

SENATE BILL No. 275

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-8-7; IC 35-48-4.

Synopsis: Penalties for controlled substance offenses. Increases the penalties for the following controlled substance offenses: (1) Dealing in cocaine or a narcotic drug. (2) Dealing in methamphetamine. (3) Dealing in a schedule I, II, III, IV, or V controlled substance. (4) Dealing in a substance represented to be a controlled substance. (5) Dealing in a counterfeit substance. (6) Dealing in marijuana, hash oil, hashish, or salvia. (7) Dealing in a synthetic drug or synthetic drug lookalike substance. Makes conforming amendments.

Effective: July 1, 2015.

Merritt

January 7, 2015, read first time and referred to Committee on Corrections & Criminal Law.



First Regular Session 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.

SENATE BILL No. 275



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 6-2.5-8-7, AS AMENDED BY P.L.196-2013,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 7. (a) The department may, for good cause, revoke
4 a certificate issued under section 1, 3, or 4 of this chapter. However,
5 the department must give the certificate holder at least five (5) days
6 notice before it revokes the certificate under this subsection. Good
7 cause for revocation may include the following:
8 (1) Sale or solicitation of a sale involving a synthetic drug (as
9 defined in IC 35-31.5-2-321) or a synthetic drug lookalike
10 substance (as defined in IC 35-31.5-2-321.5).
11 (2) Failure to collect sales tax on a sale involving a synthetic drug
12 or a synthetic drug lookalike substance.
13 If the department gives notice of an intent to revoke based on a
14 alleged violation of subdivision (1) or (2), the department shall hold a
15 public hearing to determine whether good cause exists. If the
16 department finds in a public hearing by a preponderance of the



1 evidence that a person has committed a violation described in
2 subdivision (1) or (2), the department shall proceed in accordance with
3 subsection (i) (if the violation resulted in a criminal conviction). ~~or~~
4 ~~subsection (j) (if the violation resulted in a judgment for an infraction).~~

5 (b) The department shall revoke a certificate issued under section
6 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
7 holder fails to:

8 (1) file the returns required by IC 6-2.5-6-1; or

9 (2) report the collection of any state gross retail or use tax on the
10 returns filed under IC 6-2.5-6-1.

11 However, the department must give the certificate holder at least five
12 (5) days notice before it revokes the certificate.

13 (c) The department may, for good cause, revoke a certificate issued
14 under section 1 of this chapter after at least five (5) days notice to the
15 certificate holder if:

16 (1) the certificate holder is subject to an innkeeper's tax under
17 IC 6-9; and

18 (2) a board, bureau, or commission established under IC 6-9 files
19 a written statement with the department.

20 (d) The statement filed under subsection (c) must state that:

21 (1) information obtained by the board, bureau, or commission
22 under IC 6-8.1-7-1 indicates that the certificate holder has not
23 complied with IC 6-9; and

24 (2) the board, bureau, or commission has determined that
25 significant harm will result to the county from the certificate
26 holder's failure to comply with IC 6-9.

27 (e) The department shall revoke or suspend a certificate issued
28 under section 1 of this chapter after at least five (5) days notice to the
29 certificate holder if:

30 (1) the certificate holder owes taxes, penalties, fines, interest, or
31 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
32 days after the due date under IC 6-1.1; and

33 (2) the treasurer of the county to which the taxes are due requests
34 the department to revoke or suspend the certificate.

35 (f) The department shall reinstate a certificate suspended under
36 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
37 or the county treasurer requests the department to reinstate the
38 certificate because an agreement for the payment of taxes and any
39 penalties due under IC 6-1.1 has been reached to the satisfaction of the
40 county treasurer.

41 (g) The department shall revoke a certificate issued under section
42 1 of this chapter after at least five (5) days notice to the certificate



1 holder if the department finds in a public hearing by a preponderance
 2 of the evidence that the certificate holder has violated IC 35-45-5-3,
 3 IC 35-45-5-3.5, or IC 35-45-5-4.

4 (h) If a person makes a payment for the certificate under section 1
 5 or 3 of this chapter with a check, credit card, debit card, or electronic
 6 funds transfer, and the department is unable to obtain payment of the
 7 check, credit card, debit card, or electronic funds transfer for its full
 8 face amount when the check, credit card, debit card, or electronic funds
 9 transfer is presented for payment through normal banking channels, the
 10 department shall notify the person by mail that the check, credit card,
 11 debit card, or electronic funds transfer was not honored and that the
 12 person has five (5) days after the notice is mailed to pay the fee in cash,
 13 by certified check, or other guaranteed payment. If the person fails to
 14 make the payment within the five (5) day period, the department shall
 15 revoke the certificate.

16 (i) If the department finds in a public hearing by a preponderance of
 17 the evidence that a person has a conviction for a violation of
 18 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
 19 sell, in the normal course of business, a synthetic drug or a synthetic
 20 drug lookalike substance by a retail merchant in a place of business for
 21 which the retail merchant has been issued a registered retail merchant
 22 certificate under section 1 of this chapter, the department:

23 (1) shall suspend the registered retail merchant certificate for the
 24 place of business for one (1) year; and

25 (2) may not issue another retail merchant certificate under section
 26 1 of this chapter for one (1) year to any person:

27 (A) that:

28 (i) applied for; or

29 (ii) made a retail transaction under;

30 the retail merchant certificate suspended under subdivision
 31 (1); or

32 (B) that:

33 (i) owned or co-owned, directly or indirectly; or

34 (ii) was an officer, a director, a manager, or a partner of;

35 the retail merchant that was issued the retail merchant
 36 certificate suspended under subdivision (1).

37 (j) If the department finds in a public hearing by a preponderance of
 38 the evidence that a person has a judgment for a violation of
 39 IC 35-48-4-10.5 as an infraction and the violation involved the sale of
 40 or the offer to sell, in the normal course of business, a synthetic drug
 41 or a synthetic drug lookalike substance by a retail merchant in a place
 42 of business for which the retail merchant has been issued a registered



1 retail merchant certificate under section † of this chapter, the
2 department:

3 (†) may suspend the registered retail merchant certificate for the
4 place of business for six (6) months; and

5 (2) may withhold issuance of another retail merchant certificate
6 under section † of this chapter for six (6) months to any person:

7 (A) that:

8 (i) applied for; or

9 (ii) made a retail transaction under;

10 the retail merchant certificate suspended under subdivision

11 (†); or

12 (B) that:

13 (i) owned or co-owned, directly or indirectly; or

14 (ii) was an officer, a director, a manager, or a partner of;

15 the retail merchant that was issued the retail merchant
16 certificate suspended under subdivision (†).

17 SECTION 2. IC 35-48-4-1, AS AMENDED BY P.L.226-2014(ts),
18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2015]: Sec. 1. (a) A person who:

20 (1) knowingly or intentionally:

21 (A) manufactures;

22 (B) finances the manufacture of;

23 (C) delivers; or

24 (D) finances the delivery of;

25 cocaine or a narcotic drug, pure or adulterated, classified in
26 schedule I or II; or

27 (2) possesses, with intent to:

28 (A) manufacture;

29 (B) finance the manufacture of;

30 (C) deliver; or

31 (D) finance the delivery of;

32 cocaine or a narcotic drug, pure or adulterated, classified in
33 schedule I or II;

34 commits dealing in cocaine or a narcotic drug, a ~~Level 5~~ **Level 4**
35 felony, except as provided in subsections (b) through (e).

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

40 (c) The offense is a ~~Level 4~~ **Level 3** felony if:

41 (1) the amount of the drug involved is at least one (1) gram but
42 less than five (5) grams; or



- 1 (2) the amount of the drug involved is less than one (1) gram and
 2 an enhancing circumstance applies.
- 3 (d) The offense is a ~~Level 3~~ **Level 2** felony if:
- 4 (1) the amount of the drug involved is at least five (5) but less
 5 than ten (10) grams; or
- 6 (2) the amount of the drug involved is at least one (1) gram but
 7 less than five (5) grams and an enhancing circumstance applies.
- 8 (e) The offense is a ~~Level 2~~ **Level 1** felony if:
- 9 (1) the amount of the drug involved is at least ten (10) grams; or
 10 (2) the amount of the drug involved is at least five (5) but less
 11 than ten (10) grams and an enhancing circumstance applies.
- 12 SECTION 3. IC 35-48-4-1.1, AS AMENDED BY P.L.226-2014(ts),
 13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2015]: Sec. 1.1. (a) A person who:
- 15 (1) knowingly or intentionally:
- 16 (A) manufactures;
- 17 (B) finances the manufacture of;
- 18 (C) delivers; or
- 19 (D) finances the delivery of;
- 20 methamphetamine, pure or adulterated; or
- 21 (2) possesses, with intent to:
- 22 (A) manufacture;
- 23 (B) finance the manufacture of;
- 24 (C) deliver; or
- 25 (D) finance the delivery of;
- 26 methamphetamine, pure or adulterated;
- 27 commits dealing in methamphetamine, a ~~Level 5~~ **Level 4** felony, except
 28 as provided in subsections (b) through (e).
- 29 (b) A person may be convicted of an offense under subsection (a)(2)
 30 only if there is evidence in addition to the weight of the drug that the
 31 person intended to manufacture, finance the manufacture of, deliver,
 32 or finance the delivery of the drug.
- 33 (c) The offense is a ~~Level 4~~ **Level 3** felony if:
- 34 (1) the amount of the drug involved is at least one (1) gram but
 35 less than five (5) grams; or
- 36 (2) the amount of the drug involved is less than one (1) gram and
 37 an enhancing circumstance applies.
- 38 (d) The offense is a ~~Level 3~~ **Level 2** felony if:
- 39 (1) the amount of the drug involved is at least five (5) but less
 40 than ten (10) grams; or
- 41 (2) the amount of the drug involved is at least one (1) gram but
 42 less than five (5) grams and an enhancing circumstance applies.



- 1 (e) The offense is a ~~Level 2~~ **Level 1** felony if:
- 2 (1) the amount of the drug involved is at least ten (10) grams;
- 3 (2) the amount of the drug involved is at least five (5) but less
- 4 than ten (10) grams and an enhancing circumstance applies; or
- 5 (3) the person is manufacturing the drug and the manufacture
- 6 results in an explosion causing serious bodily injury to a person
- 7 other than the manufacturer.

8 SECTION 4. IC 35-48-4-2, AS AMENDED BY P.L.226-2014(ts),
 9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2015]: Sec. 2. (a) A person who:

- 11 (1) knowingly or intentionally:
- 12 (A) manufactures;
- 13 (B) finances the manufacture of;
- 14 (C) delivers; or
- 15 (D) finances the delivery of;
- 16 a controlled substance, pure or adulterated, classified in schedule
- 17 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
- 18 synthetic drug; or
- 19 (2) possesses, with intent to:
- 20 (A) manufacture;
- 21 (B) finance the manufacture of;
- 22 (C) deliver; or
- 23 (D) finance the delivery of;
- 24 a controlled substance, pure or adulterated, classified in schedule
- 25 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
- 26 synthetic drug;

27 commits dealing in a schedule I, II, or III controlled substance, a ~~Level~~
 28 **Level 5** felony, except as provided in subsections (b) through (f).

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

- 33 (c) The offense is a ~~Level 5~~ **Level 4** felony if:
- 34 (1) the amount of the drug involved is at least one (1) gram but
- 35 less than five (5) grams; or
- 36 (2) the amount of the drug involved is less than one (1) gram and
- 37 an enhancing circumstance applies.
- 38 (d) The offense is a ~~Level 4~~ **Level 3** felony if:
- 39 (1) the amount of the drug involved is at least five (5) but less
- 40 than ten (10) grams; or
- 41 (2) the amount of the drug involved is at least one (1) gram but
- 42 less than five (5) grams and an enhancing circumstance applies.



- 1 (e) The offense is a ~~Level 3~~ **Level 2** felony if:
- 2 (1) the amount of the drug involved is at least ten (10) but less
- 3 than twenty-eight (28) grams; or
- 4 (2) the amount of the drug involved is at least five (5) but less
- 5 than ten (10) grams and an enhancing circumstance applies.
- 6 (f) The offense is a ~~Level 2~~ **Level 1** felony if:
- 7 (1) the amount of the drug involved is at least twenty-eight (28)
- 8 grams; or
- 9 (2) the amount of the drug involved is at least ten (10) but less
- 10 than twenty-eight (28) grams and an enhancing circumstance
- 11 applies.
- 12 SECTION 5. IC 35-48-4-3, AS AMENDED BY P.L.226-2014(ts),
- 13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 JULY 1, 2015]: Sec. 3. (a) A person who:
- 15 (1) knowingly or intentionally:
- 16 (A) manufactures;
- 17 (B) finances the manufacture of;
- 18 (C) delivers; or
- 19 (D) finances the delivery of;
- 20 a controlled substance, pure or adulterated, classified in schedule
- 21 IV; or
- 22 (2) possesses, with intent to manufacture or deliver, a controlled
- 23 substance, pure or adulterated, classified in schedule IV;
- 24 commits dealing in a schedule IV controlled substance, a ~~Class A~~
- 25 ~~misdemeanor~~, **Level 6 felony**, except as provided in subsections (b)
- 26 through (f).
- 27 (b) A person may be convicted of an offense under subsection (a)(2)
- 28 only if there is evidence in addition to the weight of the drug that the
- 29 person intended to manufacture or deliver the controlled substance.
- 30 (c) The offense is a ~~Level 6~~ **Level 5** felony if:
- 31 (1) the amount of the drug involved is at least one (1) gram but
- 32 less than five (5) grams; or
- 33 (2) the amount of the drug involved is less than one (1) gram and
- 34 an enhancing circumstance applies.
- 35 (d) The offense is a ~~Level 5~~ **Level 4** felony if:
- 36 (1) the amount of the drug involved is at least five (5) but less
- 37 than ten (10) grams; or
- 38 (2) the amount of the drug involved is at least one (1) gram but
- 39 less than five (5) grams and an enhancing circumstance applies.
- 40 (e) The offense is a ~~Level 4~~ **Level 3** felony if:
- 41 (1) the amount of the drug involved is at least ten (10) but less
- 42 than twenty-eight (28) grams; or



- 1 (2) the amount of the drug involved is at least five (5) but less
 2 than ten (10) grams and an enhancing circumstance applies.
- 3 (f) The offense is a ~~Level 3~~ **Level 2** felony if:
- 4 (1) the amount of the drug involved is at least twenty-eight (28)
 5 grams; or
- 6 (2) the amount of the drug involved is at least ten (10) but less
 7 than twenty-eight (28) grams and an enhancing circumstance
 8 applies.
- 9 SECTION 6. IC 35-48-4-4, AS AMENDED BY P.L.226-2014(ts),
 10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2015]: Sec. 4. (a) A person who:
- 12 (1) knowingly or intentionally:
- 13 (A) manufactures;
 14 (B) finances the manufacture of;
 15 (C) delivers; or
 16 (D) finances the delivery of;
 17 a controlled substance, pure or adulterated, classified in schedule
 18 V; or
- 19 (2) possesses, with intent to:
- 20 (A) manufacture;
 21 (B) finance the manufacture of;
 22 (C) deliver; or
 23 (D) finance the delivery of;
 24 a controlled substance, pure or adulterated, classified in schedule
 25 V;
 26 commits dealing in a schedule V controlled substance, a ~~Class B~~ **Class**
 27 **A** misdemeanor, except as provided in subsections (b) through (f).
- 28 (b) A person may be convicted of an offense under subsection (a)(2)
 29 only if there is evidence in addition to the weight of the drug that the
 30 person intended to manufacture, finance the manufacture of, deliver,
 31 or finance the delivery of the drug.
- 32 (c) The offense is a ~~Class A misdemeanor~~ **Level 6 felony** if:
- 33 (1) the amount of the drug involved is at least one (1) gram but
 34 less than five (5) grams; or
- 35 (2) the amount of the drug involved is less than one (1) gram and
 36 an enhancing circumstance applies.
- 37 (d) The offense is a ~~Level 6~~ **Level 5** felony if:
- 38 (1) the amount of the drug involved is at least five (5) but less
 39 than ten (10) grams; or
- 40 (2) the amount of the drug involved is at least one (1) gram but
 41 less than five (5) grams and an enhancing circumstance applies.
- 42 (e) The offense is a ~~Level 5~~ **Level 4** felony if:



- 1 (1) the amount of the drug involved is at least ten (10) but less
 2 than twenty-eight (28) grams; or
 3 (2) the amount of the drug involved is at least five (5) but less
 4 than ten (10) grams and an enhancing circumstance applies.
 5 (f) The offense is a ~~Level 4~~ **Level 3** felony if:
 6 (1) the amount of the drug involved is at least twenty-eight (28)
 7 grams; or
 8 (2) the amount of the drug involved is at least ten (10) but less
 9 than twenty-eight (28) grams and an enhancing circumstance
 10 applies.
 11 SECTION 7. IC 35-48-4-4.5, AS AMENDED BY P.L.158-2013,
 12 SECTION 628, IS AMENDED TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2015]: Sec. 4.5. (a) A person who knowingly or
 14 intentionally delivers or finances the delivery of any substance, other
 15 than a controlled substance or a drug for which a prescription is
 16 required under federal or state law, that:
 17 (1) is expressly or impliedly represented to be a controlled
 18 substance;
 19 (2) is distributed under circumstances that would lead a
 20 reasonable person to believe that the substance is a controlled
 21 substance; or
 22 (3) by overall dosage unit appearance, including shape, color,
 23 size, markings, or lack of markings, taste, consistency, or any
 24 other identifying physical characteristic of the substance, would
 25 lead a reasonable person to believe the substance is a controlled
 26 substance;
 27 commits dealing in a substance represented to be a controlled
 28 substance, a ~~Level 6~~ **Level 5** felony.
 29 (b) In determining whether representations have been made, subject
 30 to subsection (a)(1), or whether circumstances of distribution exist,
 31 subject to subsection (a)(2), the trier of fact may consider, in addition
 32 to other relevant factors, the following:
 33 (1) Statements made by the owner or other person in control of
 34 the substance, concerning the substance's nature, use, or effect.
 35 (2) Statements made by any person, to the buyer or recipient of
 36 the substance, that the substance may be resold for profit.
 37 (3) Whether the substance is packaged in a manner uniquely used
 38 for the illegal distribution of controlled substances.
 39 (4) Whether:
 40 (A) the distribution included an exchange of, or demand for,
 41 money or other property as consideration; and
 42 (B) the amount of the consideration was substantially greater



- 1 than the reasonable retail market value of the substance.
- 2 SECTION 8. IC 35-48-4-5, AS AMENDED BY P.L.168-2014,
3 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2015]: Sec. 5. A person who:
- 5 (1) knowingly or intentionally:
- 6 (A) creates;
- 7 (B) delivers; or
- 8 (C) finances the delivery of;
- 9 a counterfeit substance; or
- 10 (2) possesses, with intent to:
- 11 (A) deliver; or
- 12 (B) finance the delivery of;
- 13 a counterfeit substance;
- 14 commits dealing in a counterfeit substance, a ~~Level 6~~ **Level 5** felony.
15 However, a person may be convicted of an offense under subsection
16 (a)(2) only if there is evidence in addition to the weight of the
17 counterfeit substance that the person intended to deliver or finance the
18 delivery of the counterfeit substance.
- 19 SECTION 9. IC 35-48-4-10, AS AMENDED BY P.L.168-2014,
20 SECTION 100, IS AMENDED TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A person who:
- 22 (1) knowingly or intentionally:
- 23 (A) manufactures;
- 24 (B) finances the manufacture of;
- 25 (C) delivers; or
- 26 (D) finances the delivery of;
- 27 marijuana, hash oil, hashish, or salvia, pure or adulterated; or
- 28 (2) possesses, with intent to:
- 29 (A) manufacture;
- 30 (B) finance the manufacture of;
- 31 (C) deliver; or
- 32 (D) finance the delivery of;
- 33 marijuana, hash oil, hashish, or salvia, pure or adulterated;
- 34 commits dealing in marijuana, hash oil, hashish, or salvia, a ~~Class A~~
35 ~~misdemeanor~~, **Level 6 felony**, except as provided in subsections (b)
36 through (d).
- 37 (b) A person may be convicted of an offense under subsection (a)(2)
38 only if there is evidence in addition to the weight of the drug that the
39 person intended to manufacture, finance the manufacture of, deliver,
40 or finance the delivery of the drug.
- 41 (c) The offense is a ~~Level 6~~ **Level 5** felony if:
- 42 (1) the person has a prior conviction for a drug offense and the



- 1 amount of the drug involved is:
- 2 (A) less than thirty (30) grams of marijuana; or
- 3 (B) less than five (5) grams of hash oil, hashish, or salvia; or
- 4 (2) the amount of the drug involved is:
- 5 (A) at least thirty (30) grams but less than ten (10) pounds of
- 6 marijuana; or
- 7 (B) at least five (5) grams but less than three hundred (300)
- 8 grams of hash oil, hashish, or salvia.
- 9 (d) The offense is a ~~Level 5~~ **Level 4** felony if:
- 10 (1) the person has a prior conviction for a drug dealing offense
- 11 and the amount of the drug involved is:
- 12 (A) at least thirty (30) grams but less than ten (10) pounds of
- 13 marijuana; or
- 14 (B) at least five (5) grams but less than three hundred (300)
- 15 grams of hash oil, hashish, or salvia; or
- 16 (2) the:
- 17 (A) amount of the drug involved is:
- 18 (i) at least ten (10) pounds of marijuana; or
- 19 (ii) at least three hundred (300) grams of hash oil, hashish,
- 20 or salvia; or
- 21 (B) offense involved a sale to a minor.
- 22 SECTION 10. IC 35-48-4-10.5, AS AMENDED BY P.L.168-2014,
- 23 SECTION 101, IS AMENDED TO READ AS FOLLOWS
- 24 [EFFECTIVE JULY 1, 2015]: Sec. 10.5. (a) A person who:
- 25 (1) manufactures;
- 26 (2) finances the manufacture of;
- 27 (3) delivers;
- 28 (4) finances the delivery of;
- 29 (5) possesses, with intent to deliver; or
- 30 (6) possesses, with intent to finance the delivery of;
- 31 a synthetic drug or a synthetic drug lookalike substance commits
- 32 dealing in a synthetic drug or synthetic drug lookalike substance, a
- 33 ~~Class A infraction~~. **Class C misdemeanor**. However, the offense is a
- 34 ~~Level 6~~ **Level 5** felony if the offense is committed knowingly or
- 35 intentionally and the person has a prior unrelated judgment or
- 36 conviction under this subsection.
- 37 (b) A person may be ~~adjudicated or~~ convicted of an ~~infraction or~~
- 38 offense under subsection (a)(5) or (a)(6) only if there is evidence in
- 39 addition to the weight of the synthetic drug or synthetic drug lookalike
- 40 substance that the person intended to deliver or finance the delivery of
- 41 the synthetic drug or synthetic drug lookalike substance.
- 42 (c) A person who:



- 1 (1) knowingly or intentionally:
 2 (A) manufactures;
 3 (B) finances the manufacture of;
 4 (C) delivers; or
 5 (D) finances the delivery of;
 6 a synthetic drug or synthetic drug lookalike substance; or
 7 (2) possesses, with intent to:
 8 (A) manufacture;
 9 (B) finance the manufacture of;
 10 (C) deliver; or
 11 (D) finance the delivery of;
 12 a synthetic drug or synthetic drug lookalike substance;
 13 commits dealing in a synthetic drug or synthetic drug lookalike
 14 substance, a ~~Class A misdemeanor~~, **Level 6 felony**, except as provided
 15 in subsections (d) through (e).
 16 (d) A person may be convicted of an offense under subsection (c)(2)
 17 only if there is evidence in addition to the weight of the synthetic drug
 18 or synthetic drug lookalike substance that the person intended to
 19 manufacture, finance the manufacture of, deliver, or finance the
 20 delivery of the synthetic drug or synthetic drug lookalike substance.
 21 (e) The offense in subsection (c) is:
 22 (1) a ~~Level 6~~ **Level 5** felony if:
 23 (A) the recipient or intended recipient is less than eighteen
 24 (18) years of age;
 25 (B) the amount involved is more than five (5) grams; or
 26 (C) the person has a prior conviction of an offense involving
 27 a synthetic drug or synthetic drug lookalike substance; and
 28 (2) a ~~Level 5~~ **Level 4** felony if the amount involved is more than
 29 five (5) grams and the person delivered or financed the delivery
 30 of the synthetic drug or synthetic drug lookalike substance:
 31 (A) on a school bus; or
 32 (B) in, on, or within five hundred (500) feet of:
 33 (i) school property; or
 34 (ii) a public park;
 35 while a person under eighteen (18) years of age was
 36 reasonably expected to be present.
 37 (f) In addition to a criminal ~~or civil~~ penalty imposed for a violation
 38 of this section, if the court finds that a person has violated this section
 39 and the violation involved the sale of or offer to sell, in the normal
 40 course of business, a synthetic drug or a synthetic drug lookalike
 41 substance by a retail merchant in a place of business for which the
 42 retail merchant has been issued a registered retail merchant certificate,



1 the court
2 ~~(1)~~ shall recommend the suspension of the registered retail
3 merchant certificate for the place of business for one (1) year if
4 the person's violation of this section resulted in a criminal
5 conviction. ~~and~~
6 ~~(2)~~ may recommend the suspension of the registered retail
7 merchant certificate for the place of business for six (6) months
8 if the person's violation of this section resulted in an adjudication
9 that the person committed an infraction.
10 (g) The department of state revenue shall suspend the registered
11 retail merchant certificate of a retail merchant in accordance with the
12 recommendation of the court. Whenever the department of state
13 revenue is required to suspend a retail merchant's registered retail
14 merchant certificate under this section, the department shall
15 immediately mail a notice to the retail merchant's address that must
16 state that the retail merchant's registered retail merchant certificate will
17 be suspended for the period recommended by the court, commencing
18 five (5) days after the date of the notice.

