

HOUSE BILL No. 1540

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-28-5-5; IC 35-48-4.

Synopsis: Decriminalization of marijuana. Decriminalizes possession of 10 grams or less of marijuana and makes it a Class C infraction. Specifies that the civil penalty for possession of 10 grams or less of marijuana must be at least \$100 but may not exceed \$200, and provides for distribution of the funds. Establishes a defense to dealing in marijuana, hashish, or hash oil if the defendant delivered 10 grams or less with no expectation of consideration.

Effective: July 1, 2019.

Hatcher

January 17, 2019, read first time and referred to Committee on Courts and Criminal Code.



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. 1540

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 34-28-5-5, AS AMENDED BY P.L.146-2016,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 5. (a) A defendant against whom a judgment is
4 entered is liable for costs. Costs are part of the judgment and may not
5 be suspended except under IC 9-30-3-12. Whenever a judgment is
6 entered against a person for the commission of two (2) or more civil
7 violations (infractions or ordinance violations), the court may waive the
8 person's liability for costs for all but one (1) of the violations. This
9 subsection does not apply to judgments entered for violations
10 constituting:
11 (1) Class D infractions; or
12 (2) Class C infractions for unlawfully parking in a space reserved
13 for a person with a physical disability under IC 5-16-9-5 or
14 IC 5-16-9-8.
15 (b) If a judgment is entered:
16 (1) for a violation constituting:
17 (A) a Class D infraction; or



- 1 (B) a Class C infraction for unlawfully parking in a space
 2 reserved for a person with a physical disability under
 3 IC 5-16-9-5 or IC 5-16-9-8; or
 4 (2) in favor of the defendant in any case;
 5 the defendant is not liable for costs.
- 6 (c) Except for costs, and except as provided in subsections (e), ~~and~~
 7 (f), **and (g)**, and IC 9-21-5-11(e), the funds collected as judgments for
 8 violations of statutes defining infractions shall be deposited in the state
 9 general fund.
- 10 (d) A judgment may be entered against a defendant under this
 11 section or section 4 of this chapter upon a finding by the court that the
 12 defendant:
- 13 (1) violated:
- 14 (A) a statute defining an infraction; or
 15 (B) an ordinance; or
- 16 (2) consents to entry of judgment for the plaintiff upon a pleading
 17 of nolo contendere for a moving traffic violation.
- 18 (e) The funds collected for an infraction judgment described in
 19 section 4(h) of this chapter shall be transferred to a dedicated county
 20 fund. The money in the dedicated county fund does not revert to the
 21 county general fund or state general fund and may be used, after
 22 appropriation by the county fiscal body, only for the following
 23 purposes:
- 24 (1) To pay compensation of commissioners appointed under
 25 IC 33-33-49.
- 26 (2) To pay costs of the county's guardian ad litem program.
- 27 (f) The funds collected for an infraction judgment described in
 28 section 4(i) of this chapter shall be transferred to a dedicated toll
 29 revenue fund created as part of a project under IC 8-15.5-1-2(b)(4).
 30 The money in the fund does not revert to the county general fund or
 31 state general fund and may be used only to pay the cost of operating,
 32 maintaining, and repairing the tolling system for a project under
 33 IC 8-15.5-1-2(b)(4), including major repairs, replacements, and
 34 improvements.
- 35 **(g) The funds collected for an infraction judgment imposed for**
 36 **a violation of IC 35-48-4-11.3 shall be transferred as follows:**
- 37 **(1) Fifty dollars (\$50) shall be transferred to the auditor of**
 38 **state for deposit in the state user fee fund established by**
 39 **IC 33-37-9-2.**
- 40 **(2) Fifty dollars (\$50) shall be transferred to the county**
 41 **auditor for deposit in the county general fund.**
- 42 **(3) Any amount remaining after transfer of the funds**



1 **described in subdivisions (1) and (2) shall be transferred to**
 2 **the auditor of state for deposit in the state general fund.**

3 SECTION 2. IC 35-48-4-10, AS AMENDED BY P.L.153-2018,
 4 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2019]: Sec. 10. (a) A person who:

6 (1) knowingly or intentionally:

7 (A) manufactures;

8 (B) finances the manufacture of;

9 (C) delivers; or

10 (D) finances the delivery of;

11 marijuana, hash oil, hashish, or salvia, pure or adulterated; or

12 (2) possesses, with intent to:

13 (A) manufacture;

14 (B) finance the manufacture of;

15 (C) deliver; or

16 (D) finance the delivery of;

17 marijuana, hash oil, hashish, or salvia, pure or adulterated;

18 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
 19 misdemeanor, except as provided in subsections (b) through ~~(d)~~: (e).

20 (b) A person may be convicted of an offense under subsection (a)(2)
 21 only if:

22 (1) there is evidence in addition to the weight of the drug that the
 23 person intended to manufacture, finance the manufacture of,
 24 deliver, or finance the delivery of the drug; or

25 (2) the amount of the drug involved is at least:

26 (A) ten (10) pounds, if the drug is marijuana; or

27 (B) three hundred (300) grams, if the drug is hash oil, hashish,
 28 or salvia.

29 (c) The offense is a Level 6 felony if:

30 (1) the person has a prior conviction for a drug offense and the
 31 amount of the drug involved is:

32 (A) less than thirty (30) grams of marijuana; or

33 (B) less than five (5) grams of hash oil, hashish, or salvia; or

34 (2) the amount of the drug involved is:

35 (A) at least thirty (30) grams but less than ten (10) pounds of
 36 marijuana; or

37 (B) at least five (5) grams but less than three hundred (300)
 38 grams of hash oil, hashish, or salvia.

39 (d) The offense is a Level 5 felony if:

40 (1) the person has a prior conviction for a drug dealing offense
 41 and the amount of the drug involved is:

42 (A) at least thirty (30) grams but less than ten (10) pounds of



- 1 marijuana; or
 2 (B) at least five (5) grams but less than three hundred (300)
 3 grams of hash oil, hashish, or salvia;
 4 (2) the:
 5 (A) amount of the drug involved is:
 6 (i) at least ten (10) pounds of marijuana; or
 7 (ii) at least three hundred (300) grams of hash oil, hashish,
 8 or salvia; or
 9 (B) offense involved a sale to a minor; or
 10 (3) the:
 11 (A) person is a retailer;
 12 (B) marijuana, hash oil, hashish, or salvia is packaged in a
 13 manner that appears to be low THC hemp extract; and
 14 (C) person knew or reasonably should have known that the
 15 product was marijuana, hash oil, hashish, or salvia.
 16 **(e) It is a defense to prosecution under this section that:**
 17 **(1) the person delivered ten (10) grams or less of marijuana,**
 18 **hash oil, or hashish; and**
 19 **(2) the marijuana, hash oil, or hashish was delivered with no**
 20 **expectation of consideration.**
 21 SECTION 3. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,
 22 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2019]: Sec. 11. (a) A person who:
 24 (1) knowingly or intentionally possesses **(in pure or adulterated**
 25 **form):**
 26 **(A) more than ten (10) grams of marijuana;**
 27 **(B) hash oil;**
 28 **(C) hashish; or**
 29 **(D) salvia;**
 30 (2) knowingly or intentionally grows or cultivates marijuana; or
 31 (3) knowing that marijuana is growing on the person's premises,
 32 fails to destroy the marijuana plants;
 33 commits possession of marijuana, hash oil, hashish, or salvia, a Class
 34 B misdemeanor, except as provided in subsections (b) through (c).
 35 (b) The offense described in subsection (a) is a Class A
 36 misdemeanor if:
 37 (1) the person has a prior conviction for a drug offense; or
 38 (2) the:
 39 (A) marijuana, hash oil, hashish, or salvia is packaged in a
 40 manner that appears to be low THC hemp extract; and
 41 (B) person knew or reasonably should have known that the
 42 product was marijuana, hash oil, hashish, or salvia.



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

2 (1) the person has a prior conviction for a drug offense; and

3 (2) the person possesses:

4 (A) at least thirty (30) grams of marijuana; or

5 (B) at least five (5) grams of hash oil, hashish, or salvia.

6 SECTION 4. IC 35-48-4-11.3 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2019]: **Sec. 11.3. (a) A person who knowingly**

9 **or intentionally possesses marijuana commits a Class C infraction.**

10 **(b) A person may not be charged with a violation of this section**
11 **and an offense under:**

12 **(1) section 10 of this chapter; or**

13 **(2) section 11 of this chapter.**

14 **(c) Notwithstanding IC 34-28-5-4, a judgment imposed for a**
15 **violation of this section:**

16 **(1) must be at least one hundred dollars (\$100); and**

17 **(2) may not exceed two hundred dollars (\$200).**

