

SENATE BILL No. 86

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48-4.

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

Effective: July 1, 2020.

Taylor G

January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 86

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

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

1 SECTION 1. IC 35-48-4-8.3, AS AMENDED BY P.L.187-2015,
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 8.3. (a) This section does not apply to a rolling
4 paper.
5 (b) A person who knowingly or intentionally possesses an
6 instrument, a device, or another object that the person intends to use
7 for:
8 (1) introducing into the person's body a controlled substance;
9 (2) testing the strength, effectiveness, or purity of a controlled
10 substance; or
11 (3) enhancing the effect of a controlled substance;
12 commits a Class C misdemeanor. However, the offense is a Class A
13 misdemeanor if the person has a prior unrelated judgment or conviction
14 under this section.
15 **(c) It is a defense to a prosecution under this section that:**
16 **(1) the instrument, device, or other object is for use with**
17 **marijuana; and**



- 1 **(2) either:**
 2 **(A) a physician treating the patient has certified in a**
 3 **writing executed within the previous year that:**
 4 **(i) the person suffers from a terminal illness or serious**
 5 **untreatable disease; and**
 6 **(ii) in the professional opinion of the physician, the**
 7 **benefits of treatment with marijuana are greater than**
 8 **the risks of treatment with marijuana; or**
 9 **(B) the person possesses an unexpired medical marijuana**
 10 **card or other credential issued under the laws of another**
 11 **state that authorizes the person to possess, use, or purchase**
 12 **medical marijuana in that state.**
- 13 SECTION 2. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,
 14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2020]: Sec. 11. (a) A person who:
 16 (1) knowingly or intentionally possesses (pure or adulterated)
 17 marijuana, hash oil, hashish, or salvia;
 18 (2) knowingly or intentionally grows or cultivates marijuana; or
 19 (3) knowing that marijuana is growing on the person's premises,
 20 fails to destroy the marijuana plants;
 21 commits possession of marijuana, hash oil, hashish, or salvia, a Class
 22 B misdemeanor, except as provided in subsections (b) through (c).
 23 (b) The offense described in subsection (a) is a Class A
 24 misdemeanor if:
 25 (1) the person has a prior conviction for a drug offense; or
 26 (2) the:
 27 (A) marijuana, hash oil, hashish, or salvia is packaged in a
 28 manner that appears to be low THC hemp extract; and
 29 (B) person knew or reasonably should have known that the
 30 product was marijuana, hash oil, hashish, or salvia.
 31 (c) The offense described in subsection (a) is a Level 6 felony if:
 32 (1) the person has a prior conviction for a drug offense; and
 33 (2) the person possesses:
 34 (A) at least thirty (30) grams of marijuana; or
 35 (B) at least five (5) grams of hash oil, hashish, or salvia.
 36 **(d) It is a defense to a prosecution under this section that:**
 37 **(1) the person possessed less than two (2) ounces of**
 38 **marijuana; and**
 39 **(2) either:**
 40 **(A) a physician treating the patient has certified in a**
 41 **writing executed within the previous year that:**
 42 **(i) the person suffers from a terminal illness or serious**



1 **untreatable disease; and**
2 **(ii) in the professional opinion of the physician, the**
3 **benefits of treatment with marijuana are greater than**
4 **the risks of treatment with marijuana; or**
5 **(B) the person possesses an unexpired medical marijuana**
6 **card or other credential issued under the laws of another**
7 **state that authorizes the person to possess, use, or purchase**
8 **medical marijuana in that state.**

