

SENATE BILL No. 108

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-3-4; IC 6-2.5-8-7; IC 16-31-3; IC 16-42-27-2; IC 20-28-5-8; IC 22-15-5-16; IC 24-5-0.5-4; IC 25-1-1.1; IC 32-30-8; IC 34-24-1-1; IC 35-31.5-2; IC 35-45-6-1; IC 35-48; IC 35-50-10-1.

Synopsis: Crimes involving synthetic drugs. Makes possessing or dealing in a substance that is a controlled substance analog an offense of the same level as possession of or dealing in the controlled substance of which the substance is an analog. Defines "substance represented to be a controlled substance" and establishes certain factors the trier of fact may consider to determine if a substance meets the definition. Repeals crimes concerning synthetic drug lookalike substances. Provides that convictions for synthetic drug offenses will, in certain cases, no longer be treated the same as marijuana offenses. Makes conforming amendments.

Effective: July 1, 2018.

Merritt

January 3, 2018, read first time and referred to Committee on Corrections and Criminal Law.



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. 108

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 4-6-3-4, AS AMENDED BY P.L.196-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2018]: Sec. 4. An investigative demand shall contain the
4 following:

- 5 (1) A general description of the subject matter being investigated
6 and a statement of the applicable provisions of law.
- 7 (2) The date, time, and place at which the person is to appear,
8 answer written interrogatories, or produce documentary material
9 or other tangible items. The date shall not be less than ten (10)
10 days from the date of service of the demand. However, the
11 attorney general may demand and obtain immediate access to
12 records and materials if access is necessary for purposes of
13 investigating alleged violations relating to sales or solicited sales
14 of a synthetic drug (as defined in IC 35-31.5-2-321), ~~or a synthetic~~
15 ~~drug lookalike substance (as defined in IC 35-31.5-2-321.5~~
16 **(repealed)) before July 1, 2018), a controlled substance analog**
17 **(as defined in IC 35-48-1-9.3), or a substance represented to**



1 **be a controlled substance (as described in IC 35-48-4-6).**

2 (3) Where the production of documents or other tangible items is
3 required, a description of those documents or items by class with
4 sufficient clarity so that they might be reasonably identified.

5 SECTION 2. IC 6-2.5-8-7, AS AMENDED BY P.L.97-2017,
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2018]: Sec. 7. (a) The department may, for good cause, revoke
8 a certificate issued under section 1, 3, or 4 of this chapter. However,
9 the department must give the certificate holder at least five (5) days
10 notice before it revokes the certificate under this subsection. Good
11 cause for revocation may include the following:

12 (1) Failure to:

13 (A) file a return required under this chapter or for any tax
14 collected for the state in trust; or

15 (B) remit any tax collected for the state in trust.

16 (2) Being charged with a violation of any provision under IC 35.

17 (3) Being subject to a court order under IC 7.1-2-6-7,
18 IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.

19 (4) Being charged with a violation of IC 23-15-12.

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

30 (b) The department shall revoke a certificate issued under section
31 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
32 holder fails to:

33 (1) file the returns required by IC 6-2.5-6-1; or

34 (2) report the collection of any state gross retail or use tax on the
35 returns filed under IC 6-2.5-6-1.

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

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

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



- 1 (2) a board, bureau, or commission established under IC 6-9 files
2 a written statement with the department.
- 3 (d) The statement filed under subsection (c) must state that:
4 (1) information obtained by the board, bureau, or commission
5 under IC 6-8.1-7-1 indicates that the certificate holder has not
6 complied with IC 6-9; and
7 (2) the board, bureau, or commission has determined that
8 significant harm will result to the county from the certificate
9 holder's failure to comply with IC 6-9.
- 10 (e) The department shall revoke or suspend a certificate issued
11 under section 1 of this chapter after at least five (5) days notice to the
12 certificate holder if:
13 (1) the certificate holder owes taxes, penalties, fines, interest, or
14 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
15 days after the due date under IC 6-1.1; and
16 (2) the treasurer of the county to which the taxes are due requests
17 the department to revoke or suspend the certificate.
- 18 (f) The department shall reinstate a certificate suspended under
19 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
20 or the county treasurer requests the department to reinstate the
21 certificate because an agreement for the payment of taxes and any
22 penalties due under IC 6-1.1 has been reached to the satisfaction of the
23 county treasurer.
- 24 (g) The department shall revoke a certificate issued under section
25 1 of this chapter after at least five (5) days notice to the certificate
26 holder if the department finds in a public hearing by a preponderance
27 of the evidence that the certificate holder has violated IC 35-45-5-3,
28 IC 35-45-5-3.5, or IC 35-45-5-4.
- 29 (h) If a person makes a payment for the certificate under section 1
30 or 3 of this chapter with a check, credit card, debit card, or electronic
31 funds transfer, and the department is unable to obtain payment of the
32 check, credit card, debit card, or electronic funds transfer for its full
33 face amount when the check, credit card, debit card, or electronic funds
34 transfer is presented for payment through normal banking channels, the
35 department shall notify the person by mail that the check, credit card,
36 debit card, or electronic funds transfer was not honored and that the
37 person has five (5) days after the notice is mailed to pay the fee in cash,
38 by certified check, or other guaranteed payment. If the person fails to
39 make the payment within the five (5) day period, the department shall
40 revoke the certificate.
- 41 (i) If the department finds in a public hearing by a preponderance of
42 the evidence that a person has a conviction for a violation of



1 ~~IC 35-48-4-10.5~~ **an offense under IC 35-48-4** and the conviction
 2 involved the sale of or the offer to sell, in the normal course of
 3 business, a synthetic drug ~~or (as defined in IC 35-31.5-2-321), a~~
 4 synthetic drug lookalike substance **(as defined in IC 35-31.5-2-321.5**
 5 **(repealed) (before July 1, 2018), a controlled substance analog (as**
 6 **defined in IC 35-48-1-9.3), or a substance represented to be a**
 7 **controlled substance (as described in IC 35-48-4-4.6)** by a retail
 8 merchant in a place of business for which the retail merchant has been
 9 issued a registered retail merchant certificate under section 1 of this
 10 chapter, the department:

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

13 (2) may not issue another retail merchant certificate under section
 14 1 of this chapter for one (1) year 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 (j) If the department finds in a public hearing by a preponderance of
 26 the evidence that a person has a judgment for a violation of
 27 IC 35-48-4-10.5 **(before its repeal on July 1, 2018)** as an infraction
 28 and the violation involved the sale of or the offer to sell, in the normal
 29 course of business, a synthetic drug or a synthetic drug lookalike
 30 substance by a retail merchant in a place of business for which the
 31 retail merchant has been issued a registered retail merchant certificate
 32 under section 1 of this chapter, the department:

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

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

37 (A) that:

38 (i) applied for; or

39 (ii) made a retail transaction under;

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

42 (B) that:



- 1 (i) owned or co-owned, directly or indirectly; or
 2 (ii) was an officer, a director, a manager, or a partner of;
 3 the retail merchant that was issued the retail merchant
 4 certificate suspended under subdivision (1).
- 5 SECTION 3. IC 16-31-3-14, AS AMENDED BY P.L.85-2017,
 6 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2018]: Sec. 14. (a) A person holding a certificate or license
 8 issued under this article must comply with the applicable standards and
 9 rules established under this article. A certificate holder or license
 10 holder is subject to disciplinary sanctions under subsection (b) if the
 11 department of homeland security determines that the certificate holder
 12 or license holder:
- 13 (1) engaged in or knowingly cooperated in fraud or material
 14 deception in order to obtain a certificate or license, including
 15 cheating on a certification or licensure examination;
 - 16 (2) engaged in fraud or material deception in the course of
 17 professional services or activities;
 - 18 (3) advertised services or goods in a false or misleading manner;
 - 19 (4) falsified or knowingly allowed another person to falsify
 20 attendance records or certificates of completion of continuing
 21 education courses required under this article or rules adopted
 22 under this article;
 - 23 (5) is convicted of a crime, if the act that resulted in the
 24 conviction has a direct bearing on determining if the certificate
 25 holder or license holder should be entrusted to provide emergency
 26 medical services;
 - 27 (6) is convicted of violating IC 9-19-14.5;
 - 28 (7) fails to comply and maintain compliance with or violates any
 29 applicable provision, standard, or other requirement of this article
 30 or rules adopted under this article;
 - 31 (8) continues to practice if the certificate holder or license holder
 32 becomes unfit to practice due to:
 - 33 (A) professional incompetence that includes the undertaking
 34 of professional activities that the certificate holder or license
 35 holder is not qualified by training or experience to undertake;
 - 36 (B) failure to keep abreast of current professional theory or
 37 practice;
 - 38 (C) physical or mental disability; or
 - 39 (D) addiction to, abuse of, or dependency on alcohol or other
 40 drugs that endanger the public by impairing the certificate
 41 holder's or license holder's ability to practice safely;
 - 42 (9) engages in a course of lewd or immoral conduct in connection



- 1 with the delivery of services to the public;
- 2 (10) allows the certificate holder's or license holder's name or a
- 3 certificate or license issued under this article to be used in
- 4 connection with a person who renders services beyond the scope
- 5 of that person's training, experience, or competence;
- 6 (11) is subjected to disciplinary action in another state or
- 7 jurisdiction on grounds similar to those contained in this chapter.
- 8 For purposes of this subdivision, a certified copy of a record of
- 9 disciplinary action constitutes prima facie evidence of a
- 10 disciplinary action in another jurisdiction;
- 11 (12) assists another person in committing an act that would
- 12 constitute a ground for disciplinary sanction under this chapter;
- 13 or
- 14 (13) allows a certificate or license issued by the commission to
- 15 be:
- 16 (A) used by another person; or
- 17 (B) displayed to the public when the certificate or license is
- 18 expired, inactive, invalid, revoked, or suspended.
- 19 (b) The department of homeland security may issue an order under
- 20 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
- 21 the department of homeland security determines that a certificate
- 22 holder or license holder is subject to disciplinary sanctions under
- 23 subsection (a):
- 24 (1) Revocation of a certificate holder's certificate or license
- 25 holder's license for a period not to exceed seven (7) years.
- 26 (2) Suspension of a certificate holder's certificate or license
- 27 holder's license for a period not to exceed seven (7) years.
- 28 (3) Censure of a certificate holder or license holder.
- 29 (4) Issuance of a letter of reprimand.
- 30 (5) Assessment of a civil penalty against the certificate holder or
- 31 license holder in accordance with the following:
- 32 (A) The civil penalty may not exceed five hundred dollars
- 33 (\$500) per day per violation.
- 34 (B) If the certificate holder or license holder fails to pay the
- 35 civil penalty within the time specified by the department of
- 36 homeland security, the department of homeland security may
- 37 suspend the certificate holder's certificate or license holder's
- 38 license without additional proceedings.
- 39 (6) Placement of a certificate holder or license holder on
- 40 probation status and requirement of the certificate holder or
- 41 license holder to:
- 42 (A) report regularly to the department of homeland security



- 1 upon the matters that are the basis of probation;
2 (B) limit practice to those areas prescribed by the department
3 of homeland security;
4 (C) continue or renew professional education approved by the
5 department of homeland security until a satisfactory degree of
6 skill has been attained in those areas that are the basis of the
7 probation; or
8 (D) perform or refrain from performing any acts, including
9 community restitution or service without compensation, that
10 the department of homeland security considers appropriate to
11 the public interest or to the rehabilitation or treatment of the
12 certificate holder or license holder.

13 The department of homeland security may withdraw or modify
14 this probation if the department of homeland security finds after
15 a hearing that the deficiency that required disciplinary action is
16 remedied or that changed circumstances warrant a modification
17 of the order.

18 (c) If an applicant or a certificate holder or license holder has
19 engaged in or knowingly cooperated in fraud or material deception to
20 obtain a certificate or license, including cheating on the certification or
21 licensure examination, the department of homeland security may
22 rescind the certificate or license if it has been granted, void the
23 examination or other fraudulent or deceptive material, and prohibit the
24 applicant from reapplying for the certificate or license for a length of
25 time established by the department of homeland security.

26 (d) The department of homeland security may deny certification or
27 licensure to an applicant who would be subject to disciplinary sanctions
28 under subsection (b) if that person were a certificate holder or license
29 holder, has had disciplinary action taken against the applicant or the
30 applicant's certificate or license to practice in another state or
31 jurisdiction, or has practiced without a certificate or license in violation
32 of the law. A certified copy of the record of disciplinary action is
33 conclusive evidence of the other jurisdiction's disciplinary action.

34 (e) The department of homeland security may order a certificate
35 holder or license holder to submit to a reasonable physical or mental
36 examination if the certificate holder's or license holder's physical or
37 mental capacity to practice safely and competently is at issue in a
38 disciplinary proceeding. Failure to comply with a department of
39 homeland security order to submit to a physical or mental examination
40 makes a certificate holder or license holder liable to temporary
41 suspension under subsection (i).

42 (f) Except as provided under subsection (a), subsection (g), and



1 section 14.5 of this chapter, a certificate or license may not be denied,
 2 revoked, or suspended because the applicant, certificate holder, or
 3 license holder has been convicted of an offense. The acts from which
 4 the applicant's, certificate holder's, or license holder's conviction
 5 resulted may be considered as to whether the applicant or certificate
 6 holder or license holder should be entrusted to serve the public in a
 7 specific capacity.

8 (g) The department of homeland security may deny, suspend, or
 9 revoke a certificate or license issued under this article if the individual
 10 who holds or is applying for the certificate or license is convicted of
 11 any of the following:

12 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

13 (2) Possession of methamphetamine under IC 35-48-4-6.1.

14 (3) Possession of a controlled substance under IC 35-48-4-7(a).

15 (4) Fraudulently obtaining a controlled substance under
 16 IC 35-48-4-7(c).

17 (5) Manufacture of paraphernalia as a Class D felony (for a crime
 18 committed before July 1, 2014) or Level 6 felony (for a crime
 19 committed after June 30, 2014) under IC 35-48-4-8.1(b).

20 (6) Dealing in paraphernalia as a Class D felony (for a crime
 21 committed before July 1, 2014) or Level 6 felony (for a crime
 22 committed after June 30, 2014) under IC 35-48-4-8.5(b).

23 (7) Possession of paraphernalia as a Class D felony (for a crime
 24 committed before July 1, 2014) or Level 6 felony (for a crime
 25 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before
 26 its amendment on July 1, 2015).

27 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
 28 D felony (for a crime committed before July 1, 2014) or Level 6
 29 felony (for a crime committed after June 30, 2014) under
 30 IC 35-48-4-11.

31 (9) **A felony offense under IC 35-48-4 involving:**

32 (A) possession of a synthetic drug (as defined in
 33 IC 35-31.5-2-321); or

34 (B) possession of a synthetic drug lookalike substance (as
 35 defined in IC 35-31.5-2-16.5 (repealed)) as a:

36 (i) Class D felony (for a crime committed before July 1,
 37 2014); or

38 (ii) Level 6 felony (for a crime committed after June 30,
 39 2014);

40 under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its
 41 amendment in 2013); (before its repeal on July 1, 2018); or

42 (C) possession of a controlled substance analog (as defined



- 1 **in IC 35-48-1-9.3).**
- 2 (10) Maintaining a common nuisance under IC 35-48-4-13
- 3 (repealed) or IC 35-45-1-5, if the common nuisance involves a
- 4 controlled substance.
- 5 (11) An offense relating to registration, labeling, and prescription
- 6 forms under IC 35-48-4-14.
- 7 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 8 in this section.
- 9 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
- 10 this section.
- 11 (14) An offense in any other jurisdiction in which the elements of
- 12 the offense for which the conviction was entered are substantially
- 13 similar to the elements of an offense described in this section.
- 14 (h) A decision of the department of homeland security under
- 15 subsections (b) through (g) may be appealed to the commission under
- 16 IC 4-21.5-3-7.
- 17 (i) The department of homeland security may temporarily suspend
- 18 a certificate holder's certificate or license holder's license under
- 19 IC 4-21.5-4 before a final adjudication or during the appeals process if
- 20 the department of homeland security finds that a certificate holder or
- 21 license holder would represent a clear and immediate danger to the
- 22 public's health, safety, or property if the certificate holder or license
- 23 holder were allowed to continue to practice.
- 24 (j) On receipt of a complaint or information alleging that a person
- 25 certified or licensed under this chapter or IC 16-31-3.5 has engaged in
- 26 or is engaging in a practice that is subject to disciplinary sanctions
- 27 under this chapter, the department of homeland security must initiate
- 28 an investigation against the person.
- 29 (k) The department of homeland security shall conduct a factfinding
- 30 investigation as the department of homeland security considers proper
- 31 in relation to the complaint.
- 32 (l) The department of homeland security may reinstate a certificate
- 33 or license that has been suspended under this section if the department
- 34 of homeland security is satisfied that the applicant is able to practice
- 35 with reasonable skill, competency, and safety to the public. As a
- 36 condition of reinstatement, the department of homeland security may
- 37 impose disciplinary or corrective measures authorized under this
- 38 chapter.
- 39 (m) The department of homeland security may not reinstate a
- 40 certificate or license that has been revoked under this chapter.
- 41 (n) The department of homeland security must be consistent in the
- 42 application of sanctions authorized in this chapter. Significant



1 departures from prior decisions involving similar conduct must be
2 explained in the department of homeland security's findings or orders.

3 (o) A certificate holder may not surrender the certificate holder's
4 certificate, and a license holder may not surrender the license holder's
5 license, without the written approval of the department of homeland
6 security, and the department of homeland security may impose any
7 conditions appropriate to the surrender or reinstatement of a
8 surrendered certificate or license.

9 (p) For purposes of this section, "certificate holder" means a person
10 who holds:

- 11 (1) an unlimited certificate;
- 12 (2) a limited or probationary certificate; or
- 13 (3) an inactive certificate.

14 (q) For purposes of this section, "license holder" means a person
15 who holds:

- 16 (1) an unlimited license;
- 17 (2) a limited or probationary license; or
- 18 (3) an inactive license.

19 SECTION 4. IC 16-31-3-14.5, AS AMENDED BY P.L.252-2017,
20 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2018]: Sec. 14.5. The department of homeland security may
22 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
23 certification or licensure or permanently revoke a certificate or license
24 under procedures provided by section 14 of this chapter if the
25 individual who holds the certificate or license issued under this title is
26 convicted of any of the following:

- 27 (1) Dealing in or manufacturing cocaine or a narcotic drug under
28 IC 35-48-4-1.
- 29 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 30 (3) Manufacturing methamphetamine under IC 35-48-4-1.2.
- 31 (4) Dealing in a schedule I, II, or III controlled substance under
32 IC 35-48-4-2.
- 33 (5) Dealing in a schedule IV controlled substance under
34 IC 35-48-4-3.
- 35 (6) Dealing in a schedule V controlled substance under
36 IC 35-48-4-4.
- 37 (7) Dealing in a substance represented to be a controlled
38 substance under IC 35-48-4-4.5 **(repealed)**.
- 39 (8) Knowingly or intentionally manufacturing, advertising,
40 distributing, or possessing with intent to manufacture, advertise,
41 or distribute a substance represented to be a controlled substance
42 under IC 35-48-4-4.6.



- 1 (9) Dealing in a counterfeit substance under IC 35-48-4-5.
 2 (10) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 3 under IC 35-48-4-10.
 4 (11) ~~Dealing in a~~ **An offense under IC 35-48-4 involving the**
 5 **manufacture or sale of a synthetic drug (as defined in**
 6 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 7 **defined in IC 35-31.5-1-321.5 (repealed))** under IC 35-48-4-10.5
 8 ~~(or under IC 35-48-4-10(b) before its amendment in 2013).~~
 9 **(before its repeal on July 1, 2018), a controlled substance**
 10 **analog (as defined in IC 35-48-1-9.3), or a substance**
 11 **represented to be a controlled substance (as described in**
 12 **IC 35-48-4-4.6).**
 13 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 14 in this section.
 15 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 16 this section.
 17 (14) A crime of violence (as defined in IC 35-50-1-2(a)).
 18 (15) An offense in any other jurisdiction in which the elements of
 19 the offense for which the conviction was entered are substantially
 20 similar to the elements of an offense described under this section.
 21 SECTION 5. IC 16-42-27-2, AS AMENDED BY P.L.6-2016,
 22 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2018]: Sec. 2. (a) A prescriber may, directly or by standing
 24 order, prescribe or dispense an overdose intervention drug without
 25 examining the individual to whom it may be administered if all of the
 26 following conditions are met:
 27 (1) The overdose intervention drug is dispensed or prescribed to:
 28 (A) a person at risk of experiencing an opioid-related
 29 overdose; or
 30 (B) a family member, a friend, or any other individual or entity
 31 in a position to assist an individual who, there is reason to
 32 believe, is at risk of experiencing an opioid-related overdose.
 33 (2) The prescriber instructs the individual receiving the overdose
 34 intervention drug or prescription to summon emergency services
 35 either immediately before or immediately after administering the
 36 overdose intervention drug to an individual experiencing an
 37 opioid-related overdose.
 38 (3) The prescriber provides education and training on drug
 39 overdose response and treatment, including the administration of
 40 an overdose intervention drug.
 41 (4) The prescriber provides drug addiction treatment information
 42 and referrals to drug treatment programs, including programs in



- 1 the local area and programs that offer medication assisted
 2 treatment that includes a federal Food and Drug Administration
 3 approved long acting, nonaddictive medication for the treatment
 4 of opioid or alcohol dependence.
- 5 (b) A prescriber may provide a prescription of an overdose
 6 intervention drug to an individual as a part of the individual's addiction
 7 treatment plan.
- 8 (c) An individual described in subsection (a)(1) may administer an
 9 overdose intervention drug to an individual who is suffering from an
 10 overdose.
- 11 (d) An individual described in subsection (a)(1) may not be
 12 considered to be practicing medicine without a license in violation of
 13 IC 25-22.5-8-2, if the individual, acting in good faith, does the
 14 following:
- 15 (1) Obtains the overdose intervention drug from a prescriber or
 16 entity acting under a standing order issued by a prescriber.
 - 17 (2) Administers the overdose intervention drug to an individual
 18 who is experiencing an apparent opioid-related overdose.
 - 19 (3) Attempts to summon emergency services either immediately
 20 before or immediately after administering the overdose
 21 intervention drug.
- 22 (e) An entity acting under a standing order issued by a prescriber
 23 must do the following:
- 24 (1) Annually register with either the:
 - 25 (A) state department; or
 - 26 (B) local health department in the county where services will
 27 be provided by the entity;
 28 in a manner prescribed by the state department.
 - 29 (2) Provide education and training on drug overdose response and
 30 treatment, including the administration of an overdose
 31 intervention drug.
 - 32 (3) Provide drug addiction treatment information and referrals to
 33 drug treatment programs, including programs in the local area and
 34 programs that offer medication assisted treatment that includes a
 35 federal Food and Drug Administration approved long acting,
 36 nonaddictive medication for the treatment of opioid or alcohol
 37 dependence.
 - 38 (4) Submit an annual report to the state department containing:
 - 39 (A) the number of sales of the overdose intervention drug
 40 dispensed;
 - 41 (B) the dates of sale of the overdose intervention drug
 42 dispensed; and



- 1 (C) any additional information requested by the state
2 department.
- 3 (f) The state department shall ensure that a statewide standing order
4 for the dispensing of an overdose intervention drug in Indiana is issued
5 under this section. The state health commissioner or a designated
6 public health authority who is a licensed prescriber may, as part of the
7 individual's official capacity, issue a statewide standing order that may
8 be used for the dispensing of an overdose intervention drug under this
9 section. The immunity provided in IC 34-13-3-3 applies to an
10 individual described in this subsection.
- 11 (g) A law enforcement officer may not take an individual into
12 custody based solely on the commission of an offense described in
13 subsection (h), if the law enforcement officer, after making a
14 reasonable determination and considering the facts and surrounding
15 circumstances, reasonably believes that the individual:
- 16 (1) obtained the overdose intervention drug as described in
17 subsection (a)(1);
 - 18 (2) complied with the provisions in subsection (d);
 - 19 (3) administered an overdose intervention drug to an individual
20 who appeared to be experiencing an opioid-related overdose;
 - 21 (4) provided:
 - 22 (A) the individual's full name; and
 - 23 (B) any other relevant information requested by the law
24 enforcement officer;
 - 25 (5) remained at the scene with the individual who reasonably
26 appeared to be in need of medical assistance until emergency
27 medical assistance arrived;
 - 28 (6) cooperated with emergency medical assistance personnel and
29 law enforcement officers at the scene; and
 - 30 (7) came into contact with law enforcement because the
31 individual requested emergency medical assistance for another
32 individual who appeared to be experiencing an opioid-related
33 overdose.
- 34 (h) An individual who meets the criteria in subsection (g) is immune
35 from criminal prosecution for the following:
- 36 (1) IC 35-48-4-6 (possession of cocaine).
 - 37 (2) IC 35-48-4-6.1 (possession of methamphetamine).
 - 38 (3) IC 35-48-4-7 (possession of a controlled substance).
 - 39 (4) IC 35-48-4-8.3 (possession of paraphernalia).
 - 40 (5) IC 35-48-4-11 (possession of marijuana).
 - 41 (6) ~~IC 35-48-4-11.5 (possession of a synthetic drug or synthetic~~
42 ~~drug lookalike substance)~~. **An offense under IC 35-48-4**



1 **involving possession of a synthetic drug (as defined in**
 2 **IC 35-31.5-2-321), possession of a controlled substance analog**
 3 **(as defined in IC 35-48-1-9.3), or possession of a substance**
 4 **represented to be a controlled substance (as described in**
 5 **IC 35-48-4-4.6).**

6 SECTION 6. IC 20-28-5-8, AS AMENDED BY P.L.252-2017,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2018]: Sec. 8. (a) This section applies when a prosecuting
 9 attorney knows that a licensed employee of a public school or a
 10 nonpublic school has been convicted of an offense listed in subsection
 11 (c). The prosecuting attorney shall immediately give written notice of
 12 the conviction to the following:

13 (1) The state superintendent.

14 (2) Except as provided in subdivision (3), the superintendent of
 15 the school corporation that employs the licensed employee or the
 16 equivalent authority if a nonpublic school employs the licensed
 17 employee.

18 (3) The presiding officer of the governing body of the school
 19 corporation that employs the licensed employee, if the convicted
 20 licensed employee is the superintendent of the school corporation.

21 (b) The superintendent of a school corporation, presiding officer of
 22 the governing body, or equivalent authority for a nonpublic school shall
 23 immediately notify the state superintendent when the individual knows
 24 that a current or former licensed employee of the public school or
 25 nonpublic school has been convicted of an offense listed in subsection
 26 (c), or when the governing body or equivalent authority for a nonpublic
 27 school takes any final action in relation to an employee who engaged
 28 in any offense listed in subsection (c).

29 (c) Except as provided in section 8.5 of this chapter, the department
 30 shall permanently revoke the license of a person who is known by the
 31 department to have been convicted of any of the following felonies:

32 (1) Kidnapping (IC 35-42-3-2).

33 (2) Criminal confinement (IC 35-42-3-3).

34 (3) Rape (IC 35-42-4-1).

35 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).

36 (5) Child molesting (IC 35-42-4-3).

37 (6) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).

38 (7) Vicarious sexual gratification (IC 35-42-4-5).

39 (8) Child solicitation (IC 35-42-4-6).

40 (9) Child seduction (IC 35-42-4-7).

41 (10) Sexual misconduct with a minor (IC 35-42-4-9).

42 (11) Incest (IC 35-46-1-3).



- 1 (12) Dealing in or manufacturing cocaine or a narcotic drug
 2 (IC 35-48-4-1).
 3 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 4 (14) Manufacturing methamphetamine (IC 35-48-4-1.2).
 5 (15) Dealing in a schedule I, II, or III controlled substance
 6 (IC 35-48-4-2).
 7 (16) Dealing in a schedule IV controlled substance
 8 (IC 35-48-4-3).
 9 (17) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 10 (18) Dealing in a counterfeit substance (IC 35-48-4-5).
 11 (19) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 12 (IC 35-48-4-10).
 13 (20) **Dealing in An offense under IC 35-48-4 involving the**
 14 **manufacture or sale of a synthetic drug (as defined in**
 15 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 16 **defined in IC 35-31.5-2-321.5 (repealed)) under**
 17 **IC 35-48-4-10.5 or IC 35-48-4-10(b) before its amendment in**
 18 **2013): (before its repeal on July 1, 2018), a controlled**
 19 **substance analog (as defined in IC 35-48-1-9.3), or a substance**
 20 **represented to be a controlled substance (as described in**
 21 **IC 35-48-4-4.6).**
 22 (21) Possession of child pornography (IC 35-42-4-4(d) or
 23 IC 35-42-4-4(e)).
 24 (22) Homicide (IC 35-42-1).
 25 (23) Voluntary manslaughter (IC 35-42-1-3).
 26 (24) Reckless homicide (IC 35-42-1-5).
 27 (25) Battery as any of the following:
 28 (A) A Class A felony (for a crime committed before July 1,
 29 2014) or a Level 2 felony (for a crime committed after June
 30 30, 2014).
 31 (B) A Class B felony (for a crime committed before July 1,
 32 2014) or a Level 3 felony (for a crime committed after June
 33 30, 2014).
 34 (C) A Class C felony (for a crime committed before July 1,
 35 2014) or a Level 5 felony (for a crime committed after June
 36 30, 2014).
 37 (26) Aggravated battery (IC 35-42-2-1.5).
 38 (27) Robbery (IC 35-42-5-1).
 39 (28) Carjacking (IC 35-42-5-2) (before its repeal).
 40 (29) Arson as a Class A felony or Class B felony (for a crime
 41 committed before July 1, 2014) or as a Level 2, Level 3, or Level
 42 4 felony (for a crime committed after June 30, 2014)



- 1 (IC 35-43-1-1(a)).
 2 (30) Burglary as a Class A felony or Class B felony (for a crime
 3 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
 4 or Level 4 felony (for a crime committed after June 30, 2014)
 5 (IC 35-43-2-1).
 6 (31) Human trafficking (IC 35-42-3.5).
 7 (32) Attempt under IC 35-41-5-1 to commit an offense listed in
 8 this subsection.
 9 (33) Conspiracy under IC 35-41-5-2 to commit an offense listed
 10 in this subsection.
 11 (d) The department shall permanently revoke the license of a person
 12 who is known by the department to have been convicted of a federal
 13 offense or an offense in another state that is comparable to a felony
 14 listed in subsection (c).
 15 (e) A license may be suspended by the state superintendent as
 16 specified in IC 20-28-7.5.
 17 (f) The department shall develop a data base of information on
 18 school corporation employees who have been reported to the
 19 department under this section.
 20 (g) Upon receipt of information from the division of state court
 21 administration in accordance with IC 33-24-6-3 concerning persons
 22 convicted of an offense listed in subsection (c), the department shall:
 23 (1) cross check the information received from the division of state
 24 court administration with information concerning licensed
 25 teachers (as defined in IC 20-18-2-22(b)) maintained by the
 26 department; and
 27 (2) if a licensed teacher (as defined in IC 20-18-2-22(b)) has been
 28 convicted of an offense described in subsection (c), revoke the
 29 licensed teacher's license.
 30 SECTION 7. IC 22-15-5-16, AS AMENDED BY P.L.252-2017,
 31 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2018]: Sec. 16. (a) A practitioner shall comply with the
 33 standards established under this licensing program. A practitioner is
 34 subject to the exercise of the disciplinary sanctions under subsection
 35 (b) if the department finds that a practitioner has:
 36 (1) engaged in or knowingly cooperated in fraud or material
 37 deception in order to obtain a license to practice, including
 38 cheating on a licensing examination;
 39 (2) engaged in fraud or material deception in the course of
 40 professional services or activities;
 41 (3) advertised services or goods in a false or misleading manner;
 42 (4) falsified or knowingly allowed another person to falsify



- 1 attendance records or certificates of completion of continuing
 2 education courses provided under this chapter;
 3 (5) been convicted of a crime that has a direct bearing on the
 4 practitioner's ability to continue to practice competently;
 5 (6) knowingly violated a state statute or rule or federal statute or
 6 regulation regulating the profession for which the practitioner is
 7 licensed;
 8 (7) continued to practice although the practitioner has become
 9 unfit to practice due to:
 10 (A) professional incompetence;
 11 (B) failure to keep abreast of current professional theory or
 12 practice;
 13 (C) physical or mental disability; or
 14 (D) addiction to, abuse of, or severe dependency on alcohol or
 15 other drugs that endanger the public by impairing a
 16 practitioner's ability to practice safely;
 17 (8) engaged in a course of lewd or immoral conduct in connection
 18 with the delivery of services to the public;
 19 (9) allowed the practitioner's name or a license issued under this
 20 chapter to be used in connection with an individual or business
 21 who renders services beyond the scope of that individual's or
 22 business's training, experience, or competence;
 23 (10) had disciplinary action taken against the practitioner or the
 24 practitioner's license to practice in another state or jurisdiction on
 25 grounds similar to those under this chapter;
 26 (11) assisted another person in committing an act that would
 27 constitute a ground for disciplinary sanction under this chapter;
 28 or
 29 (12) allowed a license issued by the department to be:
 30 (A) used by another person; or
 31 (B) displayed to the public when the license has expired, is
 32 inactive, is invalid, or has been revoked or suspended.
- 33 For purposes of subdivision (10), a certified copy of a record of
 34 disciplinary action constitutes prima facie evidence of a disciplinary
 35 action in another jurisdiction.
- 36 (b) The department may impose one (1) or more of the following
 37 sanctions if the department finds that a practitioner is subject to
 38 disciplinary sanctions under subsection (a):
 39 (1) Permanent revocation of a practitioner's license.
 40 (2) Suspension of a practitioner's license.
 41 (3) Censure of a practitioner.
 42 (4) Issuance of a letter of reprimand.



- 1 (5) Assessment of a civil penalty against the practitioner in
- 2 accordance with the following:
- 3 (A) The civil penalty may not be more than one thousand
- 4 dollars (\$1,000) for each violation listed in subsection (a),
- 5 except for a finding of incompetency due to a physical or
- 6 mental disability.
- 7 (B) When imposing a civil penalty, the department shall
- 8 consider a practitioner's ability to pay the amount assessed. If
- 9 the practitioner fails to pay the civil penalty within the time
- 10 specified by the department, the department may suspend the
- 11 practitioner's license without additional proceedings. However,
- 12 a suspension may not be imposed if the sole basis for the
- 13 suspension is the practitioner's inability to pay a civil penalty.
- 14 (6) Placement of a practitioner on probation status and
- 15 requirement of the practitioner to:
- 16 (A) report regularly to the department upon the matters that
- 17 are the basis of probation;
- 18 (B) limit practice to those areas prescribed by the department;
- 19 (C) continue or renew professional education approved by the
- 20 department until a satisfactory degree of skill has been attained
- 21 in those areas that are the basis of the probation; or
- 22 (D) perform or refrain from performing any acts, including
- 23 community restitution or service without compensation, that
- 24 the department considers appropriate to the public interest or
- 25 to the rehabilitation or treatment of the practitioner.
- 26 The department may withdraw or modify this probation if the
- 27 department finds after a hearing that the deficiency that required
- 28 disciplinary action has been remedied or that changed
- 29 circumstances warrant a modification of the order.
- 30 (c) If an applicant or a practitioner has engaged in or knowingly
- 31 cooperated in fraud or material deception to obtain a license to
- 32 practice, including cheating on the licensing examination, the
- 33 department may rescind the license if it has been granted, void the
- 34 examination or other fraudulent or deceptive material, and prohibit the
- 35 applicant from reapplying for the license for a length of time
- 36 established by the department.
- 37 (d) The department may deny licensure to an applicant who has had
- 38 disciplinary action taken against the applicant or the applicant's license
- 39 to practice in another state or jurisdiction or who has practiced without
- 40 a license in violation of the law. A certified copy of the record of
- 41 disciplinary action is conclusive evidence of the other jurisdiction's
- 42 disciplinary action.



1 (e) The department may order a practitioner to submit to a
 2 reasonable physical or mental examination if the practitioner's physical
 3 or mental capacity to practice safely and competently is at issue in a
 4 disciplinary proceeding. Failure to comply with a department order to
 5 submit to a physical or mental examination makes a practitioner liable
 6 to temporary suspension under subsection (j).

7 (f) Except as provided under subsection (g) or (h), a license may not
 8 be denied, revoked, or suspended because the applicant or holder has
 9 been convicted of an offense. The acts from which the applicant's or
 10 holder's conviction resulted may, however, be considered as to whether
 11 the applicant or holder should be entrusted to serve the public in a
 12 specific capacity.

13 (g) The department may deny, suspend, or revoke a license issued
 14 under this chapter if the individual who holds the license is convicted
 15 of any of the following:

16 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

17 (2) Possession of methamphetamine under IC 35-48-4-6.1.

18 (3) Possession of a controlled substance under IC 35-48-4-7(a).

19 (4) Fraudulently obtaining a controlled substance under
 20 IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or
 21 IC 35-48-4-7(c) (for a crime committed after June 30, 2014).

22 (5) Manufacture of paraphernalia as a Class D felony (for a crime
 23 committed before July 1, 2014) or a Level 6 felony (for a crime
 24 committed after June 30, 2014) under IC 35-48-4-8.1(b).

25 (6) Dealing in paraphernalia as a Class D felony (for a crime
 26 committed before July 1, 2014) or a Level 6 felony (for a crime
 27 committed after June 30, 2014) under IC 35-48-4-8.5(b).

28 (7) Possession of paraphernalia as a Class D felony (for a crime
 29 committed before July 1, 2014) or a Level 6 felony (for a crime
 30 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before
 31 its amendment on July 1, 2015).

32 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
 33 D felony (for a crime committed before July 1, 2014) or a Level
 34 6 felony (for a crime committed after June 30, 2014) under
 35 IC 35-48-4-11.

36 (9) **A felony offense under IC 35-48-4 involving possession of**
 37 **a synthetic drug (as defined in IC 35-31.5-2-321), possession of**
 38 **a controlled substance analog (as defined in IC 35-48-1-9.3),**
 39 **or possession of a synthetic drug lookalike substance (as defined**
 40 **in IC 35-31.5-2-321.5 (repealed)) as a:**

41 (A) Class D felony for a crime committed before July 1, 2014;
 42 ~~under:~~



- 1 (i) ~~IC 35-48-4-11~~, before its amendment in 2013; or
 2 (ii) ~~IC 35-48-4-11.5~~; or
 3 (B) Level 6 felony for a crime committed after June 30, 2014;
 4 under IC 35-48-4-11.5 **(before its repeal on July 1, 2018)**.
 5 (10) Maintaining a common nuisance under IC 35-48-4-13
 6 (repealed) or IC 35-45-1-5, if the common nuisance involves a
 7 controlled substance.
 8 (11) An offense relating to registration, labeling, and prescription
 9 forms under IC 35-48-4-14.
 10 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 11 in this subsection.
 12 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 13 this subsection.
 14 (14) An offense in any other jurisdiction in which the elements of
 15 the offense for which the conviction was entered are substantially
 16 similar to the elements of an offense described in this subsection.
 17 (h) The department shall deny, revoke, or suspend a license issued
 18 under this chapter if the individual who holds the license is convicted
 19 of any of the following:
 20 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
 21 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 22 (3) Manufacturing methamphetamine under IC 35-48-4-1.2.
 23 (4) Dealing in a schedule I, II, or III controlled substance under
 24 IC 35-48-4-2.
 25 (5) Dealing in a schedule IV controlled substance under
 26 IC 35-48-4-3.
 27 (6) Dealing in a schedule V controlled substance under
 28 IC 35-48-4-4.
 29 (7) Dealing in a substance represented to be a controlled
 30 substance under IC 35-48-4-4.5 **(repealed)**.
 31 (8) Knowingly or intentionally manufacturing, advertising,
 32 distributing, or possessing with intent to manufacture, advertise,
 33 or distribute a substance represented to be a controlled substance
 34 under IC 35-48-4-4.6.
 35 (9) Dealing in a counterfeit substance under IC 35-48-4-5.
 36 (10) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 37 under IC 35-48-4-10.
 38 (11) ~~Dealing in~~ **An offense under IC 35-48-4 involving the**
 39 **manufacture or sale of** a synthetic drug **(as defined in**
 40 **IC 35-31.5-2-321)**, **or a synthetic drug lookalike substance (as**
 41 **defined in IC 35-31.5-2-321.5 (repealed))** under IC 35-48-4-10.5
 42 ~~(or under IC 35-48-4-10(b) before its amendment in 2013)~~;



1 **(before its repeal on July 1, 2018), a controlled substance**
2 **analog (as defined in IC 35-48-1-9.3), or a substance**
3 **represented to be a controlled substance (as described in**
4 **IC 35-48-4-4.6).**

5 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
6 in this subsection.

7 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
8 this subsection.

9 (14) An offense in any other jurisdiction in which the elements of
10 the offense for which the conviction was entered are substantially
11 similar to the elements of an offense described in this subsection.

12 (15) A violation of any federal or state drug law or rule related to
13 wholesale legend drug distributors licensed under IC 25-26-14.

14 (i) A decision of the department under subsections (b) through (h)
15 may be appealed to the commission under IC 4-21.5-3-7.

16 (j) The department may temporarily suspend a practitioner's license
17 under IC 4-21.5-4 before a final adjudication or during the appeals
18 process if the department finds that a practitioner represents a clear and
19 immediate danger to the public's health, safety, or property if the
20 practitioner is allowed to continue to practice.

21 (k) On receipt of a complaint or an information alleging that a
22 person licensed under this chapter has engaged in or is engaging in a
23 practice that jeopardizes the public health, safety, or welfare, the
24 department shall initiate an investigation against the person.

25 (l) Any complaint filed with the office of the attorney general
26 alleging a violation of this licensing program shall be referred to the
27 department for summary review and for its general information and any
28 authorized action at the time of the filing.

29 (m) The department shall conduct a fact finding investigation as the
30 department considers proper in relation to the complaint.

31 (n) The department may reinstate a license that has been suspended
32 under this section if, after a hearing, the department is satisfied that the
33 applicant is able to practice with reasonable skill, safety, and
34 competency to the public. As a condition of reinstatement, the
35 department may impose disciplinary or corrective measures authorized
36 under this chapter.

37 (o) The department may not reinstate a license that has been
38 revoked under this chapter. An individual whose license has been
39 revoked under this chapter may not apply for a new license until seven
40 (7) years after the date of revocation.

41 (p) The department shall seek to achieve consistency in the
42 application of sanctions authorized in this chapter. Significant



1 departures from prior decisions involving similar conduct must be
2 explained in the department's findings or orders.

3 (q) A practitioner may petition the department to accept the
4 surrender of the practitioner's license instead of having a hearing before
5 the commission. The practitioner may not surrender the practitioner's
6 license without the written approval of the department, and the
7 department may impose any conditions appropriate to the surrender or
8 reinstatement of a surrendered license.

9 (r) A practitioner who has been subjected to disciplinary sanctions
10 may be required by the commission to pay the costs of the proceeding.
11 The practitioner's ability to pay shall be considered when costs are
12 assessed. If the practitioner fails to pay the costs, a suspension may not
13 be imposed solely upon the practitioner's inability to pay the amount
14 assessed. The costs are limited to costs for the following:

- 15 (1) Court reporters.
- 16 (2) Transcripts.
- 17 (3) Certification of documents.
- 18 (4) Photo duplication.
- 19 (5) Witness attendance and mileage fees.
- 20 (6) Postage.
- 21 (7) Expert witnesses.
- 22 (8) Depositions.
- 23 (9) Notarizations.

24 SECTION 8. IC 24-5-0.5-4, AS AMENDED BY P.L.65-2014,
25 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2018]: Sec. 4. (a) A person relying upon an uncured or
27 incurable deceptive act may bring an action for the damages actually
28 suffered as a consumer as a result of the deceptive act or five hundred
29 dollars (\$500), whichever is greater. The court may increase damages
30 for a willful deceptive act in an amount that does not exceed the greater
31 of:

- 32 (1) three (3) times the actual damages of the consumer suffering
33 the loss; or
- 34 (2) one thousand dollars (\$1,000).

35 Except as provided in subsection (j), the court may award reasonable
36 attorney fees to the party that prevails in an action under this
37 subsection. This subsection does not apply to a consumer transaction
38 in real property, including a claim or action involving a construction
39 defect (as defined in IC 32-27-3-1(5)) brought against a construction
40 professional (as defined in IC 32-27-3-1(4)), except for purchases of
41 time shares and camping club memberships. This subsection does not
42 apply with respect to a deceptive act described in section 3(b)(20) of



1 this chapter. This subsection also does not apply to a violation of
2 IC 24-4.7, IC 24-5-12, IC 24-5-14, or IC 24-5-14.5. Actual damages
3 awarded to a person under this section have priority over any civil
4 penalty imposed under this chapter.

5 (b) Any person who is entitled to bring an action under subsection
6 (a) on the person's own behalf against a supplier for damages for a
7 deceptive act may bring a class action against such supplier on behalf
8 of any class of persons of which that person is a member and which has
9 been damaged by such deceptive act, subject to and under the Indiana
10 Rules of Trial Procedure governing class actions, except as herein
11 expressly provided. Except as provided in subsection (j), the court may
12 award reasonable attorney fees to the party that prevails in a class
13 action under this subsection, provided that such fee shall be determined
14 by the amount of time reasonably expended by the attorney and not by
15 the amount of the judgment, although the contingency of the fee may
16 be considered. Except in the case of an extension of time granted by the
17 attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10,
18 any money or other property recovered in a class action under this
19 subsection which cannot, with due diligence, be restored to consumers
20 within one (1) year after the judgment becomes final shall be returned
21 to the party depositing the same. This subsection does not apply to a
22 consumer transaction in real property, except for purchases of time
23 shares and camping club memberships. This subsection does not apply
24 with respect to a deceptive act described in section 3(b)(20) of this
25 chapter. Actual damages awarded to a class have priority over any civil
26 penalty imposed under this chapter.

27 (c) The attorney general may bring an action to enjoin a deceptive
28 act, including a deceptive act described in section 3(b)(20) of this
29 chapter, notwithstanding subsections (a) and (b). However, the attorney
30 general may seek to enjoin patterns of incurable deceptive acts with
31 respect to consumer transactions in real property. In addition, the court
32 may:

- 33 (1) issue an injunction;
- 34 (2) order the supplier to make payment of the money unlawfully
35 received from the aggrieved consumers to be held in escrow for
36 distribution to aggrieved consumers;
- 37 (3) for a knowing violation against a senior consumer, increase
38 the amount of restitution ordered under subdivision (2) in any
39 amount up to three (3) times the amount of damages incurred or
40 value of property or assets lost;
- 41 (4) order the supplier to pay to the state the reasonable costs of
42 the attorney general's investigation and prosecution related to the



1 action;

2 (5) provide for the appointment of a receiver; and

3 (6) order the department of state revenue to suspend the supplier's
 4 registered retail merchant certificate, subject to the requirements
 5 and prohibitions contained in IC 6-2.5-8-7(i), if the court finds
 6 that a violation of this chapter involved the sale or solicited sale
 7 of a synthetic drug (as defined in IC 35-31.5-2-321), ~~or~~ a synthetic
 8 drug lookalike substance (as defined in IC 35-31.5-2-321.5
 9 **(repealed) (before July 1, 2018), a controlled substance**
 10 **analog (as defined in IC 35-48-1-9.3), or a substance**
 11 **represented to be a controlled substance (as described in**
 12 **IC 35-48-4-4.6).**

13 (d) In an action under subsection (a), (b), or (c), the court may void
 14 or limit the application of contracts or clauses resulting from deceptive
 15 acts and order restitution to be paid to aggrieved consumers.

16 (e) In any action under subsection (a) or (b), upon the filing of the
 17 complaint or on the appearance of any defendant, claimant, or any
 18 other party, or at any later time, the trial court, the supreme court, or the
 19 court of appeals may require the plaintiff, defendant, claimant, or any
 20 other party or parties to give security, or additional security, in such
 21 sum as the court shall direct to pay all costs, expenses, and
 22 disbursements that shall be awarded against that party or which that
 23 party may be directed to pay by any interlocutory order by the final
 24 judgment or on appeal.

25 (f) Any person who violates the terms of an injunction issued under
 26 subsection (c) shall forfeit and pay to the state a civil penalty of not
 27 more than fifteen thousand dollars (\$15,000) per violation. For the
 28 purposes of this section, the court issuing an injunction shall retain
 29 jurisdiction, the cause shall be continued, and the attorney general
 30 acting in the name of the state may petition for recovery of civil
 31 penalties. Whenever the court determines that an injunction issued
 32 under subsection (c) has been violated, the court shall award
 33 reasonable costs to the state.

34 (g) If a court finds any person has knowingly violated section 3 or
 35 10 of this chapter, other than section 3(b)(19) or 3(b)(20) of this
 36 chapter, the attorney general, in an action pursuant to subsection (c),
 37 may recover from the person on behalf of the state a civil penalty of a
 38 fine not exceeding five thousand dollars (\$5,000) per violation.

39 (h) If a court finds that a person has violated section 3(b)(19) of this
 40 chapter, the attorney general, in an action under subsection (c), may
 41 recover from the person on behalf of the state a civil penalty as follows:

42 (1) For a knowing or intentional violation, one thousand five



1 hundred dollars (\$1,500).

2 (2) For a violation other than a knowing or intentional violation,
3 five hundred dollars (\$500).

4 A civil penalty recovered under this subsection shall be deposited in
5 the consumer protection division telephone solicitation fund
6 established by IC 24-4.7-3-6 to be used for the administration and
7 enforcement of section 3(b)(19) of this chapter.

8 (i) A senior consumer relying upon an uncured or incurable
9 deceptive act, including an act related to hypnotism, may bring an
10 action to recover treble damages, if appropriate.

11 (j) An offer to cure is:

12 (1) not admissible as evidence in a proceeding initiated under this
13 section unless the offer to cure is delivered by a supplier to the
14 consumer or a representative of the consumer before the supplier
15 files the supplier's initial response to a complaint; and

16 (2) only admissible as evidence in a proceeding initiated under
17 this section to prove that a supplier is not liable for attorney's fees
18 under subsection (k).

19 If the offer to cure is timely delivered by the supplier, the supplier may
20 submit the offer to cure as evidence to prove in the proceeding in
21 accordance with the Indiana Rules of Trial Procedure that the supplier
22 made an offer to cure.

23 (k) A supplier may not be held liable for the attorney's fees and
24 court costs of the consumer that are incurred following the timely
25 delivery of an offer to cure as described in subsection (j) unless the
26 actual damages awarded, not including attorney's fees and costs, exceed
27 the value of the offer to cure.

28 (l) If a court finds that a person has knowingly violated section
29 3(b)(20) of this chapter, the attorney general, in an action under
30 subsection (c), may recover from the person on behalf of the state a
31 civil penalty not exceeding one thousand dollars (\$1,000) per
32 consumer. In determining the amount of the civil penalty in any action
33 by the attorney general under this subsection, the court shall consider,
34 among other relevant factors, the frequency and persistence of
35 noncompliance by the debt collector, the nature of the noncompliance,
36 and the extent to which the noncompliance was intentional. A person
37 may not be held liable in any action by the attorney general for a
38 violation of section 3(b)(20) of this chapter if the person shows by a
39 preponderance of evidence that the violation was not intentional and
40 resulted from a bona fide error, notwithstanding the maintenance of
41 procedures reasonably adapted to avoid the error. A person may not be
42 held liable in any action for a violation of this chapter for contacting a



1 person other than the debtor, if the contact is made in compliance with
2 the Fair Debt Collection Practices Act.

3 SECTION 9. IC 25-1-1.1-2, AS AMENDED BY P.L.85-2017,
4 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2018]: Sec. 2. Notwithstanding IC 25-1-7, a board, a
6 commission, or a committee may suspend, deny, or revoke a license or
7 certificate issued under this title by the board, the commission, or the
8 committee without an investigation by the office of the attorney general
9 if the individual who holds the license or certificate is convicted of any
10 of the following and the board, commission, or committee determines,
11 after the individual has appeared in person, that the offense affects the
12 individual's ability to perform the duties of the profession:

13 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.

14 (2) Possession of methamphetamine under IC 35-48-4-6.1.

15 (3) Possession of a controlled substance under IC 35-48-4-7(a).

16 (4) Fraudulently obtaining a controlled substance under
17 IC 35-48-4-7(c).

18 (5) Manufacture of paraphernalia as a Class D felony (for a crime
19 committed before July 1, 2014) or a Level 6 felony (for a crime
20 committed after June 30, 2014) under IC 35-48-4-8.1(b).

21 (6) Dealing in paraphernalia as a Class D felony (for a crime
22 committed before July 1, 2014) or a Level 6 felony (for a crime
23 committed after June 30, 2014) under IC 35-48-4-8.5(b).

24 (7) Possession of paraphernalia as a Class D felony (for a crime
25 committed before July 1, 2014) or a Level 6 felony (for a crime
26 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before
27 its amendment on July 1, 2015).

28 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
29 D felony (for a crime committed before July 1, 2014) or a Level
30 6 felony (for a crime committed after June 30, 2014) under
31 IC 35-48-4-11.

32 (9) **A felony offense under IC 35-48-4 involving possession of**
33 **a synthetic drug (as defined in IC 35-31.5-2-321), possession of**
34 **a controlled substance analog (as defined in IC 35-48-1-9.3),**
35 **or possession of a synthetic drug lookalike substance (as defined**
36 **in IC 35-31.5-1-321.5 (repealed)) as a:**

37 (A) Class D felony for a crime committed before July 1, 2014;
38 ~~under:~~

39 (i) ~~IC 35-48-4-11, before its amendment in 2013; or~~

40 (ii) ~~IC 35-48-4-11.5; or~~

41 (B) Level 6 felony for a crime committed after June 30, 2014;
42 under IC 35-48-4-11.5 **(before its repeal on July 1, 2018).**



- 1 (10) Maintaining a common nuisance under IC 35-48-4-13
 2 (repealed) or IC 35-45-1-5, if the common nuisance involves a
 3 controlled substance.
 4 (11) An offense relating to registration, labeling, and prescription
 5 forms under IC 35-48-4-14.
 6 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 7 in this section.
 8 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 9 this section.
 10 (14) A sex crime under IC 35-42-4.
 11 (15) A felony that reflects adversely on the individual's fitness to
 12 hold a professional license.
 13 (16) An offense in any other jurisdiction in which the elements of
 14 the offense for which the conviction was entered are substantially
 15 similar to the elements of an offense described in this section.
- 16 SECTION 10. IC 25-1-1.1-3, AS AMENDED BY P.L.252-2017,
 17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2018]: Sec. 3. A board, a commission, or a committee shall
 19 revoke or suspend a license or certificate issued under this title by the
 20 board, the commission, or the committee if the individual who holds
 21 the license or certificate is convicted of any of the following:
- 22 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 23 IC 35-48-4-1.
 24 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 25 (3) Manufacturing methamphetamine under IC 35-48-4-1.2.
 26 (4) Dealing in a schedule I, II, or III controlled substance under
 27 IC 35-48-4-2.
 28 (5) Dealing in a schedule IV controlled substance under
 29 IC 35-48-4-3.
 30 (6) Dealing in a schedule V controlled substance under
 31 IC 35-48-4-4.
 32 (7) Dealing in a substance represented to be a controlled
 33 substance under IC 35-48-4-4.5 **(before its repeal on July 1,**
 34 **2018).**
 35 (8) Knowingly or intentionally manufacturing, advertising,
 36 distributing, or possessing with intent to manufacture, advertise,
 37 or distribute a substance represented to be a controlled substance
 38 under IC 35-48-4-4.6.
 39 (9) Dealing in a counterfeit substance under IC 35-48-4-5.
 40 (10) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 41 under IC 35-48-4-10.
 42 (11) ~~Dealing in~~ **An offense under IC 35-48-4 involving the**



1 **manufacture or sale of a synthetic drug (as defined in**
 2 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 3 **defined in IC 35-31.5-1-321.5 (repealed))** under IC 35-48-4-10.5
 4 ~~(or under IC 35-48-4-10(b) before its amendment in 2013):~~
 5 **(before its repeal on July 1, 2018), a controlled substance**
 6 **analog (as defined in IC 35-48-1-9.3), or a substance**
 7 **represented to be a controlled substance (as described in**
 8 **IC 35-48-4-4.6).**

9 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 10 in this section.

11 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 12 this section.

13 (14) An offense in any other jurisdiction in which the elements of
 14 the offense for which the conviction was entered are substantially
 15 similar to the elements of an offense described in this section.

16 (15) A violation of any federal or state drug law or rule related to
 17 wholesale legend drug distributors licensed under IC 25-26-14.

18 SECTION 11. IC 32-30-8-2, AS AMENDED BY P.L.196-2013,
 19 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2018]: Sec. 2. (a) Except as provided in subsection (d), as
 21 used in this chapter, "property" means a house, a building, a mobile
 22 home, or an apartment that is leased for residential or commercial
 23 purposes.

24 (b) The term includes:

- 25 (1) an entire building or complex of buildings; or
 26 (2) a mobile home community;

27 and all real property of any nature appurtenant to and used in
 28 connection with the house, building, mobile home, or apartment,
 29 including all individual rental units and common areas.

30 (c) The term does not include a hotel, motel, or other guest house,
 31 part of which is rented to a transient guest.

32 (d) For actions brought by the attorney general in relation to the sale
 33 or solicited sale of a synthetic drug (as defined in IC 35-31.5-2-321),
 34 ~~or a synthetic drug lookalike substance (as defined in~~
 35 ~~IC 35-31.5-2-321.5);~~ **a controlled substance analog (as defined in**
 36 **IC 35-48-1-9.3), or a substance represented to be a controlled**
 37 **substance (as described in IC 35-48-4-4.6),** "property" means a
 38 house, a building, a mobile home, or an apartment that is owned or
 39 leased for commercial or residential purposes. The term includes all
 40 real property of any nature appurtenant to and used in connection with
 41 the house, building, mobile home, or apartment.

42 SECTION 12. IC 32-30-8-10.5, AS ADDED BY P.L.196-2013,



1 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2018]: Sec. 10.5. In addition to the remedies and penalties
 3 specified in sections 10, 11, 12, and 13 of this chapter, the court may
 4 do any of the following in an action brought under this chapter
 5 concerning the sale or solicited sale of a synthetic drug (as defined in
 6 IC 35-31.5-2-321), ~~or a synthetic drug lookalike substance (as defined~~
 7 ~~in IC 35-31.5-2-321.5):~~ **a controlled substance analog (as defined in**
 8 **IC 35-48-1-9.3), or a substance represented to be a controlled**
 9 **substance (as described in IC 35-48-4-4.6):**

10 (1) Issue a restraining order against the person subject to
 11 IC 32-30-7-9 and IC 32-30-7-13.

12 (2) Issue a preliminary injunction, temporary forfeiture, or closure
 13 order pending final decision on a permanent injunction subject to
 14 IC 32-30-7-12.

15 (3) Issue an order of abatement subject to IC 32-30-7-22.

16 SECTION 13. IC 34-24-1-1, AS AMENDED BY P.L.252-2017,
 17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2018]: Sec. 1. (a) The following may be seized:

19 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
 20 or are intended for use by the person or persons in possession of
 21 them to transport or in any manner to facilitate the transportation
 22 of the following:

23 (A) A controlled substance for the purpose of committing,
 24 attempting to commit, or conspiring to commit any of the
 25 following:

26 (i) Dealing in or manufacturing cocaine or a narcotic drug
 27 (IC 35-48-4-1).

28 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).

29 (iii) Manufacturing methamphetamine (IC 35-48-4-1.2).

30 (iv) Dealing in a schedule I, II, or III controlled substance
 31 (IC 35-48-4-2).

32 (v) Dealing in a schedule IV controlled substance
 33 (IC 35-48-4-3).

34 (vi) Dealing in a schedule V controlled substance
 35 (IC 35-48-4-4).

36 (vii) Dealing in a counterfeit substance (IC 35-48-4-5).

37 (viii) Possession of cocaine or a narcotic drug
 38 (IC 35-48-4-6).

39 (ix) Possession of methamphetamine (IC 35-48-4-6.1).

40 (x) Dealing in paraphernalia (IC 35-48-4-8.5).

41 (xi) Dealing in marijuana, hash oil, hashish, or salvia
 42 (IC 35-48-4-10).



- 1 (xii) ~~Dealing in~~ **An offense under IC 35-48-4 involving a**
 2 **synthetic drug (as defined in IC 35-31.5-2-321), or a**
 3 **synthetic drug lookalike substance (as defined in**
 4 **IC 35-31.5-2-321.5 (repealed)) under IC 35-48-4-10.5 or**
 5 **IC 35-48-4-10 before its amendment in 2013): (before its**
 6 **repeal on July 1, 2018), a controlled substance analog (as**
 7 **defined in IC 35-48-1-9.3), or a substance represented to**
 8 **be a controlled substance (as described in**
 9 **IC 35-48-4-4.6).**
- 10 (B) Any stolen (IC 35-43-4-2) or converted property
 11 (IC 35-43-4-3) if the retail or repurchase value of that property
 12 is one hundred dollars (\$100) or more.
- 13 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
- 14 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 15 mass destruction (as defined in IC 35-31.5-2-354) used to
 16 commit, used in an attempt to commit, or used in a conspiracy
 17 to commit an offense under IC 35-47 as part of or in
 18 furtherance of an act of terrorism (as defined by
 19 IC 35-31.5-2-329).
- 20 (2) All money, negotiable instruments, securities, weapons,
 21 communications devices, or any property used to commit, used in
 22 an attempt to commit, or used in a conspiracy to commit an
 23 offense under IC 35-47 as part of or in furtherance of an act of
 24 terrorism or commonly used as consideration for a violation of
 25 IC 35-48-4 (other than items subject to forfeiture under
 26 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
- 27 (A) furnished or intended to be furnished by any person in
 28 exchange for an act that is in violation of a criminal statute;
 29 (B) used to facilitate any violation of a criminal statute; or
 30 (C) traceable as proceeds of the violation of a criminal statute.
- 31 (3) Any portion of real or personal property purchased with
 32 money that is traceable as a proceed of a violation of a criminal
 33 statute.
- 34 (4) A vehicle that is used by a person to:
- 35 (A) commit, attempt to commit, or conspire to commit;
 36 (B) facilitate the commission of; or
 37 (C) escape from the commission of;
 38 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 39 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 40 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 41 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 42 (5) Real property owned by a person who uses it to commit any of



- 1 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
 2 felony:
- 3 (A) Dealing in or manufacturing cocaine or a narcotic drug
 4 (IC 35-48-4-1).
- 5 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 6 (C) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 7 (D) Dealing in a schedule I, II, or III controlled substance
 8 (IC 35-48-4-2).
- 9 (E) Dealing in a schedule IV controlled substance
 10 (IC 35-48-4-3).
- 11 (F) Dealing in marijuana, hash oil, hashish, or salvia
 12 (IC 35-48-4-10).
- 13 (G) Dealing in a synthetic drug or synthetic drug lookalike
 14 substance **under IC 35-48-4-10.5 (before its repeal on July**
 15 **1, 2018)** or IC 35-48-4-10 (before its amendment in 2013).
- 16 (6) Equipment and recordings used by a person to commit fraud
 17 under IC 35-43-5-4(10).
- 18 (7) Recordings sold, rented, transported, or possessed by a person
 19 in violation of IC 24-4-10.
- 20 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
 21 defined by IC 35-45-6-1) that is the object of a corrupt business
 22 influence violation (IC 35-45-6-2).
- 23 (9) Unlawful telecommunications devices (as defined in
 24 IC 35-45-13-6) and plans, instructions, or publications used to
 25 commit an offense under IC 35-45-13.
- 26 (10) Any equipment, including computer equipment and cellular
 27 telephones, used for or intended for use in preparing,
 28 photographing, recording, videotaping, digitizing, printing,
 29 copying, or disseminating matter in violation of IC 35-42-4.
- 30 (11) Destructive devices used, possessed, transported, or sold in
 31 violation of IC 35-47.5.
- 32 (12) Tobacco products that are sold in violation of IC 24-3-5,
 33 tobacco products that a person attempts to sell in violation of
 34 IC 24-3-5, and other personal property owned and used by a
 35 person to facilitate a violation of IC 24-3-5.
- 36 (13) Property used by a person to commit counterfeiting or
 37 forgery in violation of IC 35-43-5-2.
- 38 (14) After December 31, 2005, if a person is convicted of an
 39 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 40 following real or personal property:
- 41 (A) Property used or intended to be used to commit, facilitate,
 42 or promote the commission of the offense.



- 1 (B) Property constituting, derived from, or traceable to the
 2 gross proceeds that the person obtained directly or indirectly
 3 as a result of the offense.
- 4 (15) Except as provided in subsection (e), a vehicle used by a
 5 person who operates the vehicle:
- 6 (A) while intoxicated, in violation of IC 9-30-5-1 through
 7 IC 9-30-5-5, if in the previous five (5) years the person has two
 8 (2) or more prior unrelated convictions:
- 9 (i) for operating a motor vehicle while intoxicated in
 10 violation of IC 9-30-5-1 through IC 9-30-5-5; or
 11 (ii) for an offense that is substantially similar to IC 9-30-5-1
 12 through IC 9-30-5-5 in another jurisdiction; or
- 13 (B) on a highway while the person's driving privileges are
 14 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
 15 if in the previous five (5) years the person has two (2) or more
 16 prior unrelated convictions:
- 17 (i) for operating a vehicle while intoxicated in violation of
 18 IC 9-30-5-1 through IC 9-30-5-5; or
 19 (ii) for an offense that is substantially similar to IC 9-30-5-1
 20 through IC 9-30-5-5 in another jurisdiction.
- 21 If a court orders the seizure of a vehicle under this subdivision,
 22 the court shall transmit an order to the bureau of motor vehicles
 23 recommending that the bureau not permit a vehicle to be
 24 registered in the name of the person whose vehicle was seized
 25 until the person possesses a current driving license (as defined in
 26 IC 9-13-2-41).
- 27 (16) The following real or personal property:
- 28 (A) Property used or intended to be used to commit, facilitate,
 29 or promote the commission of an offense specified in
 30 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 31 IC 30-2-13-38(f).
- 32 (B) Property constituting, derived from, or traceable to the
 33 gross proceeds that a person obtains directly or indirectly as a
 34 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 35 IC 30-2-10-9(b), or IC 30-2-13-38(f).
- 36 (17) An automated sales suppression device (as defined in
 37 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in
 38 IC 35-43-5-4.6(a)(3)).
- 39 (18) Real or personal property, including a vehicle, that is used by
 40 a person to:
- 41 (A) commit, attempt to commit, or conspire to commit;
 42 (B) facilitate the commission of; or



- 1 (C) escape from the commission of;
 2 a violation of IC 35-42-3.5-1 (human trafficking) or IC 35-45-4-4
 3 (promoting prostitution).
- 4 (b) A vehicle used by any person as a common or contract carrier in
 5 the transaction of business as a common or contract carrier is not
 6 subject to seizure under this section, unless it can be proven by a
 7 preponderance of the evidence that the owner of the vehicle knowingly
 8 permitted the vehicle to be used to engage in conduct that subjects it to
 9 seizure under subsection (a).
- 10 (c) Equipment under subsection (a)(10) may not be seized unless it
 11 can be proven by a preponderance of the evidence that the owner of the
 12 equipment knowingly permitted the equipment to be used to engage in
 13 conduct that subjects it to seizure under subsection (a)(10).
- 14 (d) Money, negotiable instruments, securities, weapons,
 15 communications devices, or any property commonly used as
 16 consideration for a violation of IC 35-48-4 found near or on a person
 17 who is committing, attempting to commit, or conspiring to commit any
 18 of the following offenses shall be admitted into evidence in an action
 19 under this chapter as prima facie evidence that the money, negotiable
 20 instrument, security, or other thing of value is property that has been
 21 used or was to have been used to facilitate the violation of a criminal
 22 statute or is the proceeds of the violation of a criminal statute:
- 23 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 24 narcotic drug).
 - 25 (2) IC 35-48-4-1.1 (dealing in methamphetamine).
 - 26 (3) IC 35-48-4-1.2 (manufacturing methamphetamine).
 - 27 (4) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 28 substance).
 - 29 (5) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
 - 30 (6) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 31 as a Level 4 felony.
 - 32 (7) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 33 Level 3, Level 4, or Level 5 felony.
 - 34 (8) IC 35-48-4-6.1 (possession of methamphetamine) as a Level
 35 3, Level 4, or Level 5 felony.
 - 36 (9) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
 37 salvia) as a Level 5 felony.
 - 38 (10) IC 35-48-4-10.5 (**before its repeal on July 1, 2018**)
 39 (dealing in a synthetic drug or synthetic drug lookalike substance)
 40 as a Level 5 felony or Level 6 felony, or as a Class C felony or
 41 Class D felony under IC 35-48-4-10 (before its amendment in
 42 2013).



1 (e) A vehicle operated by a person who is not:

2 (1) an owner of the vehicle; or

3 (2) the spouse of the person who owns the vehicle;

4 is not subject to seizure under subsection (a)(15) unless it can be
5 proven by a preponderance of the evidence that the owner of the
6 vehicle knowingly permitted the vehicle to be used to engage in
7 conduct that subjects it to seizure under subsection (a)(15).

8 SECTION 14. IC 35-31.5-2-16.5 IS REPEALED [EFFECTIVE
9 JULY 1, 2018]. Sec. 16.5: "Analog"; for purposes of section 321 of this
10 chapter, means a new or novel chemical entity, independent of
11 synthetic route or natural origin, having substantially the same:

12 (1) carbon backbone structure; and

13 (2) pharmacological mechanism of action;

14 as a compound specifically defined as a synthetic drug in section 321
15 of this chapter.

16 SECTION 15. IC 35-31.5-2-321.5 IS REPEALED [EFFECTIVE
17 JULY 1, 2018]. Sec. 321.5: (a) "Synthetic drug lookalike substance";
18 except as provided in subsection (b), means one (1) or more of the
19 following:

20 (1) A substance, other than a synthetic drug, which any of the
21 factors listed in subsection (c) would lead a reasonable person to
22 believe to be a synthetic drug.

23 (2) A substance, other than a synthetic drug:

24 (A) that a person knows or should have known was intended
25 to be consumed; and

26 (B) the consumption of which the person knows or should
27 have known to be intended to cause intoxication.

28 (b) The term "synthetic drug lookalike substance" does not include
29 the following:

30 (1) Food and food ingredients (as defined in IC 6-2.5-1-20);

31 (2) Alcohol (as defined in IC 7.1-1-3-4);

32 (3) A legend drug (as defined in IC 16-18-2-199);

33 (4) Tobacco;

34 (5) A dietary supplement (as defined in IC 6-2.5-1-16);

35 (c) In determining whether a substance is a synthetic drug lookalike
36 substance, the following factors may be considered:

37 (1) The overall appearance of a dosage unit of the substance;
38 including its shape, color, size, markings or lack of markings;
39 taste, consistency, and any other identifying physical
40 characteristics.

41 (2) How the substance is packaged for sale or distribution;
42 including the shape, color, size, markings or lack of markings, and



1 any other identifying physical characteristics of the packaging:

2 (3) Any statement made by the owner or person in control of the
3 substance concerning the substance's nature, use, or effect.

4 (4) Any statement made to the buyer or recipient of the substance
5 suggesting or implying that the substance is a synthetic drug.

6 (5) Any statement made to the buyer or recipient of the substance
7 suggesting or implying that the substance may be resold for profit.

8 (6) The overall circumstances under which the substance is
9 distributed, including whether:

10 (A) the distribution included an exchange of, or demand for,
11 money or other property as consideration; and

12 (B) the amount of the consideration was substantially greater
13 than the reasonable retail market value of the substance the
14 seller claims the substance to be.

15 SECTION 16. IC 35-45-6-1, AS AMENDED BY P.L.252-2017,
16 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2018]: Sec. 1. (a) The definitions in this section apply
18 throughout this chapter.

19 (b) "Documentary material" means any document, drawing,
20 photograph, recording, or other tangible item containing compiled data
21 from which information can be either obtained or translated into a
22 usable form.

23 (c) "Enterprise" means:

24 (1) a sole proprietorship, corporation, limited liability company,
25 partnership, business trust, or governmental entity; or

26 (2) a union, an association, or a group, whether a legal entity or
27 merely associated in fact.

28 (d) "Pattern of racketeering activity" means engaging in at least two
29 (2) incidents of racketeering activity that have the same or similar
30 intent, result, accomplice, victim, or method of commission, or that are
31 otherwise interrelated by distinguishing characteristics that are not
32 isolated incidents. However, the incidents are a pattern of racketeering
33 activity only if at least one (1) of the incidents occurred after August
34 31, 1980, and if the last of the incidents occurred within five (5) years
35 after a prior incident of racketeering activity.

36 (e) "Racketeering activity" means to commit, to attempt to commit,
37 to conspire to commit a violation of, or aiding and abetting in a
38 violation of any of the following:

39 (1) A provision of IC 23-19, or of a rule or order issued under
40 IC 23-19.

41 (2) A violation of IC 35-45-9.

42 (3) A violation of IC 35-47.



- 1 (4) A violation of IC 35-49-3.
- 2 (5) Murder (IC 35-42-1-1).
- 3 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
- 4 felony after June 30, 2014 (IC 35-42-2-1).
- 5 (7) Kidnapping (IC 35-42-3-2).
- 6 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 7 (9) Child exploitation (IC 35-42-4-4).
- 8 (10) Robbery (IC 35-42-5-1).
- 9 (11) Carjacking (IC 35-42-5-2) (before its repeal).
- 10 (12) Arson (IC 35-43-1-1).
- 11 (13) Burglary (IC 35-43-2-1).
- 12 (14) Theft (IC 35-43-4-2).
- 13 (15) Receiving stolen property (IC 35-43-4-2).
- 14 (16) Forgery (IC 35-43-5-2).
- 15 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- 16 (18) Bribery (IC 35-44.1-1-2).
- 17 (19) Official misconduct (IC 35-44.1-1-1).
- 18 (20) Conflict of interest (IC 35-44.1-1-4).
- 19 (21) Perjury (IC 35-44.1-2-1).
- 20 (22) Obstruction of justice (IC 35-44.1-2-2).
- 21 (23) Intimidation (IC 35-45-2-1).
- 22 (24) Promoting prostitution (IC 35-45-4-4).
- 23 (25) Professional gambling (IC 35-45-5-3).
- 24 (26) Maintaining a professional gambling site
- 25 (IC 35-45-5-3.5(b)).
- 26 (27) Promoting professional gambling (IC 35-45-5-4).
- 27 (28) Dealing in or manufacturing cocaine or a narcotic drug
- 28 (IC 35-48-4-1).
- 29 (29) Dealing in methamphetamine (IC 35-48-4-1.1).
- 30 (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 31 (31) Dealing in a schedule I, II, or III controlled substance
- 32 (IC 35-48-4-2).
- 33 (32) Dealing in a schedule IV controlled substance
- 34 (IC 35-48-4-3).
- 35 (33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 36 (34) Dealing in marijuana, hash oil, hashish, or salvia
- 37 (IC 35-48-4-10).
- 38 (35) Money laundering (IC 35-45-15-5).
- 39 (36) A violation of IC 35-47.5-5.
- 40 (37) A violation of any of the following:
- 41 (A) IC 23-14-48-9.
- 42 (B) IC 30-2-9-7(b).



- 1 (C) IC 30-2-10-9(b).
 2 (D) IC 30-2-13-38(f).
 3 (38) Practice of law by a person who is not an attorney
 4 (IC 33-43-2-1).
 5 (39) ~~Dealing in~~ **An offense listed in IC 35-48-4 involving the**
 6 **manufacture or sale of a synthetic drug (as defined in**
 7 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 8 **defined in IC 35-31.5-2-321.5 (repealed)) under**
 9 **(IC 35-48-4-10.5 or ~~IC 35-48-4-10~~ before its amendment in**
 10 **2013); (before its repeal on July 1, 2018), a controlled**
 11 **substance analog (as defined in IC 35-48-1-9.3), or a substance**
 12 **represented to be a controlled substance (as described in**
 13 **IC 35-48-4-4.6).**
 14 SECTION 17. IC 35-48-1-9.3 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 9.3. (a) "Controlled
 16 substance analog" means a substance **that, due to its chemical**
 17 **structure and potential for abuse or misuse, meets the following**
 18 **criteria:**
 19 (1) The ~~chemical structure of which substance~~ is substantially
 20 similar to ~~that of a controlled substance included in schedule I or~~
 21 ~~H and that has;~~ **or classified under IC 35-48-2.**
 22 (2) ~~that a person represents or intends to have;~~ **The substance has**
 23 a narcotic, stimulant, depressant, or hallucinogenic effect on the
 24 central nervous system ~~substantially similar to or greater than the~~
 25 **or is represented or intended to have a** narcotic, stimulant,
 26 depressant, or hallucinogenic effect on the central nervous system
 27 **substantially similar to or greater than that of a controlled**
 28 **substance included in schedule I or H; classified under**
 29 **IC 35-48-2.**
 30 (b) The definition set forth in subsection (a) does not include:
 31 (1) a controlled substance;
 32 **(2) a legend drug;**
 33 ~~(2)~~ **(3) a substance for which there is an approved new drug**
 34 **application;**
 35 **(4) any compound, mixture, or preparation that contains any**
 36 **controlled substance, that is not for administration to a**
 37 **human being or animal, and that is packaged in a form or**
 38 **concentration, or with adulterants or denaturants, such that**
 39 **as packaged it does not present any significant potential for**
 40 **abuse; or**
 41 ~~(3)~~ **(5) a substance for to which an investigational exemption is**
 42 **in effect for investigational use by a person applies under Section**



1 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52
 2 Stat. 1052 (21 U.S.C. 355)), **but only** to the extent that conduct
 3 with respect to the substance is ~~permitted under~~ **pursuant to** the
 4 exemption. ~~or~~

5 ~~(4) a substance to the extent not intended for human consumption~~
 6 ~~before an exemption takes effect regarding the substance.~~

7 **(c) For purposes of subsection (a), "substantially similar", as it**
 8 **applies to the chemical structure of a substance, means that the**
 9 **chemical structure of the substance, when compared to the**
 10 **structure of a controlled substance, has a single difference in the**
 11 **structural formula that substitutes one (1) atom or functional**
 12 **group for another, including:**

13 **(1) one (1) halogen for another halogen;**

14 **(2) one (1) hydrogen for a halogen;**

15 **(3) one (1) halogen for a hydrogen; or**

16 **(4) an alkyl group added or deleted:**

17 **(A) as a side chain to or from a molecule; or**

18 **(B) from a side chain of a molecule.**

19 SECTION 18. IC 35-48-1-16 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 16. **(a) Except as**
 21 **provided in subsection (b), "drug" has the meaning set forth in**
 22 **IC 16-42-19-2. It does not include devices or their components, parts,**
 23 **or accessories, nor does it include food.**

24 **(b) For purposes of IC 35-48-4, "drug":**

25 **(1) has the meaning set forth in subsection (a); and**

26 **(2) includes a controlled substance (as defined in IC 35-48-1-9)**
 27 **and a controlled substance analog (as defined in**
 28 **IC 35-48-1-9.3).**

29 SECTION 19. IC 35-48-1-16.3, AS ADDED BY P.L.252-2017,
 30 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2018]: Sec. 16.3. "Drug related felony" means a felony
 32 conviction for an offense described in:

33 (1) IC 35-48-4-1 through IC 35-48-4-11.5 **(repealed)**; or

34 (2) IC 35-48-4-13 **(repealed)** through IC 35-48-4-14.7.

35 SECTION 20. IC 35-48-1-16.5, AS AMENDED BY P.L.168-2014,
 36 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2018]: Sec. 16.5. "Enhancing circumstance" means one (1) or
 38 more of the following:

39 (1) The person has a prior conviction, in any jurisdiction, for
 40 dealing in a controlled substance that is not marijuana, hashish,
 41 hash oil, **or** salvia divinorum, **or** a ~~synthetic drug~~, including an
 42 attempt or conspiracy to commit the offense.



- 1 (2) The person committed the offense while in possession of a
2 firearm.
- 3 (3) The person committed the offense:
4 (A) on a school bus; or
5 (B) in, on, or within five hundred (500) feet of:
6 (i) school property while a person under eighteen (18) years
7 of age was reasonably expected to be present; or
8 (ii) a public park while a person under eighteen (18) years
9 of age was reasonably expected to be present.
- 10 (4) The person delivered or financed the delivery of the drug to a
11 person under eighteen (18) years of age at least three (3) years
12 junior to the person.
- 13 (5) The person manufactured or financed the manufacture of the
14 drug.
- 15 (6) The person committed the offense in the physical presence of
16 a child less than eighteen (18) years of age, knowing that the child
17 was present and might be able to see or hear the offense.
- 18 SECTION 21. IC 35-48-4-0.5 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 0.5. For purposes of
20 this chapter, a "controlled substance analog" is considered to be a
21 controlled substance in schedule I if the analog is in whole or in part
22 intended for human consumption. **(a) In determining whether a
23 controlled substance analog has a narcotic, stimulant, depressant,
24 or hallucinogenic effect on the central nervous system, or is
25 represented or intended to have a narcotic, stimulant, depressant,
26 or hallucinogenic effect on the central nervous system, the trier of
27 fact may consider the following:**
- 28 **(1) The actual or relative potential for abuse of the substance.**
29 **(2) Scientific evidence of the pharmacological effect of the
30 substance, if known.**
31 **(3) The state of current scientific knowledge regarding the
32 substance.**
33 **(4) The history and current pattern of abuse of the substance.**
34 **(5) The scope, duration, and significance of abuse of the
35 substance.**
36 **(6) The risk to the public health presented by the substance.**
37 **(7) The substance's psychological or physiological dependence
38 liability.**
39 **(8) The behavior demonstrated by the defendant, if the
40 defendant is known to have consumed the substance, or by the
41 end user of the substance that is alleged to have been
42 delivered or otherwise transferred by the defendant.**



- 1 **(9) Whether the substance was diverted from legitimate**
 2 **channels or clandestinely imported, manufactured, or**
 3 **distributed.**
- 4 **(10) Whether the substance is an immediate precursor of a**
 5 **substance controlled under this article.**
- 6 **(11) A comparison of the accepted methods of marketing,**
 7 **distribution, and sales of the substance with the methods of**
 8 **marketing, distribution, and sales of the substance that the**
 9 **substance is purported to be, including:**
- 10 **(A) the packaging of the substance and its appearance in**
 11 **overall finished dosage form;**
- 12 **(B) oral or written statements or representations**
 13 **concerning the substance;**
- 14 **(C) the methods by which the substance is distributed; and**
 15 **(D) the manner in which the substance is sold to the public.**
- 16 **(12) Any other relevant factor.**
- 17 **(b) For purposes of this chapter, a controlled substance analog**
 18 **that has a narcotic, stimulant, depressant, or hallucinogenic effect**
 19 **shall be treated as the highest scheduled controlled substance**
 20 **under IC 35-48-2 to which it is a controlled substance analog.**
- 21 **(c) It is not a defense to a prosecution for an offense involving a**
 22 **controlled substance analog that the substance's packaging**
 23 **declares that the substance is not for human consumption.**
- 24 SECTION 22. IC 35-48-4-2, AS AMENDED BY P.L.44-2016,
 25 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2018]: Sec. 2. (a) A person who:
- 27 (1) knowingly or intentionally:
- 28 (A) manufactures;
- 29 (B) finances the manufacture of;
- 30 (C) delivers; or
- 31 (D) finances the delivery of;
- 32 a controlled substance **or controlled substance analog**, pure or
 33 adulterated, classified in schedule I, II, or III, except marijuana,
 34 hash oil, hashish, **or** salvia; ~~or a synthetic drug;~~ or
- 35 (2) possesses, with intent to:
- 36 (A) manufacture;
- 37 (B) finance the manufacture of;
- 38 (C) deliver; or
- 39 (D) finance the delivery of;
- 40 a controlled substance **or controlled substance analog**, pure or
 41 adulterated, classified in schedule I, II, or III, except marijuana,
 42 hash oil, hashish, **or** salvia; ~~or a synthetic drug;~~



1 commits dealing in a schedule I, II, or III controlled substance, a Level
2 6 felony, except as provided in subsections (b) through (f).

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

5 (1) there is evidence in addition to the weight of the drug that the
6 person intended to manufacture, finance the manufacture of,
7 deliver, or finance the delivery of the drug; or

8 (2) the amount of the drug involved is at least twenty-eight (28)
9 grams.

10 (c) The offense is a Level 5 felony if:

11 (1) the amount of the drug involved is at least one (1) gram but
12 less than five (5) grams; or

13 (2) the amount of the drug involved is less than one (1) gram and
14 an enhancing circumstance applies.

15 (d) The offense is a Level 4 felony if:

16 (1) the amount of the drug involved is at least five (5) grams but
17 less than ten (10) grams; or

18 (2) the amount of the drug involved is at least one (1) gram but
19 less than five (5) grams and an enhancing circumstance applies.

20 (e) The offense is a Level 3 felony if:

21 (1) the amount of the drug involved is at least ten (10) grams but
22 less than twenty-eight (28) grams; or

23 (2) the amount of the drug involved is at least five (5) grams but
24 less than ten (10) grams and an enhancing circumstance applies.

25 (f) The offense is a Level 2 felony if:

26 (1) the amount of the drug involved is at least twenty-eight (28)
27 grams; or

28 (2) the amount of the drug involved is at least ten (10) grams but
29 less than twenty-eight (28) grams and an enhancing circumstance
30 applies.

31 SECTION 23. IC 35-48-4-3, AS AMENDED BY P.L.44-2016,
32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2018]: Sec. 3. (a) A person who:

34 (1) knowingly or intentionally:

35 (A) manufactures;

36 (B) finances the manufacture of;

37 (C) delivers; or

38 (D) finances the delivery of;

39 a controlled substance **or controlled substance analog**, pure or
40 adulterated, classified in schedule IV; or

41 (2) possesses, with intent to manufacture or deliver, a controlled
42 substance **or controlled substance analog**, pure or adulterated,



1 classified in schedule IV;
 2 commits dealing in a schedule IV controlled substance, a Class A
 3 misdemeanor, except as provided in subsections (b) through (f).

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

6 (1) there is evidence in addition to the weight of the drug that the
 7 person intended to manufacture or deliver the controlled
 8 substance **or controlled substance analog**; or

9 (2) the amount of the drug involved is at least twenty-eight (28)
 10 grams.

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

12 (1) the amount of the drug involved is at least one (1) gram but
 13 less than five (5) grams; or

14 (2) the amount of the drug involved is less than one (1) gram and
 15 an enhancing circumstance applies.

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

17 (1) the amount of the drug involved is at least five (5) grams but
 18 less than ten (10) grams; or

19 (2) the amount of the drug involved is at least one (1) gram but
 20 less than five (5) grams and an enhancing circumstance applies.

21 (e) The offense is a Level 4 felony if:

22 (1) the amount of the drug involved is at least ten (10) grams but
 23 less than twenty-eight (28) grams; or

24 (2) the amount of the drug involved is at least five (5) grams but
 25 less than ten (10) grams and an enhancing circumstance applies.

26 (f) The offense is a Level 3 felony if:

27 (1) the amount of the drug involved is at least twenty-eight (28)
 28 grams; or

29 (2) the amount of the drug involved is at least ten (10) grams but
 30 less than twenty-eight (28) grams and an enhancing circumstance
 31 applies.

32 SECTION 24. IC 35-48-4-4, AS AMENDED BY P.L.44-2016,
 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2018]: Sec. 4. (a) A person who:

35 (1) knowingly or intentionally:

36 (A) manufactures;

37 (B) finances the manufacture of;

38 (C) delivers; or

39 (D) finances the delivery of;

40 a controlled substance **or controlled substance analog**, pure or
 41 adulterated, classified in schedule V; or

42 (2) possesses, with intent to:



- 1 (A) manufacture;
 2 (B) finance the manufacture of;
 3 (C) deliver; or
 4 (D) finance the delivery of;
 5 a controlled substance **or controlled substance analog**, pure or
 6 adulterated, classified in schedule V;
 7 commits dealing in a schedule V controlled substance, a Class B
 8 misdemeanor, except as provided in subsections (b) through (f).
 9 (b) A person may be convicted of an offense under subsection (a)(2)
 10 only if:
 11 (1) there is evidence in addition to the weight of the drug that the
 12 person intended to manufacture, finance the manufacture of,
 13 deliver, or finance the delivery of the drug; or
 14 (2) the amount of the drug involved is at least twenty-eight (28)
 15 grams.
 16 (c) The offense is a Class A misdemeanor if:
 17 (1) the amount of the drug involved is at least one (1) gram but
 18 less than five (5) grams; or
 19 (2) the amount of the drug involved is less than one (1) gram and
 20 an enhancing circumstance applies.
 21 (d) The offense is a Level 6 felony if:
 22 (1) the amount of the drug involved is at least five (5) grams but
 23 less than ten (10) grams; or
 24 (2) the amount of the drug involved is at least one (1) gram but
 25 less than five (5) grams and an enhancing circumstance applies.
 26 (e) The offense is a Level 5 felony if:
 27 (1) the amount of the drug involved is at least ten (10) grams but
 28 less than twenty-eight (28) grams; or
 29 (2) the amount of the drug involved is at least five (5) grams but
 30 less than ten (10) grams and an enhancing circumstance applies.
 31 (f) The offense is a Level 4 felony if:
 32 (1) the amount of the drug involved is at least twenty-eight (28)
 33 grams; or
 34 (2) the amount of the drug involved is at least ten (10) grams but
 35 less than twenty-eight (28) grams and an enhancing circumstance
 36 applies.
 37 SECTION 25. IC 35-48-4-4.5 IS REPEALED [EFFECTIVE JULY
 38 1, 2018]. Sec. 4.5: (a) A person who knowingly or intentionally delivers
 39 or finances the delivery of any substance, other than a controlled
 40 substance or a drug for which a prescription is required under federal
 41 or state law, that:
 42 (†) is expressly or impliedly represented to be a controlled



- 1 substance;
- 2 (2) is distributed under circumstances that would lead a
- 3 reasonable person to believe that the substance is a controlled
- 4 substance; or
- 5 (3) by overall dosage unit appearance; including shape; color;
- 6 size; markings; or lack of markings; taste; consistency; or any
- 7 other identifying physical characteristic of the substance; would
- 8 lead a reasonable person to believe the substance is a controlled
- 9 substance;
- 10 commits dealing in a substance represented to be a controlled
- 11 substance; a Level 6 felony.
- 12 (b) In determining whether representations have been made; subject
- 13 to subsection (a)(1); or whether circumstances of distribution exist;
- 14 subject to subsection (a)(2); the trier of fact may consider; in addition
- 15 to other relevant factors; the following:
- 16 (1) Statements made by the owner or other person in control of
- 17 the substance; concerning the substance's nature; use; or effect.
- 18 (2) Statements made by any person; to the buyer or recipient of
- 19 the substance; that the substance may be resold for profit.
- 20 (3) Whether the substance is packaged in a manner uniquely used
- 21 for the illegal distribution of controlled substances.
- 22 (4) Whether:
- 23 (A) the distribution included an exchange of; or demand for;
- 24 money or other property as consideration; and
- 25 (B) the amount of the consideration was substantially greater
- 26 than the reasonable retail market value of the substance.
- 27 SECTION 26. IC 35-48-4-4.6, AS AMENDED BY P.L.44-2016,
- 28 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 29 JULY 1, 2018]: Sec. 4.6. (a) A person who knowingly or intentionally:
- 30 (1) delivers;
- 31 (2) finances the delivery of;
- 32 (3) manufactures;
- 33 (4) finances the manufacture of;
- 34 (5) advertises;
- 35 (6) distributes; or
- 36 (7) possesses with intent to deliver, finance the delivery of,
- 37 manufacture, finance the manufacture of, advertise, or distribute;
- 38 a substance described in section 4.5 of this chapter represented to be
- 39 a controlled substance commits a Level 5 Level 6 felony. However,
- 40 the offense is a Level 5 felony if the person has a prior unrelated
- 41 conviction under this chapter.
- 42 (b) A person may be convicted of an offense under subsection (a)(5)



- 1 **subsection (a)(7)** only if:
- 2 (1) there is evidence in addition to the weight of the substance
- 3 that the person intended to **deliver, finance the delivery of,**
- 4 manufacture, finance the manufacture of, advertise, or distribute
- 5 the substance; or
- 6 (2) the amount of the substance involved is at least twenty-eight
- 7 (28) grams.
- 8 (c) A person who knowingly or intentionally possesses a substance
- 9 ~~described in section 4.5 of this chapter~~ **represented to be a controlled**
- 10 **substance** commits a Class C misdemeanor. However, the offense is
- 11 a Class A misdemeanor if the person has a previous conviction under
- 12 ~~this section: this chapter.~~
- 13 (d) In any prosecution brought under this section it is not a defense
- 14 that the person believed the substance actually was a controlled
- 15 substance.
- 16 (e) This section does not apply to the following:
- 17 (1) The manufacture, financing the manufacture of, processing,
- 18 packaging, distribution, or sale of noncontrolled substances to
- 19 licensed medical practitioners for use as placebos in professional
- 20 practice or research.
- 21 (2) Persons acting in the course and legitimate scope of their
- 22 employment as law enforcement officers.
- 23 (3) The retention of production samples of noncontrolled
- 24 substances produced before September 1, 1986, where such
- 25 samples are required by federal law.
- 26 (f) **For purposes of this section, a substance represented to be a**
- 27 **controlled substance includes any substance, other than a**
- 28 **controlled substance or a drug for which a prescription is required**
- 29 **under federal or state law, that:**
- 30 (1) **is expressly or impliedly represented to be a controlled**
- 31 **substance;**
- 32 (2) **is distributed under circumstances that would lead a**
- 33 **reasonable person to believe that the substance is a controlled**
- 34 **substance; or**
- 35 (3) **by overall dosage unit appearance, including shape, color,**
- 36 **size, markings or lack of markings, taste, consistency, or any**
- 37 **other identifying physical characteristic of the substance,**
- 38 **would lead a reasonable person to believe the substance is a**
- 39 **controlled substance.**
- 40 (g) **In determining whether the representations described in**
- 41 **subsection (f)(1) have been made, or whether the circumstances of**
- 42 **distribution exist as described in subsection (f)(2), the trier of fact**



- 1 may consider the following:
- 2 (1) The overall appearance of a dosage unit of the substance,
- 3 including its shape, color, size, markings or lack of markings,
- 4 taste, consistency, and any other identifying physical
- 5 characteristics.
- 6 (2) How the substance is packaged for sale or distribution,
- 7 including the shape, color, size, markings or lack of markings,
- 8 and any other identifying physical characteristics of the
- 9 packaging.
- 10 (3) Any statement made by the owner or person in control of
- 11 the substance concerning the substance's nature, use, or
- 12 effect.
- 13 (4) Any statement made to the buyer or recipient of the
- 14 substance suggesting or implying that the substance is a
- 15 synthetic drug.
- 16 (5) Any statement made to the buyer or recipient of the
- 17 substance suggesting or implying that the substance may be
- 18 resold for profit.
- 19 (6) The overall circumstances under which the substance is
- 20 distributed, including whether:
- 21 (A) the distribution included an exchange of, or demand
- 22 for, money or other property as consideration; and
- 23 (B) the amount of the consideration was substantially
- 24 greater than the reasonable retail market value of the
- 25 substance.
- 26 (7) Any other relevant factors.
- 27 SECTION 27. IC 35-48-4-7, AS AMENDED BY P.L.158-2013,
- 28 SECTION 633, IS AMENDED TO READ AS FOLLOWS
- 29 [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) A person who, without a valid
- 30 prescription or order of a practitioner acting in the course of the
- 31 practitioner's professional practice, knowingly or intentionally
- 32 possesses a controlled substance **or controlled substance analog** (pure
- 33 or adulterated) classified in schedule I, II, III, or IV, except marijuana,
- 34 hashish, **or** salvia, **or a synthetic cannabinoid**, commits possession of
- 35 a controlled substance, a Class A misdemeanor, except as provided in
- 36 subsection (b).
- 37 (b) The offense is a Level 6 felony if the person commits the offense
- 38 and an enhancing circumstance applies.
- 39 (c) A person who, without a valid prescription or order of a
- 40 practitioner acting in the course of the practitioner's professional
- 41 practice, knowingly or intentionally obtains:
- 42 (1) more than four (4) ounces of schedule V controlled substances



1 containing codeine in any given forty-eight (48) hour period
 2 unless pursuant to a prescription;

3 (2) a schedule V controlled substance pursuant to written or
 4 verbal misrepresentation; or

5 (3) possession of a schedule V controlled substance other than by
 6 means of a prescription or by means of signing an exempt
 7 narcotic register maintained by a pharmacy licensed by the
 8 Indiana state board of pharmacy;

9 commits a Class A misdemeanor.

10 SECTION 28. IC 35-48-4-10.5 IS REPEALED [EFFECTIVE JULY
 11 1, 2018]. Sec. 10.5: (a) A person who:

12 (1) manufactures;

13 (2) finances the manufacture of;

14 (3) delivers;

15 (4) finances the delivery of;

16 (5) possesses, with intent to deliver; or

17 (6) possesses, with intent to finance the delivery of;

18 a synthetic drug or a synthetic drug lookalike substance commits
 19 dealing in a synthetic drug or synthetic drug lookalike substance; a
 20 Class A infraction. However, the offense is a Level 6 felony if the
 21 offense is committed knowingly or intentionally and the person has a
 22 prior unrelated judgment or conviction under this subsection.

23 (b) A person may be adjudicated or convicted of an infraction or
 24 offense under subsection (a)(5) or (a)(6) only if there is evidence in
 25 addition to the weight of the synthetic drug or synthetic drug lookalike
 26 substance that the person intended to deliver or finance the delivery of
 27 the synthetic drug or synthetic drug lookalike substance.

28 (c) A person who:

29 (1) knowingly or intentionally:

30 (A) manufactures;

31 (B) finances the manufacture of;

32 (C) delivers; or

33 (D) finances the delivery of;

34 a synthetic drug or synthetic drug lookalike substance; or

35 (2) possesses, with intent to:

36 (A) manufacture;

37 (B) finance the manufacture of;

38 (C) deliver; or

39 (D) finance the delivery of;

40 a synthetic drug or synthetic drug lookalike substance;

41 commits dealing in a synthetic drug or synthetic drug lookalike
 42 substance; a Class A misdemeanor; except as provided in subsections



1 (d) through (e):

2 (d) A person may be convicted of an offense under subsection (c)(2)
3 only if there is evidence in addition to the weight of the synthetic drug
4 or synthetic drug lookalike substance that the person intended to
5 manufacture; finance the manufacture of; deliver; or finance the
6 delivery of the synthetic drug or synthetic drug lookalike substance:

7 (e) The offense in subsection (c) is:

8 (1) a Level 6 felony if:

9 (A) the recipient or intended recipient is less than eighteen
10 (18) years of age;

11 (B) the amount involved is more than five (5) grams; or

12 (C) the person has a prior conviction of an offense involving
13 a synthetic drug or synthetic drug lookalike substance; and

14 (2) a Level 5 felony if the amount involved is more than five (5)
15 grams and the person delivered or financed the delivery of the
16 synthetic drug or synthetic drug lookalike substance:

17 (A) on a school bus; or

18 (B) in, on, or within five hundred (500) feet of:

19 (i) school property; or

20 (ii) a public park;

21 while a person under eighteen (18) years of age was
22 reasonably expected to be present.

23 (f) In addition to a criminal or civil penalty imposed for a violation
24 of this section; if the court finds that a person has violated this section
25 and the violation involved the sale of or offer to sell; in the normal
26 course of business; a synthetic drug or a synthetic drug lookalike
27 substance by a retail merchant in a place of business for which the
28 retail merchant has been issued a registered retail merchant certificate;
29 the court:

30 (1) shall recommend the suspension of the registered retail
31 merchant certificate for the place of business for one (1) year if
32 the person's violation of this section resulted in a criminal
33 conviction; and

34 (2) may recommend the suspension of the registered retail
35 merchant certificate for the place of business for six (6) months
36 if the person's violation of this section resulted in an adjudication
37 that the person committed an infraction:

38 (g) The department of state revenue shall suspend the registered
39 retail merchant certificate of a retail merchant in accordance with the
40 recommendation of the court. Whenever the department of state
41 revenue is required to suspend a retail merchant's registered retail
42 merchant certificate under this section; the department shall



1 immediately mail a notice to the retail merchant's address that must
 2 state that the retail merchant's registered retail merchant certificate will
 3 be suspended for the period recommended by the court, commencing
 4 five (5) days after the date of the notice.

5 SECTION 29. IC 35-48-4-11.5 IS REPEALED [EFFECTIVE JULY
 6 1, 2018]. Sec. 11.5. (a) As used in this section, "synthetic drug
 7 lookalike substance" has the meaning set forth in
 8 IC 35-31.5-2-321.5(a)(2).

9 (b) A person who possesses a synthetic drug or synthetic drug
 10 lookalike substance commits possession of a synthetic drug or synthetic
 11 drug lookalike substance; a Class B infraction.

12 (c) A person who knowingly or intentionally possesses a synthetic
 13 drug or synthetic drug lookalike substance commits possession of a
 14 synthetic drug or synthetic drug lookalike substance; a Class A
 15 misdemeanor. However, the offense is a Level 6 felony if the person
 16 has a prior unrelated conviction under this section or under section 10-5
 17 of this chapter.

18 SECTION 30. IC 35-48-4-12, AS AMENDED BY P.L.168-2014,
 19 SECTION 104, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2018]: Sec. 12. If a person who has no prior
 21 conviction of an offense under this article or under a law of another
 22 jurisdiction relating to controlled substances pleads guilty to possession
 23 of marijuana, hashish, ~~or salvia or a synthetic drug or a synthetic drug~~
 24 ~~lookalike substance~~ as a misdemeanor, the court, without entering a
 25 judgment of conviction and with the consent of the person, may defer
 26 further proceedings and place the person in the custody of the court
 27 under conditions determined by the court. Upon violation of a
 28 condition of the custody, the court may enter a judgment of conviction.
 29 However, if the person fulfills the conditions of the custody, the court
 30 shall dismiss the charges against the person. There may be only one (1)
 31 dismissal under this section with respect to a person.

32 SECTION 31. IC 35-50-10-1, AS AMENDED BY P.L.185-2017,
 33 SECTION 9, AND AS AMENDED BY P.L.252-2017, SECTION 29,
 34 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) *As used in this section,*
 36 *"offense requiring license revocation" means an offense listed in*
 37 *IC 20-28-5-8(c).*

38 (a) (b) If an individual is *or was* a teacher in a *primary or secondary*
 39 *school*, *school corporation, charter school, or nonpublic school*
 40 *including a public or nonpublic school*, and is convicted of

41 (1) *kidnapping (IC 35-42-3-2);*

42 (2) *criminal confinement (IC 35-42-3-3);*



- 1 (3) rape (IC 35-42-4-1);
 2 (4) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
 3 (5) child molesting (IC 35-42-4-3);
 4 (6) child exploitation (IC 35-42-4-4(b));
 5 (7) vicarious sexual gratification (IC 35-42-4-5);
 6 (8) child solicitation (IC 35-42-4-6);
 7 (9) child seduction (IC 35-42-4-7);
 8 (10) sexual misconduct with a minor (IC 35-42-4-9);
 9 (11) incest (IC 35-46-1-3);
 10 (12) dealing in or manufacturing cocaine or a narcotic drug
 11 (IC 35-48-4-1);
 12 (13) dealing in methamphetamine (IC 35-48-4-1.1);
 13 (14) manufacturing methamphetamine (IC 35-48-4-1.2);
 14 (15) dealing in a schedule I, II, or III controlled substance
 15 (IC 35-48-4-2);
 16 (16) dealing in a schedule IV controlled substance
 17 (IC 35-48-4-3);
 18 (17) dealing in a schedule V controlled substance (IC 35-48-4-4);
 19 (18) dealing in a counterfeit substance (IC 35-48-4-5);
 20 (19) dealing in marijuana, hash oil, hashish, or salvia as a felony
 21 (IC 35-48-4-10);
 22 (20) dealing in a synthetic drug or synthetic drug lookalike
 23 substance (IC 35-48-4-10.5; or IC 35-48-4-10(b) before its
 24 amendment in 2013);
 25 (21) possession of child pornography (IC 35-42-4-4(c));
 26 (22) homicide (IC 35-42-1);
 27 (23) voluntary manslaughter (IC 35-42-1-3);
 28 (24) reckless homicide (IC 35-42-1-5);
 29 (25) battery (IC 35-42-2-1) as:
 30 (A) a Class A felony (for a crime committed before July 1,
 31 2014) or a Level 2 felony (for a crime committed after June
 32 30, 2014);
 33 (B) a Class B felony (for a crime committed before July 1,
 34 2014) or a Level 3 felony (for a crime committed after June
 35 30, 2014); or
 36 (C) a Class C felony (for a crime committed before July 1,
 37 2014) or a Level 5 felony (for a crime committed after June
 38 30, 2014);
 39 (26) aggravated battery (IC 35-42-2-1.5);
 40 (27) robbery (IC 35-42-5-1);
 41 (28) carjacking (IC 35-42-5-2) (before its repeal);
 42 (29) arson as a Class A felony or Class B felony (for a crime



1 ~~committed before July 1, 2014) or as a Level 2, Level 3, or Level~~
 2 ~~4 felony (for a crime committed after June 30, 2014)~~
 3 ~~(IC 35-43-1-1(a));~~
 4 ~~(30) burglary as a Class A felony or Class B felony (for a crime~~
 5 ~~committed before July 1, 2014) or as a Level 1, Level 2, Level 3,~~
 6 ~~or Level 4 felony (for a crime committed after June 30, 2014)~~
 7 ~~(IC 35-43-2-1);~~
 8 ~~(31) attempt under IC 35-41-5-1 to commit an offense listed in~~
 9 ~~this subsection; or~~
 10 ~~(32) conspiracy under IC 35-41-5-2 to commit an offense listed~~
 11 ~~in this subsection;~~
 12 ~~an offense requiring license revocation, the judge who presided over~~
 13 ~~the trial or accepted a plea agreement shall give written notice of the~~
 14 ~~conviction to the state superintendent of public instruction and the~~
 15 ~~chief administrative officer of the *primary or secondary school;*~~
 16 ~~*including a public school corporation, charter school, or nonpublic*~~
 17 ~~school, or, if the individual is employed in a public school, the~~
 18 ~~superintendent of the school district in which the individual is~~
 19 ~~employed.~~
 20 ~~(b) (c) Notice under subsection (a) (b) must occur not later than~~
 21 ~~seven (7) days after the date the judgment is entered.~~
 22 ~~(c) (d) The notification sent to a school or school district under~~
 23 ~~subsection (a) (b) must include only the felony for which the individual~~
 24 ~~was convicted.~~
 25 ~~(d) (e) If a judge later modifies the individual's sentence after giving~~
 26 ~~notice under this section, the judge shall notify the school or the school~~
 27 ~~district of the modification.~~
 28 ~~(e) (f) After receiving a notification under subsection (a); (b), the~~
 29 ~~state superintendent of public instruction shall initiate procedures to~~
 30 ~~revoke the individual's license to teach.~~

