

HOUSE BILL No. 1046

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-15-13; IC 35-48.

Synopsis: Hemp flower. Removes smokable hemp as a crime. Legalizes all parts of the hemp plant for the purposes of agricultural production.

Effective: July 1, 2021.

Lucas

January 4, 2021, read first time and referred to Committee on Courts and Criminal Code.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1046

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 15-15-13-6.5, AS ADDED BY P.L.190-2019,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 6.5. As used in this chapter, "hemp product"
4 means a product derived from, or made by, processing hemp plants or
5 plant parts including derivatives, extracts, cannabinoids, isomers, acids,
6 salts, and salts of isomers. However, the term does not include
7 ~~(1) smokable hemp (as defined by IC 35-48-1-26.6); or~~
8 ~~(2) products that contain a total delta-9-tetrahydrocannabinol~~
9 ~~concentration of more than three-tenths of one percent (0.3%) by~~
10 ~~weight.~~

11 SECTION 2. IC 15-15-13-13, AS AMENDED BY P.L.190-2019,
12 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2021]: Sec. 13. (a) Subject to section 13.5 of this chapter, in
14 addition to any other liability or penalty provided by law, the state seed
15 commissioner may revoke or refuse to issue or renew a hemp license
16 or an agricultural hemp seed production license and may impose a civil
17 penalty for a violation of:



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

5 (b) The state seed commissioner may not impose a civil penalty
 6 under this section that exceeds two thousand five hundred dollars
 7 (\$2,500).

8 (c) The state seed commissioner may revoke or refuse to issue or
 9 renew a hemp license or an agricultural hemp seed production license
 10 for a violation of any rule of the state seed commissioner that pertains
 11 to agricultural operations or activities other than hemp growing or
 12 handling.

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

16 (e) In addition to payment of any civil penalty imposed under this
 17 section, a person who commits a violation described in subsection (a)
 18 shall reimburse the state seed commissioner for any costs incurred by
 19 the state seed commissioner for laboratory testing of material
 20 pertaining to the violation.

21 SECTION 3. IC 15-15-13-19 IS REPEALED [EFFECTIVE JULY
 22 1, 2021]. ~~Sec. 19: (a) Hemp bud (as defined in IC 35-48-1-17.2) and~~
 23 ~~hemp flower (as defined in IC 35-48-1-17.3) may be sold only to a~~
 24 ~~processor licensed under this chapter.~~

25 ~~(b) The state seed commissioner may impose a civil penalty under~~
 26 ~~section 13 of this chapter for a violation of subsection (a).~~

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

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

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

37 (b) A person who knowingly or intentionally:

- 38 (1) grows hemp;
 39 (2) handles hemp; or
 40 (3) sells agricultural hemp seed;

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



1 SECTION 5. IC 35-48-1-17.2 IS REPEALED [EFFECTIVE JULY
2 1, 2021]. Sec. 17.2: (a) "Hemp bud" means the harvested immature
3 reproductive organ of the female hemp plant:

4 (b) The term does not include agricultural hemp seed.

5 SECTION 6. IC 35-48-1-17.3 IS REPEALED [EFFECTIVE JULY
6 1, 2021]. Sec. 17.3: (a) "Hemp flower" means the harvested
7 reproductive organ, whether immature or mature, of the female hemp
8 plant:

9 (b) The term does not include agricultural hemp seed.

10 SECTION 7. IC 35-48-1-17.5, AS AMENDED BY P.L.190-2019,
11 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2021]: Sec. 17.5. (a) "Low THC hemp extract" means a
13 substance or compound that:

14 (1) is derived from or contains any part of the plant *Cannabis*
15 *sativa* L. that meets the definition of hemp under IC 15-15-13-6;

16 (2) contains not more than three-tenths percent (0.3%) total
17 delta-9-tetrahydrocannabinol (THC), including precursors, by
18 weight; and

19 (3) contains no other controlled substances.

20 (b) The term does not include

21 (1) the harvested reproductive organ, whether immature or
22 mature, of the female hemp plant. ~~or~~

23 (2) smokable hemp.

24 SECTION 8. IC 35-48-1-19, AS AMENDED BY P.L.190-2019,
25 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2021]: Sec. 19. (a) "Marijuana" means any part of the plant
27 genus *Cannabis* whether growing or not; the seeds thereof; the resin
28 extracted from any part of the plant, including hashish and hash oil; any
29 compound, manufacture, salt, derivative, mixture, or preparation of the
30 plant, its seeds or resin.

31 (b) The term does not include:

32 (1) the mature stalks of the plant;

33 (2) fiber produced from the stalks;

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

35 (4) any other compound, manufacture, salt, derivative, mixture,
36 or preparation of the mature stalks (except the resin extracted
37 therefrom);

38 (5) the sterilized seed of the plant which is incapable of
39 germination;

40 (6) hemp (as defined by IC 15-15-13-6); ~~or~~

41 (7) low THC hemp extract. ~~or~~

42 (8) smokable hemp.



1 SECTION 9. IC 35-48-1-26.6 IS REPEALED [EFFECTIVE JULY
2 1, 2021]. Sec. 26.6: (a) Except as provided in subsection (b), "smokable
3 hemp" means a product containing not more than three-tenths percent
4 (0.3%) delta-9-tetrahydrocannabinol (THC), including precursors and
5 derivatives of THC; in a form that allows THC to be introduced into the
6 human body by inhalation of smoke. The term includes:

7 (1) hemp bud; and

8 (2) hemp flower.

9 (b) The term does not include:

10 (1) a hemp plant that is; or

11 (2) parts of a hemp plant that are;

12 grown or handled by a licensee for processing or manufacturing into a
13 legal hemp product.

14 SECTION 10. IC 35-48-4-10.1 IS REPEALED [EFFECTIVE JULY
15 1, 2021]. Sec. 10.1: (a) A person who:

16 (1) knowingly or intentionally:

17 (A) manufactures;

18 (B) finances the manufacture of;

19 (C) delivers;

20 (D) finances the delivery of; or

21 (E) possesses;

22 smokable hemp; or

23 (2) possesses smokable hemp with intent to:

24 (A) manufacture;

25 (B) finance the manufacture of;

26 (C) deliver; or

27 (D) finance the delivery of;

28 smokable hemp;

29 commits dealing in smokable hemp; a Class A misdemeanor.

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

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

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

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

39 SECTION 11. IC 35-48-4-12, AS AMENDED BY P.L.142-2020,
40 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2021]: Sec. 12. If a person who has no prior conviction of an
42 offense under this article relating to controlled substances pleads guilty



1 to possession of marijuana, hashish, ~~or salvia or smokable hemp~~ as a
2 misdemeanor, the court, without entering a judgment of conviction and
3 with the consent of the person, may defer further proceedings and place
4 the person in the custody of the court under conditions determined by
5 the court. Upon violation of a condition of the custody, the court may
6 enter a judgment of conviction. However, if the person fulfills the
7 conditions of the custody, the court shall dismiss the charges against
8 the person. There may be only one (1) dismissal under this section with
9 respect to a person.

