
SENATE BILL No. 580

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-7-3; IC 9-24-6-8; IC 9-30-5; 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 35-31.5-2; IC 35-45-6-1; IC 35-48-4; IC 35-50-2-10; IC 35-50-5-3.

Synopsis: Marijuana. Provides that operating a vehicle with an inactive metabolite of marijuana, hashish, or hash oil in one's body does not violate the impaired driving laws. 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 Class D or Class C felony under certain circumstances. Provides a defense if a person who delivers under ten 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 conforming amendments.

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Effective: July 1, 2013.

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January 15, 2013, read first time and referred to Committee on Corrections & Criminal Law.



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 580



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, 2013].
- 2 (Controlled Substance Excise Tax).
- 3 SECTION 2. IC 9-24-6-8, AS AMENDED BY P.L.125-2012,
- 4 SECTION 192, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2013]: Sec. 8. The following, if committed
- 6 while driving a commercial motor vehicle or while holding any class
- 7 of commercial driver's license or permit, are disqualifying offenses:
- 8 (1) Operating a vehicle while under the influence of alcohol in
- 9 violation of IC 9-30-5-1(a), IC 9-30-5-1(b), or section 15 of this
- 10 chapter.
- 11 (2) Operating a vehicle while under the influence of a controlled
- 12 substance **or marijuana** in violation of IC 9-30-5-1(c) **or**
- 13 **IC 9-30-5-1(d).**
- 14 (3) Leaving the scene of an accident involving the driver's
- 15 commercial motor vehicle in violation of IC 9-26-1.
- 16 (4) Conviction of a felony involving the use of a commercial
- 17 motor vehicle other than a felony described in subdivision (5).



1 (5) Use of a commercial motor vehicle in the commission of a
 2 felony under IC 35-48 involving manufacturing, distributing, or
 3 dispensing of a controlled substance.

4 (6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving
 5 operating a vehicle while intoxicated.

6 (7) Refusing to undergo testing for the enforcement of
 7 IC 9-30-5-1 or section 15 of this chapter.

8 SECTION 3. IC 9-30-5-1 IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A person who operates a
 10 vehicle with an alcohol concentration equivalent to at least
 11 eight-hundredths (0.08) gram of alcohol but less than
 12 fifteen-hundredths (0.15) gram of alcohol per:

13 (1) one hundred (100) milliliters of the person's blood; or

14 (2) two hundred ten (210) liters of the person's breath;

15 commits a Class C misdemeanor.

16 (b) A person who operates a vehicle with an alcohol concentration
 17 equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

18 (1) one hundred (100) milliliters of the person's blood; or

19 (2) two hundred ten (210) liters of the person's breath;

20 commits a Class A misdemeanor.

21 (c) **This subsection does not apply to marijuana, hashish, or**
 22 **hash oil.** A person who operates a vehicle with a controlled substance
 23 listed in schedule I or II of IC 35-48-2 or its metabolite in the person's
 24 body commits a Class C misdemeanor.

25 (d) **A person who operates a vehicle with marijuana, hashish,**
 26 **hash oil, or an active metabolite of marijuana, hashish, or hash oil**
 27 **in the person's body commits a Class C misdemeanor.**

28 ~~(d)~~ (e) It is a defense to subsection (c) or (d) that the accused person
 29 consumed the controlled substance under a valid prescription or order
 30 of a practitioner (as defined in IC 35-48-1) who acted in the course of
 31 the practitioner's professional practice.

32 SECTION 4. IC 9-30-5-4, AS AMENDED BY P.L.125-2012,
 33 SECTION 335, IS AMENDED TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2013]: Sec. 4.(a) A person who ~~causes serious~~
 35 ~~bodily injury to another person when operating a vehicle:~~ **does any of**
 36 **the following commits a Class D felony:**

37 (1) **Causes serious bodily injury to another person when**
 38 **operating a vehicle** with an alcohol concentration equivalent to
 39 at least eight-hundredths (0.08) gram of alcohol per:

40 (A) one hundred (100) milliliters of the person's blood; or

41 (B) two hundred ten (210) liters of the person's breath.

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1 (2) **Causes serious bodily injury to another person when**
 2 **operating a vehicle** with a controlled substance listed in schedule
 3 I or II of IC 35-48-2 or its metabolite in the person's body. ~~or This~~
 4 **subdivision does not apply if the controlled substance is**
 5 **marijuana, hashish, or hash oil.**

6 (3) **Causes serious bodily injury to another person when**
 7 **operating a vehicle with marijuana, hashish, hash oil, or an**
 8 **active metabolite of marijuana, hashish, or hash oil in the**
 9 **person's body.**

10 ~~(3)~~ (4) **Causes serious bodily injury to another person when**
 11 **operating a vehicle** while intoxicated.

12 ~~commits a Class D felony.~~ However, the offense is a Class C felony if
 13 the person has a previous conviction of operating while intoxicated
 14 within the five (5) years preceding the commission of the offense.

15 (b) A person who violates subsection (a) commits a separate offense
 16 for each person whose serious bodily injury is caused by the violation
 17 of subsection (a).

18 (c) It is a defense under subsection (a)(2) that the accused person
 19 consumed the controlled substance under a valid prescription or order
 20 of a practitioner (as defined in IC 35-48-1) who acted in the course of
 21 the practitioner's professional practice.

22 SECTION 5. IC 9-30-5-5, AS AMENDED BY P.L.125-2012,
 23 SECTION 336, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2013]: Sec. 5. (a) A person who ~~causes the~~
 25 ~~death of another person when operating a vehicle:~~ **does any of the**
 26 **following commits a Class C felony:**

27 (1) **Causes the death of another person when operating a**
 28 **vehicle** with an alcohol concentration equivalent to at least
 29 eight-hundredths (0.08) gram of alcohol per:

30 (A) one hundred (100) milliliters of the person's blood; or

31 (B) two hundred ten (210) liters of the person's breath.

32 (2) **Causes the death of another person when operating a**
 33 **vehicle** with a controlled substance listed in schedule I or II of
 34 IC 35-48-2 or its metabolite in the person's blood. ~~or This~~
 35 **subdivision does not apply if the controlled substance is**
 36 **marijuana, hashish, or hash oil.**

37 (3) **Causes the death of another person when operating a**
 38 **vehicle with marijuana, hashish, hash oil, or an active**
 39 **metabolite of marijuana, hashish, or hash oil in the person's**
 40 **body.**

41 ~~(3)~~ (4) **Causes the death of another person when operating a**
 42 **vehicle** while intoxicated.

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1 ~~commits a Class C felony.~~ However, the offense is a Class B felony if
 2 the person has a previous conviction of operating while intoxicated
 3 within the five (5) years preceding the commission of the offense, or if
 4 the person operated the vehicle when the person knew that the person's
 5 driver's license, driving privilege, or permit is suspended or revoked for
 6 a previous conviction for operating a vehicle while intoxicated.

7 (b) A person at least twenty-one (21) years of age who ~~causes the~~
 8 ~~death of another person when operating a vehicle:~~ **does any of the**
 9 **following commits a Class B felony:**

10 (1) **Causes the death of another person when operating a**
 11 **motor vehicle** with an alcohol concentration equivalent to at least
 12 fifteen-hundredths (0.15) gram of alcohol per:

13 (A) one hundred (100) milliliters of the person's blood; or

14 (B) two hundred ten (210) liters of the person's breath. ~~or~~

15 (2) **Causes the death of another person when operating a**
 16 **vehicle** with a controlled substance listed in schedule I or II of
 17 IC 35-48-2 or its metabolite in the person's blood. **This**
 18 **subdivision does not apply if the controlled substance is**
 19 **marijuana, hashish, or hash oil.**

20 (3) **Causes the death of another person when operating a**
 21 **vehicle with marijuana, hashish, hash oil, or an active**
 22 **metabolite of marijuana, hashish, or hash oil in the person's**
 23 **body.**

24 ~~commits a Class B felony:~~

25 (c) A person who ~~causes the death of a law enforcement animal (as~~
 26 ~~defined in IC 35-46-3-4.5) when operating a vehicle:~~ **does any of the**
 27 **following commits a Class D felony:**

28 (1) **Causes the death of a law enforcement animal (as defined**
 29 **in IC 35-46-3-4.5) when operating a vehicle** with an alcohol
 30 concentration equivalent to at least eight-hundredths (0.08) gram
 31 of alcohol per:

32 (A) one hundred (100) milliliters of the person's blood; or

33 (B) two hundred ten (210) liters of the person's breath. ~~or~~

34 (2) **Causes the death of a law enforcement animal (as defined**
 35 **in IC 35-46-3-4.5) when operating a vehicle** with a controlled
 36 substance listed in schedule I or II of IC 35-48-2 or its metabolite
 37 in the person's blood. **This subdivision does not apply if the**
 38 **controlled substance is marijuana, hashish, or hash oil.**

39 (3) **Causes the death of a law enforcement animal (as defined**
 40 **in IC 35-46-3-4.5) when operating a vehicle with marijuana,**
 41 **hashish, hash oil, or an active metabolite of marijuana,**
 42 **hashish, or hash oil in the person's body.**



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commits a Class D felony:

(d) A person who violates subsection (a), (b), or (c) commits a separate offense for each person or law enforcement animal whose death is caused by the violation of subsection (a), (b), or (c).

(e) It is a defense under subsection (a)(2), (b)(2), or (c)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 6. IC 11-12-3.7-3, AS AMENDED BY P.L.182-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. As used in this chapter, "drug dealing offense" means one (1) or more of the following offenses:

(1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1), unless the person received only minimal consideration as a result of the drug transaction.

(2) Dealing in methamphetamine (IC 35-48-4-1.1), unless the person received only minimal consideration as a result of the drug transaction.

(3) Dealing in a schedule I, II, III, IV, or V controlled substance (IC 35-48-4-2 through IC 35-48-4-4), unless the person received only minimal consideration as a result of the drug transaction.

(4) Dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic cannabinoid (IC 35-48-4-10), unless the person received only minimal consideration as a result of the drug transaction.

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

SECTION 7. IC 15-11-6.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 6.5. Industrial Hemp

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

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

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

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

(4) "Handler" means a person, joint venture, or cooperative that receives industrial hemp for scientific research, or for

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1 processing into commodities, products, or agricultural hemp
2 seed.

3 (5) "Industrial hemp" means:

4 (A) all nonseed parts and varieties of the *Cannabis sativa*
5 plant, whether growing or not, that contain a crop-wide
6 average tetrahydrocannabinol concentration that does not
7 exceed three-tenths of one percent (0.3%) on a dry weight
8 basis; or

9 (B) any *Cannabis sativa* seed that is:

10 (i) part of a growing crop;

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

12 (iii) for processing into, or use as, agricultural hemp
13 seed.

14 The term does not include industrial hemp commodities or
15 products.

16 Sec. 2. (a) The production of, possession of, scientific study of,
17 and commerce in industrial hemp is authorized in Indiana.
18 Industrial hemp is an agricultural product that is subject to
19 regulation by the department.

20 (b) All growers and handlers must have an industrial hemp
21 license issued by the department. Growers and handlers engaged
22 in the production of agricultural hemp seed must also have an
23 agricultural hemp seed production permit.

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

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

27 (2) The name and address of the industrial hemp operation of
28 the applicant.

29 (3) The global positioning system coordinates and legal
30 description for the property used for the industrial hemp
31 operation.

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

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

38 (d) An industrial hemp license or agricultural hemp seed
39 production permit is valid for a three (3) year term unless revoked.
40 The license or permit may be renewed in accordance with rules
41 adopted by the department. An industrial hemp license or
42 agricultural hemp seed production permit is nontransferable.

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1 (e) An agricultural hemp seed production permit authorizes a
2 grower or handler to produce and handle agricultural hemp seed
3 for sale to licensed industrial hemp growers and handlers. A seller
4 of agricultural hemp seed shall ensure that the seed complies with
5 any standards set by the department. The department shall make
6 available to growers information that identifies sellers of
7 agricultural hemp seed.

8 (f) Subject to department guidelines, a grower may retain seed
9 from each industrial hemp crop to ensure a sufficient supply of
10 seed for that grower for the following year. A grower does not need
11 an agricultural hemp seed production permit in order to retain
12 seed for future planting. Seed retained by a grower may not be sold
13 or transferred and is not required to meet the department's
14 agricultural hemp seed standards.

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

- 20 (1) this chapter;
21 (2) rules adopted by the department; or
22 (3) industrial hemp license or agricultural hemp seed
23 production permit requirements, terms, or conditions.

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

31 (i) The department may charge growers and handlers a
32 reasonable fee as determined by the department.

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

- 37 (1) a license or permit requirement;
38 (2) license or permit terms or conditions; or
39 (3) a rule relating to growing or handling industrial hemp.

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

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

SECTION 8. IC 16-31-3-14, AS AMENDED BY P.L.77-2012, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 14. (a) A person holding a certificate or license issued under this article must comply with the applicable standards and rules established under this article. A certificate holder or license holder is subject to disciplinary sanctions under subsection (b) if the department of homeland security determines that the certificate holder or license holder:

- (1) engaged in or knowingly cooperated in fraud or material deception in order to obtain a certificate or license, including cheating on a certification or licensure examination;
- (2) engaged in fraud or material deception in the course of professional services or activities;
- (3) advertised services or goods in a false or misleading manner;
- (4) falsified or knowingly allowed another person to falsify attendance records or certificates of completion of continuing education courses required under this article or rules adopted under this article;
- (5) is convicted of a crime, if the act that resulted in the conviction has a direct bearing on determining if the certificate holder or license holder should be entrusted to provide emergency medical services;
- (6) is convicted of violating IC 9-19-14.5;
- (7) fails to comply and maintain compliance with or violates any applicable provision, standard, or other requirement of this article or rules adopted under this article;
- (8) continues to practice if the certificate holder or license holder becomes unfit to practice due to:
 - (A) professional incompetence that includes the undertaking of professional activities that the certificate holder or license holder is not qualified by training or experience to undertake;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's or license holder's ability to practice safely;

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

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

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

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

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

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

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

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

- 13 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 14 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 15 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 16 (4) Fraudulently obtaining a controlled substance under
17 IC 35-48-4-7(b).
- 18 (5) Manufacture of paraphernalia as a Class D felony under
19 IC 35-48-4-8.1(b).
- 20 (6) Dealing in paraphernalia as a Class D felony under
21 IC 35-48-4-8.5(b).
- 22 (7) Possession of paraphernalia as a Class D felony under
23 IC 35-48-4-8.3(b).
- 24 (8) Possession of ~~marijuana~~, hash oil, hashish, salvia, or a
25 synthetic drug as a Class D felony under IC 35-48-4-11.
- 26 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 27 (10) An offense relating to registration, labeling, and prescription
28 forms under IC 35-48-4-14.
- 29 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
30 in subdivisions (1) through (10).
- 31 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
32 subdivisions (1) through (10).
- 33 (13) An offense in any other jurisdiction in which the elements of
34 the offense for which the conviction was entered are substantially
35 similar to the elements of an offense described by subdivisions (1)
36 through (12).

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

40 (i) The department of homeland security may temporarily suspend
41 a certificate holder's certificate or license holder's license under
42 IC 4-21.5-4 before a final adjudication or during the appeals process if

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1 the department of homeland security finds that a certificate holder or
 2 license holder would represent a clear and immediate danger to the
 3 public's health, safety, or property if the certificate holder or license
 4 holder were allowed to continue to practice.

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

10 (k) The department of homeland security shall conduct a factfinding
 11 investigation as the department of homeland security considers proper
 12 in relation to the complaint.

13 (l) The department of homeland security may reinstate a certificate
 14 or license that has been suspended under this section if the department
 15 of homeland security is satisfied that the applicant is able to practice
 16 with reasonable skill, competency, and safety to the public. As a
 17 condition of reinstatement, the department of homeland security may
 18 impose disciplinary or corrective measures authorized under this
 19 chapter.

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

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

26 (o) A certificate holder may not surrender the certificate holder's
 27 certificate, and a license holder may not surrender the license holder's
 28 license, without the written approval of the department of homeland
 29 security, and the department of homeland security may impose any
 30 conditions appropriate to the surrender or reinstatement of a
 31 surrendered certificate or license.

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

- 34 (1) an unlimited certificate;
- 35 (2) a limited or probationary certificate; or
- 36 (3) an inactive certificate.

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

- 39 (1) an unlimited license;
- 40 (2) a limited or probationary license; or
- 41 (3) an inactive license.

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1 SECTION 9. IC 16-31-3-14.5, AS AMENDED BY P.L.77-2012,
 2 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 14.5. The department of homeland security may
 4 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
 5 certification or licensure or permanently revoke a certificate or license
 6 under procedures provided by section 14 of this chapter if the
 7 individual who holds the certificate or license issued under this title is
 8 convicted of any of the following:

- 9 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 10 IC 35-48-4-1.
- 11 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 12 (3) Dealing in a schedule I, II, or III controlled substance under
 13 IC 35-48-4-2.
- 14 (4) Dealing in a schedule IV controlled substance under
 15 IC 35-48-4-3.
- 16 (5) Dealing in a schedule V controlled substance under
 17 IC 35-48-4-4.
- 18 (6) Dealing in a substance represented to be a controlled
 19 substance under IC 35-48-4-4.5.
- 20 (7) Knowingly or intentionally manufacturing, advertising,
 21 distributing, or possessing with intent to manufacture, advertise,
 22 or distribute a substance represented to be a controlled substance
 23 under IC 35-48-4-4.6.
- 24 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 25 (9) Dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic
 26 drug under IC 35-48-4-10(b).
- 27 **(10) Dealing in marijuana as a felony under IC 35-48-4-10.1.**
- 28 ~~(10)~~ **(11) Conspiracy under IC 35-41-5-2 to commit an offense**
 29 **listed in subdivisions (1) through (9): this section.**
- 30 ~~(11)~~ **(12) Attempt under IC 35-41-5-1 to commit an offense listed**
 31 **in subdivisions (1) through (9): this section.**
- 32 ~~(12)~~ **(13) A crime of violence (as defined in IC 35-50-1-2(a)).**
- 33 ~~(13)~~ **(14) An offense in any other jurisdiction in which the**
 34 **elements of the offense for which the conviction was entered are**
 35 **substantially similar to the elements of an offense described under**
 36 **subdivisions (1) through (12): in this section.**

37 SECTION 10. IC 20-28-5-8, AS AMENDED BY P.L.78-2012,
 38 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2013]: Sec. 8. (a) This section applies when a prosecuting
 40 attorney knows that a licensed employee of a public school or a
 41 nonpublic school has been convicted of an offense listed in subsection

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- 1 (c). The prosecuting attorney shall immediately give written notice of
- 2 the conviction to the following:
- 3 (1) The state superintendent.
- 4 (2) Except as provided in subdivision (3), the superintendent of
- 5 the school corporation that employs the licensed employee or the
- 6 equivalent authority if a nonpublic school employs the licensed
- 7 employee.
- 8 (3) The presiding officer of the governing body of the school
- 9 corporation that employs the licensed employee, if the convicted
- 10 licensed employee is the superintendent of the school corporation.
- 11 (b) The superintendent of a school corporation, presiding officer of
- 12 the governing body, or equivalent authority for a nonpublic school shall
- 13 immediately notify the state superintendent when the individual knows
- 14 that a current or former licensed employee of the public school or
- 15 nonpublic school has been convicted of an offense listed in subsection
- 16 (c), or when the governing body or equivalent authority for a nonpublic
- 17 school takes any final action in relation to an employee who engaged
- 18 in any offense listed in subsection (c).
- 19 (c) The department, after holding a hearing on the matter, shall
- 20 permanently revoke the license of a person who is known by the
- 21 department to have been convicted of any of the following felonies:
- 22 (1) Kidnapping (IC 35-42-3-2).
- 23 (2) Criminal confinement (IC 35-42-3-3).
- 24 (3) Rape (IC 35-42-4-1).
- 25 (4) Criminal deviate conduct (IC 35-42-4-2).
- 26 (5) Child molesting (IC 35-42-4-3).
- 27 (6) Child exploitation (IC 35-42-4-4(b)).
- 28 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 29 (8) Child solicitation (IC 35-42-4-6).
- 30 (9) Child seduction (IC 35-42-4-7).
- 31 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 32 (11) Incest (IC 35-46-1-3).
- 33 (12) Dealing in or manufacturing cocaine or a narcotic drug
- 34 (IC 35-48-4-1).
- 35 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 36 (14) Dealing in a schedule I, II, or III controlled substance
- 37 (IC 35-48-4-2).
- 38 (15) Dealing in a schedule IV controlled substance
- 39 (IC 35-48-4-3).
- 40 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 41 (17) Dealing in a counterfeit substance (IC 35-48-4-5).

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- 1 (18) Dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic
 2 drug (IC 35-48-4-10(b)).
 3 **(19) Dealing in marijuana as a felony under IC 35-48-4-10.1.**
 4 ~~(19)~~ **(20)** Possession of child pornography (IC 35-42-4-4(c)).
 5 ~~(20)~~ **(21)** Homicide (IC 35-42-1).
 6 ~~(21)~~ **(22)** Voluntary manslaughter (IC 35-42-1-3).
 7 ~~(22)~~ **(23)** Reckless homicide (IC 35-42-1-5).
 8 ~~(23)~~ **(24)** Battery as any of the following:
 9 (A) A Class A felony (IC 35-42-2-1(a)(5)).
 10 (B) A Class B felony (IC 35-42-2-1(a)(4)).
 11 (C) A Class C felony (IC 35-42-2-1(a)(3)).
 12 ~~(24)~~ **(25)** Aggravated battery (IC 35-42-2-1.5).
 13 ~~(25)~~ **(26)** Robbery (IC 35-42-5-1).
 14 ~~(26)~~ **(27)** Carjacking (IC 35-42-5-2).
 15 ~~(27)~~ **(28)** Arson as a Class A felony or a Class B felony
 16 (IC 35-43-1-1(a)).
 17 ~~(28)~~ **(29)** Burglary as a Class A felony or a Class B felony
 18 (IC 35-43-2-1).
 19 ~~(29)~~ **(30)** Attempt under IC 35-41-5-1 to commit an offense listed
 20 in subdivisions ~~(1) through (28)~~: **this subsection.**
 21 ~~(30)~~ **(31)** Conspiracy under IC 35-41-5-2 to commit an offense
 22 listed in subdivisions ~~(1) through (28)~~: **this subsection.**
 23 (d) The department, after holding a hearing on the matter, shall
 24 permanently revoke the license of a person who is known by the
 25 department to have been convicted of a federal offense or an offense in
 26 another state that is comparable to a felony listed in subsection (c).
 27 (e) A license may be suspended by the state superintendent as
 28 specified in IC 20-28-7.5.
 29 (f) The department shall develop a data base of information on
 30 school corporation employees who have been reported to the
 31 department under this section.
 32 SECTION 11. IC 22-15-5-16, AS AMENDED BY P.L.78-2012,
 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2013]: Sec. 16. (a) A practitioner shall comply with the
 35 standards established under this licensing program. A practitioner is
 36 subject to the exercise of the disciplinary sanctions under subsection
 37 (b) if the department finds that a practitioner has:
 38 (1) engaged in or knowingly cooperated in fraud or material
 39 deception in order to obtain a license to practice, including
 40 cheating on a licensing examination;
 41 (2) engaged in fraud or material deception in the course of
 42 professional services or activities;

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

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

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1 disciplinary action is conclusive evidence of the other jurisdiction's
2 disciplinary action.

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

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

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

- 18 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 19 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 20 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 21 (4) Fraudulently obtaining a controlled substance under
22 IC 35-48-4-7(b).
- 23 (5) Manufacture of paraphernalia as a Class D felony under
24 IC 35-48-4-8.1(b).
- 25 (6) Dealing in paraphernalia as a Class D felony under
26 IC 35-48-4-8.5(b).
- 27 (7) Possession of paraphernalia as a Class D felony under
28 IC 35-48-4-8.3(b).
- 29 (8) Possession of ~~marijuana~~, hash oil, hashish, salvia, or a
30 synthetic drug as a Class D felony under IC 35-48-4-11.
- 31 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 32 (10) An offense relating to registration, labeling, and prescription
33 forms under IC 35-48-4-14.
- 34 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
35 in subdivisions (1) through (10).
- 36 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
37 subdivisions (1) through (10).
- 38 (13) An offense in any other jurisdiction in which the elements of
39 the offense for which the conviction was entered are substantially
40 similar to the elements of an offense described in subdivisions (1)
41 through (12).

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

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

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

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

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

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

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

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

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

19 (9) Dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic
 20 drug under IC 35-48-4-10(b).

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

22 ~~(10)~~ **(11) Conspiracy under IC 35-41-5-2 to commit an offense**
 23 **listed in subdivisions (1) through (9): this subsection.**

24 ~~(11)~~ **(12) Attempt under IC 35-41-5-1 to commit an offense listed**
 25 **in subdivisions (1) through (9): this subsection.**

26 ~~(12)~~ **(13) An offense in any other jurisdiction in which the**
 27 **elements of the offense for which the conviction was entered are**
 28 **substantially similar to the elements of an offense described in**
 29 **subdivisions (1) through (11): this subsection.**

30 ~~(13)~~ **(14) A violation of any federal or state drug law or rule**
 31 **related to wholesale legend drug distributors licensed under**
 32 **IC 25-26-14.**

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

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

40 (k) On receipt of a complaint or an information alleging that a
 41 person licensed under this chapter has engaged in or is engaging in a

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1 practice that jeopardizes the public health, safety, or welfare, the
2 department shall initiate an investigation against the person.

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

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

9 (n) The department may reinstate a license that has been suspended
10 under this section if, after a hearing, the department is satisfied that the
11 applicant is able to practice with reasonable skill, safety, and
12 competency to the public. As a condition of reinstatement, the
13 department may impose disciplinary or corrective measures authorized
14 under this chapter.

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

19 (p) The department shall seek to achieve consistency in the
20 application of sanctions authorized in this chapter. Significant
21 departures from prior decisions involving similar conduct must be
22 explained in the department's findings or orders.

23 (q) A practitioner may petition the department to accept the
24 surrender of the practitioner's license instead of having a hearing before
25 the commission. The practitioner may not surrender the practitioner's
26 license without the written approval of the department, and the
27 department may impose any conditions appropriate to the surrender or
28 reinstatement of a surrendered license.

29 (r) A practitioner who has been subjected to disciplinary sanctions
30 may be required by the commission to pay the costs of the proceeding.
31 The practitioner's ability to pay shall be considered when costs are
32 assessed. If the practitioner fails to pay the costs, a suspension may not
33 be imposed solely upon the practitioner's inability to pay the amount
34 assessed. The costs are limited to costs for the following:

- 35 (1) Court reporters.
- 36 (2) Transcripts.
- 37 (3) Certification of documents.
- 38 (4) Photo duplication.
- 39 (5) Witness attendance and mileage fees.
- 40 (6) Postage.
- 41 (7) Expert witnesses.
- 42 (8) Depositions.

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1 (9) Notarizations.
2 SECTION 12. IC 25-1-1.1-2, AS AMENDED BY P.L.78-2012,
3 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 2. Notwithstanding IC 25-1-7, a board, a
5 commission, or a committee may suspend, deny, or revoke a license or
6 certificate issued under this title by the board, the commission, or the
7 committee without an investigation by the office of the attorney general
8 if the individual who holds the license or certificate is convicted of any
9 of the following and the board, commission, or committee determines,
10 after the individual has appeared in person, that the offense affects the
11 individual's ability to perform the duties of the profession:
12 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
13 (2) Possession of methamphetamine under IC 35-48-4-6.1.
14 (3) Possession of a controlled substance under IC 35-48-4-7(a).
15 (4) Fraudulently obtaining a controlled substance under
16 IC 35-48-4-7(b).
17 (5) Manufacture of paraphernalia as a Class D felony under
18 IC 35-48-4-8.1(b).
19 (6) Dealing in paraphernalia as a Class D felony under
20 IC 35-48-4-8.5(b).
21 (7) Possession of paraphernalia as a Class D felony under
22 IC 35-48-4-8.3(b).
23 (8) Possession of ~~marijuana~~, hash oil, hashish, salvia, or a
24 synthetic drug as a Class D felony under IC 35-48-4-11.
25 (9) Maintaining a common nuisance under IC 35-48-4-13.
26 (10) An offense relating to registration, labeling, and prescription
27 forms under IC 35-48-4-14.
28 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
29 in subdivisions (1) through (10).
30 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
31 subdivisions (1) through (10).
32 (13) A sex crime under IC 35-42-4.
33 (14) A felony that reflects adversely on the individual's fitness to
34 hold a professional license.
35 (15) An offense in any other jurisdiction in which the elements of
36 the offense for which the conviction was entered are substantially
37 similar to the elements of an offense described in this section.
38 SECTION 13. IC 25-1-1.1-3, AS AMENDED BY P.L.78-2012,
39 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2013]: Sec. 3. A board, a commission, or a committee shall
41 revoke or suspend a license or certificate issued under this title by the

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- 1 board, the commission, or the committee if the individual who holds
- 2 the license or certificate is convicted of any of the following:
- 3 (1) Dealing in or manufacturing cocaine or a narcotic drug under
- 4 IC 35-48-4-1.
- 5 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 6 (3) Dealing in a schedule I, II, or III controlled substance under
- 7 IC 35-48-4-2.
- 8 (4) Dealing in a schedule IV controlled substance under
- 9 IC 35-48-4-3.
- 10 (5) Dealing in a schedule V controlled substance under
- 11 IC 35-48-4-4.
- 12 (6) Dealing in a substance represented to be a controlled
- 13 substance under IC 35-48-4-4.5.
- 14 (7) Knowingly or intentionally manufacturing, advertising,
- 15 distributing, or possessing with intent to manufacture, advertise,
- 16 or distribute a substance represented to be a controlled substance
- 17 under IC 35-48-4-4.6.
- 18 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 19 (9) Dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic
- 20 drug under IC 35-48-4-10(b).
- 21 **(10) Dealing in marijuana as a felony under IC 35-48-4-10.1.**
- 22 ~~(11)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense
- 23 listed in ~~subdivisions (1) through (9)~~: **this section.**
- 24 ~~(11)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed
- 25 in ~~subdivisions (1) through (9)~~: **this section.**
- 26 ~~(12)~~ **(13)** An offense in any other jurisdiction in which the
- 27 elements of the offense for which the conviction was entered are
- 28 substantially similar to the elements of an offense described ~~under~~
- 29 ~~subdivisions (1) through (11)~~: **in this section.**
- 30 ~~(13)~~ **(14)** A violation of any federal or state drug law or rule
- 31 related to wholesale legend drug distributors licensed under
- 32 IC 25-26-14.
- 33 SECTION 14. IC 34-24-1-1, AS AMENDED BY P.L.125-2012,
- 34 SECTION 411, IS AMENDED TO READ AS FOLLOWS
- 35 [EFFECTIVE JULY 1, 2013]: 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:

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- 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, salvia, or a
 15 synthetic ~~cannabinoid drug~~ (IC 35-48-4-10).
 16 **(xi) Dealing in marijuana as a misdemeanor or felony**
 17 **(IC 35-48-4-10.1).**
 18 (B) Any stolen (IC 35-43-4-2) or converted property
 19 (IC 35-43-4-3) if the retail or repurchase value of that property
 20 is one hundred dollars (\$100) or more.
 21 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
 22 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 23 mass destruction (as defined in IC 35-31.5-2-354) used to
 24 commit, used in an attempt to commit, or used in a conspiracy
 25 to commit an offense under IC 35-47 as part of or in
 26 furtherance of an act of terrorism (as defined by
 27 IC 35-31.5-2-329).
 28 (2) All money, negotiable instruments, securities, weapons,
 29 communications devices, or any property used to commit, used in
 30 an attempt to commit, or used in a conspiracy to commit an
 31 offense under IC 35-47 as part of or in furtherance of an act of
 32 terrorism or commonly used as consideration for a violation of
 33 IC 35-48-4 (other than items subject to forfeiture under
 34 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 35 (A) furnished or intended to be furnished by any person in
 36 exchange for an act that is in violation of a criminal statute;
 37 (B) used to facilitate any violation of a criminal statute; or
 38 (C) traceable as proceeds of the violation of a criminal statute.
 39 (3) Any portion of real or personal property purchased with
 40 money that is traceable as a proceed of a violation of a criminal
 41 statute.
 42 (4) A vehicle that is used by a person to:

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

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1 (14) After December 31, 2005, if a person is convicted of an
 2 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 3 following real or personal property:

4 (A) Property used or intended to be used to commit, facilitate,
 5 or promote the commission of the offense.

6 (B) Property constituting, derived from, or traceable to the
 7 gross proceeds that the person obtained directly or indirectly
 8 as a result of the offense.

9 (15) Except as provided in subsection (e), a vehicle used by a
 10 person who operates the vehicle:

11 (A) while intoxicated, in violation of IC 9-30-5-1 through
 12 IC 9-30-5-5, if in the previous five (5) years the person has two

13 (2) or more prior unrelated convictions:

14 (i) for operating a motor vehicle while intoxicated in
 15 violation of IC 9-30-5-1 through IC 9-30-5-5; or

16 (ii) for an offense that is substantially similar to IC 9-30-5-1
 17 through IC 9-30-5-5 in another jurisdiction; or

18 (B) on a highway while the person's driving privileges are
 19 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,
 20 if in the previous five (5) years the person has two (2) or more
 21 prior unrelated convictions:

22 (i) for operating a vehicle while intoxicated in violation of
 23 IC 9-30-5-1 through IC 9-30-5-5; or

24 (ii) for an offense that is substantially similar to IC 9-30-5-1
 25 through IC 9-30-5-5 in another jurisdiction.

26 If a court orders the seizure of a vehicle under this subdivision,
 27 the court shall transmit an order to the bureau of motor vehicles
 28 recommending that the bureau not permit a vehicle to be
 29 registered in the name of the person whose vehicle was seized
 30 until the person possesses a current driving license (as defined in
 31 IC 9-13-2-41).

32 (16) The following real or personal property:

33 (A) Property used or intended to be used to commit, facilitate,
 34 or promote the commission of an offense specified in
 35 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 36 IC 30-2-13-38(f).

37 (B) Property constituting, derived from, or traceable to the
 38 gross proceeds that a person obtains directly or indirectly as a
 39 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 40 IC 30-2-10-9(b), or IC 30-2-13-38(f).

41 (b) A vehicle used by any person as a common or contract carrier in
 42 the transaction of business as a common or contract carrier is not

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1 subject to seizure under this section, unless it can be proven by a
 2 preponderance of the evidence that the owner of the vehicle knowingly
 3 permitted the vehicle to be used to engage in conduct that subjects it to
 4 seizure under subsection (a).

5 (c) Equipment under subsection (a)(10) may not be seized unless it
 6 can be proven by a preponderance of the evidence that the owner of the
 7 equipment knowingly permitted the equipment to be used to engage in
 8 conduct that subjects it to seizure under subsection (a)(10).

9 (d) Money, negotiable instruments, securities, weapons,
 10 communications devices, or any property commonly used as
 11 consideration for a violation of IC 35-48-4 found near or on a person
 12 who is committing, attempting to commit, or conspiring to commit any
 13 of the following offenses shall be admitted into evidence in an action
 14 under this chapter as prima facie evidence that the money, negotiable
 15 instrument, security, or other thing of value is property that has been
 16 used or was to have been used to facilitate the violation of a criminal
 17 statute or is the proceeds of the violation of a criminal statute:

18 (1) IC 35-48-4-1 (dealing in or manufacturing cocaine or a
 19 narcotic drug).

20 (2) IC 35-48-4-1.1 (dealing in methamphetamine).

21 (3) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled
 22 substance).

23 (4) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

24 (5) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 25 as a Class B felony.

26 (6) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 27 Class A felony, Class B felony, or Class C felony.

28 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class
 29 A felony, Class B felony, or Class C felony.

30 (8) IC 35-48-4-10 (dealing in ~~marijuana~~; hash oil, hashish, salvia,
 31 or a synthetic ~~cannabinoid drug~~) as a Class C felony.

32 **(9) IC 35-48-4-10.1 (dealing in marijuana) as a Class C felony.**

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

34 (1) an owner of the vehicle; or

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

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

40 SECTION 15. IC 35-31.5-2-104, AS ADDED BY P.L.114-2012,
 41 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 104. (a) "Drug", for purposes of IC 35-48, has the
2 meaning set forth in IC 35-48-1-16.

3 (b) "Drug", for purposes of IC 35-50-2-10, has the meaning set forth
4 in ~~IC 35-50-2-10(a)(1)~~. **IC 35-50-2-10(b)(1)**.

5 SECTION 16. IC 35-31.5-2-317, AS ADDED BY P.L.114-2012,
6 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2013]: Sec. 317. "Substance offense", for purposes of
8 IC 35-50-2-10, has the meaning set forth in ~~IC 35-50-2-10(a)(2)~~.
9 **IC 35-50-2-10(b)(2)**.

10 SECTION 17. IC 35-45-6-1, AS AMENDED BY P.L.149-2012,
11 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2013]: Sec. 1. (a) The definitions in this section apply
13 throughout this chapter.

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

18 (c) "Enterprise" means:

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

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

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

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

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

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

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

38 (4) A violation of IC 35-49-3.

39 (5) Murder (IC 35-42-1-1).

40 (6) Battery as a Class C felony (IC 35-42-2-1).

41 (7) Kidnapping (IC 35-42-3-2).

42 (8) Human and sexual trafficking crimes (IC 35-42-3.5).

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- 1 (9) Child exploitation (IC 35-42-4-4).
 2 (10) Robbery (IC 35-42-5-1).
 3 (11) Carjacking (IC 35-42-5-2).
 4 (12) Arson (IC 35-43-1-1).
 5 (13) Burglary (IC 35-43-2-1).
 6 (14) Theft (IC 35-43-4-2).
 7 (15) Receiving stolen property (IC 35-43-4-2).
 8 (16) Forgery (IC 35-43-5-2).
 9 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
 10 (18) Bribery (IC 35-44-1-1).
 11 (19) Official misconduct (IC 35-44-1-2).
 12 (20) Conflict of interest (IC 35-44-1-3).
 13 (21) Perjury (IC 35-44-2-1).
 14 (22) Obstruction of justice (IC 35-44-3-4).
 15 (23) Intimidation (IC 35-45-2-1).
 16 (24) Promoting prostitution (IC 35-45-4-4).
 17 (25) Professional gambling (IC 35-45-5-3).
 18 (26) Maintaining a professional gambling site
 19 (IC 35-45-5-3.5(b)).
 20 (27) Promoting professional gambling (IC 35-45-5-4).
 21 (28) Dealing in or manufacturing cocaine or a narcotic drug
 22 (IC 35-48-4-1).
 23 (29) Dealing in or manufacturing methamphetamine
 24 (IC 35-48-4-1.1).
 25 (30) Dealing in a schedule I, II, or III controlled substance
 26 (IC 35-48-4-2).
 27 (31) Dealing in a schedule IV controlled substance
 28 (IC 35-48-4-3).
 29 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 30 (33) Dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic
 31 cannabinoid (IC 35-48-4-10).
 32 **(34) Dealing in marijuana as a felony or misdemeanor**
 33 **(IC 35-48-4-10.1).**
 34 ~~(34)~~ **(35)** Money laundering (IC 35-45-15-5).
 35 ~~(35)~~ **(36)** A violation of IC 35-47.5-5.
 36 ~~(36)~~ **(37)** A violation of any of the following:
 37 (A) IC 23-14-48-9.
 38 (B) IC 30-2-9-7(b).
 39 (C) IC 30-2-10-9(b).
 40 (D) IC 30-2-13-38(f).
 41 ~~(37)~~ **(38)** Practice of law by a person who is not an attorney
 42 (IC 33-43-2-1).

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1 SECTION 18. IC 35-48-4-10, AS AMENDED BY P.L.78-2012,
 2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 10. (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 ~~marijuana~~, hash oil, hashish, salvia, or a synthetic drug, pure or
 10 adulterated; or

11 (2) possesses, with intent to:

- 12 (A) manufacture;
- 13 (B) finance the manufacture of;
- 14 (C) deliver; or
- 15 (D) finance the delivery of;

16 ~~marijuana~~, hash oil, hashish, salvia, or a synthetic drug, pure or
 17 adulterated;

18 commits dealing in ~~marijuana~~, hash oil, hashish, salvia, or a synthetic
 19 drug, a Class A misdemeanor, except as provided in subsection (b).

20 (b) The offense is:

21 (1) a Class D felony if:

- 22 (A) the recipient or intended recipient is under eighteen (18)
 23 years of age;
- 24 (B) the amount involved is:

- 25 (i) ~~more than thirty (30) grams but less than ten (10) pounds~~
 26 ~~of marijuana~~ or more than two (2) grams but less than three
 27 hundred (300) grams of hash oil, hashish, or salvia; or
- 28 (ii) more than two (2) grams of a synthetic drug; or

29 (C) the person has a prior conviction of an offense involving
 30 ~~marijuana~~, hash oil, hashish, salvia, or a synthetic drug; and

31 (2) a Class C felony if:

32 (A) the amount involved is ~~ten (10) pounds or more of~~
 33 ~~marijuana~~ or three hundred (300) or more grams of hash oil,
 34 hashish, or salvia, or the person delivered or financed the
 35 delivery of ~~marijuana~~, hash oil, hashish, or salvia:

- 36 (i) on a school bus; or
- 37 (ii) in, on, or within one thousand (1,000) feet of, school
 38 property, a public park, a family housing complex, or a
 39 youth program center; or

40 (B) the amount involved is more than two (2) grams of a
 41 synthetic drug and the person delivered or financed the
 42 delivery of the synthetic drug:

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

5 SECTION 19. IC 35-48-4-10.1 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2013]: **Sec. 10.1. (a) A person who:**

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

9 **(A) delivers; or**

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

11 **more than two (2) ounces of marijuana, pure or adulterated;**
 12 **or**

13 **(2) possesses, with intent to:**

14 **(A) deliver; or**

15 **(B) finance the delivery of;**

16 **more than two (2) ounces of marijuana;**

17 **commits dealing in marijuana, a Class A misdemeanor, except as**
 18 **provided in subsection (b) or (c).**

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

20 **(1) a Class D felony if:**

21 **(A) the recipient or intended recipient is under eighteen**
 22 **(18) years of age;**

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

25 **(C) the person has a prior conviction of an offense**
 26 **involving the delivery of marijuana; and**

27 **(2) a Class C felony if the amount of marijuana involved is ten**
 28 **(10) pounds or more.**

29 **(c) It is a defense to a prosecution under subsection (a) or (b)(1)**
 30 **that the person who delivered the marijuana did so for no**
 31 **consideration.**

32 SECTION 20. IC 35-48-4-11, AS AMENDED BY P.L.78-2012,
 33 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2013]: **Sec. 11. A person who**

35 **(+) knowingly or intentionally possesses (pure or adulterated)**
 36 **marijuana, hash oil, hashish, salvia, or a synthetic drug**

37 **(2) knowingly or intentionally grows or cultivates marijuana; or**

38 **(3) knowing that marijuana is growing on the person's premises;**
 39 **fails to destroy the marijuana plants;**

40 **commits possession of marijuana, hash oil, hashish, salvia, or a**
 41 **synthetic drug, a Class A misdemeanor. However, the offense is a Class**
 42 **D felony if the amount involved is more than thirty (30) grams of**

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1 marijuana or two (2) grams of hash oil, hashish, salvia, or a synthetic
 2 drug, or if the person has a prior conviction of an offense involving
 3 marijuana, hash oil, or hashish, salvia, or a synthetic drug.

4 SECTION 21. IC 35-48-4-11.1 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2013]: **Sec. 11.1. (a) A person who knowingly
 7 or intentionally possesses more than two (2) ounces of marijuana
 8 commits possession of marijuana, a Class B misdemeanor.
 9 However, the offense is a Class A misdemeanor if the person has
 10 two (2) or more prior convictions for an offense involving
 11 marijuana in the preceding five (5) years.**

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

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

- 18 **(1) possessed the marijuana on the grounds of a research
 19 facility;**
- 20 **(2) is registered as a researcher with the Indiana department
 21 of agriculture; and**
- 22 **(3) possessed the marijuana solely for bona fide research into
 23 the industrial, agricultural, or scientific uses of marijuana.**

24 SECTION 22. IC 35-48-4-11.2 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2013]: **Sec. 11.2. (a) A person who knowingly
 27 or intentionally displays, burns, or ingests marijuana in a public
 28 place or on school property commits public use of marijuana, a
 29 Class B misdemeanor. However, the offense is a Class A
 30 misdemeanor if the person has two (2) or more prior convictions
 31 for an offense involving marijuana in the preceding five (5) years.**

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

36 SECTION 23. IC 35-48-4-11.3 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2013]: **Sec. 11.3. (a) A person who possesses
 39 marijuana commits possession of marijuana, a Class C infraction.**

40 **(b) It is a defense to an action under this section that the person
 41 who possessed the marijuana was not aware of the possession for
 42 a time sufficient for the person to have terminated the possession.**

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1 SECTION 24. IC 35-48-4-12, AS AMENDED BY P.L.78-2012,
 2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 12. If a person who has no prior conviction of an
 4 offense under this article or under a law of another jurisdiction relating
 5 to controlled substances pleads guilty to possession of marijuana,
 6 hashish, **hash oil**, salvia, or a synthetic drug as a ~~Class A~~ misdemeanor,
 7 the court, without entering a judgment of conviction and with the
 8 consent of the person:

- 9 (1) may, **if the offense relates to salvia or a synthetic drug; and**
 10 (2) shall, **if the offense relates to marijuana, hashish, or hash**
 11 **oil;**

12 defer further proceedings and place the person in the custody of the
 13 court under ~~such~~ conditions as ~~the court determines~~: **determined by**
 14 **the court.** Upon violation of a condition of the custody, the court may
 15 enter a judgment of conviction. However, if the person fulfills the
 16 conditions of the custody, the court shall dismiss the charges against
 17 the person. There may be only one (1) dismissal under this section with
 18 respect to a person.

19 SECTION 25. IC 35-48-4-13 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) A person who
 21 knowingly or intentionally visits a building, structure, vehicle, or other
 22 place that is used by any person to unlawfully use a controlled
 23 substance commits visiting a common nuisance, a Class B
 24 misdemeanor.

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

- 27 (1) by persons to unlawfully use controlled substances; or
 28 (2) for unlawfully:
 29 (A) manufacturing;
 30 (B) keeping;
 31 (C) offering for sale;
 32 (D) selling;
 33 (E) delivering; or
 34 (F) financing the delivery of;

35 controlled substances, or items of drug paraphernalia as described
 36 in IC 35-48-4-8.5;
 37 commits maintaining a common nuisance, a Class D felony. **However,**
 38 **the offense is a Class A misdemeanor if the only unlawful**
 39 **controlled substances involved were marijuana, hashish, or hash**
 40 **oil.**

41 SECTION 26. IC 35-50-2-10, AS AMENDED BY P.L.1-2006,
 42 SECTION 551, IS AMENDED TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 2013]: Sec. 10. **(a) This section does not apply**
 2 **to a person convicted of an offense relating to marijuana, hashish,**
 3 **or hash oil under:**

- 4 (1) IC 35-48-4-10;
 5 (2) IC 35-48-4-10.1;
 6 (3) IC 35-48-4-11; or
 7 (4) IC 35-48-4-11.1;

8 **unless the offense is a Class C felony.**

9 ~~(a)~~ **(b)** As used in this section:

10 (1) "Drug" means a drug or a controlled substance (as defined in
 11 IC 35-48-1).

12 (2) "Substance offense" means a Class A misdemeanor or a felony
 13 in which the possession, use, abuse, delivery, transportation, or
 14 manufacture of alcohol or drugs is a material element of the
 15 crime. The term includes an offense under IC 9-30-5 and an
 16 offense under IC 9-11-2 (before its repeal).

17 ~~(b)~~ **(c)** The state may seek to have a person sentenced as a habitual
 18 substance offender for any substance offense by alleging, on a page
 19 separate from the rest of the charging instrument, that the person has
 20 accumulated two (2) prior unrelated substance offense convictions.

21 ~~(c)~~ **(d)** After a person has been convicted and sentenced for a
 22 substance offense committed after sentencing for a prior unrelated
 23 substance offense conviction, the person has accumulated two (2) prior
 24 unrelated substance offense convictions. However, a conviction does
 25 not count for purposes of this subsection if:

- 26 (1) it has been set aside; or
 27 (2) it is a conviction for which the person has been pardoned.

28 ~~(d)~~ **(e)** If the person was convicted of the substance offense in a jury
 29 trial, the jury shall reconvene for the sentencing hearing. If the trial was
 30 to the court, or the judgment was entered on a guilty plea, the court
 31 alone shall conduct the sentencing hearing, under IC 35-38-1-3.

32 ~~(e)~~ **(f)** A person is a habitual substance offender if the jury (if the
 33 hearing is by jury) or the court (if the hearing is to the court alone)
 34 finds that the state has proved beyond a reasonable doubt that the
 35 person had accumulated two (2) prior unrelated substance offense
 36 convictions.

37 ~~(f)~~ **(g)** The court shall sentence a person found to be a habitual
 38 substance offender to an additional fixed term of at least three (3) years
 39 but not more than eight (8) years imprisonment, to be added to the term
 40 of imprisonment imposed under IC 35-50-2 or IC 35-50-3. If the court
 41 finds that:

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- 1 (1) three (3) years or more have elapsed since the date the person
 2 was discharged from probation, imprisonment, or parole
 3 (whichever is later) for the last prior unrelated substance offense
 4 conviction and the date the person committed the substance
 5 offense for which the person is being sentenced as a habitual
 6 substance offender; or
 7 (2) all of the substance offenses for which the person has been
 8 convicted are substance offenses under IC 16-42-19 or
 9 IC 35-48-4, the person has not been convicted of a substance
 10 offense listed in section 2(b)(4) of this chapter, and the total
 11 number of convictions that the person has for:
 12 (A) dealing in or selling a legend drug under IC 16-42-19-27;
 13 (B) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
 14 (C) dealing in a schedule I, II, or III controlled substance
 15 (IC 35-48-4-2);
 16 (D) dealing in a schedule IV controlled substance
 17 (IC 35-48-4-3); and
 18 (E) dealing in a schedule V controlled substance
 19 (IC 35-48-4-4);
 20 does not exceed one (1);
 21 then the court may reduce the additional fixed term. However, the court
 22 may not reduce the additional fixed term to less than one (1) year.
 23 ~~(g)~~ **(h)** If a reduction of the additional year fixed term is authorized
 24 under subsection ~~(f)~~, **(g)**, the court may also consider the aggravating
 25 or circumstances in IC 35-38-1-7.1(a) and the mitigating circumstances
 26 in IC 35-38-1-7.1(b) to:
 27 (1) decide the issue of granting a reduction; or
 28 (2) determine the number of years, if any, to be subtracted under
 29 subsection ~~(f)~~; **(g)**.
 30 SECTION 27. IC 35-50-5-3, AS AMENDED BY P.L.73-2012,
 31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2012]: Sec. 3. (a) Except as provided in subsection (i), (j), (l),
 33 or (m), in addition to any sentence imposed under this article for a
 34 felony or misdemeanor, the court may, as a condition of probation or
 35 without placing the person on probation, order the person to make
 36 restitution to the victim of the crime, the victim's estate, or the family
 37 of a victim who is deceased. The court shall base its restitution order
 38 upon a consideration of:
 39 (1) property damages of the victim incurred as a result of the
 40 crime, based on the actual cost of repair (or replacement if repair
 41 is inappropriate);

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- 1 (2) medical and hospital costs incurred by the victim (before the
 2 date of sentencing) as a result of the crime;
 3 (3) the cost of medical laboratory tests to determine if the crime
 4 has caused the victim to contract a disease or other medical
 5 condition;
 6 (4) earnings lost by the victim (before the date of sentencing) as
 7 a result of the crime including earnings lost while the victim was
 8 hospitalized or participating in the investigation or trial of the
 9 crime; and
 10 (5) funeral, burial, or cremation costs incurred by the family or
 11 estate of a homicide victim as a result of the crime.
- 12 (b) A restitution order under subsection (a), (i), (j), (l), or (m) is a
 13 judgment lien that:
 14 (1) attaches to the property of the person subject to the order;
 15 (2) may be perfected;
 16 (3) may be enforced to satisfy any payment that is delinquent
 17 under the restitution order by the person in whose favor the order
 18 is issued or the person's assignee; and
 19 (4) expires;
 20 in the same manner as a judgment lien created in a civil proceeding.
- 21 (c) When a restitution order is issued under subsection (a), the
 22 issuing court may order the person to pay the restitution, or part of the
 23 restitution, directly to:
 24 (1) the victim services division of the Indiana criminal justice
 25 institute in an amount not exceeding:
 26 (A) the amount of the award, if any, paid to the victim under
 27 IC 5-2-6.1; and
 28 (B) the cost of the reimbursements, if any, for emergency
 29 services provided to the victim under IC 16-10-1.5 (before its
 30 repeal) or IC 16-21-8; or
 31 (2) a probation department that shall forward restitution or part of
 32 restitution to:
 33 (A) a victim of a crime;
 34 (B) a victim's estate; or
 35 (C) the family of a victim who is deceased.
- 36 The victim services division of the Indiana criminal justice institute
 37 shall deposit the restitution it receives under this subsection in the
 38 violent crime victims compensation fund established by IC 5-2-6.1-40.
- 39 (d) When a restitution order is issued under subsection (a), (i), (j),
 40 (l), or (m), the issuing court shall send a certified copy of the order to
 41 the clerk of the circuit court in the county where the felony or

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1 misdemeanor charge was filed. The restitution order must include the
2 following information:

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

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

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

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

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

16 (2) other damages suffered by the victim.

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

21 (g) A restitution order under subsection (a), (i), (j), (l), or (m) is not
22 discharged by the liquidation of a person's estate by a receiver under
23 IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6,
24 IC 34-1-12, or IC 34-2-7 before their repeal).

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

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

37 (j) The court may order the person convicted of an offense under
38 IC 35-43-5-3.5 to make restitution to the victim of the crime, the
39 victim's estate, or the family of a victim who is deceased. The court
40 shall base its restitution order upon a consideration of the amount of
41 fraud or harm caused by the convicted person and any reasonable
42 expenses (including lost wages) incurred by the victim in correcting the

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1 victim's credit report and addressing any other issues caused by the
 2 commission of the offense under IC 35-43-5-3.5. If, after a person is
 3 sentenced for an offense under IC 35-43-5-3.5, a victim, a victim's
 4 estate, or the family of a victim discovers or incurs additional expenses
 5 that result from the convicted person's commission of the offense under
 6 IC 35-43-5-3.5, the court may issue one (1) or more restitution orders
 7 to require the convicted person to make restitution, even if the court
 8 issued a restitution order at the time of sentencing. For purposes of
 9 entering a restitution order after sentencing, a court has continuing
 10 jurisdiction over a person convicted of an offense under IC 35-43-5-3.5
 11 for five (5) years after the date of sentencing. Each restitution order
 12 issued for a violation of IC 35-43-5-3.5 must comply with subsections
 13 (b), (d), (e), and (g), and is not discharged by the completion of any
 14 probationary period or other sentence imposed for an offense under
 15 IC 35-43-5-3.5.

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

19 (1) The gross income or value to the person of the victim's labor
 20 or services.

21 (2) The value of the victim's labor as guaranteed under the
 22 minimum wage and overtime provisions of:

23 (A) the federal Fair Labor Standards Act of 1938, as amended
 24 (29 U.S.C. 201-209); or

25 (B) IC 22-2-2 (Minimum Wage);

26 whichever is greater.

27 (l) The court shall order a person who:

28 (1) is convicted of dealing in methamphetamine under
 29 IC 35-48-4-1.1(a)(1)(A); and

30 (2) manufactured the methamphetamine on property owned by
 31 another person, without the consent of the property owner;

32 to pay liquidated damages to the property owner in the amount of ten
 33 thousand dollars (\$10,000).

34 (m) The court shall order a person who:

35 (1) is convicted of dealing in marijuana under
 36 ~~IC 35-48-4-10(a)(1)(A)~~; **IC 35-48-4-10.1**; and

37 (2) manufactured the marijuana on property owned by another
 38 person, without the consent of the property owner;

39 to pay liquidated damages to the property owner in the amount of two
 40 thousand dollars (\$2,000).

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