

SENATE BILL No. 314

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-7-3; IC 11-12-3.7-3; IC 15-11-6.5; IC 16-31-3; IC 20-28-5-8; IC 22-15-5-16; IC 25-1-1.1; IC 34-24-1-1; IC 35-45-6-1; IC 35-48-4; IC 35-50-5-3.

Synopsis: Legalize small amounts of marijuana. Authorizes the licensed cultivation and production of industrial hemp in accordance with rules adopted by the department of agriculture. Makes possession of less than two ounces of marijuana a Class C infraction. Makes possession of more than two ounces of marijuana a Class B misdemeanor, and makes the offense a Class A misdemeanor if the person has two or more prior convictions involving marijuana in the past five years. Requires a court to suspend a sentence imposed for possession of marijuana if the person does not have a previous conviction involving marijuana in the past five years, and requires a court to defer a sentence if the person pleads guilty to misdemeanor possession of marijuana. Makes the sale or delivery of more than two ounces of marijuana a Class A misdemeanor, and makes the offense a Level 6 or Level 5 felony under certain circumstances. Provides a defense if a person who delivers less than 10 pounds of marijuana does so for no consideration. Makes the public use or display of marijuana a Class B misdemeanor, and makes the offense a Class A misdemeanor if the person has two or more prior convictions for an offense involving marijuana in the past five years. Reduces the penalty for maintaining a common nuisance to a Class A misdemeanor if the only unlawful controlled substances involved were marijuana, hashish, or hash oil. Allows certain persons convicted of dealing in marijuana as a misdemeanor to participate in a forensic diversion program. Repeals the controlled substance excise tax. Makes technical corrections and conforming amendments.

Effective: July 1, 2014.

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January 14, 2014, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 314

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-7-3 IS REPEALED [EFFECTIVE JULY 1, 2014].
- 2 (Controlled Substance Excise Tax).
- 3 SECTION 2. IC 11-12-3.7-3, AS AMENDED BY P.L.182-2011,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2014]: Sec. 3. As used in this chapter, "drug dealing offense"
- 6 means one (1) or more of the following offenses:
- 7 (1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1), unless
- 8 the person received only minimal consideration as a result of the
- 9 drug transaction.
- 10 (2) Dealing in methamphetamine (IC 35-48-4-1.1), unless the
- 11 person received only minimal consideration as a result of the drug
- 12 transaction.
- 13 (3) Dealing in a schedule I, II, III, IV, or V controlled substance
- 14 (IC 35-48-4-2 through IC 35-48-4-4), unless the person received
- 15 only minimal consideration as a result of the drug transaction.
- 16 (4) Dealing in ~~marijuana~~, hash oil, hashish, or salvia, ~~or a~~



1 synthetic cannabinoid (IC 35-48-4-10), unless the person received
2 only minimal consideration as a result of the drug transaction.

3 **(5) Dealing in marijuana (IC 35-48-4-10.1) as a felony, unless**
4 **the person received only minimal consideration as a result of**
5 **the drug transaction.**

6 SECTION 3. IC 15-11-6.5 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2014]:

9 **Chapter 6.5. Industrial Hemp**

10 **Sec. 1. The following terms apply throughout this chapter:**

11 (1) "Agricultural hemp seed" means Cannabis sativa seed
12 that meets any labeling, quality, and other standards set by
13 the department and that is intended for sale or is sold to, or
14 purchased by, licensed growers for planting.

15 (2) "Crop" means any contiguous field of industrial hemp
16 grown under a single license.

17 (3) "Grower" means a person, joint venture, or cooperative
18 that produces industrial hemp.

19 (4) "Handler" means a person, joint venture, or cooperative
20 that receives industrial hemp for scientific research, or for
21 processing into commodities, products, or agricultural hemp
22 seed.

23 (5) "Industrial hemp" means:

24 (A) all nonseed parts and varieties of the Cannabis sativa
25 plant, whether growing or not, that contain a crop-wide
26 average tetrahydrocannabinol concentration that does not
27 exceed three-tenths of one percent (0.3%) on a dry weight
28 basis; or

29 (B) any Cannabis sativa seed that is:

30 (i) part of a growing crop;

31 (ii) retained by a grower for future planting; or

32 (iii) for processing into, or use as, agricultural hemp
33 seed.

34 The term does not include industrial hemp commodities or
35 products.

36 **Sec. 2. (a) The production of, possession of, scientific study of,**
37 **and commerce in industrial hemp is authorized in Indiana.**
38 **Industrial hemp is an agricultural product that is subject to**
39 **regulation by the department.**

40 (b) A grower or handler must have an industrial hemp license
41 issued by the department. A grower or handler engaged in the
42 production of agricultural hemp seed must also have an



1 agricultural hemp seed production permit.

2 (c) An application for an industrial hemp license or agricultural
3 hemp seed production permit must include the following:

4 (1) The name and address of the applicant.

5 (2) The name and address of the industrial hemp operation of
6 the applicant.

7 (3) The global positioning system coordinates and legal
8 description for the property used for the industrial hemp
9 operation.

10 (4) If the industrial hemp license or agricultural hemp seed
11 production permit application is made by a grower,
12 information sufficient to establish that the industrial hemp
13 crop of the applicant will be at least two and one-half (2 1/2)
14 acres in size.

15 (5) Any other information required by the department.

16 (d) An industrial hemp license or agricultural hemp seed
17 production permit is valid for a three (3) year term unless revoked.
18 The license or permit may be renewed in accordance with rules
19 adopted by the department. An industrial hemp license or
20 agricultural hemp seed production permit is nontransferable.

21 (e) An agricultural hemp seed production permit authorizes a
22 grower or handler to produce and handle agricultural hemp seed
23 for sale to licensed industrial hemp growers and handlers. A seller
24 of agricultural hemp seed shall ensure that the seed complies with
25 any standards set by the department. The department shall make
26 available to growers information that identifies sellers of
27 agricultural hemp seed.

28 (f) Subject to department guidelines, a grower may retain seed
29 from each industrial hemp crop to ensure a sufficient supply of
30 seed for that grower for the following year. A grower does not need
31 an agricultural hemp seed production permit in order to retain
32 seed for future planting. Seed retained by a grower may not be sold
33 or transferred and is not required to meet the department's
34 agricultural hemp seed standards.

35 (g) Every grower or handler must keep records in accordance
36 with rules adopted by the department. Upon at least three (3) days
37 notice, the department may audit the required records during
38 normal business hours. The department may conduct an audit for
39 the purpose of ensuring compliance with:

40 (1) this chapter;

41 (2) rules adopted by the department; or

42 (3) industrial hemp license or agricultural hemp seed



1 **production permit requirements, terms, or conditions.**

2 **(h) In addition to an audit conducted in accordance with**
 3 **subsection (g), the department may inspect any industrial hemp**
 4 **crop during the crop's growth phase and take a representative**
 5 **composite sample for field analysis. If a crop contains an average**
 6 **tetrahydrocannabinol concentration exceeding three-tenths of one**
 7 **percent (0.3%) on a dry weight basis, the department may detain,**
 8 **seize, or embargo the crop.**

9 **(i) The department may charge growers and handlers a**
 10 **reasonable fee as determined by the department.**

11 **Sec. 3. (a) In addition to any other liability or penalty provided**
 12 **by law, the department may revoke or refuse to issue or renew an**
 13 **industrial hemp license or an agricultural hemp seed production**
 14 **permit and may impose a civil penalty for a violation of:**

15 **(1) a license or permit requirement;**

16 **(2) license or permit terms or conditions; or**

17 **(3) a rule relating to growing or handling industrial hemp.**

18 **(b) The department may not impose a civil penalty under this**
 19 **section that exceeds two thousand five hundred dollars (\$2,500).**

20 **(c) The department may revoke or refuse to issue or renew an**
 21 **industrial hemp license or an agricultural hemp seed production**
 22 **permit for a violation of any rule of the department that pertains**
 23 **to agricultural operations or activities other than industrial hemp**
 24 **growing or handling.**

25 SECTION 4. IC 16-31-3-14, AS AMENDED BY P.L.196-2013,
 26 SECTION 4, AND AS AMENDED BY P.L.158-2013, SECTION 234,
 27 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) A person holding a
 29 certificate or license issued under this article must comply with the
 30 applicable standards and rules established under this article. A
 31 certificate holder or license holder is subject to disciplinary sanctions
 32 under subsection (b) if the department of homeland security determines
 33 that the certificate holder or license holder:

34 **(1) engaged in or knowingly cooperated in fraud or material**
 35 **deception in order to obtain a certificate or license, including**
 36 **cheating on a certification or licensure examination;**

37 **(2) engaged in fraud or material deception in the course of**
 38 **professional services or activities;**

39 **(3) advertised services or goods in a false or misleading manner;**

40 **(4) falsified or knowingly allowed another person to falsify**
 41 **attendance records or certificates of completion of continuing**
 42 **education courses required under this article or rules adopted**



- 1 under this article;
- 2 (5) is convicted of a crime, if the act that resulted in the
- 3 conviction has a direct bearing on determining if the certificate
- 4 holder or license holder should be entrusted to provide emergency
- 5 medical services;
- 6 (6) is convicted of violating IC 9-19-14.5;
- 7 (7) fails to comply and maintain compliance with or violates any
- 8 applicable provision, standard, or other requirement of this article
- 9 or rules adopted under this article;
- 10 (8) continues to practice if the certificate holder or license holder
- 11 becomes unfit to practice due to:
- 12 (A) professional incompetence that includes the undertaking
- 13 of professional activities that the certificate holder or license
- 14 holder is not qualified by training or experience to undertake;
- 15 (B) failure to keep abreast of current professional theory or
- 16 practice;
- 17 (C) physical or mental disability; or
- 18 (D) addiction to, abuse of, or dependency on alcohol or other
- 19 drugs that endanger the public by impairing the certificate
- 20 holder's or license holder's ability to practice safely;
- 21 (9) engages in a course of lewd or immoral conduct in connection
- 22 with the delivery of services to the public;
- 23 (10) allows the certificate holder's or license holder's name or a
- 24 certificate or license issued under this article to be used in
- 25 connection with a person who renders services beyond the scope
- 26 of that person's training, experience, or competence;
- 27 (11) is subjected to disciplinary action in another state or
- 28 jurisdiction on grounds similar to those contained in this chapter.
- 29 For purposes of this subdivision, a certified copy of a record of
- 30 disciplinary action constitutes prima facie evidence of a
- 31 disciplinary action in another jurisdiction;
- 32 (12) assists another person in committing an act that would
- 33 constitute a ground for disciplinary sanction under this chapter;
- 34 or
- 35 (13) allows a certificate or license issued by the commission to
- 36 be:
- 37 (A) used by another person; or
- 38 (B) displayed to the public when the certificate or license is
- 39 expired, inactive, invalid, revoked, or suspended.
- 40 (b) The department of homeland security may issue an order under
- 41 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
- 42 the department of homeland security determines that a certificate



1 holder or license holder is subject to disciplinary sanctions under
2 subsection (a):

3 (1) Revocation of a certificate holder's certificate or license
4 holder's license for a period not to exceed seven (7) years.

5 (2) Suspension of a certificate holder's certificate or license
6 holder's license for a period not to exceed seven (7) years.

7 (3) Censure of a certificate holder or license holder.

8 (4) Issuance of a letter of reprimand.

9 (5) Assessment of a civil penalty against the certificate holder or
10 license holder in accordance with the following:

11 (A) The civil penalty may not exceed five hundred dollars
12 (\$500) per day per violation.

13 (B) If the certificate holder or license holder fails to pay the
14 civil penalty within the time specified by the department of
15 homeland security, the department of homeland security may
16 suspend the certificate holder's certificate or license holder's
17 license without additional proceedings.

18 (6) Placement of a certificate holder or license holder on
19 probation status and requirement of the certificate holder or
20 license holder to:

21 (A) report regularly to the department of homeland security
22 upon the matters that are the basis of probation;

23 (B) limit practice to those areas prescribed by the department
24 of homeland security;

25 (C) continue or renew professional education approved by the
26 department of homeland security until a satisfactory degree of
27 skill has been attained in those areas that are the basis of the
28 probation; or

29 (D) perform or refrain from performing any acts, including
30 community restitution or service without compensation, that
31 the department of homeland security considers appropriate to
32 the public interest or to the rehabilitation or treatment of the
33 certificate holder or license holder.

34 The department of homeland security may withdraw or modify
35 this probation if the department of homeland security finds after
36 a hearing that the deficiency that required disciplinary action is
37 remedied or that changed circumstances warrant a modification
38 of the order.

39 (c) If an applicant or a certificate holder or license holder has
40 engaged in or knowingly cooperated in fraud or material deception to
41 obtain a certificate or license, including cheating on the certification or
42 licensure examination, the department of homeland security may



1 rescind the certificate or license if it has been granted, void the
 2 examination or other fraudulent or deceptive material, and prohibit the
 3 applicant from reapplying for the certificate or license for a length of
 4 time established by the department of homeland security.

5 (d) The department of homeland security may deny certification or
 6 licensure to an applicant who would be subject to disciplinary sanctions
 7 under subsection (b) if that person were a certificate holder or license
 8 holder, has had disciplinary action taken against the applicant or the
 9 applicant's certificate or license to practice in another state or
 10 jurisdiction, or has practiced without a certificate or license in violation
 11 of the law. A certified copy of the record of disciplinary action is
 12 conclusive evidence of the other jurisdiction's disciplinary action.

13 (e) The department of homeland security may order a certificate
 14 holder or license holder to submit to a reasonable physical or mental
 15 examination if the certificate holder's or license holder's physical or
 16 mental capacity to practice safely and competently is at issue in a
 17 disciplinary proceeding. Failure to comply with a department of
 18 homeland security order to submit to a physical or mental examination
 19 makes a certificate holder or license holder liable to temporary
 20 suspension under subsection (i).

21 (f) Except as provided under subsection (a), subsection (g), and
 22 section 14.5 of this chapter, a certificate or license may not be denied,
 23 revoked, or suspended because the applicant, certificate holder, or
 24 license holder has been convicted of an offense. The acts from which
 25 the applicant's, certificate holder's, or license holder's conviction
 26 resulted may be considered as to whether the applicant or certificate
 27 holder or license holder should be entrusted to serve the public in a
 28 specific capacity.

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

- 33 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 34 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 35 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 36 (4) Fraudulently obtaining a controlled substance under
 37 ~~IC 35-48-4-7(b)~~ IC 35-48-4-7(c).
- 38 (5) Manufacture of paraphernalia as a Class D *felony (for a crime*
 39 *committed before July 1, 2014) or Level 6 felony (for a crime*
 40 *committed after June 30, 2014) under IC 35-48-4-8.1(b).*
- 41 (6) Dealing in paraphernalia as a Class D *felony (for a crime*
 42 *committed before July 1, 2014) or Level 6 felony (for a crime*



1 committed after June 30, 2014) under IC 35-48-4-8.5(b).

2 (7) Possession of paraphernalia as a Class D felony (for a crime
3 committed before July 1, 2014) or Level 6 felony (for a crime
4 committed after June 30, 2014) under IC 35-48-4-8.3(b).

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

9 (9) Possession of a synthetic drug or synthetic drug lookalike
10 substance as a Class D felony (for a crime committed before
11 **July 1, 2014) or Level 6 felony (for a crime committed after**
12 **June 30, 2014) under IC 35-48-4-11.5 (or under IC 35-48-4-11**
13 **before its amendment in 2013).**

14 ~~(9)~~ (10) Maintaining a common nuisance under IC 35-48-4-13.

15 ~~(10)~~ (11) An offense relating to registration, labeling, and
16 prescription forms under IC 35-48-4-14.

17 ~~(11)~~ (12) Conspiracy under IC 35-41-5-2 to commit an offense
18 listed in subdivisions ~~(1)~~ through ~~(10)~~ this section.

19 ~~(12)~~ (13) Attempt under IC 35-41-5-1 to commit an offense listed
20 in subdivisions ~~(1)~~ through ~~(10)~~ this section.

21 ~~(13)~~ (14) An offense in any other jurisdiction in which the
22 elements of the offense for which the conviction was entered are
23 substantially similar to the elements of an offense described by
24 subdivisions ~~(1)~~ through ~~(12)~~ in this section.

25 (h) A decision of the department of homeland security under
26 subsections (b) through (g) may be appealed to the commission under
27 IC 4-21.5-3-7.

28 (i) The department of homeland security may temporarily suspend
29 a certificate holder's certificate or license holder's license under
30 IC 4-21.5-4 before a final adjudication or during the appeals process if
31 the department of homeland security finds that a certificate holder or
32 license holder would represent a clear and immediate danger to the
33 public's health, safety, or property if the certificate holder or license
34 holder were allowed to continue to practice.

35 (j) On receipt of a complaint or information alleging that a person
36 certified or licensed under this chapter or IC 16-31-3.5 has engaged in
37 or is engaging in a practice that is subject to disciplinary sanctions
38 under this chapter, the department of homeland security must initiate
39 an investigation against the person.

40 (k) The department of homeland security shall conduct a factfinding
41 investigation as the department of homeland security considers proper
42 in relation to the complaint.



1 (l) The department of homeland security may reinstate a certificate
 2 or license that has been suspended under this section if the department
 3 of homeland security is satisfied that the applicant is able to practice
 4 with reasonable skill, competency, and safety to the public. As a
 5 condition of reinstatement, the department of homeland security may
 6 impose disciplinary or corrective measures authorized under this
 7 chapter.

8 (m) The department of homeland security may not reinstate a
 9 certificate or license that has been revoked under this chapter.

10 (n) The department of homeland security must be consistent in the
 11 application of sanctions authorized in this chapter. Significant
 12 departures from prior decisions involving similar conduct must be
 13 explained in the department of homeland security's findings or orders.

14 (o) A certificate holder may not surrender the certificate holder's
 15 certificate, and a license holder may not surrender the license holder's
 16 license, without the written approval of the department of homeland
 17 security, and the department of homeland security may impose any
 18 conditions appropriate to the surrender or reinstatement of a
 19 surrendered certificate or license.

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

- 22 (1) an unlimited certificate;
- 23 (2) a limited or probationary certificate; or
- 24 (3) an inactive certificate.

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

- 27 (1) an unlimited license;
- 28 (2) a limited or probationary license; or
- 29 (3) an inactive license.

30 SECTION 5. IC 16-31-3-14.5, AS AMENDED BY P.L.196-2013,
 31 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2014]: Sec. 14.5. The department of homeland security may
 33 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
 34 certification or licensure or permanently revoke a certificate or license
 35 under procedures provided by section 14 of this chapter if the
 36 individual who holds the certificate or license issued under this title is
 37 convicted of any of the following:

- 38 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 39 IC 35-48-4-1.
- 40 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 41 (3) Dealing in a schedule I, II, or III controlled substance under
 42 IC 35-48-4-2.



- 1 (4) Dealing in a schedule IV controlled substance under
 2 IC 35-48-4-3.
 3 (5) Dealing in a schedule V controlled substance under
 4 IC 35-48-4-4.
 5 (6) Dealing in a substance represented to be a controlled
 6 substance under IC 35-48-4-4.5.
 7 (7) Knowingly or intentionally manufacturing, advertising,
 8 distributing, or possessing with intent to manufacture, advertise,
 9 or distribute a substance represented to be a controlled substance
 10 under IC 35-48-4-4.6.
 11 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 12 (9) Dealing in ~~marijuana~~, hash oil, hashish, or salvia **as a felony**
 13 ~~under IC 35-48-4-10(b).~~ **IC 35-48-4-10.**
 14 **(10) Dealing in marijuana as a felony under IC 35-48-4-10.1.**
 15 ~~(10)~~ **(11)** Dealing in a synthetic drug or synthetic drug lookalike
 16 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
 17 before its amendment in 2013).
 18 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 19 listed in this section.
 20 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
 21 in this section.
 22 ~~(13)~~ **(14)** A crime of violence (as defined in IC 35-50-1-2(a)).
 23 ~~(14)~~ **(15)** An offense in any other jurisdiction in which the
 24 elements of the offense for which the conviction was entered are
 25 substantially similar to the elements of an offense described under
 26 this section.
 27 SECTION 6. IC 20-28-5-8, AS AMENDED BY P.L.158-2013,
 28 SECTION 250, AND AS AMENDED BY P.L.214-2013, SECTION
 29 20, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) This section applies when a
 31 prosecuting attorney knows that a licensed employee of a public school
 32 or a nonpublic school has been convicted of an offense listed in
 33 subsection (c). The prosecuting attorney shall immediately give written
 34 notice of the conviction to the following:
 35 (1) The state superintendent.
 36 (2) Except as provided in subdivision (3), the superintendent of
 37 the school corporation that employs the licensed employee or the
 38 equivalent authority if a nonpublic school employs the licensed
 39 employee.
 40 (3) The presiding officer of the governing body of the school
 41 corporation that employs the licensed employee, if the convicted
 42 licensed employee is the superintendent of the school corporation.



1 (b) The superintendent of a school corporation, presiding officer of
 2 the governing body, or equivalent authority for a nonpublic school shall
 3 immediately notify the state superintendent when the individual knows
 4 that a current or former licensed employee of the public school or
 5 nonpublic school has been convicted of an offense listed in subsection
 6 (c), or when the governing body or equivalent authority for a nonpublic
 7 school takes any final action in relation to an employee who engaged
 8 in any offense listed in subsection (c).

9 (c) The department, after holding a hearing on the matter, shall
 10 permanently revoke the license of a person who is known by the
 11 department to have been convicted of any of the following felonies:

- 12 (1) Kidnapping (IC 35-42-3-2).
- 13 (2) Criminal confinement (IC 35-42-3-3).
- 14 (3) Rape (IC 35-42-4-1).
- 15 (4) Criminal deviate conduct (IC 35-42-4-2) (~~repealed~~): **(before**
- 16 **its repeal).**
- 17 (5) Child molesting (IC 35-42-4-3).
- 18 (6) Child exploitation (IC 35-42-4-4(b)).
- 19 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 20 (8) Child solicitation (IC 35-42-4-6).
- 21 (9) Child seduction (IC 35-42-4-7).
- 22 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 23 (11) Incest (IC 35-46-1-3).
- 24 (12) Dealing in or manufacturing cocaine or a narcotic drug
- 25 (IC 35-48-4-1).
- 26 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 27 (14) Dealing in a schedule I, II, or III controlled substance
- 28 (IC 35-48-4-2).
- 29 (15) Dealing in a schedule IV controlled substance
- 30 (IC 35-48-4-3).
- 31 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 32 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 33 (18) Dealing in ~~marijuana~~; hash oil, hashish, or salvia
- 34 (IC 35-48-4-10(b)).
- 35 **(19) Dealing in marijuana as a felony (IC 35-48-4-10.1).**
- 36 ~~(19)~~ **(20)** Dealing in a synthetic drug or synthetic drug lookalike
- 37 substance **as a felony** (IC 35-48-4-10.5, or IC 35-48-4-10(b)
- 38 before its amendment in 2013).
- 39 ~~(20)~~ **(21)** Possession of child pornography (IC 35-42-4-4(c)).
- 40 ~~(21)~~ **(22)** Homicide (IC 35-42-1).
- 41 ~~(22)~~ **(23)** Voluntary manslaughter (IC 35-42-1-3).
- 42 ~~(23)~~ **(24)** Reckless homicide (IC 35-42-1-5).



- 1 ~~(24)~~ **(25)** Battery as any of the following:
- 2 (A) A Class A *felony* (for a crime committed before July 1,
- 3 2014) or a Level 2 felony (for a crime committed after June
- 4 30, 2014). ~~(IC 35-42-2-1(a)(5)).~~
- 5 (B) A Class B *felony* (for a crime committed before July 1,
- 6 2014) or a Level 3 felony (for a crime committed after June
- 7 30, 2014). ~~(IC 35-42-2-1(a)(4)).~~
- 8 (C) A Class C *felony* (for a crime committed before July 1,
- 9 2014) or a Level 5 felony (for a crime committed after June
- 10 30, 2014). ~~(IC 35-42-2-1(a)(3)).~~
- 11 ~~(25)~~ **(26)** Aggravated battery (IC 35-42-2-1.5).
- 12 ~~(26)~~ **(27)** Robbery (IC 35-42-5-1).
- 13 ~~(27)~~ **(28)** Carjacking (IC 35-42-5-2) ~~(repealed)~~. **(before its**
- 14 **repeal).**
- 15 ~~(28)~~ **(29)** Arson as a Class A felony or ~~a~~ Class B *felony* (for a
- 16 crime committed before July 1, 2014) or as a Level 2, Level 3, or
- 17 Level 4 felony (for a crime committed after June 30, 2014)
- 18 (IC 35-43-1-1(a)).
- 19 ~~(29)~~ **(30)** Burglary as a Class A felony or ~~a~~ Class B *felony* (for a
- 20 crime committed before July 1, 2014) or as a Level 1, Level 2,
- 21 Level 3, or Level 4 *felony* (for a crime committed after June 30,
- 22 2014) (IC 35-43-2-1).
- 23 ~~(30)~~ **(31)** Attempt under IC 35-41-5-1 to commit an offense listed
- 24 in this subsection.
- 25 ~~(31)~~ **(32)** Conspiracy under IC 35-41-5-2 to commit an offense
- 26 listed in this subsection.
- 27 (d) The department, after holding a hearing on the matter, shall
- 28 permanently revoke the license of a person who is known by the
- 29 department to have been convicted of a federal offense or an offense in
- 30 another state that is comparable to a felony listed in subsection (c).
- 31 (e) A license may be suspended by the state superintendent as
- 32 specified in IC 20-28-7.5.
- 33 (f) The department shall develop a data base of information on
- 34 school corporation employees who have been reported to the
- 35 department under this section.
- 36 SECTION 7. IC 22-15-5-16, AS AMENDED BY P.L.196-2013,
- 37 SECTION 7, AND AS AMENDED BY P.L.158-2013, SECTION 261,
- 38 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 39 [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) A practitioner shall comply
- 40 with the standards established under this licensing program. A
- 41 practitioner is subject to the exercise of the disciplinary sanctions under
- 42 subsection (b) if the department finds that a practitioner has:



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



1 (b) The department may impose one (1) or more of the following
 2 sanctions if the department finds that a practitioner is subject to
 3 disciplinary sanctions under subsection (a):

- 4 (1) Permanent revocation of a practitioner's license.
 5 (2) Suspension of a practitioner's license.
 6 (3) Censure of a practitioner.
 7 (4) Issuance of a letter of reprimand.
 8 (5) Assess a civil penalty against the practitioner in accordance
 9 with the following:

10 (A) The civil penalty may not be more than one thousand
 11 dollars (\$1,000) for each violation listed in subsection (a),
 12 except for a finding of incompetency due to a physical or
 13 mental disability.

14 (B) When imposing a civil penalty, the department shall
 15 consider a practitioner's ability to pay the amount assessed. If
 16 the practitioner fails to pay the civil penalty within the time
 17 specified by the department, the department may suspend the
 18 practitioner's license without additional proceedings. However,
 19 a suspension may not be imposed if the sole basis for the
 20 suspension is the practitioner's inability to pay a civil penalty.

21 (6) Place a practitioner on probation status and require the
 22 practitioner to:

23 (A) report regularly to the department upon the matters that
 24 are the basis of probation;

25 (B) limit practice to those areas prescribed by the department;

26 (C) continue or renew professional education approved by the
 27 department until a satisfactory degree of skill has been attained
 28 in those areas that are the basis of the probation; or

29 (D) perform or refrain from performing any acts, including
 30 community restitution or service without compensation, that
 31 the department considers appropriate to the public interest or
 32 to the rehabilitation or treatment of the practitioner.

33 The department may withdraw or modify this probation if the
 34 department finds after a hearing that the deficiency that required
 35 disciplinary action has been remedied or that changed
 36 circumstances warrant a modification of the order.

37 (c) If an applicant or a practitioner has engaged in or knowingly
 38 cooperated in fraud or material deception to obtain a license to
 39 practice, including cheating on the licensing examination, the
 40 department may rescind the license if it has been granted, void the
 41 examination or other fraudulent or deceptive material, and prohibit the
 42 applicant from reapplying for the license for a length of time



1 established by the department.

2 (d) The department may deny licensure to an applicant who has had
3 disciplinary action taken against the applicant or the applicant's license
4 to practice in another state or jurisdiction or who has practiced without
5 a license in violation of the law. A certified copy of the record of
6 disciplinary action is conclusive evidence of the other jurisdiction's
7 disciplinary action.

8 (e) The department may order a practitioner to submit to a
9 reasonable physical or mental examination if the practitioner's physical
10 or mental capacity to practice safely and competently is at issue in a
11 disciplinary proceeding. Failure to comply with a department order to
12 submit to a physical or mental examination makes a practitioner liable
13 to temporary suspension under subsection (j).

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

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

- 23 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 24 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 25 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 26 (4) Fraudulently obtaining a controlled substance under
27 IC 35-48-4-7(b) *(for a crime committed before July 1, 2014)* or
28 IC 35-48-4-7(c) *(for a crime committed after June 30, 2014)*.
- 29 (5) Manufacture of paraphernalia as a Class D *felony* *(for a crime*
30 *committed before July 1, 2014)* or a Level 6 felony *(for a crime*
31 *committed after June 30, 2014)* under IC 35-48-4-8.1(b).
- 32 (6) Dealing in paraphernalia as a Class D *felony* *(for a crime*
33 *committed before July 1, 2014)* or a Level 6 felony *(for a crime*
34 *committed after June 30, 2014)* under IC 35-48-4-8.5(b).
- 35 (7) Possession of paraphernalia as a Class D *felony* *(for a crime*
36 *committed before July 1, 2014)* or a Level 6 felony *(for a crime*
37 *committed after June 30, 2014)* under IC 35-48-4-8.3(b).
- 38 (8) Possession of ~~marijuana~~, hash oil, hashish, or salvia ~~or a~~
39 ~~synthetic drug~~ as a Class D *felony* *(for a crime committed before*
40 *July 1, 2014)* or a Level 6 felony *(for a crime committed after*
41 *June 30, 2014)* under IC 35-48-4-11.
- 42 (9) Possession of a synthetic drug or synthetic drug lookalike



1 *substance as a:*

2 **(A) Class D felony under IC 35-48-4-11.5 (or under**
 3 **IC 35-48-4-11 before its amendment in 2013) for a crime**
 4 **committed before July 1, 2014, under:**

5 **(i) IC 35-48-4-11 before its amendment in 2013; or**

6 **(ii) IC 35-48-4-11.5; or**

7 **(B) Level 6 felony for a crime committed after June 30,**
 8 **2014, under IC 35-48-4-11.5.**

9 ~~(9) (10) Maintaining a common nuisance under IC 35-48-4-13.~~

10 ~~(10) (11) An offense relating to registration, labeling, and~~
 11 ~~prescription forms under IC 35-48-4-14.~~

12 ~~(11) (12) Conspiracy under IC 35-41-5-2 to commit an offense~~
 13 ~~listed in subdivisions (1) through (10); this subsection.~~

14 ~~(12) (13) Attempt under IC 35-41-5-1 to commit an offense listed~~
 15 ~~in subdivisions (1) through (10); this subsection.~~

16 ~~(13) (14) An offense in any other jurisdiction in which the~~
 17 ~~elements of the offense for which the conviction was entered are~~
 18 ~~substantially similar to the elements of an offense described in~~
 19 ~~subdivisions (1) through (12); this subsection.~~

20 (h) The department shall deny, revoke, or suspend a license issued
 21 under this chapter if the individual who holds the license is convicted
 22 of any of the following:

23 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.

24 (2) Dealing in methamphetamine under IC 35-48-4-1.1.

25 (3) Dealing in a schedule I, II, or III controlled substance under
 26 IC 35-48-4-2.

27 (4) Dealing in a schedule IV controlled substance under
 28 IC 35-48-4-3.

29 (5) Dealing in a schedule V controlled substance under
 30 IC 35-48-4-4.

31 (6) Dealing in a substance represented to be a controlled
 32 substance under IC 35-48-4-4.5.

33 (7) Knowingly or intentionally manufacturing, advertising,
 34 distributing, or possessing with intent to manufacture, advertise,
 35 or distribute a substance represented to be a controlled substance
 36 under IC 35-48-4-4.6.

37 (8) Dealing in a counterfeit substance under IC 35-48-4-5.

38 (9) Dealing in ~~marijuana~~, hash oil, hashish, or salvia **as a felony**
 39 **or a synthetic drug** under ~~IC 35-48-4-10(b)~~; **IC 35-48-4-10.**

40 **(10) Dealing in marijuana as a felony under IC 35-48-4-10.1.**

41 ~~(10) (11) Dealing in a synthetic drug or synthetic drug lookalike~~
 42 ~~substance as a felony under IC 35-48-4-10.5 (or under~~



1 *IC 35-48-4-10(b) before its amendment in 2013).*

2 ~~(10) (11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an
3 offense listed in *subdivisions (1) through (9); this subsection.*

4 ~~(11) (12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense
5 listed in *subdivisions (1) through (9); this subsection.*

6 ~~(12) (13)~~ **(14)** An offense in any other jurisdiction in which the
7 elements of the offense for which the conviction was entered are
8 substantially similar to the elements of an offense described in
9 *subdivisions (1) through (11); this subsection.*

10 ~~(13) (14)~~ **(15)** A violation of any federal or state drug law or rule
11 related to wholesale legend drug distributors licensed under
12 IC 25-26-14.

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

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

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

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

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

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

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

40 (p) The department shall seek to achieve consistency in the
41 application of sanctions authorized in this chapter. Significant
42 departures from prior decisions involving similar conduct must be



1 explained in the department's findings or orders.

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

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

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

23 SECTION 8. IC 25-1-1.1-2, AS AMENDED BY P.L.196-2013,
24 SECTION 9, AND AS AMENDED BY P.L.158-2013, SECTION 277,
25 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2014]: Sec. 2. Notwithstanding IC 25-1-7, a
27 board, a commission, or a committee may suspend, deny, or revoke a
28 license or certificate issued under this title by the board, the
29 commission, or the committee without an investigation by the office of
30 the attorney general if the individual who holds the license or
31 certificate is convicted of any of the following and the board,
32 commission, or committee determines, after the individual has
33 appeared in person, that the offense affects the individual's ability to
34 perform the duties of the profession:

- 35 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 36 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 37 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 38 (4) Fraudulently obtaining a controlled substance under
39 ~~IC 35-48-4-7(b)~~ IC 35-48-4-7(c).
- 40 (5) Manufacture of paraphernalia as a Class D felony (for a crime
41 committed before July 1, 2014) or a Level 6 felony (for a crime
42 committed after June 30, 2014) under IC 35-48-4-8.1(b).



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

4 (7) Possession of paraphernalia as a Class D *felony (for a crime*
 5 *committed before July 1, 2014) or a Level 6 felony (for a crime*
 6 *committed after June 30, 2014) under IC 35-48-4-8.3(b).*

7 (8) Possession of ~~marijuana~~, hash oil, hashish, or salvia ~~or a~~
 8 ~~synthetic drug~~ as a Class D *felony (for a crime committed before*
 9 *July 1, 2014) or a Level 6 felony (for a crime committed after*
 10 *June 30, 2014) under IC 35-48-4-11.*

11 (9) Possession of a synthetic drug or synthetic drug lookalike
 12 substance as a:

13 (A) Class D felony ~~under IC 35-48-4-11.5 (or under~~
 14 ~~IC 35-48-4-11 before its amendment in 2013)~~ for a crime
 15 committed before July 1, 2014, under:

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

17 (ii) IC 35-48-4-11.5; or

18 (B) Level 6 felony for a crime committed after June 30,
 19 2014, under IC 35-48-4-11.5.

20 ~~(9)~~ (10) Maintaining a common nuisance under IC 35-48-4-13.

21 ~~(10)~~ (11) An offense relating to registration, labeling, and
 22 prescription forms under IC 35-48-4-14.

23 ~~(11)~~ (12) Conspiracy under IC 35-41-5-2 to commit an offense
 24 listed in *subdivisions (1) through (10)*; this section.

25 ~~(12)~~ (13) Attempt under IC 35-41-5-1 to commit an offense listed
 26 in *subdivisions (1) through (10)*; this section.

27 ~~(13)~~ (14) A sex crime under IC 35-42-4.

28 ~~(14)~~ (15) A felony that reflects adversely on the individual's
 29 fitness to hold a professional license.

30 ~~(15)~~ (16) An offense in any other jurisdiction in which the
 31 elements of the offense for which the conviction was entered are
 32 substantially similar to the elements of an offense described in
 33 this section.

34 SECTION 9. IC 25-1-1.1-3, AS AMENDED BY P.L.196-2013,
 35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2014]: Sec. 3. A board, a commission, or a committee shall
 37 revoke or suspend a license or certificate issued under this title by the
 38 board, the commission, or the committee if the individual who holds
 39 the license or certificate is convicted of any of the following:

40 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 41 IC 35-48-4-1.

42 (2) Dealing in methamphetamine under IC 35-48-4-1.1.



- 1 (3) Dealing in a schedule I, II, or III controlled substance under
- 2 IC 35-48-4-2.
- 3 (4) Dealing in a schedule IV controlled substance under
- 4 IC 35-48-4-3.
- 5 (5) Dealing in a schedule V controlled substance under
- 6 IC 35-48-4-4.
- 7 (6) Dealing in a substance represented to be a controlled
- 8 substance under IC 35-48-4-4.5.
- 9 (7) Knowingly or intentionally manufacturing, advertising,
- 10 distributing, or possessing with intent to manufacture, advertise,
- 11 or distribute a substance represented to be a controlled substance
- 12 under IC 35-48-4-4.6.
- 13 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 14 (9) Dealing in ~~marijuana~~, hash oil, hashish, or salvia **as a felony**
- 15 ~~under IC 35-48-4-10(b)~~; **IC 35-48-4-10.**
- 16 **(10) Dealing in marijuana as a felony under IC 35-48-4-10.1.**
- 17 ~~(10)~~ **(11)** Dealing in a synthetic drug or synthetic drug lookalike
- 18 substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)
- 19 before its amendment in 2013).
- 20 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
- 21 listed in this section.
- 22 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
- 23 in this section.
- 24 ~~(13)~~ **(14)** An offense in any other jurisdiction in which the
- 25 elements of the offense for which the conviction was entered are
- 26 substantially similar to the elements of an offense described in
- 27 this section.
- 28 ~~(14)~~ **(15)** A violation of any federal or state drug law or rule
- 29 related to wholesale legend drug distributors licensed under
- 30 IC 25-26-14.
- 31 SECTION 10. IC 34-24-1-1, AS AMENDED BY P.L.196-2013,
- 32 SECTION 15, AND AS AMENDED BY P.L.293-2013(ts), SECTION
- 33 42, AND AS AMENDED BY P.L.158-2013, SECTION 349, IS
- 34 CORRECTED AND AMENDED TO READ AS FOLLOWS
- 35 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The following may be seized:
- 36 (1) All vehicles (as defined by IC 35-31.5-2-346), if they are used
- 37 or are intended for use by the person or persons in possession of
- 38 them to transport or in any manner to facilitate the transportation
- 39 of the following:
- 40 (A) A controlled substance for the purpose of committing,
- 41 attempting to commit, or conspiring to commit any of the
- 42 following:



- 1 (i) Dealing in or manufacturing cocaine or a narcotic drug
 2 (IC 35-48-4-1).
 3 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
 4 (iii) Dealing in a schedule I, II, or III controlled substance
 5 (IC 35-48-4-2).
 6 (iv) Dealing in a schedule IV controlled substance
 7 (IC 35-48-4-3).
 8 (v) Dealing in a schedule V controlled substance
 9 (IC 35-48-4-4).
 10 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
 11 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
 12 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
 13 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
 14 (x) Dealing in ~~marijuana~~, hash oil, hashish, *or* salvia ~~or a~~
 15 *synthetic cannabinoid* (IC 35-48-4-10).
 16 **(xi) Dealing in marijuana (IC 35-48-4-10.1).**
 17 ~~(xi)~~ **(xii) Dealing in a synthetic drug or synthetic drug**
 18 *lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10*
 19 *before its amendment in 2013).*
 20 (B) Any stolen (IC 35-43-4-2) or converted property
 21 (IC 35-43-4-3) if the retail or repurchase value of that property
 22 is one hundred dollars (\$100) or more.
 23 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
 24 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 25 mass destruction (as defined in IC 35-31.5-2-354) used to
 26 commit, used in an attempt to commit, or used in a conspiracy
 27 to commit an offense under IC 35-47 as part of or in
 28 furtherance of an act of terrorism (as defined by
 29 IC 35-31.5-2-329).
 30 (2) All money, negotiable instruments, securities, weapons,
 31 communications devices, or any property used to commit, used in
 32 an attempt to commit, or used in a conspiracy to commit an
 33 offense under IC 35-47 as part of or in furtherance of an act of
 34 terrorism or commonly used as consideration for a violation of
 35 IC 35-48-4 (other than items subject to forfeiture under
 36 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 37 (A) furnished or intended to be furnished by any person in
 38 exchange for an act that is in violation of a criminal statute;
 39 (B) used to facilitate any violation of a criminal statute; or
 40 (C) traceable as proceeds of the violation of a criminal statute.
 41 (3) Any portion of real or personal property purchased with
 42 money that is traceable as a proceed of a violation of a criminal



- 1 statute.
- 2 (4) A vehicle that is used by a person to:
- 3 (A) commit, attempt to commit, or conspire to commit;
- 4 (B) facilitate the commission of; or
- 5 (C) escape from the commission of;
- 6 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 7 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 8 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
- 9 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 10 (5) Real property owned by a person who uses it to commit any of
- 11 the following as a ~~Class A felony; a Class B felony; Level 1, Level~~
- 12 ~~2, Level 3, Level 4, or a Class C Level 5 felony:~~
- 13 (A) Dealing in or manufacturing cocaine or a narcotic drug
- 14 (IC 35-48-4-1).
- 15 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 16 (C) Dealing in a schedule I, II, or III controlled substance
- 17 (IC 35-48-4-2).
- 18 (D) Dealing in a schedule IV controlled substance
- 19 (IC 35-48-4-3).
- 20 (E) Dealing in ~~marijuana~~, hash oil, hashish, *or* salvia ~~or a~~
- 21 ~~synthetic cannabinoid~~ (IC 35-48-4-10).
- 22 **(F) Dealing in marijuana (IC 35-48-4-10.1).**
- 23 ~~(G) Dealing in a synthetic drug or synthetic drug lookalike~~
- 24 ~~substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its~~
- 25 ~~amendment in 2013).~~
- 26 (6) Equipment and recordings used by a person to commit fraud
- 27 under IC 35-43-5-4(10).
- 28 (7) Recordings sold, rented, transported, or possessed by a person
- 29 in violation of IC 24-4-10.
- 30 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
- 31 defined by IC 35-45-6-1) that is the object of a corrupt business
- 32 influence violation (IC 35-45-6-2).
- 33 (9) Unlawful telecommunications devices (as defined in
- 34 IC 35-45-13-6) and plans, instructions, or publications used to
- 35 commit an offense under IC 35-45-13.
- 36 (10) Any equipment, including computer equipment and cellular
- 37 telephones, used for or intended for use in preparing,
- 38 photographing, recording, videotaping, digitizing, printing,
- 39 copying, or disseminating matter in violation of IC 35-42-4.
- 40 (11) Destructive devices used, possessed, transported, or sold in
- 41 violation of IC 35-47.5.
- 42 (12) Tobacco products that are sold in violation of IC 24-3-5,



- 1 tobacco products that a person attempts to sell in violation of
 2 IC 24-3-5, and other personal property owned and used by a
 3 person to facilitate a violation of IC 24-3-5.
- 4 (13) Property used by a person to commit counterfeiting or
 5 forgery in violation of IC 35-43-5-2.
- 6 (14) After December 31, 2005, if a person is convicted of an
 7 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 8 following real or personal property:
- 9 (A) Property used or intended to be used to commit, facilitate,
 10 or promote the commission of the offense.
- 11 (B) Property constituting, derived from, or traceable to the
 12 gross proceeds that the person obtained directly or indirectly
 13 as a result of the offense.
- 14 (15) Except as provided in subsection (e), a vehicle used by a
 15 person who operates the vehicle:
- 16 (A) while intoxicated, in violation of IC 9-30-5-1 through
 17 IC 9-30-5-5, if in the previous five (5) years the person has two
 18 (2) or more prior unrelated convictions:
- 19 (i) for operating a motor vehicle while intoxicated in
 20 violation of IC 9-30-5-1 through IC 9-30-5-5; or
 21 (ii) for an offense that is substantially similar to IC 9-30-5-1
 22 through IC 9-30-5-5 in another jurisdiction; or
- 23 (B) on a highway while the person's driving privileges are
 24 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,
 25 if in the previous five (5) years the person has two (2) or more
 26 prior unrelated convictions:
- 27 (i) for operating a vehicle while intoxicated in violation of
 28 IC 9-30-5-1 through IC 9-30-5-5; or
 29 (ii) for an offense that is substantially similar to IC 9-30-5-1
 30 through IC 9-30-5-5 in another jurisdiction.
- 31 If a court orders the seizure of a vehicle under this subdivision,
 32 the court shall transmit an order to the bureau of motor vehicles
 33 recommending that the bureau not permit a vehicle to be
 34 registered in the name of the person whose vehicle was seized
 35 until the person possesses a current driving license (as defined in
 36 IC 9-13-2-41).
- 37 (16) The following real or personal property:
- 38 (A) Property used or intended to be used to commit, facilitate,
 39 or promote the commission of an offense specified in
 40 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 41 IC 30-2-13-38(f).
- 42 (B) Property constituting, derived from, or traceable to the



- 1 gross proceeds that a person obtains directly or indirectly as a
 2 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 3 IC 30-2-10-9(b), or IC 30-2-13-38(f).
 4 (17) *An automated sales suppression device (as defined in*
 5 *IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in*
 6 *IC 35-43-5-4.6(a)(3)).*
- 7 (b) A vehicle used by any person as a common or contract carrier in
 8 the transaction of business as a common or contract carrier is not
 9 subject to seizure under this section, unless it can be proven by a
 10 preponderance of the evidence that the owner of the vehicle knowingly
 11 permitted the vehicle to be used to engage in conduct that subjects it to
 12 seizure under subsection (a).
- 13 (c) Equipment under subsection (a)(10) may not be seized unless it
 14 can be proven by a preponderance of the evidence that the owner of the
 15 equipment knowingly permitted the equipment to be used to engage in
 16 conduct that subjects it to seizure under subsection (a)(10).
- 17 (d) Money, negotiable instruments, securities, weapons,
 18 communications devices, or any property commonly used as
 19 consideration for a violation of IC 35-48-4 found near or on a person
 20 who is committing, attempting to commit, or conspiring to commit any
 21 of the following offenses shall be admitted into evidence in an action
 22 under this chapter as prima facie evidence that the money, negotiable
 23 instrument, security, or other thing of value is property that has been
 24 used or was to have been used to facilitate the violation of a criminal
 25 statute or is the proceeds of the violation of a criminal statute:
- 26 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 27 narcotic drug).
 28 (2) IC 35-48-4-1.1 (dealing in methamphetamine).
 29 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 30 substance).
 31 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).
 32 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 33 as a *Class B Level 4* felony.
 34 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 35 *Class A felony, Class B Level 3, Level 4, felony, or Class C Level*
 36 *5* felony.
 37 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a *Class*
 38 *A felony, Class B felony, Level 3, Level 4, or Class C Level 5*
 39 *felony.*
 40 (8) IC 35-48-4-10 (dealing in ~~marijuana~~, hash oil, hashish, or
 41 salvia) ~~or a synthetic cannabinoid~~) as a *Class C Level 5* felony.
 42 (9) **IC 35-48-4-10.1 (dealing in marijuana) as a Level 5 felony.**



1 ~~(9)~~ **(10)** *IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic*
 2 *drug lookalike substance) as a ~~Class C~~ **Level 5** felony or ~~Class D~~*
 3 ***Level 6** felony (or as a Class C felony or Class D felony under*
 4 *IC 35-48-4-10 before its amendment in 2013).*

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

- 6 (1) an owner of the vehicle; or
 7 (2) the spouse of the person who owns the vehicle;

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

12 SECTION 11. IC 35-45-6-1, AS AMENDED BY P.L.196-2013,
 13 SECTION 18, AND AS AMENDED BY P.L.158-2013, SECTION
 14 534, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) The definitions in this section
 16 apply throughout this chapter.

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

21 (c) "Enterprise" means:

- 22 (1) a sole proprietorship, corporation, limited liability company,
 23 partnership, business trust, or governmental entity; or
 24 (2) a union, an association, or a group, whether a legal entity or
 25 merely associated in fact.

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

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

- 37 (1) A provision of IC 23-19, or of a rule or order issued under
 38 IC 23-19.
 39 (2) A violation of IC 35-45-9.
 40 (3) A violation of IC 35-47.
 41 (4) A violation of IC 35-49-3.
 42 (5) Murder (IC 35-42-1-1).



- 1 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
 2 felony after June 30, 2014 (IC 35-42-2-1).
 3 (7) Kidnapping (IC 35-42-3-2).
 4 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
 5 (9) Child exploitation (IC 35-42-4-4).
 6 (10) Robbery (IC 35-42-5-1).
 7 (11) Carjacking (IC 35-42-5-2) ~~(repeated)~~: **(before its repeal)**.
 8 (12) Arson (IC 35-43-1-1).
 9 (13) Burglary (IC 35-43-2-1).
 10 (14) Theft (IC 35-43-4-2).
 11 (15) Receiving stolen property (IC 35-43-4-2).
 12 (16) Forgery (IC 35-43-5-2).
 13 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
 14 (18) Bribery (IC 35-44.1-1-2).
 15 (19) Official misconduct (IC 35-44.1-1-1).
 16 (20) Conflict of interest (IC 35-44.1-1-4).
 17 (21) Perjury (IC 35-44.1-2-1).
 18 (22) Obstruction of justice (IC 35-44.1-2-2).
 19 (23) Intimidation (IC 35-45-2-1).
 20 (24) Promoting prostitution (IC 35-45-4-4).
 21 (25) Professional gambling (IC 35-45-5-3).
 22 (26) Maintaining a professional gambling site
 23 (IC 35-45-5-3.5(b)).
 24 (27) Promoting professional gambling (IC 35-45-5-4).
 25 (28) Dealing in or manufacturing cocaine or a narcotic drug
 26 (IC 35-48-4-1).
 27 (29) Dealing in or manufacturing methamphetamine
 28 (IC 35-48-4-1.1).
 29 (30) Dealing in a schedule I, II, or III controlled substance
 30 (IC 35-48-4-2).
 31 (31) Dealing in a schedule IV controlled substance
 32 (IC 35-48-4-3).
 33 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 34 (33) Dealing in ~~marijuana~~, hash oil, hashish, ~~or salvia or a~~
 35 ~~synthetic cannabinoid~~ (IC 35-48-4-10).
 36 **(34) Dealing in marijuana (IC 35-48-4-10.1)**.
 37 ~~(34) (35)~~ Money laundering (IC 35-45-15-5).
 38 ~~(35) (36)~~ A violation of IC 35-47.5-5.
 39 ~~(36) (37)~~ A violation of any of the following:
 40 (A) IC 23-14-48-9.
 41 (B) IC 30-2-9-7(b).
 42 (C) IC 30-2-10-9(b).



- 1 (D) IC 30-2-13-38(f).
 2 ~~(37)~~ **(38)** Practice of law by a person who is not an attorney
 3 (IC 33-43-2-1).
 4 ~~(38)~~ **(39)** *Dealing in a synthetic drug or synthetic drug lookalike*
 5 *substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its*
 6 *amendment in 2013).*
 7 SECTION 12. IC 35-48-4-10, AS AMENDED BY P.L.196-2013,
 8 SECTION 21, AND AS AMENDED BY P.L.158-2013, SECTION
 9 637, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) A person who:
 11 (1) knowingly or intentionally:
 12 (A) manufactures;
 13 (B) finances the manufacture of;
 14 (C) delivers; or
 15 (D) finances the delivery of;
 16 ~~marijuana~~, hash oil, hashish, *or salvia, or a synthetic drug*; pure
 17 or adulterated; or
 18 (2) possesses, with intent to:
 19 (A) manufacture;
 20 (B) finance the manufacture of;
 21 (C) deliver; or
 22 (D) finance the delivery of;
 23 ~~marijuana~~, hash oil, hashish, *or salvia, or a synthetic drug*; pure
 24 or adulterated;
 25 commits dealing in ~~marijuana~~, hash oil, hashish, *or salvia, or a*
 26 *synthetic drug*, a Class A misdemeanor, except as provided in
 27 *subsection subsections (b) through (c).*
 28 *(b) The offense is:*
 29 *(1) a Class D felony if:*
 30 *(A) the recipient or intended recipient is under eighteen (18)*
 31 *years of age;*
 32 *(B) the amount involved is:*
 33 *(i) more than thirty (30) grams but less than ten (10) pounds*
 34 *of marijuana or more than two (2) grams but less than three*
 35 *hundred (300) grams of hash oil, hashish, or salvia; or*
 36 *(ii) more than two (2) grams of a synthetic drug; or*
 37 *(C) the person has a prior conviction of an offense involving*
 38 *marijuana, hash oil, hashish, salvia, or a synthetic drug; and*
 39 *(2) a Class E felony if:*
 40 *(A) the amount involved is ten (10) pounds or more of*
 41 *marijuana or three hundred (300) or more grams of hash oil,*
 42 *hashish, or salvia; or the person delivered or financed the*



1 *delivery of marijuana, hash oil, hashish, or salvia:*

2 *(i) on a school bus; or*

3 *(ii) in, on, or within one thousand (1,000) feet of, school*
 4 *property, a public park, a family housing complex, or a*
 5 *youth program center; or*

6 *(B) the amount involved is more than two (2) grams of a*
 7 *synthetic drug and the person delivered or financed the*
 8 *delivery of the synthetic drug:*

9 *(i) on a school bus; or*

10 *(ii) in, on, or within one thousand (1,000) feet of school*
 11 *property, a public park, a family housing complex, or a*
 12 *youth program center.*

13 (b) *The offense is a Level 6 felony if:*

14 (1) *the person has a prior conviction for a drug offense and the*
 15 *amount of the drug involved is*

16 *(A) less than thirty (30) grams of marijuana; or*

17 *(B) less than two (2) grams of hash oil, hashish, or salvia; or*
 18 *a synthetic drug; or*

19 (2) *the amount of the drug involved is*

20 *(A) at least thirty (30) grams but less than ten (10) pounds of*
 21 *marijuana; or*

22 *(B) at least two (2) grams but less than three hundred (300)*
 23 *grams of hash oil, hashish, or salvia. or a synthetic drug.*

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

25 (1) *the person has a prior conviction for a drug dealing offense*
 26 *and the amount of the drug involved is*

27 *(A) at least thirty (30) grams but less than ten (10) pounds of*
 28 *marijuana; or*

29 *(B) at least two (2) grams but less than three hundred (300)*
 30 *grams of hash oil, hashish, or salvia; or a synthetic drug; or*

31 (2) *the:*

32 *(A) amount of the drug involved is*

33 *(i) at least ten (10) pounds of marijuana; or*

34 *(ii) at least three hundred (300) grams of hash oil, hashish,*
 35 *or salvia; or a synthetic drug; or*

36 *(B) offense involved a sale to a minor.*

37 SECTION 13. IC 35-48-4-10.1 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2014]: **Sec. 10.1. (a) A person who:**

40 **(1) knowingly or intentionally:**

41 **(A) delivers; or**

42 **(B) finances the delivery of;**



1 **more than two (2) ounces of marijuana, pure or adulterated;**
 2 **or**
 3 **(2) possesses, with intent to:**
 4 **(A) deliver; or**
 5 **(B) finance the delivery of;**
 6 **more than two (2) ounces of marijuana;**
 7 **commits dealing in marijuana, a Class A misdemeanor, except as**
 8 **provided in subsection (b) or (c).**

9 **(b) The offense is:**

10 **(1) a Level 6 felony if:**

11 **(A) the recipient or intended recipient is less than eighteen**
 12 **(18) years of age;**

13 **(B) the amount of marijuana involved is more than two (2)**
 14 **pounds but less than ten (10) pounds; or**

15 **(C) the person has a prior conviction for an offense**
 16 **involving the delivery of marijuana; and**

17 **(2) a Level 5 felony if the amount of marijuana involved is ten**
 18 **(10) pounds or more.**

19 **(c) It is a defense to a prosecution under this section that the**
 20 **person who delivered the marijuana did so for no consideration.**

21 SECTION 14. IC 35-48-4-11, AS AMENDED BY P.L.196-2013,
 22 SECTION 23, AND AS AMENDED BY P.L.158-2013, SECTION
 23 638, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) A person who

25 ~~(1) knowingly or intentionally possesses (pure or adulterated)~~
 26 ~~marijuana; hash oil, hashish, or salvia or a synthetic drug;~~

27 ~~(2) knowingly or intentionally grows or cultivates marijuana; or~~

28 ~~(3) knowing that marijuana is growing on the person's premises;~~
 29 ~~fails to destroy the marijuana plants;~~

30 ~~commits possession of marijuana; hash oil, hashish, or salvia, or a~~
 31 ~~synthetic drug; a Class A Class B misdemeanor, except as provided in~~
 32 ~~subsections (b) through (c). However, the offense is a Class D felony~~
 33 ~~if the amount involved is more than thirty (30) grams of marijuana or~~
 34 ~~two (2) grams of hash oil, hashish, or salvia, or a synthetic drug; or if~~
 35 ~~the person has a prior conviction of an offense involving marijuana;~~
 36 ~~hash oil, or hashish, or salvia, or a synthetic drug.~~

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

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

40 ~~(1) the person has a prior conviction for a drug offense; and~~

41 ~~(2) the person possesses~~

42 ~~(A) at least thirty (30) grams of marijuana; or~~



1 ~~(B) at least two (2) grams of hash oil, hashish, or salvia. or a~~
 2 ~~synthetic drug.~~

3 SECTION 15. IC 35-48-4-11.1 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2014]: **Sec. 11.1. (a) A person who knowingly**
 6 **or intentionally possesses more than two (2) ounces of marijuana**
 7 **commits possession of marijuana, a Class B misdemeanor.**
 8 **However, the offense is a Class A misdemeanor if the person has**
 9 **two (2) or more prior convictions for an offense involving**
 10 **marijuana in the preceding five (5) years.**

11 **(b) Notwithstanding IC 35-50-3-1, a court shall suspend any**
 12 **sentence imposed on a person for a violation of this section if the**
 13 **person does not have a prior conviction for an offense involving**
 14 **marijuana in the preceding five (5) years.**

15 **(c) It is a defense to a prosecution under this section that the**
 16 **person who possessed the marijuana:**

17 **(1) possessed the marijuana on the grounds of a research**
 18 **facility;**

19 **(2) is registered as a researcher with the Indiana department**
 20 **of agriculture; and**

21 **(3) possessed the marijuana solely for bona fide research into**
 22 **the industrial, agricultural, or scientific uses of marijuana.**

23 **(d) It is a defense to a prosecution under this section that the**
 24 **person who possessed the marijuana did so under a valid**
 25 **prescription or order of a practitioner who acted in the course of**
 26 **the practitioner's professional practice, including a prescription or**
 27 **order issued in another state.**

28 SECTION 16. IC 35-48-4-11.2 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2014]: **Sec. 11.2. (a) A person who knowingly**
 31 **or intentionally displays, burns, or ingests marijuana in a public**
 32 **place or on school property commits public use of marijuana, a**
 33 **Class B misdemeanor. However, the offense is a Class A**
 34 **misdemeanor if the person has two (2) or more prior convictions**
 35 **for an offense involving marijuana in the preceding five (5) years.**

36 **(b) Notwithstanding IC 35-50-3-1, a court shall suspend any**
 37 **sentence imposed on a person for a violation of this section if the**
 38 **person does not have a prior conviction for an offense involving**
 39 **marijuana in the preceding five (5) years.**

40 SECTION 17. IC 35-48-4-11.3 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2014]: **Sec. 11.3. (a) A person who possesses**



1 marijuana commits possession of marijuana, a Class C infraction.

2 (b) It is a defense to an action under this section that the person
3 who possessed the marijuana:

4 (1) was not aware of the possession for a time sufficient for
5 the person to have terminated the possession; or

6 (2) did so under a valid prescription or order of a practitioner
7 who acted in the course of the practitioner's professional
8 practice, including a prescription or order issued in another
9 state.

10 SECTION 18. IC 35-48-4-12, AS AMENDED BY P.L.196-2013,
11 SECTION 25, AND AS AMENDED BY P.L.158-2013, SECTION
12 639, IS CORRECTED AND AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2014]: Sec. 12. If a person who has no prior
14 conviction of an offense under this article or under a law of another
15 jurisdiction relating to controlled substances pleads guilty to possession
16 of marijuana, hashish, **hash oil**, salvia, ~~or~~ a synthetic drug, ~~or a~~
17 ~~synthetic drug lookalike substance~~ as a ~~Class A~~ misdemeanor, the
18 court, without entering a judgment of conviction and with the consent
19 of the person:

20 (1) may, **if the offense relates to salvia, a synthetic drug, or a**
21 **synthetic drug lookalike substance; and**

22 (2) **shall, if the offense relates to marijuana or hashish;**

23 defer further proceedings and place the person in the custody of the
24 court under ~~such~~ conditions ~~as determined by~~ the court. ~~determines:~~
25 Upon violation of a condition of the custody, the court may enter a
26 judgment of conviction. However, if the person fulfills the conditions
27 of the custody, the court shall dismiss the charges against the person.
28 There may be only one (1) dismissal under this section with respect to
29 a person.

30 SECTION 19. IC 35-48-4-13, AS AMENDED BY P.L.158-2013,
31 SECTION 640, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) A person who knowingly or
33 intentionally visits a building, structure, vehicle, or other place that is
34 used by any person to unlawfully use a controlled substance commits
35 visiting a common nuisance, a Class B misdemeanor.

36 (b) A person who knowingly or intentionally maintains a building,
37 structure, vehicle, or other place that is used one (1) or more times:

38 (1) by persons to unlawfully use controlled substances; or

39 (2) for unlawfully:

40 (A) manufacturing;

41 (B) keeping;

42 (C) offering for sale;



1 (D) selling;
 2 (E) delivering; or
 3 (F) financing the delivery of;
 4 controlled substances, or items of drug paraphernalia as described
 5 in IC 35-48-4-8.5;
 6 commits maintaining a common nuisance, a Level 6 felony. **However,**
 7 **the offense is a Class A misdemeanor if the only unlawful**
 8 **controlled substances involved were marijuana, hashish, or hash**
 9 **oil.**

10 SECTION 20. IC 35-50-5-3, AS AMENDED BY P.L.73-2012,
 11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2014]: Sec. 3. (a) Except as provided in subsection (i), (j), (l),
 13 or (m), in addition to any sentence imposed under this article for a
 14 felony or misdemeanor, the court may, as a condition of probation or
 15 without placing the person on probation, order the person to make
 16 restitution to the victim of the crime, the victim's estate, or the family
 17 of a victim who is deceased. The court shall base its restitution order
 18 upon a consideration of:

19 (1) property damages of the victim incurred as a result of the
 20 crime, based on the actual cost of repair (or replacement if repair
 21 is inappropriate);
 22 (2) medical and hospital costs incurred by the victim (before the
 23 date of sentencing) as a result of the crime;
 24 (3) the cost of medical laboratory tests to determine if the crime
 25 has caused the victim to contract a disease or other medical
 26 condition;
 27 (4) earnings lost by the victim (before the date of sentencing) as
 28 a result of the crime, including earnings lost while the victim was
 29 hospitalized or participating in the investigation or trial of the
 30 crime; and
 31 (5) funeral, burial, or cremation costs incurred by the family or
 32 estate of a homicide victim as a result of the crime.

33 (b) A restitution order under subsection (a), (i), (j), (l), or (m) is a
 34 judgment lien that:

35 (1) attaches to the property of the person subject to the order;
 36 (2) may be perfected;
 37 (3) may be enforced to satisfy any payment that is delinquent
 38 under the restitution order by the person in whose favor the order
 39 is issued or the person's assignee; and
 40 (4) expires;

41 in the same manner as a judgment lien created in a civil proceeding.

42 (c) When a restitution order is issued under subsection (a), the



1 issuing court may order the person to pay the restitution, or part of the
2 restitution, directly to:

3 (1) the victim services division of the Indiana criminal justice
4 institute in an amount not exceeding:

5 (A) the amount of the award, if any, paid to the victim under
6 IC 5-2-6.1; and

7 (B) the cost of the reimbursements, if any, for emergency
8 services provided to the victim under IC 16-10-1.5 (before its
9 repeal) or IC 16-21-8; or

10 (2) a probation department that shall forward restitution or part of
11 restitution to:

12 (A) a victim of a crime;

13 (B) a victim's estate; or

14 (C) the family of a victim who is deceased.

15 The victim services division of the Indiana criminal justice institute
16 shall deposit the restitution it receives under this subsection in the
17 violent crime victims compensation fund established by IC 5-2-6.1-40.

18 (d) When a restitution order is issued under subsection (a), (i), (j),
19 (l), or (m), the issuing court shall send a certified copy of the order to
20 the clerk of the circuit court in the county where the felony or
21 misdemeanor charge was filed. The restitution order must include the
22 following information:

23 (1) The name and address of the person that is to receive the
24 restitution.

25 (2) The amount of restitution the person is to receive.

26 Upon receiving the order, the clerk shall enter and index the order in
27 the circuit court judgment docket in the manner prescribed by
28 IC 33-32-3-2. The clerk shall also notify the department of insurance
29 of an order of restitution under subsection (i).

30 (e) An order of restitution under subsection (a), (i), (j), (l), or (m)
31 does not bar a civil action for:

32 (1) damages that the court did not require the person to pay to the
33 victim under the restitution order but arise from an injury or
34 property damage that is the basis of restitution ordered by the
35 court; and

36 (2) other damages suffered by the victim.

37 (f) Regardless of whether restitution is required under subsection (a)
38 as a condition of probation or other sentence, the restitution order is not
39 discharged by the completion of any probationary period or other
40 sentence imposed for a felony or misdemeanor.

41 (g) A restitution order under subsection (a), (i), (j), (l), or (m) is not
42 discharged by the liquidation of a person's estate by a receiver under



1 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,
2 IC 34-1-12, or IC 34-2-7 before their repeal).

3 (h) The attorney general may pursue restitution ordered by the court
4 under subsections (a) and (c) on behalf of the victim services division
5 of the Indiana criminal justice institute established under IC 5-2-6-8.

6 (i) The court may order the person convicted of an offense under
7 IC 35-43-9 to make restitution to the victim of the crime. The court
8 shall base its restitution order upon a consideration of the amount of
9 money that the convicted person converted, misappropriated, or
10 received, or for which the convicted person conspired. The restitution
11 order issued for a violation of IC 35-43-9 must comply with
12 subsections (b), (d), (e), and (g), and is not discharged by the
13 completion of any probationary period or other sentence imposed for
14 a violation of IC 35-43-9.

15 (j) The court may order the person convicted of an offense under
16 IC 35-43-5-3.5 to make restitution to the victim of the crime, the
17 victim's estate, or the family of a victim who is deceased. The court
18 shall base its restitution order upon a consideration of the amount of
19 fraud or harm caused by the convicted person and any reasonable
20 expenses (including lost wages) incurred by the victim in correcting the
21 victim's credit report and addressing any other issues caused by the
22 commission of the offense under IC 35-43-5-3.5. If, after a person is
23 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's
24 estate, or the family of a victim discovers or incurs additional expenses
25 that result from the convicted person's commission of the offense under
26 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders
27 to require the convicted person to make restitution, even if the court
28 issued a restitution order at the time of sentencing. For purposes of
29 entering a restitution order after sentencing, a court has continuing
30 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5
31 for five (5) years after the date of sentencing. Each restitution order
32 issued for a violation of IC 35-43-5-3.5 must comply with subsections
33 (b), (d), (e), and (g), and is not discharged by the completion of any
34 probationary period or other sentence imposed for an offense under
35 IC 35-43-5-3.5.

36 (k) The court shall order a person convicted of an offense under
37 IC 35-42-3.5 to make restitution to the victim of the crime in an amount
38 equal to the greater of the following:

- 39 (1) The gross income or value to the person of the victim's labor
40 or services.
41 (2) The value of the victim's labor as guaranteed under the
42 minimum wage and overtime provisions of:



1 (A) the federal Fair Labor Standards Act of 1938, as amended
 2 (29 U.S.C. 201-209); or
 3 (B) IC 22-2-2 (Minimum Wage);
 4 whichever is greater.
 5 (l) The court shall order a person who:
 6 (1) is convicted of dealing in methamphetamine under
 7 IC 35-48-4-1.1(a)(1)(A); and
 8 (2) manufactured the methamphetamine on property owned by
 9 another person, without the consent of the property owner;
 10 to pay liquidated damages to the property owner in the amount of ten
 11 thousand dollars (\$10,000).
 12 (m) The court shall order a person who:
 13 (1) is convicted of dealing in marijuana under
 14 ~~IC 35-48-4-10(a)(1)(A)~~; **IC 35-48-4-10.1**; and
 15 (2) manufactured the marijuana on property owned by another
 16 person, without the consent of the property owner;
 17 to pay liquidated damages to the property owner in the amount of two
 18 thousand dollars (\$2,000).

