



February 11, 2021

HOUSE BILL No. 1224

DIGEST OF HB 1224 (Updated February 9, 2021 6:02 pm - DI 134)

Citations Affected: IC 7.1-3; IC 15-15; IC 16-42; IC 24-4; IC 35-31.5; IC 35-46; IC 35-48.

Synopsis: Craft hemp flower and hemp production. 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. Removes an exemption to a person who knowingly or intentionally grows or handles smokeable hemp without a license from the penalty of growing or handling hemp without a license. Repeals a law that requires that a hemp bud or a hemp flower be sold only to a processor licensed in Indiana. 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. Establishes penalties for selling or distributing craft hemp flower in violation of the requirements. 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 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
(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.
February 11, 2021, amended, reported — Do Pass.

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Digest Continued

use; or (3) possesses craft hemp flower on his or her person. Provides that a person who, while a motor vehicle is in operation or located on the right-of-way of a public highway, possesses a container that contains craft hemp flower, and: (1) the container does not have tamper evident packaging; or (2) the tamper evident packaging has a broken seal; commits a Class C infraction. Provides that a violation is not considered a moving violation. 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.



February 11, 2021

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

12 SECTION 2. IC 15-15-13-6.5, AS ADDED BY P.L.190-2019,
13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2021]: Sec. 6.5. As used in this chapter, "hemp product"
15 means a product derived from, or made by, processing hemp plants or

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1 plant parts including derivatives, extracts, cannabinoids, isomers, acids,
 2 salts, and salts of isomers. However, the term does not include
 3 ~~(1) smokable hemp (as defined by IC 35-48-1-26.6); or~~
 4 ~~(2) products that contain a total delta-9-tetrahydrocannabinol~~
 5 ~~concentration of more than three-tenths of one percent (0.3%) by~~
 6 ~~weight.~~

7 SECTION 3. IC 15-15-13-13, AS AMENDED BY P.L.190-2019,
 8 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2021]: Sec. 13. (a) Subject to section 13.5 of this chapter, in
 10 addition to any other liability or penalty provided by law, the state seed
 11 commissioner may revoke or refuse to issue or renew a hemp license
 12 or an agricultural hemp seed production license and may impose a civil
 13 penalty for a violation of:

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

18 (b) The state seed commissioner may not impose a civil penalty
 19 under this section that exceeds two thousand five hundred dollars
 20 (\$2,500).

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

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

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

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

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

42 **(c) The state seed commissioner may not adopt or enforce a rule**



1 **under this chapter that is more strict than required by federal law**
 2 **or regulation.**

3 SECTION 5. IC 15-15-13-19 IS REPEALED [EFFECTIVE JULY
 4 1, 2021]. ~~Sec. 19. (a) Hemp bud (as defined in IC 35-48-1-17.2) and~~
 5 ~~hemp flower (as defined in IC 35-48-1-17.3) may be sold only to a~~
 6 ~~processor licensed under this chapter.~~

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

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

13 (1) a term, condition, or requirement of a license issued; or

14 (2) a rule adopted;

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

19 (b) A person who knowingly or intentionally:

20 (1) grows hemp;

21 (2) handles hemp; or

22 (3) sells agricultural hemp seed;

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

25 SECTION 7. IC 16-42-2-2 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 2. (a) A food is
 27 considered adulterated under any of the following conditions:

28 (1) If the food bears or contains any poisonous or deleterious
 29 substance that may make the food injurious to health. However,
 30 if the substance is not an added substance, the food is not to be
 31 considered adulterated under this subdivision if the quantity of the
 32 substance in the food does not ordinarily make the food injurious
 33 to health.

34 (2) If:

35 (A) the food bears or contains any added poison or added
 36 deleterious substance (other than a poison or a deleterious
 37 substance that is a pesticide chemical in or on a raw
 38 agricultural commodity, a food additive, or a color additive)
 39 that is unsafe within the meaning of section 5 of this chapter;

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



- 1 (C) the food is or contains a food additive that is unsafe under
 2 section 5 of this chapter.
 3 However, when a pesticide chemical is used in or on a raw
 4 agricultural commodity in conformity with an exemption granted
 5 or tolerance prescribed under section 5 of this chapter and the raw
 6 agricultural commodity has been subjected to processing such as
 7 canning, cooking, freezing, dehydrating, or milling, the residue of
 8 the pesticide chemical remaining in or on the processed food,
 9 notwithstanding section 5 of this chapter and clause (C) is not
 10 considered unsafe if the residue in or on the raw agricultural
 11 commodity has been removed to the extent possible in good
 12 manufacturing practice, and the concentration of the residues in
 13 the processed food, when ready to eat, is not greater than the
 14 tolerance prescribed for the raw agricultural commodity.
- 15 (3) If the food consists in whole or in part of a diseased,
 16 contaminated, filthy, putrid, or decomposed substance or if the
 17 food is otherwise unfit for food.
- 18 (4) If the food has been produced, transported, handled, prepared,
 19 packed, or held under unsanitary conditions or in unsanitary
 20 containers as the result of which the food may have become
 21 contaminated with filth or made diseased, unwholesome, or
 22 injurious to health.
- 23 (5) If the food is, in whole or in part, the product of:
- 24 (A) a diseased animal;
 25 (B) an animal that has died otherwise than by slaughter; or
 26 (C) an animal that has been fed upon the uncooked offal from
 27 a slaughterhouse.
- 28 (6) If the food's container is composed in whole or in part of any
 29 poisonous or deleterious substance that may make the contents
 30 injurious to health.
- 31 (7) If the food has been intentionally subjected to radiation, unless
 32 the use of the radiation was in conformity with a rule or an
 33 exemption in effect under section 5 of this chapter.
- 34 (8) If any valuable constituent has been in whole or in part
 35 omitted or abstracted from the food.
- 36 (9) If any substance has been substituted wholly or in part.
- 37 (10) If damage or inferiority has been concealed in any manner.
- 38 (11) If any substance has been added to the food or mixed or
 39 packed with the food to:
- 40 (A) increase the food's bulk or weight;
 41 (B) reduce the food's quality or strength;
 42 (C) make the food appear better or of greater value than the



- 1 food is; or
 2 (D) create a deceptive appearance.
 3 (12) If the food bears or contains a coal-tar color other than one
 4 from a batch that has been certified by the federal Food and Drug
 5 Administrator, as provided by regulations promulgated under
 6 authority of the Federal Act.
 7 (13) If the food is a confectionery and has partially or completely
 8 ~~imbedded~~ **embedded** in the food any nonnutritive object.
 9 However, this subdivision does not apply in the case of any
 10 nonnutritive object if, in the judgment of the state department as
 11 provided by rules, the nonnutritive object is of practical,
 12 functional value to the confectionery product and would not make
 13 the product injurious or hazardous to health.
 14 (14) If the food is a confectionery and bears or contains any
 15 alcohol other than alcohol not in excess of one-half of one percent
 16 (0.5%) by volume derived solely from the use of flavoring
 17 extracts.
 18 (15) If the food is a confectionery and bears or contains any
 19 nonnutritive substance. However, this subdivision does not apply
 20 to a safe, nonnutritive substance if:
 21 (A) the nonnutritive substance is in or on a confectionery for
 22 a practical, functional purpose in the manufacture, packaging,
 23 or storing of the confectionery; and
 24 (B) the use of the substance does not promote deception of the
 25 consumer or otherwise result in adulteration or misbranding in
 26 violation of any provision of IC 16-42-1 through IC 16-42-4.
 27 In addition, the state department may, for the purpose of
 28 avoiding or resolving uncertainty as to the application of this
 29 subdivision, adopt rules allowing or prohibiting the use of
 30 particular nonnutritive substances.
 31 (16) If the food falls below the standard of purity, quality, or
 32 strength that the food purports or is represented to possess.
 33 (17) If the food is or bears or contains any color additive that is
 34 unsafe under section 5 of this chapter.
 35 (b) Subsection (a)(8) and (a)(9) do not prohibit:
 36 (1) the removal of butterfat from; or
 37 (2) the addition of skim milk to;
 38 dairy products that comply with the definitions and standards for dairy
 39 products adopted by the state department.
 40 **(c) A food is not considered adulterated for containing low THC**
 41 **hemp extract (as defined in IC 35-48-1-17.5) or craft hemp flower**
 42 **(as defined in IC 35-31.5-2-68.8).**



1 SECTION 8. IC 24-4-23 IS ADDED TO THE INDIANA CODE AS
 2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2021]:

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

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

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

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

12 (1) with respect to which no person having a direct or indirect
 13 interest in the laboratory also has a direct or indirect interest
 14 in a facility that:

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

17 (B) cultivates, processes, distributes, dispenses, or sells
 18 marijuana;

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

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

22 (2) that is accredited as a testing laboratory under
 23 International Organization for Standardization (ISO) 17025
 24 by a third party accrediting body such as the American
 25 Association for Laboratory Accreditation (A2LA) or Assured
 26 Calibration and Laboratory Accreditation Select Services
 27 (ACLASS).

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

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

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

37 (2) That the independent testing laboratory determined that
 38 the batch contained not more than three-tenths percent
 39 (0.3%) delta-9-tetrahydrocannabinol (THC), including
 40 precursors, by weight, based on the testing of a random
 41 sample of the batch.

42 (3) That the batch has been tested for and does not exceed the



- 1 acceptable levels set forth under section 7 of this chapter for
 2 the following contaminants:
- 3 (A) Heavy metals, including cadmium, lead, arsenic, and
 - 4 mercury.
 - 5 (B) Pesticides.
 - 6 (C) Herbicides.
 - 7 (D) Mycotoxins.
 - 8 (E) Bacterial toxins.
 - 9 (F) Chemical solvent residues.
- 10 (4) The potency of the craft hemp flower, including the
 11 projected percentage of:
- 12 (A) THC;
 - 13 (B) cannabidiol; and
 - 14 (C) other cannabinoids in the craft hemp flower;
- 15 by weight or volume.
- 16 (b) Each batch of craft hemp flower submitted to an
 17 independent testing laboratory under this section must have been
 18 harvested at the same time and cultivated in a contiguous area in
 19 the same field or facility.
- 20 **Sec. 6. Craft hemp flower must be distributed in tamper evident**
 21 **packaging that contains the following information:**
- 22 (1) A scannable bar code or QR code linked to a document
 - 23 that contains information with respect to the craft hemp
 - 24 flower, including the:
 - 25 (A) batch identification number;
 - 26 (B) product name;
 - 27 (C) batch date;
 - 28 (D) expiration date, which must be not more than two (2)
 - 29 years from the date of harvest;
 - 30 (E) batch size;
 - 31 (F) total quantity produced;
 - 32 (G) ingredients used, including the:
 - 33 (i) ingredient name;
 - 34 (ii) name of the company that manufactured the
 - 35 ingredient;
 - 36 (iii) company or product identification number or code,
 - 37 if applicable; and
 - 38 (iv) ingredient lot number; and
 - 39 (H) download link for a certificate of analysis for the craft
 - 40 hemp flower.
 - 41 (2) The batch number.
 - 42 (3) The Internet address of a web site to obtain batch



- 1 information.
- 2 (4) The expiration date, which must be not more than two (2)
- 3 years from the date of harvest.
- 4 (5) The number of grams of craft hemp flower.
- 5 (6) The facility that produced the craft hemp flower.
- 6 (7) The fact that the product contains not more than
- 7 three-tenths percent (0.3%) delta-9-tetrahydrocannabinol
- 8 (THC), including precursors, by weight.
- 9 **Sec. 7. A craft hemp flower may not be distributed if a**
- 10 **certificate of analysis prepared by an independent testing**
- 11 **laboratory shows any of the following:**
- 12 (1) A concentration of metals that is more than any of the
- 13 following:
- 14 (A) Four-tenths (0.4) part per million of cadmium.
- 15 (B) Five-tenths (0.5) part per million of lead.
- 16 (C) Four-tenths (0.4) part per million of arsenic.
- 17 (D) Two-tenths (0.2) part per million of mercury.
- 18 (2) A concentration of microbiological units that is more than
- 19 any of the following:
- 20 (A) One (1) colony forming unit per gram of Shiga-Toxin
- 21 Escherichia coli.
- 22 (B) One (1) colony forming unit per gram of Salmonella
- 23 spp.
- 24 (C) Ten thousand (10,000) colony forming units of
- 25 culturable mold.
- 26 (3) A concentration of residual solvents and chemicals that is
- 27 not more than any of the following:
- 28 (A) Five thousand (5,000) parts per million of butane.
- 29 (B) Two (2) parts per million of benzene.
- 30 (C) Five thousand (5,000) parts per million of heptane.
- 31 (D) Two hundred ninety (290) parts per million of hexane.
- 32 (E) Eight hundred ninety (890) parts per million of toluene.
- 33 (F) One (1) part per million of total xylenes, including
- 34 ortho-xylene, meta-xylene, and para-xylene.
- 35 **Sec. 8. (a) A person in a motor vehicle who, while the motor**
- 36 **vehicle is in operation or the motor vehicle is located on the**
- 37 **right-of-way of a public highway, possesses a container that**
- 38 **contains craft hemp flower, and:**
- 39 (1) the container does not have tamper evident packaging; or
- 40 (2) the tamper evident packaging has a broken seal;
- 41 **commits a Class C infraction.**
- 42 (b) A violation of this section is not considered a moving traffic



1 violation:

2 (1) for purposes of IC 9-14-12-3; and

3 (2) for which points are assessed by the bureau under the
4 point system.

5 Sec. 9. (a) A person who distributes or sells craft hemp flower
6 in violation of this chapter commits a Class B infraction. However,
7 the offense is a Class A infraction if the person has a prior
8 unrelated judgment for a violation of this chapter.

9 (b) The penalties in this section are in addition to any criminal
10 penalties that may be imposed for unlawful possession or
11 distribution of a controlled substance.

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

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

23 SECTION 10. IC 35-31.5-2-100, AS AMENDED BY P.L.49-2020,
24 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2021]: Sec. 100. (a) "Distribute", for purposes of
26 IC 35-45-4-8, has the meaning set forth in IC 35-45-4-8.

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

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

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

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

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

37 SECTION 11. IC 35-46-1-10, AS AMENDED BY THE
38 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
39 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2021]: Sec. 10. (a) As used in this section, "distribute"
41 means to give tobacco, craft hemp flower, an e-liquid, or an
42 electronic cigarette to another person as a means of promoting,



1 **advertising, or marketing the tobacco, craft hemp flower, e-liquid,**
 2 **or electronic cigarette to the general public.**

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

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

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

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

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

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

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

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

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

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

33 ~~(e)~~ **(f)** It is a defense that the accused person sold or delivered the
 34 tobacco, **craft hemp flower**, e-liquid, or electronic cigarette to a
 35 person who acted in the ordinary course of employment or a business
 36 concerning tobacco, **craft hemp flower**, an e-liquid, or electronic
 37 cigarettes including the following activities:

38 (1) Agriculture.

39 (2) Processing.

40 (3) Transporting.

41 (4) Wholesaling.

42 (5) Retailing.



1 (f) As used in this section, "distribute" means to give tobacco, an
 2 e-liquid, or an electronic cigarette to another person as a means of
 3 promoting, advertising, or marketing the tobacco, e-liquid, or electronic
 4 cigarette to the general public.

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

13 (h) 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 SECTION 12. IC 35-46-1-10.2, AS AMENDED BY THE
 17 TECHNICAL CORRECTIONS BILL OF THE 2021 GENERAL
 18 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2021]: Sec. 10.2. (a) As used in this section, "distribute"
 20 means to give tobacco, **craft hemp flower**, an e-liquid, or an
 21 electronic cigarette to another person as a means of promoting,
 22 advertising, or marketing the tobacco, **craft hemp flower**, e-liquid,
 23 or electronic cigarette to the general public.

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

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

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

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

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

42 (3) If the retail establishment at that specific business location has



1 had two (2) citations or summonses issued for a violation of this
 2 section in the previous one (1) year, a civil penalty of up to one
 3 thousand four hundred dollars (\$1,400).

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

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

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

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

19 (1) The buyer or recipient produced a driver's license bearing the
 20 purchaser's or recipient's photograph showing that the purchaser
 21 or recipient was of legal age to make the purchase.

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

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

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

34 (1) Agriculture.

35 (2) Processing.

36 (3) Transporting.

37 (4) Wholesaling.

38 (5) Retailing.

39 ~~(g)~~ As used in this section, "distribute" means to give tobacco, an
 40 e-liquid, or an electronic cigarette to another person as a means of
 41 promoting, advertising, or marketing the tobacco or electronic cigarette
 42 to the general public.



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

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

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

16 SECTION 13. IC 35-46-1-10.5, AS AMENDED BY P.L.49-2020,
 17 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2021]: Sec. 10.5. (a) A person less than twenty-one (21) years
 19 of age who:

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

26 commits a Class C infraction.

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

- 31 (1) Agriculture.
- 32 (2) Processing.
- 33 (3) Transporting.
- 34 (4) Wholesaling.
- 35 (5) Retailing.

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

- 41 (1) The substance is substantially similar to a controlled substance
 42 classified under IC 35-48-2.



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



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



1 (7) low THC hemp extract; or
 2 (8) **smokable hemp: craft hemp flower.**
 3 SECTION 21. IC 35-48-1-26.6 IS REPEALED [EFFECTIVE JULY
 4 1, 2021]. Sec. 26.6: (a) Except as provided in subsection (b), "smokable
 5 hemp" means a product containing not more than three-tenths percent
 6 (0.3%) delta-9-tetrahydrocannabinol (THC); including precursors and
 7 derivatives of THC; in a form that allows THC to be introduced into the
 8 human body by inhalation of smoke. The term includes:
 9 (1) hemp bud; and
 10 (2) hemp flower.
 11 (b) The term does not include:
 12 (1) a hemp plant that is; or
 13 (2) parts of a hemp plant that are;
 14 grown or handled by a licensee for processing or manufacturing into a
 15 legal hemp product.
 16 SECTION 22. IC 35-48-4-10.1 IS REPEALED [EFFECTIVE JULY
 17 1, 2021]. Sec. 10.1: (a) A person who:
 18 (1) knowingly or intentionally:
 19 (A) manufactures;
 20 (B) finances the manufacture of;
 21 (C) delivers;
 22 (D) finances the delivery of; or
 23 (E) possesses;
 24 smokable hemp; or
 25 (2) possesses smokable hemp with intent to:
 26 (A) manufacture;
 27 (B) finance the manufacture of;
 28 (C) deliver; or
 29 (D) finance the delivery of;
 30 smokable hemp;
 31 commits dealing in smokable hemp; a Class A misdemeanor.
 32 (b) Subsection (a)(1)(B); (a)(1)(D); (a)(2)(B); and (a)(2)(D) do not
 33 apply to:
 34 (1) a financial institution organized or reorganized under the laws
 35 of Indiana; any other state; or the United States; or
 36 (2) any agency or instrumentality of the state or the United States.
 37 (c) Subsection (a)(1)(C); (a)(1)(D); (a)(1)(E); (a)(2)(C); and
 38 (a)(2)(D) do not apply to the shipment of smokable hemp from a
 39 licensed producer in another state in continuous transit through Indiana
 40 to a licensed handler in any state.
 41 SECTION 23. IC 35-48-4-12, AS AMENDED BY P.L.142-2020,
 42 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2021]: Sec. 12. If a person who has no prior conviction of an
2 offense under this article relating to controlled substances pleads guilty
3 to possession of marijuana, hashish, **or** salvia ~~or smokable hemp~~ as a
4 misdemeanor, the court, without entering a judgment of conviction and
5 with the consent of the person, may defer further proceedings and place
6 the person in the custody of the court under conditions determined by
7 the court. Upon violation of a condition of the custody, the court may
8 enter a judgment of conviction. However, if the person fulfills the
9 conditions of the custody, the court shall dismiss the charges against
10 the person. There may be only one (1) dismissal under this section with
11 respect to a person.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Small Business and Economic Development, to which was referred House Bill 1224, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 15.

Delete pages 2 through 4.

Page 5, delete lines 1 through 2.

Page 6, line 40, strike "not including".

Page 6, line 40, delete "craft".

Page 6, line 41, delete "hemp flower (as defined by IC 35-31.5-2-68.8)".

Page 10, delete lines 38 through 41.

Page 10, line 42, delete "(b)" and insert "**Sec. 6.**".

Page 12, delete lines 15 through 23.

Page 12, between lines 23 and 24, begin a new paragraph and insert:

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

(1) the container does not have tamper evident packaging; or

(2) the tamper evident packaging has a broken seal;

commits a Class C infraction.

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

(1) for purposes of IC 9-14-12-3; and

(2) for which points are assessed by the bureau under the point system."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1224 as introduced.)

MORRIS

Committee Vote: yeas 9, nays 4.

HB 1224—LS 7270/DI 77

