

# SENATE BILL No. 104

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-48-4.

**Synopsis:** Possession of medical marijuana or paraphernalia. Creates a defense to possession of paraphernalia that: (1) the paraphernalia is for use with marijuana; and (2) the person possesses a valid medical marijuana card from another state, or a physician has certified in writing that the person suffers from a terminal illness or serious untreatable disease, and, in the professional opinion of the physician, the benefits of treatment with marijuana are greater than the risks. Creates a defense to possession of marijuana that: (1) the person possessed less than two ounces of marijuana; and (2) the person possesses a valid medical marijuana card from another state, or a physician has certified in writing that the person suffers from a terminal illness or serious untreatable disease, and, in the professional opinion of the physician, the benefits of treatment with marijuana are greater than the risks.

**Effective:** July 1, 2021.

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## Taylor G

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January 7, 2021, read first time and referred to Committee on Corrections and Criminal Law.

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First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

## SENATE BILL No. 104

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 35-48-4-8.3, AS AMENDED BY P.L.187-2015,  
2 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2021]: Sec. 8.3. (a) This section does not apply to a rolling  
4 paper.

5 (b) A person who knowingly or intentionally possesses an  
6 instrument, a device, or another object that the person intends to use  
7 for:

- 8 (1) introducing into the person's body a controlled substance;
- 9 (2) testing the strength, effectiveness, or purity of a controlled  
10 substance; or
- 11 (3) enhancing the effect of a controlled substance;

12 commits a Class C misdemeanor. However, the offense is a Class A  
13 misdemeanor if the person has a prior unrelated judgment or conviction  
14 under this section.

15 **(c) It is a defense to a prosecution under this section that:**  
16 **(1) the instrument, device, or other object is for use with**  
17 **marijuana; and**



- 1           **(2) either:**  
 2           **(A) a physician treating the patient has certified in a**  
 3           **writing executed within the previous year that:**  
 4           **(i) the person suffers from a terminal illness or serious**  
 5           **untreatable disease; and**  
 6           **(ii) in the professional opinion of the physician, the**  
 7           **benefits of treatment with marijuana are greater than**  
 8           **the risks of treatment with marijuana; or**  
 9           **(B) the person possesses an unexpired medical marijuana**  
 10           **card or other credential issued under the laws of another**  
 11           **state that authorizes the person to possess, use, or purchase**  
 12           **medical marijuana in that state.**
- 13           SECTION 2. IC 35-48-4-11, AS AMENDED BY P.L.153-2018,  
 14           SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15           JULY 1, 2021]: Sec. 11. (a) A person who:  
 16           (1) knowingly or intentionally possesses (pure or adulterated)  
 17           marijuana, hash oil, hashish, or salvia;  
 18           (2) knowingly or intentionally grows or cultivates marijuana; or  
 19           (3) knowing that marijuana is growing on the person's premises,  
 20           fails to destroy the marijuana plants;  
 21           commits possession of marijuana, hash oil, hashish, or salvia, a Class  
 22           B misdemeanor, except as provided in subsections (b) through (c).  
 23           (b) The offense described in subsection (a) is a Class A  
 24           misdemeanor if:  
 25           (1) the person has a prior conviction for a drug offense; or  
 26           (2) the:  
 27           (A) marijuana, hash oil, hashish, or salvia is packaged in a  
 28           manner that appears to be low THC hemp extract; and  
 29           (B) person knew or reasonably should have known that the  
 30           product was marijuana, hash oil, hashish, or salvia.  
 31           (c) The offense described in subsection (a) is a Level 6 felony if:  
 32           (1) the person has a prior conviction for a drug offense; and  
 33           (2) the person possesses:  
 34           (A) at least thirty (30) grams of marijuana; or  
 35           (B) at least five (5) grams of hash oil, hashish, or salvia.  
 36           **(d) It is a defense to a prosecution under this section that:**  
 37           **(1) the person possessed less than two (2) ounces of**  
 38           **marijuana; and**  
 39           **(2) either:**  
 40           **(A) a physician treating the patient has certified in a**  
 41           **writing executed within the previous year that:**  
 42           **(i) the person suffers from a terminal illness or serious**



1                    **untreatable disease; and**  
2                    **(ii) in the professional opinion of the physician, the**  
3                    **benefits of treatment with marijuana are greater than**  
4                    **the risks of treatment with marijuana; or**  
5                    **(B) the person possesses an unexpired medical marijuana**  
6                    **card or other credential issued under the laws of another**  
7                    **state that authorizes the person to possess, use, or purchase**  
8                    **medical marijuana in that state.**

