

# HOUSE BILL No. 1387

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-48-4.

**Synopsis:** Cannabis oil criminal exemption. Exempts individuals from criminal penalties for possession or use of cannabis oil if: (1) the individual is a patient of a physician who is practicing at a hospital or clinic that is affiliated with a state medical school and as part of the treatment, the physician has dispensed, administered, or transferred the substance to the patient; or (2) the individual is participating in a clinical trial or expanded access program for which cannabis oil has been approved by the federal Food and Drug Administration for use.

**Effective:** July 1, 2015.

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January 14, 2015, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1387

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A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 35-48-4-8.5, AS AMENDED BY P.L.158-2013,  
2 SECTION 636, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2015]: Sec. 8.5. (a) A person who keeps for  
4 sale, offers for sale, delivers, or finances the delivery of a raw material,  
5 an instrument, a device, or other object that is intended to be or that is  
6 designed or marketed to be used primarily for:  
7 (1) ingesting, inhaling, or otherwise introducing into the human  
8 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a  
9 controlled substance;  
10 (2) testing the strength, effectiveness, or purity of marijuana, hash  
11 oil, hashish, salvia, a synthetic drug, or a controlled substance;  
12 (3) enhancing the effect of a controlled substance;  
13 (4) manufacturing, compounding, converting, producing,  
14 processing, or preparing marijuana, hash oil, hashish, salvia, a  
15 synthetic drug, or a controlled substance;



- 1 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a  
 2 synthetic drug, or a controlled substance by individuals; or  
 3 (6) any purpose announced or described by the seller that is in  
 4 violation of this chapter;  
 5 commits a Class A infraction for dealing in paraphernalia.
- 6 (b) A person who knowingly or intentionally violates subsection (a)  
 7 commits a Class A misdemeanor. However, the offense is a Level 6  
 8 felony if the person has a prior unrelated judgment or conviction under  
 9 this section.
- 10 (c) **As used in this subsection, "cannabis oil" includes**  
 11 **cannabidiol oil.** This section does not apply to the following:
- 12 (1) Items marketed for use in the preparation, compounding,  
 13 packaging, labeling, or other use of marijuana, hash oil, hashish,  
 14 salvia, a synthetic drug, or a controlled substance as an incident  
 15 to lawful research, teaching, or chemical analysis and not for sale.
- 16 (2) Items marketed for or historically and customarily used in  
 17 connection with the planting, propagating, cultivating, growing,  
 18 harvesting, manufacturing, compounding, converting, producing,  
 19 processing, preparing, testing, analyzing, packaging, repackaging,  
 20 storing, containing, concealing, injecting, ingesting, or inhaling  
 21 of tobacco or any other lawful substance.
- 22 (3) **An individual who:**
- 23 (A) **is the patient of a physician who is:**
- 24 (i) **licensed under IC 25-22.5; and**
- 25 (ii) **practicing at a hospital or associated clinic that is**  
 26 **affiliated with a state educational institution or an**  
 27 **approved postsecondary educational institution that**  
 28 **includes a school of medicine; and**
- 29 (B) **has cannabis oil transferred, dispensed, or**  
 30 **administered to the individual as part of the individual's**  
 31 **treatment by the physician.**
- 32 (4) **An individual who is participating in a clinical trial or**  
 33 **expanded access program in which cannabis oil has been**  
 34 **approved for the use of those participants by the federal Food**  
 35 **and Drug Administration.**
- 36 (5) **A physician who is:**
- 37 (A) **described in subdivision (3); or**
- 38 (B) **administering a clinical trial or expanded access**  
 39 **program described in subdivision (4);**  
 40 **and transfers, dispenses, or administers cannabis oil as part**  
 41 **of a patient's treatment.**
- 42 SECTION 2. IC 35-48-4-10, AS AMENDED BY P.L.168-2014,



1 SECTION 100, IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A person who:

3 (1) knowingly or intentionally:

4 (A) manufactures;

5 (B) finances the manufacture of;

6 (C) delivers; or

7 (D) finances the delivery of;

8 marijuana, hash oil, hashish, or salvia, pure or adulterated; or

9 (2) possesses, with intent to:

10 (A) manufacture;

11 (B) finance the manufacture of;

12 (C) deliver; or

13 (D) finance the delivery of;

14 marijuana, hash oil, hashish, or salvia, pure or adulterated;

15 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A  
 16 misdemeanor, except as provided in subsections (b) through (d).

17 (b) A person may be convicted of an offense under subsection (a)(2)  
 18 only if there is evidence in addition to the weight of the drug that the  
 19 person intended to manufacture, finance the manufacture of, deliver,  
 20 or finance the delivery of the drug.

21 (c) The offense is a Level 6 felony if:

22 (1) the person has a prior conviction for a drug offense and the  
 23 amount of the drug involved is:

24 (A) less than thirty (30) grams of marijuana; or

25 (B) less than five (5) grams of hash oil, hashish, or salvia; or

26 (2) the amount of the drug involved is:

27 (A) at least thirty (30) grams but less than ten (10) pounds of  
 28 marijuana; or

29 (B) at least five (5) grams but less than three hundred (300)  
 30 grams of hash oil, hashish, or salvia.

31 (d) The offense is a Level 5 felony if:

32 (1) the person has a prior conviction for a drug dealing offense  
 33 and the amount of the drug involved is:

34 (A) at least thirty (30) grams but less than ten (10) pounds of  
 35 marijuana; or

36 (B) at least five (5) grams but less than three hundred (300)  
 37 grams of hash oil, hashish, or salvia; or

38 (2) the:

39 (A) amount of the drug involved is:

40 (i) at least ten (10) pounds of marijuana; or

41 (ii) at least three hundred (300) grams of hash oil, hashish,  
 42 or salvia; or



- 1 (B) offense involved a sale to a minor.  
 2 (e) **As used in this subsection, "cannabis oil" includes**  
 3 **cannabidiol oil. This section does not apply to the following:**  
 4 (1) **An individual who:**  
 5 (A) **is the patient of a physician who is:**  
 6 (i) **licensed under IC 25-22.5; and**  
 7 (ii) **practicing at a hospital or associated clinic that is**  
 8 **affiliated with a state educational institution or an**  
 9 **approved postsecondary educational institution that**  
 10 **includes a school of medicine; and**  
 11 (B) **has cannabis oil transferred, dispensed, or**  
 12 **administered to the individual as part of the individual's**  
 13 **treatment by the physician.**  
 14 (2) **An individual who is participating in a clinical trial or**  
 15 **expanded access program in which cannabis oil has been**  
 16 **approved for the use of those participants by the federal Food**  
 17 **and Drug Administration.**  
 18 (3) **A physician who is:**  
 19 (A) **described in subdivision (1); or**  
 20 (B) **administering a clinical trial or expanded access**  
 21 **program described in subdivision (2);**  
 22 **and transfers, dispenses, or administers cannabis oil as part**  
 23 **of a patient's treatment.**  
 24 SECTION 3. IC 35-48-4-11, AS AMENDED BY P.L.226-2014(ts),  
 25 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2015]: Sec. 11. (a) A person who:  
 27 (1) knowingly or intentionally possesses (pure or adulterated)  
 28 marijuana, hash oil, hashish, or salvia;  
 29 (2) knowingly or intentionally grows or cultivates marijuana; or  
 30 (3) knowing that marijuana is growing on the person's premises,  
 31 fails to destroy the marijuana plants;  
 32 commits possession of marijuana, hash oil, hashish, or salvia, a Class  
 33 B misdemeanor, except as provided in subsections (b) through (c).  
 34 (b) The offense described in subsection (a) is a Class A  
 35 misdemeanor if the person has a prior conviction for a drug offense.  
 36 (c) The offense described in subsection (a) is a Level 6 felony if:  
 37 (1) the person has a prior conviction for a drug offense; and  
 38 (2) the person possesses:  
 39 (A) at least thirty (30) grams of marijuana; or  
 40 (B) at least five (5) grams of hash oil, hashish, or salvia.  
 41 (d) **As used in this subsection, "cannabis oil" includes**  
 42 **cannabidiol oil. This section does not apply to the following:**



- 1           **(1) An individual who:**  
2               **(A) is the patient of a physician who is:**  
3                   **(i) licensed under IC 25-22.5; and**  
4                   **(ii) practicing at a hospital or associated clinic that is**  
5                   **affiliated with a state educational institution or an**  
6                   **approved postsecondary educational institution that**  
7                   **includes a school of medicine; and**  
8               **(B) has cannabis oil transferred, dispensed, or**  
9               **administered to the individual as part of the individual's**  
10              **treatment by the physician.**  
11           **(2) An individual who is participating in a clinical trial or**  
12           **expanded access program in which cannabis oil has been**  
13           **approved for the use of those participants by the federal Food**  
14           **and Drug Administration.**  
15           **(3) A physician who is:**  
16               **(A) described in subdivision (1); or**  
17               **(B) administering a clinical trial or expanded access**  
18               **program described in subdivision (2);**  
19           **and transfers, dispenses, or administers cannabis oil as part**  
20           **of a patient's treatment.**

