



January 15, 2015

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## SENATE BILL No. 37

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DIGEST OF SB 37 (Updated January 13, 2015 12:47 pm - DI 106)

**Citations Affected:** IC 16-42; IC 35-31.5; IC 35-48.

**Synopsis:** Possession of paraphernalia. Excludes possession of rolling papers and raw materials from the crime of possession of paraphernalia, and removes possession of paraphernalia as an infraction. Makes the knowing or intentional possession of paraphernalia a Class C misdemeanor, and increases the penalty to a Class A misdemeanor if the person has a prior unrelated judgment or conviction. Makes it a Level 6 felony to possess a hypodermic needle with intent to commit a controlled substance offense. (Under current law, the offense only applies if committed with intent to violate the legend drug act). Specifies that the sentencing enhancement that applies to the legend drug act also applies to the new offense.

**Effective:** July 1, 2015.

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**Bray**

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January 6, 2015, read first time and referred to Committee on Corrections & Criminal Law.  
January 14, 2015, amended, reported favorably — Do Pass.

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SB 37—LS 6120/DI 106





January 15, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 37

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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 16-42-19-18 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18. (a) A person may  
3       not possess ~~or have under control~~ with intent to:

4       (1) violate this chapter; **or**

5       (2) **commit an offense described in IC 35-48-4;**  
6       a hypodermic syringe or needle or an instrument adapted for the use of  
7       a **controlled substance** or legend drug by injection in a human being.

8       **(b) A person who violates subsection (a) commits a Level 6**  
9       **felony. However, the offense is a Level 5 felony if the person has a**  
10       **prior conviction under this section or IC 16-6-8-10(a) before its**  
11       **repeal.**

12       SECTION 2. IC 16-42-19-27, AS AMENDED BY P.L.158-2013,  
13       SECTION 248, IS AMENDED TO READ AS FOLLOWS  
14       [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) **Unless otherwise specified,**  
15       a person who knowingly violates this chapter, except sections 24 and  
16       25(b) of this chapter, commits a Level 6 felony. However, the offense

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is a Level 5 felony if the person has a prior conviction under this subsection or IC 16-6-8-10(a) before its repeal.

(b) A person who violates section 24 of this chapter commits a Class B misdemeanor.

(c) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Level 5 felony. However, the offense is a Level 4 felony if the person delivered the anabolic steroid to a person who is:

(1) less than eighteen (18) years of age; and

(2) at least three (3) years younger than the delivering person.

SECTION 3. IC 35-31.5-2-279.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 279.5. "Rolling paper" means a small sheet, roll, or leaf of paper that is used for rolling a cigarette containing tobacco or another substance.**

SECTION 4. IC 35-48-4-8.3, AS AMENDED BY P.L.158-2013, SECTION 635, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) ~~A person who possesses~~

**This section does not apply to a rolling paper. a raw material; an instrument; a device; or other object that the person intends to use for:**

(1) introducing into the person's body a controlled substance;

(2) testing the strength, effectiveness, or purity of a controlled substance; or

(3) enhancing the effect of a controlled substance;

~~in violation of this chapter commits a Class A infraction for possessing paraphernalia.~~

(b) A person who knowingly or intentionally ~~violates subsection (a)~~ **possesses an instrument, a device, or another object that the person intends to use for:**

(1) introducing into the person's body a controlled substance;

(2) testing the strength, effectiveness, or purity of a controlled substance; or

(3) enhancing the effect of a controlled substance;

~~commits a Class A~~ **Class C** misdemeanor. However, the offense is a ~~Level 6 felony~~ **Class A misdemeanor** if the person has a prior unrelated judgment or conviction under this section.



## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 37, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 16-42-19-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18. (a) A person may not possess ~~or have under control~~ with intent to:

(1) violate this chapter; **or**

(2) **commit an offense described in IC 35-48-4;**

a hypodermic syringe or needle or an instrument adapted for the use of a **controlled substance** or legend drug by injection in a human being.

(b) **A person who violates subsection (a) commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this section or IC 16-6-8-10(a) before its repeal.**

SECTION 2. IC 16-42-19-27, AS AMENDED BY P.L.158-2013, SECTION 248, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) **Unless otherwise specified,** a person who knowingly violates this chapter, except sections 24 and 25(b) of this chapter, commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction under this subsection or IC 16-6-8-10(a) before its repeal.

(b) A person who violates section 24 of this chapter commits a Class B misdemeanor.

(c) A person who violates section 25(b) of this chapter commits dealing in an anabolic steroid, a Level 5 felony. However, the offense is a Level 4 felony if the person delivered the anabolic steroid to a person who is:

(1) less than eighteen (18) years of age; and

(2) at least three (3) years younger than the delivering person.

SECTION 3. IC 35-31.5-2-279.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 279.5. "Rolling paper" means a small sheet, roll, or leaf of paper that is used for rolling a cigarette containing tobacco or another substance."**

Page 1, line 3, strike "A person who possesses" and insert "**This section does not apply to a rolling paper.**".



Page 1, line 4, strike "an instrument, a device, or other object that the person".

Page 1, strike lines 5 through 11.

Page 1, line 12, strike "violates subsection (a)" and insert **"possesses an instrument, a device, or another object that the person intends to use for:**

**(1) introducing into the person's body a controlled substance;**

**(2) testing the strength, effectiveness, or purity of a controlled substance; or**

**(3) enhancing the effect of a controlled substance;"**.

Page 1, line 13, beginning with "commits" begin a new line blocked left.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 37 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

