption before an exemption takes effect regarding the substance; ~~or~~

(5) CBD oil.

SECTION 15. IC 35-48-1-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 16.8. "Hashish" does not include CBD oil.**

SECTION 16. IC 35-48-1-16.9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 16.9. "Hash oil" does not include CBD oil.**

SECTION 17. IC 35-48-1-19, AS AMENDED BY P.L.165-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 19. (a) "Marijuana" means any part of the plant genus Cannabis whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

(b) The term does not include:



- (1) the mature stalks of the plant;
- (2) fiber produced from the stalks;
- (3) oil or cake made from the seeds of the plant;
- (4) any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom);
- (5) the sterilized seed of the plant which is incapable of germination; ~~or~~
- (6) industrial hemp (as defined by IC 15-15-13-6); **or**
- (7) **CBD oil.**

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

SECTION 19. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

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

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

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

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



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

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

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

SECTION 20. IC 35-48-4-11, AS AMENDED BY P.L.188-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) A person who:

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

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

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

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

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

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

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

(2) the person possesses:

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

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

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

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

~~(2) the person reasonably believed that the substance possessed by the person was a substance containing cannabidiol; and~~

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

~~(e) It is a defense to a prosecution under this section based on the possession of a substance containing cannabidiol that:~~

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- (1) the substance containing cannabidiol has been approved by the federal Food and Drug Administration or the federal Drug Enforcement Agency as a prescription drug; and
- (2) the substance was prescribed and dispensed in accordance with the federal approval described in subdivision (1).

SECTION 21. An emergency is declared for this act."

Delete pages 3 through 9.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1214 as introduced.)

WASHBURNE

Committee Vote: yeas 9, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred House Bill No. 1214, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 2 through 8 with "[EFFECTIVE UPON PASSAGE]".

Page 1, delete lines 1 through 17.

Page 3, delete lines 2 through 42, begin a new paragraph and insert: "SECTION 8. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:"

Chapter 21. Low THC Hemp Extract Production

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Certificate of analysis" means a certificate from an independent testing laboratory describing the results of the laboratory's testing of a sample.
- (2) "Independent testing laboratory" means a laboratory:
 - (A) with respect to which no person having a direct or indirect interest in the laboratory also has a direct or indirect interest in a facility that:
 - (i) processes, distributes, or sells low THC hemp extract, or a substantially similar substance in another



jurisdiction;

(ii) cultivates, processes, distributes, dispenses, or sells marijuana; or

(iii) cultivates, processes, or distributes industrial hemp; and

(B) that is accredited as a testing laboratory to International Organization for Standardization (ISO) 17025 by a third party accrediting body such as the American Association for Laboratory Accreditation (A2LA) or Assured Calibration and Laboratory Accreditation Select Services (ACLASS).

(3) "Low THC hemp extract" has the meaning set forth in IC 35-48-1-17.5.

Sec. 2. A person may:

(1) manufacture low THC hemp extract for distribution in Indiana; and

(2) distribute low THC hemp extract to a retailer or independent testing laboratory in Indiana;

if the person meets the requirements of this chapter.

Sec. 3. A manufacturer shall submit a random sample of each batch of product to an independent testing laboratory for testing before the batch may be distributed. The manufacturer shall select and submit the sample in a manner determined by the independent testing laboratory. A manufacturer may not distribute a batch until the manufacturer has obtained a certificate of analysis from the independent testing laboratory showing that the sample contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight.

Sec. 4. If testing by the independent testing laboratory demonstrates that a sample contains more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight, the manufacturer:

(1) may not distribute the batch; and

(2) may reprocess the batch.

A manufacturer shall treat a reprocessed batch as a new batch for all purposes, and shall submit a new sample from the batch to the independent testing laboratory for testing in accordance with section 3 of this chapter.

Sec. 5. After receiving a certificate of analysis showing that the product contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight, the manufacturer shall package the low THC hemp extract in



packaging that contains the following information:

- (1) A scannable bar code or QR code linked to a document that contains information with respect to the manufacture of the low THC hemp extract, including the:
 - (A) batch identification number;
 - (B) product name;
 - (C) batch date;
 - (D) expiration date, which must be not more than two (2) years from the date of manufacture;
 - (E) batch size;
 - (F) total quantity produced;
 - (G) ingredients used, including the:
 - (i) ingredient name;
 - (ii) name of the company that manufactured the ingredient;
 - (iii) company or product identification number or code, if applicable; and
 - (iv) ingredient lot number; and
 - (H) download link for a certificate of analysis for the low THC hemp extract.
- (2) The batch number.
- (3) The Internet address of a web site to obtain batch information.
- (4) The expiration date.
- (5) The number of milligrams of low THC hemp extract.
- (6) The manufacturer.
- (7) The fact that the product contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight.

Sec. 6. A person who violates sections 3 through 5 of this chapter commits a Class B infraction. However, the offense is a Class A infraction if the person has a prior unrelated judgment for a violation of this chapter.

SECTION 9. IC 24-4-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 22. Low THC Hemp Extract Sales

Sec. 1. The following definitions apply throughout this chapter:

- (1) "Certificate of analysis" has the meaning set forth in IC 24-4-21-1.
- (2) "Low THC hemp extract" has the meaning set forth in IC 35-48-1-17.5.



Sec. 2. A person may sell low THC hemp extract at retail if the packaging complies with the requirements of IC 24-4-21-5.

Sec. 3. A person who violates section 2 of this chapter commits a Class C infraction. However, the violation is a Class B infraction if the person has one (1) prior unrelated judgment for a violation of section 2 of this chapter, and a Class A infraction if the person has two (2) or more prior unrelated judgments for a violation of section 2 of this chapter.

SECTION 10. IC 35-31.5-2-33.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 33.5. "Cannabidiol", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-6.5.~~

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

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

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

SECTION 14. IC 35-31.5-2-189.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 189.9. "Low THC hemp extract", for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-17.5.**

SECTION 15. IC 35-48-1-6.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 6.5. "Cannabidiol" has the meaning set forth in IC 16-42-28.6-1.~~

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

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

The term does not include low THC hemp extract.

SECTION 17. IC 35-48-1-9.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.3. (a) "Controlled substance analog" means a substance:**

- (1) the chemical structure of which is substantially similar to that



of a controlled substance included in schedule I or II and that has;
or

(2) that a person represents or intends to have;
a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than the narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

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

(1) a controlled substance;

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

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

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

(5) Low THC hemp extract.

SECTION 18. IC 35-48-1-16.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. "Hashish" does not include low THC hemp extract.**

SECTION 19. IC 35-48-1-16.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16.9. "Hash oil" does not include low THC hemp extract.**

SECTION 20. IC 35-48-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. "Low THC hemp extract" means a substance or compound that:**

(1) is derived from or contains any part of the plant Cannabis sativa L.;

(2) contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight; and

(3) contains no other controlled substances.

SECTION 21. IC 35-48-1-19, AS AMENDED BY P.L.165-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) "Marijuana" means any part of the plant genus Cannabis whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or



preparation of the plant, its seeds or resin.

(b) The term does not include:

- (1) the mature stalks of the plant;
- (2) fiber produced from the stalks;
- (3) oil or cake made from the seeds of the plant;
- (4) any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom);
- (5) the sterilized seed of the plant which is incapable of germination; **or**
- (6) industrial hemp (as defined by IC 15-15-13-6); **or**
- (7) **low THC hemp extract.**

SECTION 22. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 26.7. "Substance containing cannabidiol" has the meaning set forth in IC 16-42-28.6-5.~~

SECTION 23. IC 35-48-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 3.5. Defenses Relating to Controlled Substances

Sec. 1. (a) This section does not apply to a person who sells marijuana, hashish, hash oil, or tetrahydrocannabinol:

- (1) without having obtained a certificate of analysis (as defined in IC 24-4-21-1) showing that the substance contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight; or
- (2) after having obtained a certificate of analysis showing that the substance contains more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC) by dry weight.

(b) It is a defense to a prosecution under IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance), IC 35-48-4-7 (possession of a controlled substance), IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish), or IC 35-48-4-11 (possession of marijuana, hash oil, or hashish) that all of the following apply:

- (1) The person is:
 - (A) a manufacturer of low THC hemp extract as described in IC 24-4-21; or
 - (B) an independent testing laboratory (as defined in IC 24-4-21-1).
- (2) The person is charged with an offense relating to marijuana, hashish, hash oil, or tetrahydrocannabinol.
- (3) The person possessed, delivered, or manufactured the marijuana, hashish, hash oil, or tetrahydrocannabinol within



the scope of manufacturing or testing low THC hemp extract under IC 24-4-21.

(4) The person substantially complied with the requirements of IC 24-4-21.

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

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

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

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

- (1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- (2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance. ~~excluding the lawful possession of a substance containing cannabidiol under IC 35-48-4-11.~~
- (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides



a syringe or needle as part of a program under IC 16-41-7.5.

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

SECTION 25. IC 35-48-4-11, AS AMENDED BY P.L.188-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A person who:

- (1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, or salvia;
- (2) knowingly or intentionally grows or cultivates marijuana; or
- (3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

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

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

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

- (1) the person has a prior conviction for a drug offense; and
- (2) the person possesses:
 - (A) at least thirty (30) grams of marijuana; or
 - (B) at least five (5) grams of hash oil, hashish, or salvia.

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

- (1) the person is a patient or caregiver registered under IC 16-42-28.6 for the use of a substance containing cannabidiol;
- (2) the person reasonably believed that the substance possessed by the person was a substance containing cannabidiol; and
- (3) the substance containing cannabidiol is packaged in a container labeled with the origin, volume, and concentration by weight of total THC, including its precursors and derivatives, and cannabidiol.

(e) It is a defense to a prosecution under this section based on the possession of a substance containing cannabidiol that:

- (1) the substance containing cannabidiol has been approved by the federal Food and Drug Administration or the federal Drug Enforcement Agency as a prescription drug; and
- (2) the substance was prescribed and dispensed in accordance with the federal approval described in subdivision (1).



SECTION 26. An emergency is declared for this act."

Delete pages 4 through 6.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1214 Digest Correction as printed January 26, 2018.)

YOUNG M, Chairperson

Committee Vote: Yeas 6, Nays 2.

