



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 197 be amended to read as follows:

- 1 Page 11, between lines 2 and 3, begin a new paragraph and insert:
- 2 "SECTION 4. IC 7.1-3-18.5-9, AS AMENDED BY P.L.49-2020,
- 3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2021]: Sec. 9. A certificate holder shall exercise due diligence
- 5 in the supervision and training of the certificate holder's employees or
- 6 agents in the handling and sale of tobacco products and electronic
- 7 cigarettes on the holder's retail premises. Proof that employees or
- 8 agents of the certificate holder, while in the scope of their employment,
- 9 committed at least six (6) violations relating to ~~IC 35-46-1-10.2(b)~~
- 10 **IC 35-46-1-10.2(c)** in any one (1) year period shall be prima facie
- 11 evidence of a lack of due diligence by the certificate holder in the
- 12 supervision and training of the certificate holder's employees or
- 13 agents."
- 14 Page 21, delete lines 36 through 42.
- 15 Page 22, delete lines 1 through 3, begin a new paragraph and insert:
- 16 "SECTION 16. IC 15-15-13-6.5, AS ADDED BY P.L.190-2019,
- 17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2021]: Sec. 6.5. As used in this chapter, "hemp product"
- 19 means a product derived from, or made by, processing hemp plants or
- 20 plant parts including derivatives, extracts, cannabinoids, isomers, acids,
- 21 salts, and salts of isomers. However, the term does not include

- 1           (1) ~~smokable hemp (as defined by IC 35-48-1-26.6); or~~  
 2           (2) products that contain a total delta-9-tetrahydrocannabinol  
 3           concentration of more than three-tenths of one percent (0.3%) by  
 4           weight.

5           SECTION 17. IC 15-15-13-13, AS AMENDED BY P.L.190-2019,  
 6           SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2021]: Sec. 13. (a) Subject to section 13.5 of this chapter, in  
 8           addition to any other liability or penalty provided by law, the state seed  
 9           commissioner may revoke or refuse to issue or renew a hemp license  
 10          or an agricultural hemp seed production license and may impose a civil  
 11          penalty for a violation of:

- 12           (1) a license requirement;  
 13           (2) license terms or conditions; **or**  
 14           (3) a rule relating to growing or handling hemp. **or**  
 15           (4) ~~section 19 of this chapter.~~

16          (b) The state seed commissioner may not impose a civil penalty  
 17          under this section that exceeds two thousand five hundred dollars  
 18          (\$2,500).

19          (c) The state seed commissioner may revoke or refuse to issue or  
 20          renew a hemp license or an agricultural hemp seed production license  
 21          for a violation of any rule of the state seed commissioner that pertains  
 22          to agricultural operations or activities other than hemp growing or  
 23          handling.

24          (d) Any civil penalties collected under this section shall be  
 25          transferred to the Indiana state department of agriculture and used for  
 26          hemp marketing and research purposes.

27          (e) In addition to payment of any civil penalty imposed under this  
 28          section, a person who commits a violation described in subsection (a)  
 29          shall reimburse the state seed commissioner for any costs incurred by  
 30          the state seed commissioner for laboratory testing of material  
 31          pertaining to the violation.

32          SECTION 18. IC 15-15-13-14, AS AMENDED BY P.L.190-2019,  
 33          SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34          JULY 1, 2021]: Sec. 14. (a) The state seed commissioner shall adopt  
 35          rules under IC 4-22-2 to implement and administer this chapter.

36          (b) The state seed commissioner may adopt emergency rules in the  
 37          manner provided under IC 4-22-2-37.1 to comply with any federal  
 38          requirement under the Agriculture Improvement Act of 2018 to  
 39          implement and administer this chapter.

40          **(c) The state seed commissioner may not adopt or enforce a rule**  
 41          **under this chapter that is more strict than required by federal law**  
 42          **or regulation.**

43          SECTION 19. IC 15-15-13-19 IS REPEALED [EFFECTIVE JULY  
 44          1, 2021]. ~~Sec. 19: (a) Hemp bud (as defined in IC 35-48-1-17.2) and~~  
 45          ~~hemp flower (as defined in IC 35-48-1-17.3) may be sold only to a~~  
 46          ~~processor licensed under this chapter.~~

1 (b) The state seed commissioner may impose a civil penalty under  
2 section 13 of this chapter for a violation of subsection (a):

3 SECTION 20. IC 15-15-13-20, AS ADDED BY P.L.190-2019,  
4 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2021]: Sec. 20. (a) A person who knowingly or intentionally  
6 violates:

- 7 (1) a term, condition, or requirement of a license issued; or
- 8 (2) a rule adopted;

9 under this chapter is subject to a civil penalty, determined by the state  
10 seed commissioner, not to exceed ten thousand dollars (\$10,000) per  
11 violation. The state seed commissioner may also revoke the license of  
12 a person who violates this subsection.

13 (b) A person who knowingly or intentionally:

- 14 (1) grows hemp;
- 15 (2) handles hemp; or
- 16 (3) sells agricultural hemp seed;

17 not including smokable hemp (as defined by IC 35-48-1-26.6); and is  
18 not licensed under this chapter, commits a Class A misdemeanor."

19 Page 24, between lines 10 and 11, begin a new paragraph and insert:

20 "SECTION 24. IC 16-42-2-2 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A food is  
22 considered adulterated under any of the following conditions:

23 (1) If the food bears or contains any poisonous or deleterious  
24 substance that may make the food injurious to health. However,  
25 if the substance is not an added substance, the food is not to be  
26 considered adulterated under this subdivision if the quantity of the  
27 substance in the food does not ordinarily make the food injurious  
28 to health.

29 (2) If:

- 30 (A) the food bears or contains any added poison or added  
31 deleterious substance (other than a poison or a deleterious  
32 substance that is a pesticide chemical in or on a raw  
33 agricultural commodity, a food additive, or a color additive)  
34 that is unsafe within the meaning of section 5 of this chapter;
- 35 (B) the food is a raw agricultural commodity and the food  
36 bears or contains a pesticide chemical that is unsafe under  
37 section 5 of this chapter; or
- 38 (C) the food is or contains a food additive that is unsafe under  
39 section 5 of this chapter.

40 However, when a pesticide chemical is used in or on a raw  
41 agricultural commodity in conformity with an exemption granted  
42 or tolerance prescribed under section 5 of this chapter and the raw  
43 agricultural commodity has been subjected to processing such as  
44 canning, cooking, freezing, dehydrating, or milling, the residue of  
45 the pesticide chemical remaining in or on the processed food,  
46 notwithstanding section 5 of this chapter and clause (C) is not

- 1 considered unsafe if the residue in or on the raw agricultural  
2 commodity has been removed to the extent possible in good  
3 manufacturing practice, and the concentration of the residues in  
4 the processed food, when ready to eat, is not greater than the  
5 tolerance prescribed for the raw agricultural commodity.
- 6 (3) If the food consists in whole or in part of a diseased,  
7 contaminated, filthy, putrid, or decomposed substance or if the  
8 food is otherwise unfit for food.
- 9 (4) If the food has been produced, transported, handled, prepared,  
10 packed, or held under unsanitary conditions or in unsanitary  
11 containers as the result of which the food may have become  
12 contaminated with filth or made diseased, unwholesome, or  
13 injurious to health.
- 14 (5) If the food is, in whole or in part, the product of:
- 15 (A) a diseased animal;  
16 (B) an animal that has died otherwise than by slaughter; or  
17 (C) an animal that has been fed upon the uncooked offal from  
18 a slaughterhouse.
- 19 (6) If the food's container is composed in whole or in part of any  
20 poisonous or deleterious substance that may make the contents  
21 injurious to health.
- 22 (7) If the food has been intentionally subjected to radiation, unless  
23 the use of the radiation was in conformity with a rule or an  
24 exemption in effect under section 5 of this chapter.
- 25 (8) If any valuable constituent has been in whole or in part  
26 omitted or abstracted from the food.
- 27 (9) If any substance has been substituted wholly or in part.
- 28 (10) If damage or inferiority has been concealed in any manner.
- 29 (11) If any substance has been added to the food or mixed or  
30 packed with the food to:
- 31 (A) increase the food's bulk or weight;  
32 (B) reduce the food's quality or strength;  
33 (C) make the food appear better or of greater value than the  
34 food is; or  
35 (D) create a deceptive appearance.
- 36 (12) If the food bears or contains a coal-tar color other than one  
37 from a batch that has been certified by the federal Food and Drug  
38 Administrator, as provided by regulations promulgated under  
39 authority of the Federal Act.
- 40 (13) If the food is a confectionery and has partially or completely  
41 ~~imbedded~~ **embedded** in the food any nonnutritive object.  
42 However, this subdivision does not apply in the case of any  
43 nonnutritive object if, in the judgment of the state department as  
44 provided by rules, the nonnutritive object is of practical,  
45 functional value to the confectionery product and would not make  
46 the product injurious or hazardous to health.

1 (14) If the food is a confectionery and bears or contains any  
2 alcohol other than alcohol not in excess of one-half of one percent  
3 (0.5%) by volume derived solely from the use of flavoring  
4 extracts.

5 (15) If the food is a confectionery and bears or contains any  
6 nonnutritive substance. However, this subdivision does not apply  
7 to a safe, nonnutritive substance if:

8 (A) the nonnutritive substance is in or on a confectionery for  
9 a practical, functional purpose in the manufacture, packaging,  
10 or storing of the confectionery; and

11 (B) the use of the substance does not promote deception of the  
12 consumer or otherwise result in adulteration or misbranding in  
13 violation of any provision of IC 16-42-1 through IC 16-42-4.

14 In addition, the state department may, for the purpose of  
15 avoiding or resolving uncertainty as to the application of this  
16 subdivision, adopt rules allowing or prohibiting the use of  
17 particular nonnutritive substances.

18 (16) If the food falls below the standard of purity, quality, or  
19 strength that the food purports or is represented to possess.

20 (17) If the food is or bears or contains any color additive that is  
21 unsafe under section 5 of this chapter.

22 (b) Subsection (a)(8) and (a)(9) do not prohibit:

23 (1) the removal of butterfat from; or

24 (2) the addition of skim milk to;

25 dairy products that comply with the definitions and standards for dairy  
26 products adopted by the state department.

27 **(c) A food is not considered adulterated for containing low THC  
28 hemp extract (as defined in IC 35-48-1-17.5) or craft hemp flower  
29 (as defined in IC 35-31.5-2-68.8)."**

30 Page 28, between lines 11 and 12, begin a new a paragraph and  
31 insert:

32 "SECTION 30. IC 24-4-23 IS ADDED TO THE INDIANA CODE  
33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2021]:

35 **Chapter 23. Distribution of Craft Hemp Flower**

36 **Sec. 1. As used in this chapter, "certificate of analysis" means**  
37 **a certificate from an independent testing laboratory describing the**  
38 **results of the laboratory's testing of a sample.**

39 **Sec. 2. As used in this chapter, "craft hemp flower" has the**  
40 **meaning set forth in IC 35-31.5-2-68.8.**

41 **Sec. 3. As used in this chapter, "independent testing laboratory"**  
42 **means a laboratory:**

43 (1) with respect to which no person having a direct or indirect  
44 interest in the laboratory also has a direct or indirect interest  
45 in a facility that:

46 (A) processes, distributes, or sells craft hemp flower, or a

- 1 substantially similar substance in another jurisdiction;  
 2 (B) cultivates, processes, distributes, dispenses, or sells  
 3 marijuana;  
 4 (C) cultivates, processes, or distributes hemp; or  
 5 (D) processes, distributes, or sells low THC hemp extract  
 6 (as defined in IC 35-48-1-17.5); and  
 7 (2) that is accredited as a testing laboratory under  
 8 International Organization for Standardization (ISO) 17025  
 9 by a third party accrediting body such as the American  
 10 Association for Laboratory Accreditation (A2LA) or Assured  
 11 Calibration and Laboratory Accreditation Select Services  
 12 (ACLASS).

13 **Sec. 4.** As used in this chapter, "tamper evident packaging"  
 14 means a package having at least one (1) indicator or a barrier to  
 15 entry that, if breached or missing, can reasonably be expected to  
 16 provide visible evidence to consumers that tampering has occurred.

17 **Sec. 5. (a)** Before a person may distribute craft hemp flower, the  
 18 distributor must have a certificate of analysis prepared by an  
 19 independent testing laboratory showing the following:

20 (1) That the craft hemp flower is the product of a batch tested  
 21 by the independent testing laboratory.

22 (2) That the independent testing laboratory determined that  
 23 the batch contained not more than three-tenths percent  
 24 (0.3%) delta-9-tetrahydrocannabinol (THC), including  
 25 precursors, by weight, based on the testing of a random  
 26 sample of the batch.

27 (3) That the batch has been tested for and does not exceed the  
 28 acceptable levels set forth under section 7 of this chapter for  
 29 the following contaminants:

30 (A) Heavy metals, including cadmium, lead, arsenic, and  
 31 mercury.

32 (B) Pesticides.

33 (C) Herbicides.

34 (D) Mycotoxins.

35 (E) Bacterial toxins.

36 (F) Chemical solvent residues.

37 (4) The potency of the craft hemp flower, including the  
 38 projected percentage of:

39 (A) THC;

40 (B) cannabidiol; and

41 (C) other cannabinoids in the craft hemp flower;

42 by weight or volume.

43 (b) Each batch of craft hemp flower submitted to an  
 44 independent testing laboratory under this section must have been  
 45 harvested at the same time and cultivated in a contiguous area in  
 46 the same field or facility.

47 **Sec. 6.** Craft hemp flower must be distributed in tamper evident

- 1 packaging that contains the following information:  
 2 (1) A scannable bar code or QR code linked to a document  
 3 that contains information with respect to the craft hemp  
 4 flower, including the:  
 5 (A) batch identification number;  
 6 (B) product name;  
 7 (C) batch date;  
 8 (D) expiration date, which must be not more than two (2)  
 9 years from the date of harvest;  
 10 (E) batch size;  
 11 (F) total quantity produced;  
 12 (G) ingredients used, including the:  
 13 (i) ingredient name;  
 14 (ii) name of the company that manufactured the  
 15 ingredient;  
 16 (iii) company or product identification number or code,  
 17 if applicable; and  
 18 (iv) ingredient lot number; and  
 19 (H) download link for a certificate of analysis for the craft  
 20 hemp flower.  
 21 (2) The batch number.  
 22 (3) The Internet address of a web site to obtain batch  
 23 information.  
 24 (4) The expiration date, which must be not more than two (2)  
 25 years from the date of harvest.  
 26 (5) The number of grams of craft hemp flower.  
 27 (6) The facility that produced the craft hemp flower.  
 28 (7) The fact that the product contains not more than  
 29 three-tenths percent (0.3%) delta-9-tetrahydrocannabinol  
 30 (THC), including precursors, by weight.  
 31 **Sec. 7. A craft hemp flower may not be distributed if a**  
 32 **certificate of analysis prepared by an independent testing**  
 33 **laboratory shows any of the following:**  
 34 (1) A concentration of metals that is more than any of the  
 35 following:  
 36 (A) Four-tenths (0.4) part per million of cadmium.  
 37 (B) Five-tenths (0.5) part per million of lead.  
 38 (C) Four-tenths (0.4) part per million of arsenic.  
 39 (D) Two-tenths (0.2) part per million of mercury.  
 40 (2) A concentration of microbiological units that is more than  
 41 any of the following:  
 42 (A) One (1) colony forming unit per gram of Shiga-Toxin  
 43 Escherichia coli.  
 44 (B) One (1) colony forming unit per gram of Salmonella  
 45 spp.  
 46 (C) Ten thousand (10,000) colony forming units of  
 47 culturable mold.

- 1           **(3) A concentration of residual solvents and chemicals that is**
- 2           **not more than any of the following:**
- 3           **(A) Five thousand (5,000) parts per million of butane.**
- 4           **(B) Two (2) parts per million of benzene.**
- 5           **(C) Five thousand (5,000) parts per million of heptane.**
- 6           **(D) Two hundred ninety (290) parts per million of hexane.**
- 7           **(E) Eight hundred ninety (890) parts per million of toluene.**
- 8           **(F) One (1) part per million of total xylenes, including**
- 9           **ortho-xylene, meta-xylene, and para-xylene.**

10           **Sec. 8. (a) A person in a motor vehicle who, while the motor**  
 11 **vehicle is in operation or the motor vehicle is located on the**  
 12 **right-of-way of a public highway, possesses a container that**  
 13 **contains craft hemp flower, and:**

- 14           **(1) the container does not have tamper evident packaging; or**
  - 15           **(2) the tamper evident packaging has a broken seal;**
- 16 **commits a Class C infraction.**

17           **(b) A violation of this section is not considered a moving traffic**  
 18 **violation:**

- 19           **(1) for purposes of IC 9-14-12-3; and**
- 20           **(2) for which points are assessed by the bureau under the**
- 21           **point system.**

22 **Sec. 9. (a) A person who distributes or sells craft hemp flower in**  
 23 **violation of this chapter commits a Class B infraction. However,**  
 24 **the offense is a Class A infraction if the person has a prior**  
 25 **unrelated judgment for a violation of this chapter.**

26           **(b) The penalties in this section are in addition to any criminal**  
 27 **penalties that may be imposed for unlawful possession or**  
 28 **distribution of a controlled substance."**

29           Page 35, between lines 35 and 36, begin a new paragraph and insert:

30           "SECTION 41. IC 35-31.5-2-68.8 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2021]: **Sec. 68.8. (a) "Craft hemp flower"**  
 33 **means the harvested reproductive organ, whether immature or**  
 34 **mature, of the female Cannabis sativa L. plant containing not more**  
 35 **than three-tenths percent (0.3%) delta-9-tetrahydrocannabinol**  
 36 **(THC), including precursors of THC, in a form that is intended to**  
 37 **allow THC to be introduced into the human body by inhalation of**  
 38 **smoke.**

39           **(b) The term does not include agricultural hemp seed (as defined**  
 40 **in IC 15-15-13-2).**

41           SECTION 42. IC 35-31.5-2-100, AS AMENDED BY P.L.49-2020,  
 42 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 43 JULY 1, 2021]: **Sec. 100. (a) "Distribute", for purposes of**  
 44 **IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.**

45           **(b) "Distribute", for purposes of IC 35-46-1-10, has the meaning set**  
 46 **forth in ~~IC 35-46-1-10(f)~~. IC 35-46-1-10(a).**



1 (c) "Distribute", for purposes of IC 35-46-1-10.2, has the meaning  
2 set forth in ~~IC 35-46-1-10.2(g)~~. **IC 35-46-1-10.2(a)**.

3 (d) "Distribute", for purposes of IC 35-47.5, has the meaning set  
4 forth in IC 35-47.5-2-6.

5 (e) "Distribute", for purposes of IC 35-48, has the meaning set forth  
6 in IC 35-48-1-14.

7 (f) "Distribute", for purposes of IC 35-49, has the meaning set forth  
8 in IC 35-49-1-2."

9 Page 84, between lines 34 and 35, begin a new paragraph and insert:  
10 "SECTION 97. IC 35-46-1-10, AS AMENDED BY THE  
11 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL  
12 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2021]: Sec. 10. **(a) As used in this section, "distribute"**  
14 **means to give tobacco, craft hemp flower, an e-liquid, or an**  
15 **electronic cigarette to another person as a means of promoting,**  
16 **advertising, or marketing the tobacco, craft hemp flower, e-liquid,**  
17 **or electronic cigarette to the general public.**

18 ~~(a)~~ **(b)** A person may not be charged with a violation under this  
19 section and a violation under IC 7.1-7-6-5.

20 ~~(b)~~ **(c)** A person who knowingly:

21 (1) sells or distributes tobacco, **craft hemp flower**, an e-liquid, or  
22 an electronic cigarette to a person less than twenty-one (21) years  
23 of age; or

24 (2) purchases tobacco, **craft hemp flower**, an e-liquid, or an  
25 electronic cigarette for delivery to another person who is less than  
26 twenty-one (21) years of age;

27 commits a Class C infraction. For a sale to take place under this  
28 section, the buyer must pay the seller for the tobacco, ~~product~~, **craft**  
29 **hemp flower**, the e-liquid, or the electronic cigarette.

30 ~~(c)~~ **(d)** It is not a defense that the person to whom the tobacco, **craft**  
31 **hemp flower**, the e-liquid, or electronic cigarette was sold or  
32 distributed did not smoke, chew, inhale, or otherwise consume the  
33 tobacco, **craft hemp flower**, e-liquid, or the electronic cigarette.

34 ~~(d)~~ **(e)** The following defenses are available to a person accused of  
35 selling or distributing tobacco, **craft hemp flower**, an e-liquid, or an  
36 electronic cigarette to a person who is less than twenty-one (21) years  
37 of age:

38 (1) The buyer or recipient produced a driver's license bearing the  
39 purchaser's or recipient's photograph, showing that the purchaser  
40 or recipient was of legal age to make the purchase.

41 (2) The buyer or recipient produced a photographic identification  
42 card issued under IC 9-24-16-1, or a similar card issued under the  
43 laws of another state or the federal government, showing that the  
44 purchaser or recipient was of legal age to make the purchase.

45 (3) The appearance of the purchaser or recipient was such that an  
46 ordinary prudent person would believe that the purchaser or

- 1 recipient was not less than thirty (30) years of age.
- 2 (e) (f) It is a defense that the accused person sold or delivered the  
3 tobacco, **craft hemp flower**, e-liquid, or electronic cigarette to a  
4 person who acted in the ordinary course of employment or a business  
5 concerning tobacco, **craft hemp flower**, an e-liquid, or electronic  
6 cigarettes including the following activities:
- 7 (1) Agriculture.
  - 8 (2) Processing.
  - 9 (3) Transporting.
  - 10 (4) Wholesaling.
  - 11 (5) Retailing.
- 12 (f) ~~As used in this section, "distribute" means to give tobacco, an~~  
13 ~~e-liquid, or an electronic cigarette to another person as a means of~~  
14 ~~promoting, advertising, or marketing the tobacco, e-liquid, or electronic~~  
15 ~~cigarette to the general public.~~
- 16 (g) Unless the person buys or receives tobacco, **craft hemp flower**,  
17 an e-liquid, or an electronic cigarette under the direction of a law  
18 enforcement officer as part of an enforcement action, a person who  
19 sells or distributes tobacco, **craft hemp flower**, an e-liquid, or an  
20 electronic cigarette is not liable for a violation of this section unless the  
21 person less than twenty-one (21) years of age who bought or received  
22 the tobacco, **craft hemp flower**, e-liquid, or electronic cigarette is  
23 issued a citation or summons under section 10.5 of this chapter.
- 24 (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected under  
25 this section must be deposited in the Richard D. Doyle youth tobacco  
26 education and enforcement fund (IC 7.1-6-2-6).
- 27 SECTION 98. IC 35-46-1-10.2, AS AMENDED BY THE  
28 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL  
29 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2021]: Sec. 10.2. (a) **As used in this section, "distribute"**  
31 **means to give tobacco, craft hemp flower, an e-liquid, or an**  
32 **electronic cigarette to another person as a means of promoting,**  
33 **advertising, or marketing the tobacco, craft hemp flower, e-liquid,**  
34 **or electronic cigarette to the general public.**
- 35 (a) (b) A person may not be charged with a violation under this  
36 section and a violation under IC 7.1-7-6-5.
- 37 (b) (c) A retail establishment that sells or distributes tobacco, **craft**  
38 **hemp flower**, an e-liquid, or an electronic cigarette to a person less  
39 than twenty-one (21) years of age commits a Class C infraction. For a  
40 sale to take place under this section, the buyer must pay the retail  
41 establishment for the tobacco, ~~product~~; **craft hemp flower**, an e-liquid,  
42 or electronic cigarette.
- 43 (e) (d) Notwithstanding IC 34-28-5-4(c), a civil judgment for an  
44 infraction committed under this section must be imposed as follows:
- 45 (1) If the retail establishment at that specific business location has  
46 not been issued a citation or summons for a violation of this

- 1 section in the previous one (1) year, a civil penalty of up to four
- 2 hundred dollars (\$400).
- 3 (2) If the retail establishment at that specific business location has
- 4 had one (1) citation or summons issued for a violation of this
- 5 section in the previous one (1) year, a civil penalty of up to eight
- 6 hundred dollars (\$800).
- 7 (3) If the retail establishment at that specific business location has
- 8 had two (2) citations or summonses issued for a violation of this
- 9 section in the previous one (1) year, a civil penalty of up to one
- 10 thousand four hundred dollars (\$1,400).
- 11 (4) If the retail establishment at that specific business location has
- 12 had three (3) or more citations or summonses issued for a
- 13 violation of this section in the previous one (1) year, a civil
- 14 penalty of up to two thousand dollars (\$2,000).

15 A retail establishment may not be issued a citation or summons for a  
 16 violation of this section more than once every twenty-four (24) hours  
 17 for each specific business location.

18 ~~(d)~~ (e) It is not a defense that the person to whom the tobacco, **craft**  
 19 **hemp flower**, an e-liquid, or electronic cigarette was sold or distributed  
 20 did not smoke, chew, inhale, or otherwise consume the tobacco, **craft**  
 21 **hemp flower**, e-liquid, or electronic cigarette.

22 ~~(e)~~ (f) The following defenses are available to a retail establishment  
 23 accused of selling or distributing tobacco, **craft hemp flower**, an  
 24 e-liquid, or an electronic cigarette to a person who is less than  
 25 twenty-one (21) years of age:

- 26 (1) The buyer or recipient produced a driver's license bearing the
- 27 purchaser's or recipient's photograph showing that the purchaser
- 28 or recipient was of legal age to make the purchase.
- 29 (2) The buyer or recipient produced a photographic identification
- 30 card issued under IC 9-24-16-1 or a similar card issued under the
- 31 laws of another state or the federal government showing that the
- 32 purchaser or recipient was of legal age to make the purchase.
- 33 (3) The appearance of the purchaser or recipient was such that an
- 34 ordinary prudent person would believe that the purchaser or
- 35 recipient was not less than thirty (30) years of age.

36 ~~(f)~~ (g) It is a defense that the accused retail establishment sold or  
 37 delivered the tobacco, **craft hemp flower**, e-liquid, or electronic  
 38 cigarette to a person who acted in the ordinary course of employment  
 39 or a business concerning tobacco, **craft hemp flower**, an e-liquid, or  
 40 electronic cigarettes for the following activities:

- 41 (1) Agriculture.
- 42 (2) Processing.
- 43 (3) Transporting.
- 44 (4) Wholesaling.
- 45 (5) Retailing.

46 ~~(g)~~ As used in this section, "distribute" means to give tobacco, an

1 e-liquid, or an electronic cigarette to another person as a means of  
2 promoting, advertising, or marketing the tobacco or electronic cigarette  
3 to the general public.

4 (h) Unless a person buys or receives tobacco, **craft hemp flower**,  
5 an e-liquid, or an electronic cigarette under the direction of a law  
6 enforcement officer as part of an enforcement action, a retail  
7 establishment that sells or distributes tobacco, **craft hemp flower**, an  
8 e-liquid, or an electronic cigarette is not liable for a violation of this  
9 section unless the person less than twenty-one (21) years of age who  
10 bought or received the tobacco, **craft hemp flower**, an e-liquid, or  
11 electronic cigarette is issued a citation or summons under section 10.5  
12 of this chapter.

13 (i) Notwithstanding IC 34-28-5-5(c), civil penalties collected under  
14 this section must be deposited in the Richard D. Doyle youth tobacco  
15 education and enforcement fund (IC 7.1-6-2-6).

16 (j) A person who violates subsection ~~(b)~~ (c) at least six (6) times in  
17 any one (1) year commits habitual illegal sale of tobacco, a Class B  
18 infraction.

19 SECTION 99. IC 35-46-1-10.5, AS AMENDED BY P.L.49-2020,  
20 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2021]: Sec. 10.5. (a) A person less than twenty-one (21) years  
22 of age who:

- 23 (1) purchases tobacco, **craft hemp flower**, an e-liquid, or an  
24 electronic cigarette;
- 25 (2) accepts tobacco, **craft hemp flower**, an e-liquid, or an  
26 electronic cigarette for personal use; or
- 27 (3) possesses tobacco, **craft hemp flower**, an e-liquid, or an  
28 electronic cigarette on the person's person;

29 commits a Class C infraction.

30 (b) It is a defense under subsection (a) that the accused person acted  
31 in the ordinary course of employment in a business concerning tobacco,  
32 **craft hemp flower**, an e-liquid, or an electronic cigarette for the  
33 following activities:

- 34 (1) Agriculture.
- 35 (2) Processing.
- 36 (3) Transporting.
- 37 (4) Wholesaling.
- 38 (5) Retailing."

39 Page 87, delete lines 3 through 42, begin a new paragraph and  
40 insert:

41 "SECTION 102. IC 35-48-1-9.3, AS AMENDED BY P.L.80-2019,  
42 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
43 JULY 1, 2021]: Sec. 9.3. (a) "Controlled substance analog" means a  
44 substance that, due to its chemical structure and potential for abuse or  
45 misuse, meets the following criteria:

- 46 (1) The substance is substantially similar to a controlled substance

- 1 classified under IC 35-48-2.
- 2 (2) The substance has a narcotic, stimulant, depressant, or  
3 hallucinogenic effect on the central nervous system or is  
4 represented or intended to have a narcotic, stimulant, depressant,  
5 or hallucinogenic effect on the central nervous system  
6 substantially similar to or greater than that of a controlled  
7 substance classified under IC 35-48-2.
- 8 (b) The definition set forth in subsection (a) does not include:
- 9 (1) a controlled substance;
- 10 (2) a legend drug;
- 11 (3) a substance for which there is an approved new drug  
12 application;
- 13 (4) any compound, mixture, or preparation that contains any  
14 controlled substance, that is not for administration to a human  
15 being or an animal, and that is packaged in a form or  
16 concentration, or with adulterants or denaturants, such that as  
17 packaged it does not present any significant potential for abuse;
- 18 ~~or~~
- 19 (5) a substance to which an investigational exemption applies  
20 under Section 505 of the federal Food, Drug and Cosmetic Act  
21 (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), but only to the  
22 extent that conduct with respect to the substance is pursuant to the  
23 exemption; ~~or~~
- 24 (6) low THC hemp extract; **or**
- 25 **(7) craft hemp flower.**
- 26 (c) For purposes of subsection (a), "substantially similar", as it  
27 applies to the chemical structure of a substance, means that the  
28 chemical structure of the substance, when compared to the structure of  
29 a controlled substance, has a single difference in the structural formula  
30 that substitutes one (1) atom or functional group for another, including:
- 31 (1) one (1) halogen for another halogen;
- 32 (2) one (1) hydrogen for a halogen;
- 33 (3) one (1) halogen for a hydrogen; or
- 34 (4) an alkyl group added or deleted:
- 35 (A) as a side chain to or from a molecule; or
- 36 (B) from a side chain of a molecule.
- 37 SECTION 103. IC 35-48-1-10.5 IS ADDED TO THE INDIANA  
38 CODE AS A NEW SECTION TO READ AS FOLLOWS  
39 [EFFECTIVE JULY 1, 2021]: **Sec. 10.5. "Craft hemp flower" has**  
40 **the meaning set forth in IC 35-31.5-2-68.8.**
- 41 SECTION 104. IC 35-48-1-16.8, AS ADDED BY P.L.153-2018,  
42 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
43 JULY 1, 2021]: Sec. 16.8. "Hashish" does not include:
- 44 (1) low THC hemp extract; **or**
- 45 **(2) craft hemp flower.**
- 46 SECTION 105. IC 35-48-1-17.2 IS REPEALED [EFFECTIVE

1 JULY 1, 2021]. Sec. 17.2: (a) "Hemp bud" means the harvested  
2 immature reproductive organ of the female hemp plant.  
3 (b) The term does not include agricultural hemp seed.  
4 SECTION 106. IC 35-48-1-17.3 IS REPEALED [EFFECTIVE  
5 JULY 1, 2021]. Sec. 17.3: (a) "Hemp flower" means the harvested  
6 reproductive organ, whether immature or mature, of the female hemp  
7 plant.  
8 (b) The term does not include agricultural hemp seed."  
9 Page 88, delete lines 1 through 17, begin a new paragraph and  
10 insert:  
11 "SECTION 107. IC 35-48-1-17.5, AS AMENDED BY  
12 P.L.190-2019, SECTION 28, IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 17.5. (a) "Low THC  
14 hemp extract" means a substance or compound that:  
15 (1) is derived from or contains any part of the plant Cannabis  
16 sativa L. that meets the definition of hemp under IC 15-15-13-6;  
17 (2) contains not more than three-tenths percent (0.3%) total  
18 delta-9-tetrahydrocannabinol (THC), including precursors, by  
19 weight; and  
20 (3) contains no other controlled substances.  
21 (b) The term does not include:  
22 (1) the harvested reproductive organ, whether immature or  
23 mature, of the female hemp plant; or  
24 (2) ~~smokable hemp~~: **craft hemp flower**.  
25 SECTION 108. IC 35-48-1-19, AS AMENDED BY P.L.190-2019,  
26 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2021]: Sec. 19. (a) "Marijuana" means any part of the plant  
28 genus Cannabis whether growing or not; the seeds thereof; the resin  
29 extracted from any part of the plant, including hashish and hash oil; any  
30 compound, manufacture, salt, derivative, mixture, or preparation of the  
31 plant, its seeds or resin.  
32 (b) The term does not include:  
33 (1) the mature stalks of the plant;  
34 (2) fiber produced from the stalks;  
35 (3) oil or cake made from the seeds of the plant;  
36 (4) any other compound, manufacture, salt, derivative, mixture,  
37 or preparation of the mature stalks (except the resin extracted  
38 therefrom);  
39 (5) the sterilized seed of the plant which is incapable of  
40 germination;  
41 (6) hemp (as defined by IC 15-15-13-6);  
42 (7) low THC hemp extract; or  
43 (8) ~~smokable hemp~~: **craft hemp flower**.  
44 SECTION 109. IC 35-48-1-26.6 IS REPEALED [EFFECTIVE  
45 JULY 1, 2021]. Sec. 26.6: (a) Except as provided in subsection (b);  
46 "smokable hemp" means a product containing not more than

1 three-tenths percent (0.3%) delta-9-tetrahydrocannabinol (THC);  
2 including precursors and derivatives of THC, in a form that allows  
3 THC to be introduced into the human body by inhalation of smoke. The  
4 term includes:

- 5 (1) hemp bud; and
- 6 (2) hemp flower.

7 (b) The term does not include:

- 8 (1) a hemp plant that is; or
- 9 (2) parts of a hemp plant that are;

10 grown or handled by a licensee for processing or manufacturing into a  
11 legal hemp product.

12 SECTION 110. IC 35-48-4-10.1 IS REPEALED [EFFECTIVE  
13 JULY 1, 2021]. Sec. 10.1. (a) A person who:

14 (1) knowingly or intentionally:

- 15 (A) manufactures;
- 16 (B) finances the manufacture of;
- 17 (C) delivers;
- 18 (D) finances the delivery of; or
- 19 (E) possesses;

20 smokable hemp; or

21 (2) possesses smokable hemp with intent to:

- 22 (A) manufacture;
- 23 (B) finance the manufacture of;
- 24 (C) deliver; or
- 25 (D) finance the delivery of;

26 smokable hemp;

27 commits dealing in smokable hemp, a Class A misdemeanor.

28 (b) Subsection (a)(1)(B); (a)(1)(D); (a)(2)(B); and (a)(2)(D) do not  
29 apply to:

30 (1) a financial institution organized or reorganized under the laws  
31 of Indiana, any other state, or the United States; or

32 (2) any agency or instrumentality of the state or the United States.

33 (c) Subsection (a)(1)(C); (a)(1)(D); (a)(1)(E); (a)(2)(C); and  
34 (a)(2)(D) do not apply to the shipment of smokable hemp from a  
35 licensed producer in another state in continuous transit through Indiana  
36 to a licensed handler in any state.

37 SECTION 111. IC 35-48-4-12, AS AMENDED BY P.L.142-2020,  
38 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

39 JULY 1, 2021]: Sec. 12. If a person who has no prior conviction of an  
40 offense under this article relating to controlled substances pleads guilty  
41 to possession of marijuana, hashish, or salvia or smokable hemp as a  
42 misdemeanor, the court, without entering a judgment of conviction and  
43 with the consent of the person, may defer further proceedings and place  
44 the person in the custody of the court under conditions determined by  
45 the court. Upon violation of a condition of the custody, the court may  
46 enter a judgment of conviction. However, if the person fulfills the

1 conditions of the custody, the court shall dismiss the charges against  
2 the person. There may be only one (1) dismissal under this section with  
3 respect to a person."

4 Renumber all SECTIONS consecutively.  
(Reference is to ESB 197 as printed April 1, 2021.)

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Representative Teshka