

## HOUSE BILL No. 1130

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-42-28; IC 35-48-4-11.

**Synopsis:** Out-of-state drug prescriptions. Provides that if a patient legally obtains a drug containing marijuana, hash oil, hashish, or salvia in a state, territory, or possession of the United States other than Indiana through a prescription from a licensed physician acting in the course of the physician's professional medical practice and dispensed by a licensed pharmacist or other licensed dispenser, the patient may possess marijuana, hash oil, hashish, or salvia subject to certain requirements and limitations.

**Effective:** July 1, 2019.

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**Judy**

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January 7, 2019, read first time and referred to Committee on Public Health.

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Introduced

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1130

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A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

1 SECTION 1. IC 16-18-2-101 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 101. (a) "Drug", for  
3 purposes of IC 16-42-1 through IC 16-42-4, means the following:

4 (1) Articles recognized in the official United States  
5 Pharmacopoeia, official Homeopathic Pharmacopoeia of the  
6 United States, or official National Formulary, or any supplement  
7 to any of them.

8 (2) Articles intended for use in the diagnosis, cure, mitigation,  
9 treatment, or prevention of disease in man or other animals.

10 (3) Articles other than food intended to affect the structure or any  
11 function of the body of man or other animals.

12 (4) Articles intended for use as a component of any article  
13 specified in subdivision (1), (2), or (3).

14 The term does not include devices or their components, parts, or  
15 accessories.

16 (b) "Drug", for purposes of IC 16-42-19, has the meaning set forth  
17 in IC 16-42-19-2.



(c) "Drug", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-1.

SECTION 2. IC 16-18-2-272, AS AMENDED BY P.L.153-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has the meaning set forth in IC 16-27-1-6.

(b) "Patient", for purposes of IC 16-28 and IC 16-29, means an individual who has been accepted and assured care by a health facility.

(c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth in IC 16-36-1.5-3.

(d) "Patient", for purposes of IC 16-39, means an individual who has received health care services from a provider for the examination, treatment, diagnosis, or prevention of a physical or mental condition.

(e) "Patient", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-2.

SECTION 3. IC 16-18-2-282, AS AMENDED BY P.L.153-2018, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 282. (a) "Physician", except as provided in subsections (b), **and** (c), **and** (d), means a licensed physician (as defined in section 202 of this chapter).

(b) "Physician", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-7.

(c) "Physician", for purposes of IC 16-37-1-3.1 and IC 16-37-3-5, means an individual who:

(1) was the physician last in attendance (as defined in section 282.2 of this chapter); or

(2) is licensed under IC 25-22.5.

(d) "Physician", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-3.

(d) (e) "Physician", for purposes of IC 16-48-1, is subject to IC 16-48-1-2.

SECTION 4. IC 16-18-2-292 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 292. **(a)** "Prescription", for purposes of IC 16-42-19, has the meaning set forth in IC 16-42-19-7.

**(b) "Prescription", for purposes of IC 16-42-28, has the meaning set forth in IC 16-42-28-4.**

SECTION 5. IC 16-42-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]:

## Chapter 28. Out-of-State Medical Marijuana Prescriptions

**Sec. 1. As used in this chapter, "drug" means an article or**



1       **substance that contains marijuana, hash oil, hashish, or salvia and**  
2       **is intended:**

3           **(1) for use in the cure, mitigation, treatment, or prevention of**  
4           **disease in human beings; or**  
5           **(2) to affect the structure or any function of the body of**  
6           **human beings.**

7       **Sec. 2. As used in this chapter, "patient" means an individual**  
8       **who has been examined and diagnosed by a physician for a medical**  
9       **condition.**

10      **Sec. 3. As used in this chapter, "physician" means a physician**  
11      **who is licensed to practice medicine as a physician in a state,**  
12      **territory, or possession of the United States other than Indiana.**

13      **Sec. 4. As used in this chapter, "prescription" means a written**  
14      **or electronic order or recommendation to or for a patient for a**  
15      **drug containing:**

16           **(1) the name and address of the patient;**  
17           **(2) the name and strength or size of the drug;**  
18           **(3) the amount to be dispensed;**  
19           **(4) adequate directions for the proper use of the drug by the**  
20           **patient; and**  
21           **(5) the name of the physician;**

22      **issued and signed by a physician.**

23      **Sec. 5. Notwithstanding IC 35-48-4-11, if a patient legally**  
24      **obtains a drug in a state, territory, or possession of the United**  
25      **States other than Indiana through a prescription from a physician**  
26      **acting in the course of the physician's professional medical**  
27      **practice, and the drug is dispensed by a licensed pharmacist or**  
28      **other licensed dispenser, the patient may possess not more than the**  
29      **amount of the drug dispensed under the prescription. Even if the**  
30      **amount dispensed under the prescription is greater than the**  
31      **following amounts, the patient may not possess more than the**  
32      **following:**

33           **(1) Thirty (30) grams of marijuana.**  
34           **(2) Five (5) grams of hash oil, hashish, or salvia.**

35      **SECTION 6. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,**  
36      **SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**  
37      **JULY 1, 2019]: Sec. 11. (a) A person who:**

38           **(1) knowingly or intentionally possesses (pure or adulterated)**  
39           **marijuana, hash oil, hashish, or salvia;**  
40           **(2) knowingly or intentionally grows or cultivates marijuana; or**  
41           **(3) knowing that marijuana is growing on the person's premises,**  
42           **fails to destroy the marijuana plants;**



1       commits possession of marijuana, hash oil, hashish, or salvia, a Class  
2       B misdemeanor, except as provided in subsections (b) through (c).

3       (b) The offense described in subsection (a) is a Class A  
4       misdemeanor if:

5           (1) the person has a prior conviction for a drug offense; or  
6           (2) the:  
7               (A) marijuana, hash oil, hashish, or salvia is packaged in a  
8               manner that appears to be low THC hemp extract; and  
9               (B) person knew or reasonably should have known that the  
10              product was marijuana, hash oil, hashish, or salvia.

11       (c) The offense described in subsection (a) is a Level 6 felony if:

12           (1) the person has a prior conviction for a drug offense; and  
13           (2) the person possesses:  
14               (A) at least thirty (30) grams of marijuana; or  
15               (B) at least five (5) grams of hash oil, hashish, or salvia.

16       (d) **The offense described in this section is subject to  
17       IC 16-42-28.**

