

HOUSE BILL No. 1224

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5; IC 7.1-3-18.5-9; IC 15-15-13; IC 16-42-2-2; IC 24-4-23; IC 35-31.5-2; IC 35-46-1; IC 35-48.

Synopsis: Craft hemp flower and hemp production. Requires a modified retail merchant's certificate for a merchant that sells craft hemp flower. Provides that the information on a modified retail merchant's certificate application submitted under this section is confidential and is not subject to public inspection or copying. Excludes craft hemp flower from the definition of "hemp product". Removes references to smokable hemp. Provides that the state seed commissioner may not adopt or enforce a rule that is more strict than required under federal law or regulation. Repeals a law that requires that a hemp bud or a hemp flower be sold only to a processor licensed in Indiana. Exempts a person who knowingly or intentionally grows or handles craft hemp flower without a license from the penalty of growing or handling hemp without a license. Provides that a food is not considered adulterated for containing low THC hemp extract or craft hemp flower. Creates contaminant testing and packaging requirements for the distribution and sale of craft hemp flower. Makes it a Class C infraction if a person knowingly: (1) sells or distributes craft hemp flower to a person less than 21 years of age; and (2) purchases craft hemp flower for delivery to another person who is less than 21 years of age. Provides that a retail establishment that sells or distributes craft
(Continued next page)

Effective: July 1, 2021.

**Eberhart, Karickhoff, Bartels,
Moed**

January 14, 2021, read first time and referred to Committee on Commerce, Small Business and Economic Development.



Digest Continued

hemp flower to a person less than 21 years of age commits a Class C infraction. Makes it a Class C infraction if a person less than 21 years of age: (1) purchases craft hemp flower; (2) accepts craft hemp flower for personal use; or (3) possesses craft hemp flower on his or her person. Defines "craft hemp flower". Provides that craft hemp flower is not included in the definition of "controlled substance analog", "hashish", "low THC hemp extract", or "marijuana". Repeals the definition of "smokable hemp" and criminal penalties concerning smokable hemp. Makes conforming changes. Makes technical corrections.



Introduced

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. 1224



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

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

1 SECTION 1. IC 6-2.5-1-10.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: **Sec. 10.3. "Craft hemp flower", as**
4 **used in this article, has the meaning set forth in IC 35-31.5-2-68.8.**
5 SECTION 2. IC 6-2.5-8-1, AS AMENDED BY P.L.146-2020,
6 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2021]: Sec. 1. (a) A retail merchant may not make a retail
8 transaction in Indiana, unless the retail merchant has applied for a
9 registered retail merchant's certificate.
10 (b) A retail merchant may obtain a registered retail merchant's
11 certificate by filing an application with the department and paying a
12 registration fee of:
13 (1) twenty-five dollars (\$25) for each place of business listed on
14 the application, **except as provided in subdivision (2); or**
15 (2) one hundred dollars (\$100) for each place of business listed



- 1 **on the application at which the retail merchant sells craft**
 2 **hemp flower.**
 3 The retail merchant shall also provide such security for payment of the
 4 tax as the department may require under IC 6-2.5-6-12.
 5 (c) The retail merchant shall:
 6 (1) list on the application the location (including the township) of
 7 each place of business where the retail merchant makes retail
 8 transactions; **and**
 9 (2) **if applicable, identify each location described in**
 10 **subdivision (1) at which the retail merchant sells craft hemp**
 11 **flower.**
 12 However, if the retail merchant does not have a fixed place of business,
 13 the retail merchant shall list the retail merchant's residence as the retail
 14 merchant's place of business. In addition, a public utility may list only
 15 its principal Indiana office as its place of business for sales of public
 16 utility commodities or service, but the utility must also list on the
 17 application the places of business where it makes retail transactions
 18 other than sales of public utility commodities or service.
 19 (d) Upon receiving a proper application, the correct fee, and the
 20 security for payment, if required, the department shall:
 21 (1) issue to the retail merchant a separate registered retail
 22 merchant's certificate for each place of business listed on the
 23 application; **and**
 24 (2) **if the retail merchant has identified locations under**
 25 **subsection (c)(2) at which it sells craft hemp flower, issue a**
 26 **modified retail merchant's certificate under subdivision (1) to**
 27 **identify that location as a place of business at which craft**
 28 **hemp flower is sold.**
 29 Each certificate shall bear a serial number and the location of the place
 30 of business for which it is issued.
 31 (e) The department may deny an application for a registered retail
 32 merchant's certificate if the applicant's business is operated, managed,
 33 or otherwise controlled by or affiliated with a person, including a
 34 relative, family member, responsible officer, or owner, who the
 35 department has determined:
 36 (1) failed to:
 37 (A) file all tax returns or information reports with the
 38 department for listed taxes; or
 39 (B) pay all taxes, penalties, and interest to the department for
 40 listed taxes; and
 41 (2) the business of the person who has failed to file all tax returns
 42 or information reports under subdivision (1)(A) or who has failed



- 1 to pay all taxes, penalties, and interest under subdivision (1)(B)
 2 is substantially similar to the business of the applicant.
- 3 (f) If a retail merchant intends to make retail transactions during a
 4 calendar year at a new Indiana place of business, the retail merchant
 5 must file a supplemental application and pay the fee for that place of
 6 business.
- 7 (g) Except as provided in subsection (i), a registered retail
 8 merchant's certificate is valid for two (2) years after the date the
 9 registered retail merchant's certificate is originally issued or renewed.
 10 If the retail merchant has filed all returns and remitted all taxes the
 11 retail merchant is currently obligated to file or remit, the department
 12 shall renew the registered retail merchant's certificate within thirty (30)
 13 days after the expiration date, at no cost to the retail merchant. Before
 14 issuing or renewing the registered retail merchant certification, the
 15 department may require the following to be provided:
- 16 (1) The names and addresses of the retail merchant's principal
 17 employees, agents, or representatives who engage in Indiana in
 18 the solicitation or negotiation of the retail transaction.
- 19 (2) The location of all of the retail merchant's places of business
 20 in Indiana, including offices and distribution houses.
- 21 (3) Any other information that the department requests.
- 22 (h) The department may not renew a registered retail merchant
 23 certificate of a retail merchant who is delinquent in remitting
 24 withholding taxes required to be remitted under IC 6-3-4 or sales or use
 25 tax. The department, at least sixty (60) days before the date on which
 26 a retail merchant's registered retail merchant's certificate expires, shall
 27 notify a retail merchant who is delinquent in remitting withholding
 28 taxes required to be remitted under IC 6-3-4 or sales or use tax that the
 29 department will not renew the retail merchant's registered retail
 30 merchant's certificate.
- 31 (i) If:
- 32 (1) a retail merchant has been notified by the department that the
 33 retail merchant is delinquent in remitting withholding taxes or
 34 sales or use tax in accordance with subsection (h); and
- 35 (2) the retail merchant pays the outstanding liability before the
 36 expiration of the retail merchant's registered retail merchant's
 37 certificate;
- 38 the department shall renew the retail merchant's registered retail
 39 merchant's certificate for one (1) year.
- 40 (j) The department may permit an out-of-state retail merchant to
 41 collect the gross retail tax in instances where the retail merchant has
 42 not met the thresholds in IC 6-2.5-2-1(d). However, before the



1 out-of-state retail merchant may collect the tax, the out-of-state retail
 2 merchant must obtain a registered retail merchant's certificate in the
 3 manner provided by this section. Upon receiving the certificate, the
 4 out-of-state retail merchant becomes subject to the same conditions and
 5 duties as an Indiana retail merchant and must then collect the gross
 6 retail tax due on all retail transactions that the out-of-state retail
 7 merchant knows are sourced to Indiana pursuant to IC 6-2.5-13-1.

8 (k) Except as provided in subsection (l), the department shall submit
 9 to the township assessor, or the county assessor if there is no township
 10 assessor for the township, before January 15 of each year:

11 (1) the name of each retail merchant that has newly obtained a
 12 registered retail merchant's certificate during the preceding year
 13 for a place of business located in the township or county;

14 (2) the address of each place of business of the taxpayer in the
 15 township or county described in subdivision (1);

16 (3) the name of each retail merchant that:

17 (A) held a registered retail merchant's certificate at any time
 18 during the preceding year for a place of business located in the
 19 township or county; and

20 (B) had ceased to hold the registered retail merchant's
 21 certificate at the end of the preceding year for the place of
 22 business; and

23 (4) the address of each place of business described in subdivision

24 (3).

25 (l) If the duties of the township assessor have been transferred to the
 26 county assessor as described in IC 6-1.1-1-24, the department shall
 27 submit the information listed in subsection (k) to the county assessor.

28 **(m) After December 31, 2021, a retail merchant that has a retail
 29 merchant's certificate for a place of business at which the retail
 30 merchant sells craft hemp flower without a modified retail
 31 merchant's certificate under subsection (d)(2) shall pay:**

32 **(1) the fee under subsection (b)(2); and**

33 **(2) a compliance fee of one thousand dollars (\$1,000) to be
 34 transferred to the Indiana state department of agriculture
 35 and used for hemp marketing and research purposes.**

36 **(n) Before January 1, 2022, a retail merchant that has a retail
 37 merchant's certificate for a place of business at which the retail
 38 merchant sells craft hemp shall file a supplemental application for
 39 a modified retail merchant's certificate under this section and pay
 40 the fee under subsection (b)(2) for that place of business. This
 41 subsection expires January 1, 2022.**

42 **(o) The information on a modified retail merchant's certificate**



1 **application submitted under this section is confidential and is not**
 2 **subject to public inspection or copying under IC 5-14-3.**

3 SECTION 3. IC 7.1-3-18.5-9, AS AMENDED BY P.L.49-2020,
 4 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2021]: Sec. 9. A certificate holder shall exercise due diligence
 6 in the supervision and training of the certificate holder's employees or
 7 agents in the handling and sale of tobacco products and electronic
 8 cigarettes on the holder's retail premises. Proof that employees or
 9 agents of the certificate holder, while in the scope of their employment,
 10 committed at least six (6) violations relating to ~~IC 35-46-1-10.2(b)~~
 11 **IC 35-46-1-10.2(c)** in any one (1) year period shall be prima facie
 12 evidence of a lack of due diligence by the certificate holder in the
 13 supervision and training of the certificate holder's employees or agents.

14 SECTION 4. IC 15-15-13-6.5, AS ADDED BY P.L.190-2019,
 15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2021]: Sec. 6.5. As used in this chapter, "hemp product"
 17 means a product derived from, or made by, processing hemp plants or
 18 plant parts including derivatives, extracts, cannabinoids, isomers, acids,
 19 salts, and salts of isomers. However, the term does not include

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

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

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

35 (b) The state seed commissioner may not impose a civil penalty
 36 under this section that exceeds two thousand five hundred dollars
 37 (\$2,500).

38 (c) The state seed commissioner may revoke or refuse to issue or
 39 renew a hemp license or an agricultural hemp seed production license
 40 for a violation of any rule of the state seed commissioner that pertains
 41 to agricultural operations or activities other than hemp growing or
 42 handling.



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

4 (e) In addition to payment of any civil penalty imposed under this
 5 section, a person who commits a violation described in subsection (a)
 6 shall reimburse the state seed commissioner for any costs incurred by
 7 the state seed commissioner for laboratory testing of material
 8 pertaining to the violation.

9 SECTION 6. IC 15-15-13-14, AS AMENDED BY P.L.190-2019,
 10 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2021]: Sec. 14. (a) The state seed commissioner shall adopt
 12 rules under IC 4-22-2 to implement and administer this chapter.

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

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

20 SECTION 7. IC 15-15-13-19 IS REPEALED [EFFECTIVE JULY
 21 1, 2021]. ~~Sec. 19: (a) Hemp bud (as defined in IC 35-48-1-17.2) and~~
 22 ~~hemp flower (as defined in IC 35-48-1-17.3) may be sold only to a~~
 23 ~~processor licensed under this chapter.~~

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

26 SECTION 8. IC 15-15-13-20, AS ADDED BY P.L.190-2019,
 27 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2021]: Sec. 20. (a) A person who knowingly or intentionally
 29 violates:

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

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

36 (b) A person who knowingly or intentionally:

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

40 not including ~~smokable hemp (as defined by IC 35-48-1-26.6)~~, **craft**
 41 **hemp flower (as defined by IC 35-31.5-2-68.8)**, and is not licensed
 42 under this chapter, commits a Class A misdemeanor.



1 SECTION 9. IC 16-42-2-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A food is
3 considered adulterated under any of the following conditions:

4 (1) If the food bears or contains any poisonous or deleterious
5 substance that may make the food injurious to health. However,
6 if the substance is not an added substance, the food is not to be
7 considered adulterated under this subdivision if the quantity of the
8 substance in the food does not ordinarily make the food injurious
9 to health.

10 (2) If:

11 (A) the food bears or contains any added poison or added
12 deleterious substance (other than a poison or a deleterious
13 substance that is a pesticide chemical in or on a raw
14 agricultural commodity, a food additive, or a color additive)
15 that is unsafe within the meaning of section 5 of this chapter;

16 (B) the food is a raw agricultural commodity and the food
17 bears or contains a pesticide chemical that is unsafe under
18 section 5 of this chapter; or

19 (C) the food is or contains a food additive that is unsafe under
20 section 5 of this chapter.

21 However, when a pesticide chemical is used in or on a raw
22 agricultural commodity in conformity with an exemption granted
23 or tolerance prescribed under section 5 of this chapter and the raw
24 agricultural commodity has been subjected to processing such as
25 canning, cooking, freezing, dehydrating, or milling, the residue of
26 the pesticide chemical remaining in or on the processed food,
27 notwithstanding section 5 of this chapter and clause (C) is not
28 considered unsafe if the residue in or on the raw agricultural
29 commodity has been removed to the extent possible in good
30 manufacturing practice, and the concentration of the residues in
31 the processed food, when ready to eat, is not greater than the
32 tolerance prescribed for the raw agricultural commodity.

33 (3) If the food consists in whole or in part of a diseased,
34 contaminated, filthy, putrid, or decomposed substance or if the
35 food is otherwise unfit for food.

36 (4) If the food has been produced, transported, handled, prepared,
37 packed, or held under unsanitary conditions or in unsanitary
38 containers as the result of which the food may have become
39 contaminated with filth or made diseased, unwholesome, or
40 injurious to health.

41 (5) If the food is, in whole or in part, the product of:

42 (A) a diseased animal;



- 1 (B) an animal that has died otherwise than by slaughter; or
 2 (C) an animal that has been fed upon the uncooked offal from
 3 a slaughterhouse.
- 4 (6) If the food's container is composed in whole or in part of any
 5 poisonous or deleterious substance that may make the contents
 6 injurious to health.
- 7 (7) If the food has been intentionally subjected to radiation, unless
 8 the use of the radiation was in conformity with a rule or an
 9 exemption in effect under section 5 of this chapter.
- 10 (8) If any valuable constituent has been in whole or in part
 11 omitted or abstracted from the food.
- 12 (9) If any substance has been substituted wholly or in part.
- 13 (10) If damage or inferiority has been concealed in any manner.
- 14 (11) If any substance has been added to the food or mixed or
 15 packed with the food to:
- 16 (A) increase the food's bulk or weight;
 17 (B) reduce the food's quality or strength;
 18 (C) make the food appear better or of greater value than the
 19 food is; or
 20 (D) create a deceptive appearance.
- 21 (12) If the food bears or contains a coal-tar color other than one
 22 from a batch that has been certified by the federal Food and Drug
 23 Administrator, as provided by regulations promulgated under
 24 authority of the Federal Act.
- 25 (13) If the food is a confectionery and has partially or completely
 26 ~~imbedded~~ **embedded** in the food any nonnutritive object.
 27 However, this subdivision does not apply in the case of any
 28 nonnutritive object if, in the judgment of the state department as
 29 provided by rules, the nonnutritive object is of practical,
 30 functional value to the confectionery product and would not make
 31 the product injurious or hazardous to health.
- 32 (14) If the food is a confectionery and bears or contains any
 33 alcohol other than alcohol not in excess of one-half of one percent
 34 (0.5%) by volume derived solely from the use of flavoring
 35 extracts.
- 36 (15) If the food is a confectionery and bears or contains any
 37 nonnutritive substance. However, this subdivision does not apply
 38 to a safe, nonnutritive substance if:
- 39 (A) the nonnutritive substance is in or on a confectionery for
 40 a practical, functional purpose in the manufacture, packaging,
 41 or storing of the confectionery; and
 42 (B) the use of the substance does not promote deception of the



1 consumer or otherwise result in adulteration or misbranding in
 2 violation of any provision of IC 16-42-1 through IC 16-42-4.
 3 In addition, the state department may, for the purpose of
 4 avoiding or resolving uncertainty as to the application of this
 5 subdivision, adopt rules allowing or prohibiting the use of
 6 particular nonnutritive substances.

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

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

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

12 (1) the removal of butterfat from; or

13 (2) the addition of skim milk to;

14 dairy products that comply with the definitions and standards for dairy
 15 products adopted by the state department.

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

19 SECTION 10. IC 24-4-23 IS ADDED TO THE INDIANA CODE
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2021]:

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

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

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

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

30 (1) with respect to which no person having a direct or indirect
 31 interest in the laboratory also has a direct or indirect interest
 32 in a facility that:

33 (A) processes, distributes, or sells craft hemp flower, or a
 34 substantially similar substance in another jurisdiction;

35 (B) cultivates, processes, distributes, dispenses, or sells
 36 marijuana;

37 (C) cultivates, processes, or distributes hemp; or

38 (D) processes, distributes, or sells low THC hemp extract
 39 (as defined in IC 35-48-1-17.5); and

40 (2) that is accredited as a testing laboratory under
 41 International Organization for Standardization (ISO) 17025
 42 by a third party accrediting body such as the American



1 **Association for Laboratory Accreditation (A2LA) or Assured**
 2 **Calibration and Laboratory Accreditation Select Services**
 3 **(ACLASS).**

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

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

11 **(1) That the craft hemp flower is the product of a batch tested**
 12 **by the independent testing laboratory.**

13 **(2) That the independent testing laboratory determined that**
 14 **the batch contained not more than three-tenths percent**
 15 **(0.3%) delta-9-tetrahydrocannabinol (THC), including**
 16 **precursors, by weight, based on the testing of a random**
 17 **sample of the batch.**

18 **(3) That the batch has been tested for and does not exceed the**
 19 **acceptable levels set forth under section 7 of this chapter for**
 20 **the following contaminants:**

21 **(A) Heavy metals, including cadmium, lead, arsenic, and**
 22 **mercury.**

23 **(B) Pesticides.**

24 **(C) Herbicides.**

25 **(D) Mycotoxins.**

26 **(E) Bacterial toxins.**

27 **(F) Chemical solvent residues.**

28 **(4) The potency of the craft hemp flower, including the**
 29 **projected percentage of:**

30 **(A) THC;**

31 **(B) cannabidiol; and**

32 **(C) other cannabinoids in the craft hemp flower;**

33 **by weight or volume.**

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

38 **Sec. 6. (a) Craft hemp flower must be distributed in tamper**
 39 **evident packaging that clearly contains the following statement:**

40 **"CONTAINS CRAFT HEMP FLOWER. KEEP AWAY**
 41 **FROM CHILDREN."**

42 **(b) 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



- 1 **Escherichia coli.**
 2 **(B) One (1) colony forming unit per gram of Salmonella**
 3 **spp.**
 4 **(C) Ten thousand (10,000) colony forming units of**
 5 **culturable mold.**
 6 **(3) A concentration of residual solvents and chemicals that is**
 7 **not more than any of the following:**
 8 **(A) Five thousand (5,000) parts per million of butane.**
 9 **(B) Two (2) parts per million of benzene.**
 10 **(C) Five thousand (5,000) parts per million of heptane.**
 11 **(D) Two hundred ninety (290) parts per million of hexane.**
 12 **(E) Eight hundred ninety (890) parts per million of toluene.**
 13 **(F) One (1) part per million of total xylenes, including**
 14 **ortho-xylene, meta-xylene, and para-xylene.**
 15 **Sec. 8. A person may sell craft hemp flower at retail only if:**
 16 **(1) beginning September 1, 2021, the packaging complies with**
 17 **the requirements of section 6 of this chapter; and**
 18 **(2) the person has:**
 19 **(A) before January 1, 2022, a retail merchant's certificate;**
 20 **and**
 21 **(B) after December 31, 2021, a modified retail merchant's**
 22 **certificate;**
 23 **for the place of business where the craft hemp flower is sold.**
 24 **Sec. 9. (a) A person who distributes or sells craft hemp flower**
 25 **in violation of this chapter commits a Class B infraction. However,**
 26 **the offense is a Class A infraction if the person has a prior**
 27 **unrelated judgment for a violation of this chapter.**
 28 **(b) The penalties in this section are in addition to any criminal**
 29 **penalties that may be imposed for unlawful possession or**
 30 **distribution of a controlled substance.**
 31 **SECTION 11. IC 35-31.5-2-68.8 IS ADDED TO THE INDIANA**
 32 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 33 **[EFFECTIVE JULY 1, 2021]: Sec. 68.8. (a) "Craft hemp flower"**
 34 **means the harvested reproductive organ, whether immature or**
 35 **mature, of the female Cannabis sativa L. plant containing not more**
 36 **than three-tenths percent (0.3%) delta-9-tetrahydrocannabinol**
 37 **(THC), including precursors of THC, in a form that is intended to**
 38 **allow THC to be introduced into the human body by inhalation of**
 39 **smoke.**
 40 **(b) The term does not include agricultural hemp seed (as defined**
 41 **in IC 15-15-13-2).**
 42 **SECTION 12. IC 35-31.5-2-100, AS AMENDED BY P.L.49-2020,**



1 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2021]: Sec. 100. (a) "Distribute", for purposes of
3 IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.

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

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

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

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

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

14 SECTION 13. IC 35-46-1-10, AS AMENDED BY THE
15 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
16 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2021]: Sec. 10. **(a) As used in this section, "distribute"**
18 **means to give tobacco, craft hemp flower, an e-liquid, or an**
19 **electronic cigarette to another person as a means of promoting,**
20 **advertising, or marketing the tobacco, craft hemp flower, e-liquid,**
21 **or electronic cigarette to the general public.**

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

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

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

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

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

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

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

42 (1) The buyer or recipient produced a driver's license bearing the



1 purchaser's or recipient's photograph, showing that the purchaser
 2 or recipient was of legal age to make the purchase.
 3 (2) The buyer or recipient produced a photographic identification
 4 card issued under IC 9-24-16-1, or a similar card issued under the
 5 laws of another state or the federal government, showing that the
 6 purchaser or recipient was of legal age to make the purchase.
 7 (3) The appearance of the purchaser or recipient was such that an
 8 ordinary prudent person would believe that the purchaser or
 9 recipient was not less than thirty (30) years of age.
 10 (e) (f) It is a defense that the accused person sold or delivered the
 11 tobacco, **craft hemp flower**, e-liquid, or electronic cigarette to a
 12 person who acted in the ordinary course of employment or a business
 13 concerning tobacco, **craft hemp flower**, an e-liquid, or electronic
 14 cigarettes including the following activities:
 15 (1) Agriculture.
 16 (2) Processing.
 17 (3) Transporting.
 18 (4) Wholesaling.
 19 (5) Retailing.
 20 (f) As used in this section, "distribute" means to give tobacco, an
 21 e-liquid, or an electronic cigarette to another person as a means of
 22 promoting, advertising, or marketing the tobacco, e-liquid, or electronic
 23 cigarette to the general public.
 24 (g) Unless the person buys or receives tobacco, **craft hemp flower**,
 25 an e-liquid, or an electronic cigarette under the direction of a law
 26 enforcement officer as part of an enforcement action, a person who
 27 sells or distributes tobacco, **craft hemp flower**, an e-liquid, or an
 28 electronic cigarette is not liable for a violation of this section unless the
 29 person less than twenty-one (21) years of age who bought or received
 30 the tobacco, **craft hemp flower**, e-liquid, or electronic cigarette is
 31 issued a citation or summons under section 10.5 of this chapter.
 32 (h) Notwithstanding IC 34-28-5-5(c), civil penalties collected under
 33 this section must be deposited in the Richard D. Doyle youth tobacco
 34 education and enforcement fund (IC 7.1-6-2-6).
 35 SECTION 14. IC 35-46-1-10.2, AS AMENDED BY THE
 36 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
 37 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2021]: Sec. 10.2. (a) As used in this section, "distribute"
 39 means to give tobacco, **craft hemp flower**, an e-liquid, or an
 40 electronic cigarette to another person as a means of promoting,
 41 advertising, or marketing the tobacco, **craft hemp flower**, e-liquid,
 42 or electronic cigarette to the general public.



1 (a) (b) A person may not be charged with a violation under this
2 section and a violation under IC 7.1-7-6-5.

3 (b) (c) A retail establishment that sells or distributes tobacco, **craft**
4 **hemp flower**, an e-liquid, or an electronic cigarette to a person less
5 than twenty-one (21) years of age commits a Class C infraction. For a
6 sale to take place under this section, the buyer must pay the retail
7 establishment for the tobacco, ~~product~~, **craft hemp flower**, an e-liquid,
8 or electronic cigarette.

9 (c) (d) Notwithstanding IC 34-28-5-4(c), a civil judgment for an
10 infraction committed under this section must be imposed as follows:

11 (1) If the retail establishment at that specific business location has
12 not been issued a citation or summons for a violation of this
13 section in the previous one (1) year, a civil penalty of up to four
14 hundred dollars (\$400).

15 (2) If the retail establishment at that specific business location has
16 had one (1) citation or summons issued for a violation of this
17 section in the previous one (1) year, a civil penalty of up to eight
18 hundred dollars (\$800).

19 (3) If the retail establishment at that specific business location has
20 had two (2) citations or summonses issued for a violation of this
21 section in the previous one (1) year, a civil penalty of up to one
22 thousand four hundred dollars (\$1,400).

23 (4) If the retail establishment at that specific business location has
24 had three (3) or more citations or summonses issued for a
25 violation of this section in the previous one (1) year, a civil
26 penalty of up to two thousand dollars (\$2,000).

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

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

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



1 laws of another state or the federal government showing that the
2 purchaser or recipient was of legal age to make the purchase.

3 (3) The appearance of the purchaser or recipient was such that an
4 ordinary prudent person would believe that the purchaser or
5 recipient was not less than thirty (30) years of age.

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

- 11 (1) Agriculture.
- 12 (2) Processing.
- 13 (3) Transporting.
- 14 (4) Wholesaling.
- 15 (5) Retailing.

16 ~~(g)~~ As used in this section, "distribute" means to give tobacco, an
17 e-liquid, or an electronic cigarette to another person as a means of
18 promoting, advertising, or marketing the tobacco or electronic cigarette
19 to the general public:

20 (h) Unless a person buys or receives tobacco, **craft hemp flower**,
21 an e-liquid, or an electronic cigarette under the direction of a law
22 enforcement officer as part of an enforcement action, a retail
23 establishment that sells or distributes tobacco, **craft hemp flower**, an
24 e-liquid, or an electronic cigarette is not liable for a violation of this
25 section unless the person less than twenty-one (21) years of age who
26 bought or received the tobacco, **craft hemp flower**, an e-liquid, or
27 electronic cigarette is issued a citation or summons under section 10.5
28 of this chapter.

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

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

35 SECTION 15. IC 35-46-1-10.5, AS AMENDED BY P.L.49-2020,
36 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2021]: Sec. 10.5. (a) A person less than twenty-one (21) years
38 of age who:

- 39 (1) purchases tobacco, **craft hemp flower**, an e-liquid, or an
40 electronic cigarette;
- 41 (2) accepts tobacco, **craft hemp flower**, an e-liquid, or an
42 electronic cigarette for personal use; or



1 (3) possesses tobacco, **craft hemp flower**, an e-liquid, or an
 2 electronic cigarette on the person's person;
 3 commits a Class C infraction.

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

- 8 (1) Agriculture.
- 9 (2) Processing.
- 10 (3) Transporting.
- 11 (4) Wholesaling.
- 12 (5) Retailing.

13 SECTION 16. IC 35-48-1-9.3, AS AMENDED BY P.L.80-2019,
 14 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2021]: Sec. 9.3. (a) "Controlled substance analog" means a
 16 substance that, due to its chemical structure and potential for abuse or
 17 misuse, meets the following criteria:

- 18 (1) The substance is substantially similar to a controlled substance
 19 classified under IC 35-48-2.
- 20 (2) The substance has a narcotic, stimulant, depressant, or
 21 hallucinogenic effect on the central nervous system or is
 22 represented or intended to have a narcotic, stimulant, depressant,
 23 or hallucinogenic effect on the central nervous system
 24 substantially similar to or greater than that of a controlled
 25 substance classified under IC 35-48-2.

26 (b) The definition set forth in subsection (a) does not include:

- 27 (1) a controlled substance;
- 28 (2) a legend drug;
- 29 (3) a substance for which there is an approved new drug
 30 application;
- 31 (4) any compound, mixture, or preparation that contains any
 32 controlled substance, that is not for administration to a human
 33 being or an animal, and that is packaged in a form or
 34 concentration, or with adulterants or denaturants, such that as
 35 packaged it does not present any significant potential for abuse;
 36 **or**
- 37 (5) a substance to which an investigational exemption applies
 38 under Section 505 of the federal Food, Drug and Cosmetic Act
 39 (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), but only to the
 40 extent that conduct with respect to the substance is pursuant to the
 41 exemption; **or**
- 42 (6) low THC hemp extract; **or**



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(7) craft hemp flower.

(c) For purposes of subsection (a), "substantially similar", as it applies to the chemical structure of a substance, means that the chemical structure of the substance, when compared to the structure of a controlled substance, has a single difference in the structural formula that substitutes one (1) atom or functional group for another, including:

- (1) one (1) halogen for another halogen;
- (2) one (1) hydrogen for a halogen;
- (3) one (1) halogen for a hydrogen; or
- (4) an alkyl group added or deleted:
 - (A) as a side chain to or from a molecule; or
 - (B) from a side chain of a molecule.

SECTION 17. IC 35-48-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 10.5. "Craft hemp flower" has the meaning set forth in IC 35-31.5-2-68.8.**

SECTION 18. IC 35-48-1-16.8, AS ADDED BY P.L.153-2018, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 16.8. "Hashish" does not include:

- (1) low THC hemp extract; **or**
- (2) craft hemp flower.**

SECTION 19. IC 35-48-1-17.2 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 17.2: (a) "Hemp bud" means the harvested immature reproductive organ of the female hemp plant:~~

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

SECTION 20. IC 35-48-1-17.3 IS REPEALED [EFFECTIVE JULY 1, 2021]. ~~Sec. 17.3: (a) "Hemp flower" means the harvested reproductive organ, whether immature or mature, of the female hemp plant:~~

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

SECTION 21. IC 35-48-1-17.5, AS AMENDED BY P.L.190-2019, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 17.5. (a) "Low THC hemp extract" means a substance or compound that:

- (1) is derived from or contains any part of the plant Cannabis sativa L. that meets the definition of hemp under IC 15-15-13-6;
- (2) contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC), including precursors, by weight; and
- (3) contains no other controlled substances.

(b) The term does not include:

- (1) the harvested reproductive organ, whether immature or



1 mature, of the female hemp plant; or

2 (2) ~~smokable hemp~~; **craft hemp flower**.

3 SECTION 22. IC 35-48-1-19, AS AMENDED BY P.L.190-2019,
4 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2021]: Sec. 19. (a) "Marijuana" means any part of the plant
6 genus Cannabis whether growing or not; the seeds thereof; the resin
7 extracted from any part of the plant, including hashish and hash oil; any
8 compound, manufacture, salt, derivative, mixture, or preparation of the
9 plant, its seeds or resin.

10 (b) The term does not include:

11 (1) the mature stalks of the plant;

12 (2) fiber produced from the stalks;

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

14 (4) any other compound, manufacture, salt, derivative, mixture,
15 or preparation of the mature stalks (except the resin extracted
16 therefrom);

17 (5) the sterilized seed of the plant which is incapable of
18 germination;

19 (6) hemp (as defined by IC 15-15-13-6);

20 (7) low THC hemp extract; or

21 (8) ~~smokable hemp~~; **craft hemp flower**.

22 SECTION 23. IC 35-48-1-26.6 IS REPEALED [EFFECTIVE JULY
23 1, 2021]. Sec. 26.6: (a) Except as provided in subsection (b); "smokable
24 hemp" means a product containing not more than three-tenths percent
25 (0.3%) delta-9-tetrahydrocannabinol (THC); including precursors and
26 derivatives of THC; in a form that allows THC to be introduced into the
27 human body by inhalation of smoke. The term includes:

28 (1) hemp bud; and

29 (2) hemp flower.

30 (b) The term does not include:

31 (1) a hemp plant that is; or

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

33 grown or handled by a licensee for processing or manufacturing into a
34 legal hemp product.

35 SECTION 24. IC 35-48-4-10.1 IS REPEALED [EFFECTIVE JULY
36 1, 2021]. Sec. 10.1: (a) A person who:

37 (1) knowingly or intentionally:

38 (A) manufactures;

39 (B) finances the manufacture of;

40 (C) delivers;

41 (D) finances the delivery of; or

42 (E) possesses;



1 smokable hemp; or
 2 (2) possesses smokable hemp with intent to:
 3 (A) manufacture;
 4 (B) finance the manufacture of;
 5 (C) deliver; or
 6 (D) finance the delivery of;
 7 smokable hemp;
 8 commits dealing in smokable hemp, a Class A misdemeanor.
 9 (b) Subsection (a)(1)(B); (a)(1)(D); (a)(2)(B); and (a)(2)(D) do not
 10 apply to:
 11 (1) a financial institution organized or reorganized under the laws
 12 of Indiana; any other state, or the United States; or
 13 (2) any agency or instrumentality of the state or the United States.
 14 (c) Subsection (a)(1)(C); (a)(1)(D); (a)(1)(E); (a)(2)(C); and
 15 (a)(2)(D) do not apply to the shipment of smokable hemp from a
 16 licensed producer in another state in continuous transit through Indiana
 17 to a licensed handler in any state.
 18 SECTION 25. IC 35-48-4-12, AS AMENDED BY P.L.142-2020,
 19 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2021]: Sec. 12. If a person who has no prior conviction of an
 21 offense under this article relating to controlled substances pleads guilty
 22 to possession of marijuana, hashish, **or** salvia **or** smokable hemp as a
 23 misdemeanor, the court, without entering a judgment of conviction and
 24 with the consent of the person, may defer further proceedings and place
 25 the person in the custody of the court under conditions determined by
 26 the court. Upon violation of a condition of the custody, the court may
 27 enter a judgment of conviction. However, if the person fulfills the
 28 conditions of the custody, the court shall dismiss the charges against
 29 the person. There may be only one (1) dismissal under this section with
 30 respect to a person.

