



January 26, 2018

SENATE BILL No. 52

DIGEST OF SB 52 (Updated January 23, 2018 1:13 pm - DI 106)

Citations Affected: IC 4-13; IC 16-18; IC 16-42; IC 24-4; IC 35-31.5; IC 35-48.

Synopsis: Zero THC hemp extract. Repeals all provisions concerning the cannabidiol registry and a "substance containing cannabidiol" (all added by HEA 1148-2017). Defines "zero THC hemp extract" as a product derived from *Cannabis sativa L.* that contains not more than 0.3% THC and no other controlled substances. Establishes requirements for the manufacture and sale of zero THC hemp extract. Makes conforming amendments.

Effective: July 1, 2018.

Young M, Stoops

January 3, 2018, read first time and referred to Committee on Rules and Legislative Procedure.

January 11, 2018, amended; reassigned to Committee on Corrections and Criminal Law.
January 25, 2018, amended, reported favorably — Do Pass.

SB 52—LS 6077/DI 13



January 26, 2018

Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

SENATE BILL No. 52

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 4-13-18-6, AS ADDED BY P.L.160-2006,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 6. (a) A contractor's employee drug testing
4 program must satisfy all of the following:
5 (1) Each of the contractor's employees must be subject to a drug
6 test at least one (1) time each year.
7 (2) Subject to subdivision (1), the contractor's employees must be
8 tested randomly. At least two percent (2%) of the contractor's
9 employees must be randomly selected each month for testing.
10 (3) The program must contain at least a five (5) drug panel that
11 tests for the following:
12 (A) Amphetamines.
13 (B) Cocaine.
14 (C) Opiates (2000 ng/ml).
15 (D) PCP.
16 (E) THC.
17 (4) The program must impose progressive discipline on an

SB 52—LS 6077/DI 13



1 employee who fails a drug test. The discipline must have at least
2 the following progression:

3 (A) After the first positive test, an employee must be:

- 4 (i) suspended from work for thirty (30) days;
5 (ii) directed to a program of treatment or rehabilitation; and
6 (iii) subject to unannounced drug testing for one (1) year,
7 beginning the day the employee returns to work.

8 (B) After a second positive test, an employee must be:

- 9 (i) suspended from work for ninety (90) days;
10 (ii) directed to a program of treatment or rehabilitation; and
11 (iii) subject to unannounced drug testing for one (1) year,
12 beginning the day the employee returns to work.

13 (C) After a third or subsequent positive test, an employee must
14 be:

- 15 (i) suspended from work for one (1) year;
16 (ii) directed to a program of treatment or rehabilitation; and
17 (iii) subject to unannounced drug testing for one (1) year,
18 beginning the day the employee returns to work.

19 The program may require dismissal of the employee after any
20 positive drug test or other discipline more severe than is described
21 in this subdivision.

22 (b) An employer complies with the requirement of subsection (a) to
23 direct an employee to a program of treatment or rehabilitation if the
24 employer does either of the following:

- 25 (1) Advises the employee of any program of treatment or
26 rehabilitation covered by insurance provided by the employer.
27 (2) If the employer does not provide insurance that covers drug
28 treatment or rehabilitation programs, the employer advises the
29 employee of agencies known to the employer that provide drug
30 treatment or rehabilitation programs.

31 **(c) A positive result on a drug test due solely to an employee's**
32 **use of zero THC hemp extract (as defined in IC 35-48-1-28) is not**
33 **considered a positive test for purposes of this section.**

34 SECTION 2. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE JULY
35 1, 2018]. Sec. 45.5: "Cannabidiol", for purposes of IC 16-42-28.6; has
36 the meaning set forth in IC 16-42-28.6-1.

37 SECTION 3. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE JULY
38 1, 2018]. Sec. 48.7: "Caregiver", for purposes of IC 16-42-28.6; has the
39 meaning set forth in IC 16-42-28.6-2.

40 SECTION 4. IC 16-18-2-272, AS AMENDED BY P.L.188-2017,
41 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2018]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has



1 the meaning set forth in IC 16-27-1-6.

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

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

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

9 ~~(e) "Patient", for purposes of IC 16-42-28.6, has the meaning set
10 forth in IC 16-42-28.6-3.~~

11 SECTION 5. IC 16-18-2-282, AS AMENDED BY P.L.188-2017,
12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2018]: Sec. 282. (a) "Physician", except as provided in
14 subsections (b) **and (c), through (d)**; means a licensed physician (as
15 defined in section 202 of this chapter).

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

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

20 (1) was the physician last in attendance (as defined in section
21 282.2 of this chapter); or

22 (2) is licensed under IC 25-22.5.

23 ~~(d) "Physician", for purposes of IC 16-42-28.6, has the meaning set
24 forth in IC 16-42-28.6-4.~~

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

27 SECTION 6. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE JULY
28 1, 2018]. Sec. 342.6. "Substance containing cannabidiol", for purposes
29 of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-5.

30 SECTION 7. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE JULY
31 1, 2018]. Sec. 354.7. "Treatment resistant epilepsy", for purposes of
32 IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-6.

33 SECTION 8. IC 16-42-28.6 IS REPEALED [EFFECTIVE JULY 1,
34 2018]. (Drugs: Use of Cannabidiol for the Treatment of Epilepsy).

35 SECTION 9. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS
36 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2018]:

38 **Chapter 21. Zero THC Hemp Extract Production**

39 **Sec. 1. The following definitions apply throughout this chapter:**

40 (1) "Certificate of analysis" means a certificate from an
41 independent testing laboratory describing the results of the
42 laboratory's testing of a sample.



- 1 **(2) "Independent testing laboratory" means a laboratory:**
 2 **(A) with respect to which no person having a direct or**
 3 **indirect interest in the laboratory also has a direct or**
 4 **indirect interest in a facility that:**
 5 **(i) processes, distributes, or sells zero THC hemp**
 6 **extract;**
 7 **(ii) processes, distributes, or sells a substance containing**
 8 **cannabidiol (as defined in IC 35-48-1-26.7), or a**
 9 **substantially similar substance in another jurisdiction;**
 10 **(iii) cultivates, processes, distributes, dispenses, or sells**
 11 **marijuana; or**
 12 **(iv) cultivates, processes, or distributes industrial hemp;**
 13 **and**
 14 **(B) that is accredited as a testing laboratory to**
 15 **International Organization for Standardization (ISO)**
 16 **17025 by a third party accrediting body such as the**
 17 **American Association for Laboratory Accreditation**
 18 **(A2LA) or Assured Calibration and Laboratory**
 19 **Accreditation Select Services (ACLASS).**
 20 **(3) "Zero THC hemp extract" has the meaning set forth in**
 21 **IC 35-48-1-28.**

22 **Sec. 2. A person may:**

- 23 **(1) manufacture zero THC hemp extract for distribution in**
 24 **Indiana; and**
 25 **(2) distribute zero THC hemp extract to a retailer or**
 26 **independent testing laboratory in Indiana;**

27 **if the person meets the requirements of this chapter.**

28 **Sec. 3. A manufacturer shall submit a random sample of each**
 29 **batch of product to an independent testing laboratory for testing**
 30 **before the batch may be distributed. The manufacturer shall select**
 31 **and submit the sample in a manner determined by the independent**
 32 **testing laboratory. A manufacturer may not distribute a batch**
 33 **until the manufacturer has obtained a certificate of analysis from**
 34 **the independent testing laboratory showing that the sample**
 35 **contains no tetrahydrocannabinol.**

36 **Sec. 4. If testing by the independent testing laboratory**
 37 **demonstrates that a sample contains tetrahydrocannabinol, the**
 38 **manufacturer:**

- 39 **(1) may not distribute the batch; and**
 40 **(2) may reprocess the batch to remove the**
 41 **tetrahydrocannabinol.**

42 **A manufacturer shall treat a reprocessed batch as a new batch for**



1 all purposes, and shall submit a new sample from the batch to the
 2 independent testing laboratory for testing in accordance with
 3 section 3 of this chapter.

4 **Sec. 5. After receiving a certificate of analysis showing that the**
 5 **product contains no tetrahydrocannabinol, the manufacturer shall**
 6 **package the zero THC hemp extract in packaging that contains the**
 7 **following information:**

8 **(1) A scannable bar code or QR code linked to a document**
 9 **that contains information with respect to the manufacture of**
 10 **the zero THC hemp extract, including the:**

11 **(A) batch identification number;**

12 **(B) product name;**

13 **(C) batch date;**

14 **(D) expiration date, which must be not more than two (2)**
 15 **years from the date of manufacture;**

16 **(E) batch size;**

17 **(F) total quantity produced;**

18 **(G) ingredients used, including the:**

19 **(i) ingredient name;**

20 **(ii) name of the company that manufactured the**
 21 **ingredient;**

22 **(iii) company or product identification number or code,**
 23 **if applicable; and**

24 **(iv) ingredient lot number; and**

25 **(H) download link for a certificate of analysis for the zero**
 26 **THC hemp extract.**

27 **(2) The batch number.**

28 **(3) The Internet address of a web site to obtain batch**
 29 **information.**

30 **(4) The expiration date.**

31 **(5) The number of milligrams of zero THC hemp extract.**

32 **(6) The manufacturer.**

33 **(7) The fact that the product contains no**
 34 **tetrahydrocannabinol.**

35 **Sec. 6. A person who violates sections 3 through 5 of this chapter**
 36 **commits a Class B infraction. However, the offense is a Class A**
 37 **infraction if the person has a prior unrelated judgment for a**
 38 **violation of this chapter.**

39 SECTION 10. IC 24-4-22 IS ADDED TO THE INDIANA CODE
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2018]:

42 **Chapter 22. Zero THC Hemp Extract Sales**



1 **Sec. 1. The following definitions apply throughout this chapter:**

2 (1) "Certificate of analysis" has the meaning set forth in
3 IC 24-4-21-1.

4 (2) "Zero THC hemp extract" has the meaning set forth in
5 IC 35-48-1-28.

6 **Sec. 2. A person may sell zero THC hemp extract at retail if the**
7 **packaging complies with the requirements of IC 24-4-21-5.**

8 **Sec. 3. A person who violates section 2 of this chapter commits**
9 **a Class C infraction. However, the violation is a Class B infraction**
10 **if the person has one (1) prior unrelated judgment for a violation**
11 **of section 2 of this chapter, and a Class A infraction if the person**
12 **has two (2) or more prior unrelated judgements for a violation of**
13 **section 2 of this chapter.**

14 SECTION 11. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2018]: **Sec. 150.5. "Hashish", for purposes of**
17 **IC 35-48, has the meaning set forth in IC 35-48-1-16.8.**

18 SECTION 12. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2018]: **Sec. 150.6. "Hash oil", for purposes**
21 **of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.**

22 SECTION 13. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE
23 JULY 1, 2018]. ~~Sec. 316.9. "Substance containing cannabidiol", for~~
24 ~~purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.~~

25 SECTION 14. IC 35-31.5-2-358 IS ADDED TO THE INDIANA
26 CODE AS A NEW SECTION TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2018]: **Sec. 358. "Zero THC hemp extract",**
28 **for purposes of IC 35-48, has the meaning set forth in**
29 **IC 35-48-1-28.**

30 SECTION 15. IC 35-48-1-6.5 IS REPEALED [EFFECTIVE JULY
31 1, 2018]. ~~Sec. 6.5. "Cannabidiol" has the meaning set forth in~~
32 ~~IC 16-42-28.6-1.~~

33 SECTION 16. IC 35-48-3.5 IS ADDED TO THE INDIANA CODE
34 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2018]:

36 **Chapter 3.5. Defenses Relating to Controlled Substances**

37 **Sec. 1. (a) This section does not apply to a person who sells**
38 **marijuana, hashish, hash oil, or tetrahydrocannabinol:**

39 (1) without having obtained a certificate of analysis (as
40 defined in IC 24-4-21-1) showing that the controlled substance
41 contains no tetrahydrocannabinol; or

42 (2) after having obtained a certificate of analysis showing that



1 the controlled substance contains cannabitol.

2 (b) It is a defense to a prosecution under IC 35-48-4-2 (dealing
3 in a schedule I-III controlled substance), IC 35-48-4-7 (possession
4 of a controlled substance), IC 35-48-4-10 (dealing in marijuana,
5 hash oil, or hashish), or IC 35-48-4-11 (possession of marijuana,
6 hash oil, or hashish) that all of the following apply:

7 (1) The person is:

8 (A) a manufacturer of zero THC hemp extract as described
9 in IC 24-4-21; or

10 (B) an independent testing laboratory (as defined in
11 IC 24-4-21-1).

12 (2) The person is charged with an offense relating to
13 marijuana, hashish, hash oil, or tetrahydrocannabinol.

14 (3) The person possessed, delivered, or manufactured the
15 marijuana, hashish, hash oil, or tetrahydrocannabinol within
16 the scope of manufacturing or testing zero THC hemp extract
17 under IC 24-4-21.

18 (4) The person substantially complied with the requirements
19 of IC 24-4-21.

20 SECTION 17. IC 35-48-1-9 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9. "Controlled
22 substance" means a drug, substance, or immediate precursor in
23 schedule I, II, III, IV, or V under:

24 (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or
25 IC 35-48-2-12, if IC 35-48-2-14 does not apply; or

26 (2) a rule adopted by the board, if IC 35-48-2-14 applies.

27 **The term does not include zero THC hemp extract.**

28 SECTION 18. IC 35-48-1-9.3 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9.3. (a) "Controlled
30 substance analog" means a substance:

31 (1) the chemical structure of which is substantially similar to that
32 of a controlled substance included in schedule I or II and that has;
33 or

34 (2) that a person represents or intends to have;

35 a narcotic, stimulant, depressant, or hallucinogenic effect on the central
36 nervous system substantially similar to or greater than the narcotic,
37 stimulant, depressant, or hallucinogenic effect on the central nervous
38 system of a controlled substance included in schedule I or II.

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

40 (1) a controlled substance;

41 (2) a substance for which there is an approved new drug
42 application;



1 (3) a substance for which an exemption is in effect for
 2 investigational use by a person under Section 505 of the federal
 3 Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21
 4 U.S.C. 355)), to the extent that conduct with respect to the
 5 substance is permitted under the exemption; **or**

6 (4) a substance to the extent not intended for human consumption
 7 before an exemption takes effect regarding the substance; **or**

8 **(5) Zero THC hemp extract.**

9 SECTION 19. IC 35-48-1-16.8 IS ADDED TO THE INDIANA
 10 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 11 [EFFECTIVE JULY 1, 2018]: **Sec. 16.8. "Hashish" does not include**
 12 **zero THC hemp extract.**

13 SECTION 20. IC 35-48-1-16.9 IS ADDED TO THE INDIANA
 14 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 15 [EFFECTIVE JULY 1, 2018]: **Sec. 16.9. "Hash oil" does not include**
 16 **zero THC hemp extract.**

17 SECTION 21. IC 35-48-1-19, AS AMENDED BY P.L.165-2014,
 18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2018]: Sec. 19. (a) "Marijuana" means any part of the plant
 20 genus Cannabis whether growing or not; the seeds thereof; the resin
 21 extracted from any part of the plant, including hashish and hash oil; any
 22 compound, manufacture, salt, derivative, mixture, or preparation of the
 23 plant, its seeds or resin.

24 (b) The term does not include:

25 (1) the mature stalks of the plant;

26 (2) fiber produced from the stalks;

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

28 (4) any other compound, manufacture, salt, derivative, mixture,
 29 or preparation of the mature stalks (except the resin extracted
 30 therefrom);

31 (5) the sterilized seed of the plant which is incapable of
 32 germination; **or**

33 (6) industrial hemp (as defined by IC 15-15-13-6); **or**

34 **(7) zero THC hemp extract.**

35 SECTION 22. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE JULY
 36 1, 2018]. ~~Sec. 26.7. "Substance containing cannabidiol" has the~~
 37 ~~meaning set forth in IC 16-42-28.6-5.~~

38 SECTION 23. IC 35-48-1-28 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 40 [EFFECTIVE JULY 1, 2018]: **Sec. 28. "Zero THC hemp extract"**
 41 **means a substance or compound that:**

42 **(1) is derived from or contains any part of the plant Cannabis**



1 **sativa L.;**

2 **(2) contains not more than three-tenths percent (0.3%) total**
 3 **tetrahydrocannabinol (THC) by dry weight; and**

4 **(3) contains no other controlled substances.**

5 SECTION 24. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017,
 6 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2018]: Sec. 8.5. (a) A person who keeps for sale, offers for
 8 sale, delivers, or finances the delivery of a raw material, an instrument,
 9 a device, or other object that is intended to be or that is designed or
 10 marketed to be used primarily for:

11 (1) ingesting, inhaling, or otherwise introducing into the human
 12 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a
 13 controlled substance;

14 (2) testing the strength, effectiveness, or purity of marijuana, hash
 15 oil, hashish, salvia, a synthetic drug, or a controlled substance;

16 (3) enhancing the effect of a controlled substance;

17 (4) manufacturing, compounding, converting, producing,
 18 processing, or preparing marijuana, hash oil, hashish, salvia, a
 19 synthetic drug, or a controlled substance;

20 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 21 synthetic drug, or a controlled substance by individuals; or

22 (6) any purpose announced or described by the seller that is in
 23 violation of this chapter;

24 commits a Class A infraction for dealing in paraphernalia.

25 (b) A person who knowingly or intentionally violates subsection (a)
 26 commits a Class A misdemeanor. However, the offense is a Level 6
 27 felony if the person has a prior unrelated judgment or conviction under
 28 this section.

29 (c) This section does not apply to the following:

30 (1) Items marketed for use in the preparation, compounding,
 31 packaging, labeling, or other use of marijuana, hash oil, hashish,
 32 salvia, a synthetic drug, or a controlled substance as an incident
 33 to lawful research, teaching, or chemical analysis and not for sale.

34 (2) Items marketed for or historically and customarily used in
 35 connection with the planting, propagating, cultivating, growing,
 36 harvesting, manufacturing, compounding, converting, producing,
 37 processing, preparing, testing, analyzing, packaging, repackaging,
 38 storing, containing, concealing, injecting, ingesting, or inhaling
 39 of tobacco or any other lawful substance. ~~excluding the lawful~~
 40 ~~possession of a substance containing cannabidiol under~~
 41 ~~IC 35-48-4-11.~~

42 (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides



1 a syringe or needle as part of a program under IC 16-41-7.5.
2 (4) Any entity or person that provides funding to a qualified entity
3 (as defined in IC 16-41-7.5-3) to operate a program described in
4 IC 16-41-7.5.

5 SECTION 25. IC 35-48-4-11, AS AMENDED BY P.L.188-2017,
6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2018]: Sec. 11. (a) A person who:
8 (1) knowingly or intentionally possesses (pure or adulterated)
9 marijuana, hash oil, hashish, or salvia;
10 (2) knowingly or intentionally grows or cultivates marijuana; or
11 (3) knowing that marijuana is growing on the person's premises,
12 fails to destroy the marijuana plants;
13 commits possession of marijuana, hash oil, hashish, or salvia, a Class
14 B misdemeanor, except as provided in subsections (b) through (c).
15 (b) The offense described in subsection (a) is a Class A
16 misdemeanor if the person has a prior conviction for a drug offense.
17 (c) The offense described in subsection (a) is a Level 6 felony if:
18 (1) the person has a prior conviction for a drug offense; and
19 (2) the person possesses:
20 (A) at least thirty (30) grams of marijuana; or
21 (B) at least five (5) grams of hash oil, hashish, or salvia.
22 (d) It is a defense to a prosecution under subsection (a)(1) based on
23 the possession of a substance containing cannabidiol that:
24 (1) the person is a patient or caregiver registered under
25 IC 16-42-28.6 for the use of a substance containing cannabidiol;
26 (2) the person reasonably believed that the substance possessed
27 by the person was a substance containing cannabidiol; and
28 (3) the substance containing cannabidiol is packaged in a
29 container labeled with the origin, volume, and concentration by
30 weight of total THC, including its precursors and derivatives; and
31 cannabidiol.
32 (e) It is a defense to a prosecution under this section based on the
33 possession of a substance containing cannabidiol that:
34 (1) the substance containing cannabidiol has been approved by
35 the federal Food and Drug Administration or the federal Drug
36 Enforcement Agency as a prescription drug; and
37 (2) the substance was prescribed and dispensed in accordance
38 with the federal approval described in subdivision (1).



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 52, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections and Criminal Law.

(Reference is to 52 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 52, 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, delete lines 1 through 11, begin a new paragraph and insert:

"SECTION 1. IC 4-13-18-6, AS ADDED BY P.L.160-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) A contractor's employee drug testing program must satisfy all of the following:

- (1) Each of the contractor's employees must be subject to a drug test at least one (1) time each year.
- (2) Subject to subdivision (1), the contractor's employees must be tested randomly. At least two percent (2%) of the contractor's employees must be randomly selected each month for testing.
- (3) The program must contain at least a five (5) drug panel that tests for the following:
 - (A) Amphetamines.
 - (B) Cocaine.
 - (C) Opiates (2000 ng/ml).
 - (D) PCP.
 - (E) THC.
- (4) The program must impose progressive discipline on an

SB 52—LS 6077/DI 13



employee who fails a drug test. The discipline must have at least the following progression:

- (A) After the first positive test, an employee must be:
 - (i) suspended from work for thirty (30) days;
 - (ii) directed to a program of treatment or rehabilitation; and
 - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.
- (B) After a second positive test, an employee must be:
 - (i) suspended from work for ninety (90) days;
 - (ii) directed to a program of treatment or rehabilitation; and
 - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.
- (C) After a third or subsequent positive test, an employee must be:
 - (i) suspended from work for one (1) year;
 - (ii) directed to a program of treatment or rehabilitation; and
 - (iii) subject to unannounced drug testing for one (1) year, beginning the day the employee returns to work.

The program may require dismissal of the employee after any positive drug test or other discipline more severe than is described in this subdivision.

(b) An employer complies with the requirement of subsection (a) to direct an employee to a program of treatment or rehabilitation if the employer does either of the following:

- (1) Advises the employee of any program of treatment or rehabilitation covered by insurance provided by the employer.
- (2) If the employer does not provide insurance that covers drug treatment or rehabilitation programs, the employer advises the employee of agencies known to the employer that provide drug treatment or rehabilitation programs.

(c) A positive result on a drug test due solely to an employee's use of zero THC hemp extract (as defined in IC 35-48-1-28) is not considered a positive test for purposes of this section.

SECTION 2. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 45.5: "Cannabidiol", for purposes of IC 16-42-28.6; has the meaning set forth in IC 16-42-28.6-1.

SECTION 3. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 48.7: "Caregiver", for purposes of IC 16-42-28.6; has the meaning set forth in IC 16-42-28.6-2.

SECTION 4. IC 16-18-2-272, AS AMENDED BY P.L.188-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1, has



the meaning set forth in IC 16-27-1-6.

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

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

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

~~(e) "Patient", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-3.~~

SECTION 5. IC 16-18-2-282, AS AMENDED BY P.L.188-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 282. (a) "Physician", except as provided in subsections (b) **and (c), through (d)**; means a licensed physician (as defined in section 202 of this chapter).

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

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

- (1) was the physician last in attendance (as defined in section 282.2 of this chapter); or
- (2) is licensed under IC 25-22.5.

~~(d) "Physician", for purposes of IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-4.~~

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

SECTION 6. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 342.6. "~~Substance containing cannabidiol~~"; for purposes of ~~IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-5.~~

SECTION 7. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. 354.7. "~~Treatment resistant epilepsy~~"; for purposes of ~~IC 16-42-28.6, has the meaning set forth in IC 16-42-28.6-6.~~

SECTION 8. IC 16-42-28.6 IS REPEALED [EFFECTIVE JULY 1, 2018]. (Drugs: Use of Cannabidiol for the Treatment of Epilepsy)."

Page 2, line 16, delete "is accredited:" and insert "**that is accredited as a testing laboratory**".

Page 2, line 17, delete "(i)".

Page 2, run in lines 16 through 17.

Page 2, line 21, delete "(ACCLASS); or" and insert "**(ACCLASS)**".

Page 2, delete lines 22 through 23.

Page 2, line 27, delete "extract;" and insert "**extract for distribution in Indiana;**".



Page 2, line 28, delete "an".

Page 2, line 29, delete "laboratory;" and insert "**laboratory in Indiana;**".

Page 2, line 41, delete "manufacturer shall:" and insert "**manufacturer:**".

Page 2, line 42, delete "destroy; or" and insert "**may not distribute the batch; and**".

Page 3, line 1, delete "reprocess;" and insert "**may reprocess the batch to remove the tetrahydrocannabinol.**".

Page 3, line 2, delete "the batch.".

Page 3, line 4, delete "testing." and insert "**testing in accordance with section 3 of this chapter.**".

Page 3, line 6, delete "manufacture" and insert "**manufacturer**".

Page 4, between lines 22 and 23, begin a new paragraph and insert: "SECTION 13. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~316.9~~: "**Substance containing cannabidiol**", for purposes of IC ~~35-48~~, has the meaning set forth in IC ~~35-48-1-26.7~~".

Page 4, between lines 27 and 28, begin a new paragraph and insert: "SECTION 14. IC 35-48-1-6.5 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~6.5~~: "**Cannabidiol**" has the meaning set forth in IC ~~16-42-28.6-1~~".

Page 5, line 10, delete "while" and insert "**within the scope of**".

Page 6, between lines 29 and 30, begin a new paragraph and insert: "SECTION 21. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE JULY 1, 2018]. Sec. ~~26.7~~: "**Substance containing cannabidiol**" has the meaning set forth in IC ~~16-42-28.6-5~~".

Page 6, line 34, delete "genus".

Page 6, delete line 35 and insert "**Cannabis sativa L.;**".

Page 6, line 36, delete "no tetrahydrocannabinol;" and insert "**not more than three-tenths percent (0.3%) total tetrahydrocannabinol (THC) by dry weight;**".

Page 6, after line 37, begin a new paragraph and insert:

"SECTION 23. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

- (1) ingesting, inhaling, or otherwise introducing into the human body marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (2) testing the strength, effectiveness, or purity of marijuana, hash



- oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (3) enhancing the effect of a controlled substance;
- (4) manufacturing, compounding, converting, producing, processing, or preparing marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance;
- (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance by individuals; or
- (6) any purpose announced or described by the seller that is in violation of this chapter;

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

(c) This section does not apply to the following:

- (1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, salvia, a synthetic drug, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.
- (2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance. ~~excluding the lawful possession of a substance containing cannabidiol under IC 35-48-4-11.~~
- (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides a syringe or needle as part of a program under IC 16-41-7.5.
- (4) Any entity or person that provides funding to a qualified entity (as defined in IC 16-41-7.5-3) to operate a program described in IC 16-41-7.5.

SECTION 24. IC 35-48-4-11, AS AMENDED BY P.L.188-2017, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) A person who:

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

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

SB 52—LS 6077/DI 13



- (b) The offense described in subsection (a) is a Class A misdemeanor if the person has a prior conviction for a drug offense.
- (c) The offense described in subsection (a) is a Level 6 felony if:
 - (1) the person has a prior conviction for a drug offense; and
 - (2) the person possesses:
 - (A) at least thirty (30) grams of marijuana; or
 - (B) at least five (5) grams of hash oil, hashish, or salvia.
- (d) It is a defense to a prosecution under subsection (a)(1) based on the possession of a substance containing cannabidiol that:
 - (1) the person is a patient or caregiver registered under IC 16-42-28.6 for the use of a substance containing cannabidiol;
 - (2) the person reasonably believed that the substance possessed by the person was a substance containing cannabidiol; and
 - (3) the substance containing cannabidiol is packaged in a container labeled with the origin, volume, and concentration by weight of total THC, including its precursors and derivatives, and cannabidiol.
- (e) It is a defense to a prosecution under this section based on the possession of a substance containing cannabidiol that:
 - (1) the substance containing cannabidiol has been approved by the federal Food and Drug Administration or the federal Drug Enforcement Agency as a prescription drug; and
 - (2) the substance was prescribed and dispensed in accordance with the federal approval described in subdivision (1)."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 52 as printed January 11, 2018.)

YOUNG M, Chairperson

Committee Vote: Yeas 7, Nays 2.

