



February 23, 2018

ENGROSSED SENATE BILL No. 52

DIGEST OF SB 52 (Updated February 21, 2018 5:56 pm - DI 131)

Citations Affected: IC 6-2.5; IC 16-18; IC 16-42; IC 24-4; IC 35-31.5; IC 35-48.

Synopsis: Low THC extract. Provides that the Indiana department of state revenue (department) may revoke a registered retail merchant's certificate if the department has good cause to believe a retailer has sold or is selling low THC extract and the product is not derived from industrial hemp. Repeals all provisions concerning the cannabidiol registry and a "substance containing cannabidiol" (all added by HEA 1148-2017). Defines "low THC 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 low THC extract. Provides that a person commits the offense of dealing in marijuana, hash oil, hashish, or salvia as a Level 5 felony if the: (1) person is a retailer; (2) marijuana, hash oil, hashish, or salvia is packaged in a manner that appears to be low THC extract; and (3) person knew or reasonably should have known that the product was marijuana, hash oil, hashish, or salvia. Makes conforming amendments.

Effective: Upon passage.

**Young M, Tomes, Stoops, Lanane,
Randolph Lonnie M, Tallian, Buck**

(HOUSE SPONSORS — FRIEND, FRIZZELL, MCNAMARA)

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.

February 1, 2018, read second time, amended, ordered engrossed.

February 2, 2018, engrossed.

February 5, 2018, read third time, passed. Yeas 35, nays 13.

HOUSE ACTION

February 12, 2018, read first time and referred to Committee on Courts and Criminal Code.

February 22, 2018, amended, reported — Do Pass.

ES 52—LS 6077/DI 13



February 23, 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.

ENGROSSED 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 6-2.5-8-7, AS AMENDED BY P.L.97-2017,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 7. (a) The department may, for good cause,
4 revoke a certificate issued under section 1, 3, or 4 of this chapter.
5 However, the department must give the certificate holder at least five
6 (5) days notice before it revokes the certificate under this subsection.
7 Good cause for revocation may include the following:
8 (1) Failure to:
9 (A) file a return required under this chapter or for any tax
10 collected for the state in trust; or
11 (B) remit any tax collected for the state in trust.
12 (2) Being charged with a violation of any provision under IC 35.
13 (3) Being subject to a court order under IC 7.1-2-6-7,
14 IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.
15 (4) Being charged with a violation of IC 23-15-12.
16 **(5) Selling low THC extract (as defined in IC 35-48-1-17.5) if**
17 **the retailer knew or reasonably should have known that the**

ES 52—LS 6077/DI 13



- 1 **product is not derived from industrial hemp (as defined in**
 2 **IC 15-15-13-6).**
- 3 The department may revoke a certificate before a criminal adjudication
 4 or without a criminal charge being filed. If the department gives notice
 5 of an intent to revoke based on an alleged violation of subdivision (2),
 6 the department shall hold a public hearing to determine whether good
 7 cause exists. If the department finds in a public hearing by a
 8 preponderance of the evidence that a person has committed a violation
 9 described in subdivision (2), the department shall proceed in
 10 accordance with subsection (i) (if the violation resulted in a criminal
 11 conviction) or subsection (j) (if the violation resulted in a judgment for
 12 an infraction).
- 13 (b) The department shall revoke a certificate issued under section
 14 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
 15 holder fails to:
- 16 (1) file the returns required by IC 6-2.5-6-1; or
 17 (2) report the collection of any state gross retail or use tax on the
 18 returns filed under IC 6-2.5-6-1.
- 19 However, the department must give the certificate holder at least five
 20 (5) days notice before it revokes the certificate.
- 21 (c) The department may, for good cause, revoke a certificate issued
 22 under section 1 of this chapter after at least five (5) days notice to the
 23 certificate holder if:
- 24 (1) the certificate holder is subject to an innkeeper's tax under
 25 IC 6-9; and
 26 (2) a board, bureau, or commission established under IC 6-9 files
 27 a written statement with the department.
- 28 (d) The statement filed under subsection (c) must state that:
- 29 (1) information obtained by the board, bureau, or commission
 30 under IC 6-8.1-7-1 indicates that the certificate holder has not
 31 complied with IC 6-9; and
 32 (2) the board, bureau, or commission has determined that
 33 significant harm will result to the county from the certificate
 34 holder's failure to comply with IC 6-9.
- 35 (e) The department shall revoke or suspend a certificate issued
 36 under section 1 of this chapter after at least five (5) days notice to the
 37 certificate holder if:
- 38 (1) the certificate holder owes taxes, penalties, fines, interest, or
 39 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
 40 days after the due date under IC 6-1.1; and
 41 (2) the treasurer of the county to which the taxes are due requests
 42 the department to revoke or suspend the certificate.



1 (f) The department shall reinstate a certificate suspended under
 2 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
 3 or the county treasurer requests the department to reinstate the
 4 certificate because an agreement for the payment of taxes and any
 5 penalties due under IC 6-1.1 has been reached to the satisfaction of the
 6 county treasurer.

7 (g) The department shall revoke a certificate issued under section
 8 1 of this chapter after at least five (5) days notice to the certificate
 9 holder if the department finds in a public hearing by a preponderance
 10 of the evidence that the certificate holder has violated IC 35-45-5-3,
 11 IC 35-45-5-3.5, or IC 35-45-5-4.

12 (h) If a person makes a payment for the certificate under section 1
 13 or 3 of this chapter with a check, credit card, debit card, or electronic
 14 funds transfer, and the department is unable to obtain payment of the
 15 check, credit card, debit card, or electronic funds transfer for its full
 16 face amount when the check, credit card, debit card, or electronic funds
 17 transfer is presented for payment through normal banking channels, the
 18 department shall notify the person by mail that the check, credit card,
 19 debit card, or electronic funds transfer was not honored and that the
 20 person has five (5) days after the notice is mailed to pay the fee in cash,
 21 by certified check, or other guaranteed payment. If the person fails to
 22 make the payment within the five (5) day period, the department shall
 23 revoke the certificate.

24 (i) If the department finds in a public hearing by a preponderance of
 25 the evidence that a person has a conviction for a violation of
 26 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
 27 sell, in the normal course of business, a synthetic drug or a synthetic
 28 drug lookalike substance by a retail merchant in a place of business for
 29 which the retail merchant has been issued a registered retail merchant
 30 certificate under section 1 of this chapter, the department:

31 (1) shall suspend the registered retail merchant certificate for the
 32 place of business for one (1) year; and

33 (2) may not issue another retail merchant certificate under section
 34 1 of this chapter for one (1) year to any person:

35 (A) that:

36 (i) applied for; or

37 (ii) made a retail transaction under;

38 the retail merchant certificate suspended under subdivision

39 (1); or

40 (B) that:

41 (i) owned or co-owned, directly or indirectly; or

42 (ii) was an officer, a director, a manager, or a partner of;



- 1 the retail merchant that was issued the retail merchant
2 certificate suspended under subdivision (1).
- 3 (j) If the department finds in a public hearing by a preponderance of
4 the evidence that a person has a judgment for a violation of
5 IC 35-48-4-10.5 as an infraction and the violation involved the sale of
6 or the offer to sell, in the normal course of business, a synthetic drug
7 or a synthetic drug lookalike substance by a retail merchant in a place
8 of business for which the retail merchant has been issued a registered
9 retail merchant certificate under section 1 of this chapter, the
10 department:
- 11 (1) may suspend the registered retail merchant certificate for the
12 place of business for six (6) months; and
- 13 (2) may withhold issuance of another retail merchant certificate
14 under section 1 of this chapter for six (6) months to any person:
- 15 (A) that:
- 16 (i) applied for; or
- 17 (ii) made a retail transaction under;
- 18 the retail merchant certificate suspended under subdivision
19 (1); or
- 20 (B) that:
- 21 (i) owned or co-owned, directly or indirectly; or
- 22 (ii) was an officer, a director, a manager, or a partner of;
- 23 the retail merchant that was issued the retail merchant
24 certificate suspended under subdivision (1).
- 25 SECTION 2. IC 16-18-2-45.5 IS REPEALED [EFFECTIVE UPON
26 PASSAGE]. Sec. 45.5. "~~Cannabidiol~~", for purposes of IC 16-42-28.6,
27 has the meaning set forth in IC 16-42-28.6-1.
- 28 SECTION 3. IC 16-18-2-48.7 IS REPEALED [EFFECTIVE UPON
29 PASSAGE]. Sec. 48.7. "~~Caregiver~~", for purposes of IC 16-42-28.6, has
30 the meaning set forth in IC 16-42-28.6-2.
- 31 SECTION 4. IC 16-18-2-272, AS AMENDED BY P.L.188-2017,
32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 UPON PASSAGE]: Sec. 272. (a) "Patient", for purposes of IC 16-27-1,
34 has the meaning set forth in IC 16-27-1-6.
- 35 (b) "Patient", for purposes of IC 16-28 and IC 16-29, means an
36 individual who has been accepted and assured care by a health facility.
- 37 (c) "Patient", for purposes of IC 16-36-1.5, has the meaning set forth
38 in IC 16-36-1.5-3.
- 39 (d) "Patient", for purposes of IC 16-39, means an individual who has
40 received health care services from a provider for the examination,
41 treatment, diagnosis, or prevention of a physical or mental condition.
- 42 (e) "Patient", for purposes of IC 16-42-28.6, has the meaning set



1 ~~forth in IC 16-42-28.6-3.~~

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

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

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

11 (1) was the physician last in attendance (as defined in section
12 282.2 of this chapter); or

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

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

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

18 SECTION 6. IC 16-18-2-342.6 IS REPEALED [EFFECTIVE
19 UPON PASSAGE]. Sec. 342.6. ~~"Substance containing cannabidiol",
20 for purposes of IC 16-42-28.6, has the meaning set forth in
21 IC 16-42-28.6-5.~~

22 SECTION 7. IC 16-18-2-354.7 IS REPEALED [EFFECTIVE
23 UPON PASSAGE]. Sec. 354.7. ~~"Treatment resistant epilepsy", for
24 purposes of IC 16-42-28.6, has the meaning set forth in
25 IC 16-42-28.6-6.~~

26 SECTION 8. IC 16-42-28.6 IS REPEALED [EFFECTIVE UPON
27 PASSAGE]. (Drugs: Use of Cannabidiol for the Treatment of
28 Epilepsy).

29 SECTION 9. IC 24-4-21 IS ADDED TO THE INDIANA CODE AS
30 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
31 PASSAGE]:

32 **Chapter 21. Low THC Extract Production**

33 **Sec. 1. As used in this chapter, "low THC extract" has the
34 meaning set forth in IC 35-48-1-17.5.**

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

36 **(1) manufacture low THC extract derived from industrial
37 hemp (as defined in IC 15-15-13-6) for distribution in
38 Indiana; and**

39 **(2) distribute low THC extract derived from industrial hemp
40 (as defined in IC 15-15-13-6) to a retailer in Indiana;**

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

42 **Sec. 3. A manufacturer shall package the low THC extract in**



1 packaging that contains the following information:

2 (1) The expiration date.

3 (2) The number of milligrams of low THC extract.

4 (3) The manufacturer.

5 (4) The fact that the product contains not more than
6 three-tenths percent (0.3%) total tetrahydrocannabinol
7 (THC) by dry weight.

8 SECTION 10. IC 24-4-22 IS ADDED TO THE INDIANA CODE
9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
10 UPON PASSAGE]:

11 **Chapter 22. Low THC Extract Sales**

12 **Sec. 1.** As used in this chapter, "low THC extract" has the
13 meaning set forth in IC 35-48-1-17.5.

14 **Sec. 2.** A person may sell low THC extract derived from
15 industrial hemp (as defined in IC 15-15-13-6) at retail if the
16 packaging complies with the requirements of IC 24-4-21.

17 **Sec. 3.** A person who violates section 2 of this chapter commits
18 a Class C infraction. However, the violation is a Class B infraction
19 if the person has one (1) prior unrelated judgment for a violation
20 of section 2 of this chapter, and a Class A infraction if the person
21 has two (2) or more prior unrelated judgements for a violation of
22 section 2 of this chapter.

23 SECTION 11. IC 35-31.5-2-150.5 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE UPON PASSAGE]: **Sec. 150.5.** "Hashish", for
26 purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.8.

27 SECTION 12. IC 35-31.5-2-150.6 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE UPON PASSAGE]: **Sec. 150.6.** "Hash oil", for
30 purposes of IC 35-48, has the meaning set forth in IC 35-48-1-16.9.

31 SECTION 13. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE
32 UPON PASSAGE]. **Sec. 316.9.** "Substance containing cannabidiol",
33 for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.

34 SECTION 14. IC 35-31.5-2-189.9 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE UPON PASSAGE]: **Sec. 189.9.** "Low THC extract",
37 for purposes of IC 35-48, has the meaning set forth in
38 IC 35-48-1-17.5.

39 SECTION 15. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE
40 UPON PASSAGE]. **Sec. 316.9.** "Substance containing cannabidiol",
41 for purposes of IC 35-48, has the meaning set forth in IC 35-48-1-26.7.

42 SECTION 16. IC 35-48-1-6.5 IS REPEALED [EFFECTIVE UPON



1 PASSAGE]. Sec. 6.5: "Cannabidiol" has the meaning set forth in
 2 IC ~~16-42-28.6-1~~.

3 SECTION 17. IC 35-48-1-9 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. "Controlled
 5 substance" means a drug, substance, or immediate precursor in
 6 schedule I, II, III, IV, or V under:

- 7 (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or
 8 IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
 9 (2) a rule adopted by the board, if IC 35-48-2-14 applies.

10 **The term does not include low THC extract.**

11 SECTION 18. IC 35-48-1-9.3 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.3. (a) "Controlled
 13 substance analog" means a substance:

- 14 (1) the chemical structure of which is substantially similar to that
 15 of a controlled substance included in schedule I or II and that has;
 16 or
 17 (2) that a person represents or intends to have;

18 a narcotic, stimulant, depressant, or hallucinogenic effect on the central
 19 nervous system substantially similar to or greater than the narcotic,
 20 stimulant, depressant, or hallucinogenic effect on the central nervous
 21 system of a controlled substance included in schedule I or II.

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

- 23 (1) a controlled substance;
 24 (2) a substance for which there is an approved new drug
 25 application;
 26 (3) a substance for which an exemption is in effect for
 27 investigational use by a person under Section 505 of the federal
 28 Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21
 29 U.S.C. 355)), to the extent that conduct with respect to the
 30 substance is permitted under the exemption; ~~or~~
 31 (4) a substance to the extent not intended for human consumption
 32 before an exemption takes effect regarding the substance; ~~or~~

33 **(5) low THC extract.**

34 SECTION 19. IC 35-48-1-16.8 IS ADDED TO THE INDIANA
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE UPON PASSAGE]: **Sec. 16.8. "Hashish" does not**
 37 **include low THC extract.**

38 SECTION 20. IC 35-48-1-16.9 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE UPON PASSAGE]: **Sec. 16.9. "Hash oil" does not**
 41 **include low THC extract.**

42 SECTION 21. IC 35-48-1-17.5 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE UPON PASSAGE]: **Sec. 17.5. "Low THC extract"**
 3 **means a substance or compound that:**

- 4 **(1) is derived from or contains any part of the plant Cannabis**
 5 **sativa L.;**
 6 **(2) contains not more than three-tenths percent (0.3%) total**
 7 **tetrahydrocannabinol (THC) by dry weight; and**
 8 **(3) contains no other controlled substances.**

9 SECTION 22. IC 35-48-1-19, AS AMENDED BY P.L.165-2014,
 10 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 19. (a) "Marijuana" means any part of the
 12 plant genus Cannabis whether growing or not; the seeds thereof; the
 13 resin extracted from any part of the plant, including hashish and hash
 14 oil; any compound, manufacture, salt, derivative, mixture, or
 15 preparation of the plant, its seeds or resin.

16 (b) The term does not include:

- 17 (1) the mature stalks of the plant;
 18 (2) fiber produced from the stalks;
 19 (3) oil or cake made from the seeds of the plant;
 20 (4) any other compound, manufacture, salt, derivative, mixture,
 21 or preparation of the mature stalks (except the resin extracted
 22 therefrom);
 23 (5) the sterilized seed of the plant which is incapable of
 24 germination; ~~or~~
 25 (6) industrial hemp (as defined by IC 15-15-13-6); ~~or~~
 26 **(7) low THC extract.**

27 SECTION 23. IC 35-48-1-26.7 IS REPEALED [EFFECTIVE
 28 UPON PASSAGE]. ~~Sec. 26.7. "Substance containing cannabidiol" has~~
 29 ~~the meaning set forth in IC 16-42-28.6-5.~~

30 SECTION 24. IC 35-48-4-8.5, AS AMENDED BY P.L.188-2017,
 31 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers
 33 for sale, delivers, or finances the delivery of a raw material, an
 34 instrument, a device, or other object that is intended to be or that is
 35 designed or marketed to be used primarily for:

- 36 (1) ingesting, inhaling, or otherwise introducing into the human
 37 body marijuana, hash oil, hashish, salvia, a synthetic drug, or a
 38 controlled substance;
 39 (2) testing the strength, effectiveness, or purity of marijuana, hash
 40 oil, hashish, salvia, a synthetic drug, or a controlled substance;
 41 (3) enhancing the effect of a controlled substance;
 42 (4) manufacturing, compounding, converting, producing,



1 processing, or preparing marijuana, hash oil, hashish, salvia, a
2 synthetic drug, or a controlled substance;

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

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

7 commits a Class A infraction for dealing in paraphernalia.

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

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

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

17 (2) Items marketed for or historically and customarily used in
18 connection with the planting, propagating, cultivating, growing,
19 harvesting, manufacturing, compounding, converting, producing,
20 processing, preparing, testing, analyzing, packaging, repackaging,
21 storing, containing, concealing, injecting, ingesting, or inhaling
22 of tobacco or any other lawful substance. ~~excluding the lawful~~
23 ~~possession of a substance containing cannabidiol under~~
24 ~~IC 35-48-4-11.~~

25 (3) A qualified entity (as defined in IC 16-41-7.5-3) that provides
26 a syringe or needle as part of a program under IC 16-41-7.5.

27 (4) Any entity or person that provides funding to a qualified entity
28 (as defined in IC 16-41-7.5-3) to operate a program described in
29 IC 16-41-7.5.

30 SECTION 25. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 UPON PASSAGE]: Sec. 10. (a) A person who:

33 (1) knowingly or intentionally:

34 (A) manufactures;

35 (B) finances the manufacture of;

36 (C) delivers; or

37 (D) finances the delivery of;

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

39 (2) possesses, with intent to:

40 (A) manufacture;

41 (B) finance the manufacture of;

42 (C) deliver; or



- 1 (D) finance the delivery of;
 2 marijuana, hash oil, hashish, or salvia, pure or adulterated;
 3 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
 4 misdemeanor, except as provided in subsections (b) through (d).
 5 (b) A person may be convicted of an offense under subsection (a)(2)
 6 only if:
 7 (1) there is evidence in addition to the weight of the drug that the
 8 person intended to manufacture, finance the manufacture of,
 9 deliver, or finance the delivery of the drug; or
 10 (2) the amount of the drug involved is at least:
 11 (A) ten (10) pounds, if the drug is marijuana; or
 12 (B) three hundred (300) grams, if the drug is hash oil, hashish,
 13 or salvia.
 14 (c) The offense is a Level 6 felony if:
 15 (1) the person has a prior conviction for a drug offense and the
 16 amount of the drug involved is:
 17 (A) less than thirty (30) grams of marijuana; or
 18 (B) less than five (5) grams of hash oil, hashish, or salvia; or
 19 (2) the amount of the drug involved is:
 20 (A) at least thirty (30) grams but less than ten (10) pounds of
 21 marijuana; or
 22 (B) at least five (5) grams but less than three hundred (300)
 23 grams of hash oil, hashish, or salvia.
 24 (d) The offense is a Level 5 felony if:
 25 (1) the person has a prior conviction for a drug dealing offense
 26 and the amount of the drug involved is:
 27 (A) at least thirty (30) grams but less than ten (10) pounds of
 28 marijuana; or
 29 (B) at least five (5) grams but less than three hundred (300)
 30 grams of hash oil, hashish, or salvia; ~~or~~
 31 (2) the:
 32 (A) amount of the drug involved is:
 33 (i) at least ten (10) pounds of marijuana; or
 34 (ii) at least three hundred (300) grams of hash oil, hashish,
 35 or salvia; or
 36 (B) offense involved a sale to a minor; ~~or~~
 37 (3) **the:**
 38 (A) **person is a retailer;**
 39 (B) **marijuana, hash oil, hashish, or salvia is packaged in a**
 40 **manner that appears to be low THC extract; and**
 41 (C) **person knew or reasonably should have known that the**
 42 **product was marijuana, hash oil, hashish, or salvia.**



1 SECTION 26. IC 35-48-4-11, AS AMENDED BY P.L.188-2017,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 11. (a) A person who:

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

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

11 (b) The offense described in subsection (a) is a Class A
12 misdemeanor if the person has a prior conviction for a drug offense.

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

- 14 (1) the person has a prior conviction for a drug offense; and
- 15 (2) the person possesses:
 - 16 (A) at least thirty (30) grams of marijuana; or
 - 17 (B) at least five (5) grams of hash oil, hashish, or salvia.

18 ~~(d) It is a defense to a prosecution under subsection (a)(1) based on~~
19 ~~the possession of a substance containing cannabidiol that:~~

- 20 ~~(1) the person is a patient or caregiver registered under~~
- 21 ~~IC 16-42-28.6 for the use of a substance containing cannabidiol;~~
- 22 ~~(2) the person reasonably believed that the substance possessed~~
- 23 ~~by the person was a substance containing cannabidiol; and~~
- 24 ~~(3) the substance containing cannabidiol is packaged in a~~
- 25 ~~container labeled with the origin, volume, and concentration by~~
- 26 ~~weight of total THC, including its precursors and derivatives, and~~
- 27 ~~cannabidiol.~~

28 ~~(e) It is a defense to a prosecution under this section based on the~~
29 ~~possession of a substance containing cannabidiol that:~~

- 30 ~~(1) the substance containing cannabidiol has been approved by~~
- 31 ~~the federal Food and Drug Administration or the federal Drug~~
- 32 ~~Enforcement Agency as a prescription drug; and~~
- 33 ~~(2) the substance was prescribed and dispensed in accordance~~
- 34 ~~with the federal approval described in subdivision (1).~~

35 SECTION 27. An emergency is declared for this act.



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

ES 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).

ES 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.

SENATE MOTION

Madam President: I move that Senate Bill 52 be amended to read as follows:

Page 2, line 32, delete "zero" and insert "**low**".

Page 2, line 32, delete "IC 35-48-1-28)" and insert "**IC 35-48-1-17.5)**".

ES 52—LS 6077/DI 13



Page 3, line 38, delete "Zero" and insert "**Low**".

Page 4, line 5, delete "zero" and insert "**low**".

Page 4, line 7, delete "a substance containing" and insert "**low THC hemp extract (as defined in IC 35-48-1-17.5),**".

Page 4, line 8, delete "cannabidiol (as defined in IC 35-48-1-26.7),".

Page 4, line 20, delete ""Zero" and insert ""**Low**".

Page 4, line 21, delete "IC 35-48-1-28." and insert "**IC 35-48-1-17.5.**".

Page 4, line 23, delete "zero" and insert "**low**".

Page 4, line 25, delete "zero" and insert "**low**".

Page 4, line 35, delete "no tetrahydrocannabinol." and insert "**not more than three-tenths percent (0.3%) total tetrahydrocannabinol (THC) by dry weight.**".

Page 4, line 37, delete "tetrahydrocannabinol," and insert "**more than three-tenths percent (0.3%) total tetrahydrocannabinol (THC) by dry weight,**".

Page 4, line 40, delete "batch to remove the" and insert "**batch.**".

Page 4, delete line 41.

Page 5, line 5, delete "no tetrahydrocannabinol," and insert "**not more than three-tenths percent (0.3%) total tetrahydrocannabinol (THC) by dry weight,**".

Page 5, line 6, delete "zero" and insert "**low**".

Page 5, line 10, delete "zero" and insert "**low**".

Page 5, line 25, delete "zero" and insert "**low**".

Page 5, line 31, delete "zero" and insert "**low**".

Page 5, line 33, delete "no" and insert "**not more than three-tenths percent (0.3%) total tetrahydrocannabinol (THC) by dry weight.**".

Page 5, delete line 34.

Page 5, line 42, delete "Zero" and insert "**Low**".

Page 6, line 4, delete ""Zero" and insert ""**Low**".

Page 6, line 5, delete "IC 35-48-1-28." and insert "**IC 35-48-1-17.5.**".

Page 6, line 6, delete "zero" and insert "**low**".

PAGE 6, line 25, delete "IC 35-31.5-2-358" and insert "IC 35-31.5-2-189.9".

Page 6, line 27, delete "Sec. 358. "Zero" and insert "**Sec. 189.9. "Low**".

Page 6, line 29, delete "IC 35-48-1-28." and insert "**IC 35-48-1-17.5.**".

Page 6, line 40, delete "controlled".

Page 6, line 41, delete "no tetrahydrocannabinol;" and insert "**not more than three-tenths percent (0.3%) total tetrahydrocannabinol**".



(THC) by dry weight;".

Page 7, line 1, delete "controlled".

Page 7, line 1, delete "cannabinol." and insert **"more than three-tenths percent (0.3%) total tetrahydrocannabinol (THC) by dry weight."**

Page 7, line 8, delete "zero" and insert **"low"**.

Page 7, line 16, delete "zero" and insert **"low"**.

Page 7, line 27, delete "zero" and insert **"low"**.

Page 8, line 8, delete "Zero" and insert **"Low"**.

Page 8, line 12, delete "zero" and insert **"low"**.

Page 8, line 16, delete "zero" and insert **"low"**.

Page 8, between lines 16 and 17, begin a new paragraph and insert:
"SECTION 21. IC 35-48-1-17.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 17.5. "Low THC hemp extract" means a substance or compound that:**

(1) is derived from or contains any part of the plant Cannabis sativa L.;

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

(3) contains no other controlled substances."

Page 8, line 34, delete "zero" and insert **"low"**.

Page 8, delete lines 38 through 42.

Page 9, delete lines 1 through 4.

Renumber all SECTIONS consecutively.

(Reference is to SB 52 as printed January 26, 2018.)

TOMES

SENATE MOTION

Madam President: I move that Senate Bill 52 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 25 with "[EFFECTIVE UPON PASSAGE]".

Page 10, after line 38, begin a new paragraph and insert:

"SECTION 26. **An emergency is declared for this act.**"

(Reference is to SB 52 as printed January 26, 2018.)

MESSMER



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 52, 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 17.

Page 2, delete lines 1 through 33, begin a new paragraph and insert:

"SECTION 1. IC 6-2.5-8-7, AS AMENDED BY P.L.97-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection. Good cause for revocation may include the following:

- (1) Failure to:
 - (A) file a return required under this chapter or for any tax collected for the state in trust; or
 - (B) remit any tax collected for the state in trust.
- (2) Being charged with a violation of any provision under IC 35.
- (3) Being subject to a court order under IC 7.1-2-6-7, IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.
- (4) Being charged with a violation of IC 23-15-12.
- (5) Selling low THC extract (as defined in IC 35-48-1-17.5) if the retailer knew or reasonably should have known that the product is not derived from industrial hemp (as defined in IC 15-15-13-6).**

The department may revoke a certificate before a criminal adjudication or without a criminal charge being filed. If the department gives notice of an intent to revoke based on an alleged violation of subdivision (2), the department shall hold a public hearing to determine whether good cause exists. If the department finds in a public hearing by a preponderance of the evidence that a person has committed a violation described in subdivision (2), the department shall proceed in accordance with subsection (i) (if the violation resulted in a criminal conviction) or subsection (j) (if the violation resulted in a judgment for an infraction).

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

- (1) file the returns required by IC 6-2.5-6-1; or
- (2) report the collection of any state gross retail or use tax on the



returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and

(2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

(1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and

(2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and

(2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3, IC 35-45-5-3.5, or IC 35-45-5-4.

(h) If a person makes a payment for the certificate under section 1 or 3 of this chapter with a check, credit card, debit card, or electronic funds transfer, and the department is unable to obtain payment of the check, credit card, debit card, or electronic funds transfer for its full face amount when the check, credit card, debit card, or electronic funds transfer is presented for payment through normal banking channels, the



department shall notify the person by mail that the check, credit card, debit card, or electronic funds transfer was not honored and that the person has five (5) days after the notice is mailed to pay the fee in cash, by certified check, or other guaranteed payment. If the person fails to make the payment within the five (5) day period, the department shall revoke the certificate.

(i) If the department finds in a public hearing by a preponderance of the evidence that a person has a conviction for a violation of IC 35-48-4-10.5 and the conviction involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) shall suspend the registered retail merchant certificate for the place of business for one (1) year; and

(2) may not issue another retail merchant certificate under section 1 of this chapter for one (1) year to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of;

the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).

(j) If the department finds in a public hearing by a preponderance of the evidence that a person has a judgment for a violation of IC 35-48-4-10.5 as an infraction and the violation involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) may suspend the registered retail merchant certificate for the place of business for six (6) months; and

(2) may withhold issuance of another retail merchant certificate under section 1 of this chapter for six (6) months to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;



the retail merchant certificate suspended under subdivision (1); or

(B) that:

(i) owned or co-owned, directly or indirectly; or

(ii) was an officer, a director, a manager, or a partner of; the retail merchant that was issued the retail merchant certificate suspended under subdivision (1).".

Page 3, line 41, delete "Hemp".

Page 3, delete line 42.

Page 4, delete lines 1 through 21.

Page 4, line 22, delete "(3) "Low", begin a new paragraph and insert:

"Sec. 1. As used in this chapter, "low".

Page 4, line 22, delete "hemp".

Page 4, line 25, delete "hemp".

Page 4, line 25, after "extract" insert **"derived from industrial hemp (as defined in IC 15-15-13-6)".**

Page 4, line 27, delete "hemp".

Page 4, line 27, after "extract" insert **"derived from industrial hemp (as defined in IC 15-15-13-6)".**

Page 4, line 27, after "retailer" delete "or".

Page 4, line 28, delete **"independent testing laboratory"**.

Page 4, delete lines 30 through 42.

Page 5, delete lines 1 through 8.

Page 5, line 9, delete "tetrahydrocannabinol (THC) by dry weight, the", begin a new paragraph and insert:

"Sec. 3. A".

Page 5, line 10, delete "hemp".

Page 5, delete lines 12 through 33.

Page 5, line 34, delete "(4)" and insert **"(1)"**.

Page 5, line 35, delete "(5)" and insert **"(2)"**.

Page 5, line 35, delete "hemp".

Page 5, line 36, delete "(6)" and insert **"(3)"**.

Page 5, line 37, delete "(7)" and insert **"(4)"**.

Page 5, delete lines 40 through 42.

Page 6, delete line 1.

Page 6, line 5, delete "Hemp".

Page 6, line 6, delete "The following definitions apply throughout this chapter:".

Page 6, delete lines 7 through 8.

Page 6, line 9, delete "(2) "Low" and insert **"As used in this chapter, "low"**.



Page 6, line 9, delete "hemp".

Page 6, run in lines 6 through 9.

Page 6, line 11, delete "hemp".

Page 6, line 11, after "extract" insert "**derived from industrial hemp (as defined in IC 15-15-13-6)**".

Page 6, line 12, delete "IC 24-4-21-5." and insert "**IC 24-4-21.**".

Page 6, line 32, delete "hemp".

Page 6, between lines 34 and 35, begin a new paragraph and insert: "SECTION 14. IC 35-31.5-2-316.9 IS REPEALED [EFFECTIVE UPON PASSAGE]. 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 6, delete lines 38 through 42.

Page 7, delete lines 1 through 26.

Page 7, line 34, delete "hemp".

Page 8, line 15, delete "Low" and insert "**low**".

Page 8, line 15, delete "hemp".

Page 8, line 19, delete "hemp".

Page 8, line 23, delete "hemp".

Page 8, line 26, delete "hemp".

Page 9, line 8, delete "hemp".

Page 10, between lines 11 and 12, begin a new paragraph and insert: "SECTION 25. IC 35-48-4-10, AS AMENDED BY P.L.44-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

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

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

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

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

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

(1) there is evidence in addition to the weight of the drug that the



- person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug; or
- (2) the amount of the drug involved is at least:
- (A) ten (10) pounds, if the drug is marijuana; or
 - (B) three hundred (300) grams, if the drug is hash oil, hashish, or salvia.
- (c) The offense is a Level 6 felony if:
- (1) the person has a prior conviction for a drug offense and the amount of the drug involved is:
 - (A) less than thirty (30) grams of marijuana; or
 - (B) less than five (5) grams of hash oil, hashish, or salvia; or
 - (2) the amount of the drug involved is:
 - (A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or
 - (B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia.
- (d) The offense is a Level 5 felony if:
- (1) the person has a prior conviction for a drug dealing offense and the amount of the drug involved is:
 - (A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or
 - (B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia; **or**
 - (2) the:
 - (A) amount of the drug involved is:
 - (i) at least ten (10) pounds of marijuana; or
 - (ii) at least three hundred (300) grams of hash oil, hashish, or salvia; or
 - (B) offense involved a sale to a minor; **or**
 - (3) the:**
 - (A) person is a retailer;**
 - (B) marijuana, hash oil, hashish, or salvia is packaged in a manner that appears to be low THC extract; and**



(C) person knew or reasonably should have known that the product was marijuana, hash oil, hashish, or salvia."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 52 as reprinted February 2, 2018.)

WASHBURN

Committee Vote: yeas 9, nays 0.

