

SENATE BILL No. 205

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-28-2-9; IC 9-30-16; IC 35-48-4.

Synopsis: Controlled substances. Requires a court to grant specialized driving privileges to a person on probation or in a community corrections program to permit the person to: (1) participate in a court ordered or approved treatment program; or (2) travel to and from the person's place of employment. Increases the penalty for dealing in methamphetamine and cocaine or a narcotic drug (including heroin). Specifies that a person who distributes a substance represented to be a specific controlled substance commits an offense of the same level as distributing the specific controlled substance. Provides that a person may be convicted of possession with intent to manufacture or deliver a controlled substance without additional evidence of intent to manufacture or deliver a controlled substance if the person possesses more than a specified quantity of the controlled substance.

Effective: July 1, 2016.

Merritt

January 6, 2016, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

SENATE BILL No. 205

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 9-28-2-9, AS AMENDED BY P.L.188-2015,
2 SECTION 103, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) Upon written notification
4 from a jurisdiction that is a party to an agreement entered into under
5 this chapter, the bureau shall take appropriate action against a licensed
6 driver for failure to meet the conditions set out in the citation of the
7 jurisdiction in which the traffic offense occurred.

8 (b) The bureau shall notify the driver by first class mail of the
9 request by the respective jurisdiction to have the driver's driving
10 privileges suspended. For the purposes of this chapter, a written notice
11 sent to the driver's last registered address with the bureau meets the
12 conditions of due notice.

13 (c) The driver has fifteen (15) days from the date of notice to satisfy
14 the conditions of the citation issued by the jurisdiction or to request a
15 hearing before a bureau hearing officer to show evidence or present
16 information why the bureau should not suspend the driver's driving
17 privileges for failure to meet the terms of the citation.



1 (d) Upon holding the hearing, the bureau may suspend the driver's
 2 driving privileges until the conditions of the citation are met or a
 3 release from the citing jurisdiction is obtained.

4 (e) If the bureau does not receive information from the driver
 5 concerning the notification, the bureau shall suspend the driver's
 6 driving privileges until the conditions of the citation are met or a
 7 release is obtained.

8 (f) **Except for specialized driving privileges described**
 9 **IC 9-30-16-3(h)**, a driver whose driving privileges have been
 10 suspended for failure to meet the conditions of a citation in another
 11 jurisdiction is not eligible for specialized driving privileges under
 12 IC 9-30-16.

13 (g) The bureau may not suspend driving privileges under this
 14 section for a nonmoving traffic offense occurring in another
 15 jurisdiction.

16 SECTION 2. IC 9-30-16-1, AS AMENDED BY P.L.188-2015,
 17 SECTION 122, IS AMENDED TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) Except as provided in
 19 subsection (b), the following are ineligible for a specialized driving
 20 permit under this chapter:

21 (1) A person who has never been an Indiana resident.

22 (2) A person seeking specialized driving privileges with respect
 23 to a suspension based on the person's refusal to submit to a
 24 chemical test offered under IC 9-30-6 or IC 9-30-7.

25 (b) This chapter applies to the following:

26 (1) A person who held an operator's, a commercial driver's, a
 27 public passenger chauffeur's, or a chauffeur's license at the time
 28 of the criminal conviction for which the operation of a motor
 29 vehicle is an element of the offense, or at the time of any criminal
 30 conviction for an offense under IC 9-30-5.

31 (2) A person who:

32 (A) has never held a valid Indiana driver's license or does not
 33 currently hold a valid Indiana learner's permit; and

34 (B) was an Indiana resident when the driving privileges for
 35 which the person is seeking specialized driving privileges
 36 were suspended.

37 **(3) A person described in subsection (a)(1) or (a)(2) may**
 38 **obtain a specialized driving permit under section 3(h) of this**
 39 **chapter.**

40 (c) Except as specifically provided in this chapter, for any criminal
 41 conviction in which the operation of a motor vehicle is an element of
 42 the offense, or any criminal conviction for an offense under IC 9-30-5,



1 a court may suspend the person's driving privileges for a period up to
 2 the maximum allowable period of incarceration under the penalty for
 3 the offense.

4 (d) A suspension of driving privileges under this chapter may begin
 5 before the conviction. Multiple suspensions of driving privileges
 6 ordered by a court that are part of the same episode of criminal conduct
 7 shall be served concurrently. A court may grant credit time for any
 8 suspension that began before the conviction, except as prohibited by
 9 section 6(a)(2) of this chapter.

10 (e) If a person has had an ignition interlock device installed as a
 11 condition of specialized driving privileges or under IC 9-30-6-8(d), the
 12 period of the installation shall be credited as part of the suspension of
 13 driving privileges.

14 (f) This subsection applies to a person described in subsection
 15 (b)(2). A court shall, as a condition of granting specialized driving
 16 privileges to the person, require the person to apply for and obtain an
 17 Indiana driver's license.

18 SECTION 3. IC 9-30-16-2, AS AMENDED BY P.L.188-2015,
 19 SECTION 123, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The court shall order the
 21 license of a person suspended for a period of at least one (1) year for a
 22 person convicted of the following:

23 (1) An offense that includes the element of causing or resulting in
 24 serious bodily injury while operating a motor vehicle.

25 (2) An offense under IC 9-30-5 that includes the element of
 26 causing or resulting in serious bodily injury.

27 (3) An offense under IC 9-30-5 when the person has a prior
 28 conviction for an offense under IC 9-30-5.

29 (b) A person whose driving privileges are suspended under
 30 subsection (a) is eligible for specialized driving privileges under
 31 section 3 of this chapter.

32 (c) If a person is convicted of an offense that includes the element
 33 of causing the death of another person and the offense involved the
 34 operation of a motor vehicle or was an offense under IC 9-30-5, the
 35 court shall order that the person's driving privileges are suspended for
 36 a period of at least two (2) years and not more than the maximum
 37 allowable period of incarceration of the criminal penalty for the
 38 offense. A person whose driving privileges are suspended under this
 39 section **is eligible for specialized driving privileges under section**
 40 **3(h) of this chapter, but** is not eligible for specialized driving
 41 privileges under **any other provision of** section 3 of this chapter.

42 SECTION 4. IC 9-30-16-3, AS AMENDED BY P.L.188-2015,



1 SECTION 124, IS AMENDED TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2016]: Sec. 3. (a) If a court orders a suspension
 3 of driving privileges under this chapter, or imposes a suspension of
 4 driving privileges under IC 9-30-6-9(c), the court:

5 (1) may stay the suspension and grant a specialized driving
 6 privilege as set forth in this section; **and**

7 **(2) shall stay the suspension and grant a specialized driving**
 8 **privilege as set forth in subsection (h).**

9 (b) Regardless of the underlying offense, specialized driving
 10 privileges granted under this section shall be granted for at least one
 11 hundred eighty (180) days.

12 (c) Specialized driving privileges must be determined by a court and
 13 may include: ~~but are not limited to:~~

14 (1) requiring the use of certified ignition interlock devices; and

15 (2) restricting a person to being allowed to operate a motor
 16 vehicle:

17 (A) during certain hours of the day; or

18 (B) between specific locations and the person's residence.

19 (d) **Except as provided in subsection (h)**, a stay of a suspension
 20 and specialized driving privileges may not be granted to a person who
 21 has previously been granted specialized driving privileges and the
 22 person has more than one (1) conviction under section 5 of this chapter.

23 (e) A person who has been granted specialized driving privileges
 24 shall:

25 (1) maintain proof of future financial responsibility insurance
 26 during the period of specialized driving privileges;

27 (2) carry a copy of the order granting specialized driving
 28 privileges or have the order in the vehicle being operated by the
 29 person;

30 (3) produce the copy of the order granting specialized driving
 31 privileges upon the request of a police officer; and

32 (4) carry a validly issued state identification card or driver's
 33 license.

34 (f) A person who holds a commercial driver's license and has been
 35 granted specialized driving privileges under this chapter may not, for
 36 the duration of the suspension for which the specialized driving
 37 privileges are sought, operate any vehicle that requires the person to
 38 hold a commercial driver's license to operate the vehicle.

39 (g) A person may independently file a petition for specialized
 40 driving privileges in the court from which the ordered suspension
 41 originated.

42 **(h) A court shall grant specialized driving privileges to a person**



1 **on probation or participating in a community corrections program**
 2 **to allow the person to:**

3 **(1) participate in a court ordered or court approved**
 4 **treatment program; or**

5 **(2) travel to and from the person's place of employment.**

6 SECTION 5. IC 35-48-4-1, AS AMENDED BY P.L.226-2014(ts),
 7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2016]: Sec. 1. (a) A person who:

9 (1) knowingly or intentionally:

10 (A) manufactures;

11 (B) finances the manufacture of;

12 (C) delivers; or

13 (D) finances the delivery of;

14 cocaine or a narcotic drug, pure or adulterated, classified in
 15 schedule I or II; or

16 (2) possesses, with intent to:

17 (A) manufacture;

18 (B) finance the manufacture of;

19 (C) deliver; or

20 (D) finance the delivery of;

21 cocaine or a narcotic drug, pure or adulterated, classified in
 22 schedule I or II;

23 commits dealing in cocaine or a narcotic drug, a ~~Level 5~~ **Level 4**
 24 felony, except as provided in subsections (b) through (e).

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

27 **(1) there is evidence in addition to the weight of the drug that the**
 28 **person intended to manufacture, finance the manufacture of,**
 29 **deliver, or finance the delivery of the drug; or**

30 **(2) the amount of the drug involved is at least ten (10) grams.**

31 (c) The offense is a ~~Level 4~~ **Level 3** felony if:

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

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

36 (d) The offense is a ~~Level 3~~ **Level 2** felony if:

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

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

41 (e) The offense is a ~~Level 2~~ **Level 1** felony if:

42 (1) the amount of the drug involved is at least ten (10) grams; or



- 1 (2) the amount of the drug involved is at least five (5) but less
 2 than ten (10) grams and an enhancing circumstance applies.
- 3 SECTION 6. IC 35-48-4-1.1, AS AMENDED BY P.L.226-2014(ts),
 4 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2016]: Sec. 1.1. (a) A person who:
- 6 (1) knowingly or intentionally:
 7 (A) manufactures;
 8 (B) finances the manufacture of;
 9 (C) delivers; or
 10 (D) finances the delivery of;
 11 methamphetamine, pure or adulterated; or
- 12 (2) possesses, with intent to:
 13 (A) manufacture;
 14 (B) finance the manufacture of;
 15 (C) deliver; or
 16 (D) finance the delivery of;
 17 methamphetamine, pure or adulterated;
- 18 commits dealing in methamphetamine, a ~~Level 5~~ **Level 4** felony, except
 19 as provided in subsections (b) through (e).
- 20 (b) A person may be convicted of an offense under subsection (a)(2)
 21 only if:
- 22 (1) there is evidence in addition to the weight of the drug that the
 23 person intended to manufacture, finance the manufacture of,
 24 deliver, or finance the delivery of the drug; **or**
 25 (2) **the amount of the drug involved is at least ten (10) grams.**
- 26 (c) The offense is a ~~Level 4~~ **Level 3** felony if:
 27 (1) the amount of the drug involved is at least one (1) gram but
 28 less than five (5) grams; or
 29 (2) the amount of the drug involved is less than one (1) gram and
 30 an enhancing circumstance applies.
- 31 (d) The offense is a ~~Level 3~~ **Level 2** felony if:
 32 (1) the amount of the drug involved is at least five (5) but less
 33 than ten (10) grams; or
 34 (2) the amount of the drug involved is at least one (1) gram but
 35 less than five (5) grams and an enhancing circumstance applies.
- 36 (e) The offense is a ~~Level 2~~ **Level 1** felony if:
 37 (1) the amount of the drug involved is at least ten (10) grams;
 38 (2) the amount of the drug involved is at least five (5) but less
 39 than ten (10) grams and an enhancing circumstance applies; or
 40 (3) the person is manufacturing the drug and the manufacture
 41 results in an explosion causing serious bodily injury to a person
 42 other than the manufacturer.



1 SECTION 7. IC 35-48-4-2, AS AMENDED BY P.L.226-2014(ts),
 2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2016]: Sec. 2. (a) A person who:

4 (1) knowingly or intentionally:

5 (A) manufactures;

6 (B) finances the manufacture of;

7 (C) delivers; or

8 (D) finances the delivery of;

9 a controlled substance, pure or adulterated, classified in schedule
 10 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
 11 synthetic drug; or

12 (2) possesses, with intent to:

13 (A) manufacture;

14 (B) finance the manufacture of;

15 (C) deliver; or

16 (D) finance the delivery of;

17 a controlled substance, pure or adulterated, classified in schedule
 18 I, II, or III, except marijuana, hash oil, hashish, salvia, or a
 19 synthetic drug;

20 commits dealing in a schedule I, II, or III controlled substance, a Level
 21 6 felony, except as provided in subsections (b) through (f).

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

24 (1) there is evidence in addition to the weight of the drug that the
 25 person intended to manufacture, finance the manufacture of,
 26 deliver, or finance the delivery of the drug; **or**

27 **(2) the amount of the drug involved is at least ten (10) grams.**

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

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

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

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

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

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

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

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

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



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

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

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

7 SECTION 8. IC 35-48-4-3, AS AMENDED BY P.L.226-2014(ts),
8 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2016]: Sec. 3. (a) A person who:

10 (1) knowingly or intentionally:

11 (A) manufactures;

12 (B) finances the manufacture of;

13 (C) delivers; or

14 (D) finances the delivery of;

15 a controlled substance, pure or adulterated, classified in schedule
16 IV; or

17 (2) possesses, with intent to manufacture or deliver, a controlled
18 substance, pure or adulterated, classified in schedule IV;

19 commits dealing in a schedule IV controlled substance, a Class A
20 misdemeanor, except as provided in subsections (b) through (f).

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

23 (1) there is evidence in addition to the weight of the drug that the
24 person intended to manufacture or deliver the controlled
25 substance; **or**

26 **(2) the amount of the drug involved is at least ten (10) grams.**

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

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

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

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

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

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

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

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

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

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



- 1 (1) the amount of the drug involved is at least twenty-eight (28)
 2 grams; or
 3 (2) the amount of the drug involved is at least ten (10) but less
 4 than twenty-eight (28) grams and an enhancing circumstance
 5 applies.
- 6 SECTION 9. IC 35-48-4-4, AS AMENDED BY P.L.226-2014(ts),
 7 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2016]: Sec. 4. (a) A person who:
 9 (1) knowingly or intentionally:
 10 (A) manufactures;
 11 (B) finances the manufacture of;
 12 (C) delivers; or
 13 (D) finances the delivery of;
 14 a controlled substance, pure or adulterated, classified in schedule
 15 V; or
 16 (2) possesses, with intent to:
 17 (A) manufacture;
 18 (B) finance the manufacture of;
 19 (C) deliver; or
 20 (D) finance the delivery of;
 21 a controlled substance, pure or adulterated, classified in schedule
 22 V;
 23 commits dealing in a schedule V controlled substance, a Class B
 24 misdemeanor, except as provided in subsections (b) through (f).
 25 (b) A person may be convicted of an offense under subsection (a)(2)
 26 only if:
 27 (1) there is evidence in addition to the weight of the drug that the
 28 person intended to manufacture, finance the manufacture of,
 29 deliver, or finance the delivery of the drug; **or**
 30 (2) **the amount of the drug involved is at least ten (10) grams.**
 31 (c) The offense is a Class A misdemeanor if:
 32 (1) the amount of the drug involved is at least one (1) gram but
 33 less than five (5) grams; or
 34 (2) the amount of the drug involved is less than one (1) gram and
 35 an enhancing circumstance applies.
 36 (d) The offense is a Level 6 felony if:
 37 (1) the amount of the drug involved is at least five (5) but less
 38 than ten (10) grams; or
 39 (2) the amount of the drug involved is at least one (1) gram but
 40 less than five (5) grams and an enhancing circumstance applies.
 41 (e) The offense is a Level 5 felony if:
 42 (1) the amount of the drug involved is at least ten (10) but less



- 1 than twenty-eight (28) grams; or
 2 (2) the amount of the drug involved is at least five (5) but less
 3 than ten (10) grams and an enhancing circumstance applies.
 4 (f) The offense is a Level 4 felony if:
 5 (1) the amount of the drug involved is at least twenty-eight (28)
 6 grams; or
 7 (2) the amount of the drug involved is at least ten (10) but less
 8 than twenty-eight (28) grams and an enhancing circumstance
 9 applies.
 10 SECTION 10. IC 35-48-4-4.5, AS AMENDED BY P.L.158-2013,
 11 SECTION 628, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2016]: Sec. 4.5. (a) A person who knowingly or
 13 intentionally delivers or finances the delivery of any substance, other
 14 than a controlled substance or a drug for which a prescription is
 15 required under federal or state law, that:
 16 (1) is expressly or impliedly represented to be a controlled
 17 substance;
 18 (2) is distributed under circumstances that would lead a
 19 reasonable person to believe that the substance is a controlled
 20 substance; or
 21 (3) by overall dosage unit appearance, including shape, color,
 22 size, markings, or lack of markings, taste, consistency, or any
 23 other identifying physical characteristic of the substance, would
 24 lead a reasonable person to believe the substance is a controlled
 25 substance;
 26 commits dealing in a substance represented to be a controlled
 27 substance, a Level 6 felony, **except as provided in subsection (c).**
 28 (b) In determining whether representations have been made, subject
 29 to subsection (a)(1), or whether circumstances of distribution exist,
 30 subject to subsection (a)(2), the trier of fact may consider, in addition
 31 to other relevant factors, the following:
 32 (1) Statements made by the owner or other person in control of
 33 the substance, concerning the substance's nature, use, or effect.
 34 (2) Statements made by any person, to the buyer or recipient of
 35 the substance, that the substance may be resold for profit.
 36 (3) Whether the substance is packaged in a manner uniquely used
 37 for the illegal distribution of controlled substances.
 38 (4) Whether:
 39 (A) the distribution included an exchange of, or demand for,
 40 money or other property as consideration; and
 41 (B) the amount of the consideration was substantially greater
 42 than the reasonable retail market value of the substance.



1 (c) If the state proves beyond a reasonable doubt that the
 2 substance is expressly or impliedly represented to be a specific
 3 controlled substance, that the substance is distributed under
 4 circumstances that would lead a reasonable person to believe that
 5 the substance is a specific controlled substance, or that by the
 6 overall dosage unit appearance, including shape, color, size,
 7 markings, or lack of markings, taste, consistency, or any other
 8 identifying physical characteristic of the substance, a reasonable
 9 person would believe that the substance is a specific controlled
 10 substance, the offense is a:

11 (1) Level 6 felony; or

12 (2) felony of the same level as the offense of delivering or
 13 financing the delivery of the specific controlled substance that
 14 the substance was represented or reasonably believed to be,
 15 including any enhancement based on the weight of the specific
 16 controlled substance and the presence of an enhancing
 17 circumstance;

18 **whichever is greater.**

19 SECTION 11. IC 35-48-4-4.6, AS AMENDED BY P.L.168-2014,
 20 SECTION 96, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2016]: Sec. 4.6. (a) A person who knowingly or intentionally:

22 (1) manufactures;

23 (2) finances the manufacture of;

24 (3) advertises;

25 (4) distributes; or

26 (5) possesses with intent to manufacture, finance the manufacture
 27 of, advertise, or distribute;

28 a substance described in section 4.5 of this chapter commits a Level 5
 29 felony.

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

32 (1) there is evidence in addition to the weight of the substance
 33 that the person intended to manufacture, finance the manufacture
 34 of, advertise, or distribute the substance; or

35 (2) **the amount of the substance involved is at least ten (10)**
 36 **grams.**

37 (c) A person who knowingly or intentionally possesses a substance
 38 described in section 4.5 of this chapter commits a Class C
 39 misdemeanor. However, the offense is a Class A misdemeanor if the
 40 person has a previous conviction under this section.

41 (d) In any prosecution brought under this section it is not a defense
 42 that the person believed the substance actually was a controlled



- 1 substance.
- 2 (e) This section does not apply to the following:
- 3 (1) The manufacture, financing the manufacture of, processing,
- 4 packaging, distribution, or sale of noncontrolled substances to
- 5 licensed medical practitioners for use as placebos in professional
- 6 practice or research.
- 7 (2) Persons acting in the course and legitimate scope of their
- 8 employment as law enforcement officers.
- 9 (3) The retention of production samples of noncontrolled
- 10 substances produced before September 1, 1986, where such
- 11 samples are required by federal law.

12 SECTION 12. IC 35-48-4-5, AS AMENDED BY P.L.168-2014,
 13 SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2016]: Sec. 5. (a) A person who:

- 15 (1) knowingly or intentionally:
- 16 (A) creates;
- 17 (B) delivers; or
- 18 (C) finances the delivery of;
- 19 a counterfeit substance; or
- 20 (2) possesses, with intent to:
- 21 (A) deliver; or
- 22 (B) finance the delivery of;
- 23 a counterfeit substance;
- 24 commits dealing in a counterfeit substance, a Level 6 felony, **except as**
 25 **provided in subsection (b)**. However, a person may be convicted of an
 26 offense under ~~subsection (a)(2)~~ **subdivision (2)** only if there is
 27 evidence in addition to the weight of the counterfeit substance that the
 28 person intended to deliver or finance the delivery of the counterfeit
 29 substance.

30 **(b) If the state proves beyond a reasonable doubt that the**
 31 **counterfeit substance is expressly or impliedly represented to be a**
 32 **specific controlled substance, the offense is a:**

- 33 **(1) felony of the same level as the offense of delivering or**
 34 **financing the delivery of the specific controlled substance that**
 35 **the substance was represented to be, including any**
 36 **enhancement based on the weight of the specific controlled**
 37 **substance and the presence of an enhancing circumstance; or**
 38 **(2) Level 6 felony;**
 39 **whichever is greater.**

40 SECTION 13. IC 35-48-4-10, AS AMENDED BY P.L.168-2014,
 41 SECTION 100, IS AMENDED TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) A person who:



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



- 1 (i) at least ten (10) pounds of marijuana; or
- 2 (ii) at least three hundred (300) grams of hash oil, hashish,
- 3 or salvia; or
- 4 (B) offense involved a sale to a minor.

