



January 29, 1999

SENATE BILL No. 292

DIGEST OF SB 292 (Updated January 27, 1999 5:08 pm - DI 76)

Citations Affected: IC 35-48.

Synopsis: Ephedrine. Requires a court to assess the actual cost of any environmental cleanup against a defendant for conviction of certain offenses related to controlled substances to cover the costs of an environmental cleanup incurred by a law enforcement agency as a result of the offense. Provides that a person who possesses ephedrine or a related substance with the intent to manufacture certain controlled substances commits a Class D felony.

Effective: July 1, 1999.

**Miller, Meeks R, Meeks C, Wyss,
Howard**

January 7, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
January 28, 1999, amended, reported favorably — Do Pass.

SB 292—LS 7432/DI 88+



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January 29, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

SENATE BILL No. 292

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

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

- 1 SECTION 1. IC 35-48-4-4.6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4.6. (a) A person who
3 knowingly or intentionally:
4 (1) manufactures;
5 (2) finances the manufacture of;
6 (3) advertises;
7 (4) distributes; or
8 (5) possesses with intent to manufacture, finance the manufacture
9 of, advertise, or distribute;
10 a substance described in section 4.5 of this chapter commits a Class C
11 felony.
12 (b) A person who knowingly or intentionally possesses a substance
13 described in section 4.5 of this chapter commits a Class C
14 misdemeanor. However, the offense is a Class A misdemeanor if the
15 person has a previous conviction under this section.
16 (c) In any prosecution brought under this section it is not a defense
17 that the person believed the substance actually was a controlled

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- 1 substance.
- 2 (d) This section does not apply to the following:
- 3 (1) The manufacture, financing the manufacture of, processing,
- 4 packaging, distribution, or sale of noncontrolled substances to
- 5 licensed medical practitioners for use as placebos in professional
- 6 practice or research.
- 7 (2) Persons acting in the course and legitimate scope of their
- 8 employment as law enforcement officers.
- 9 (3) The retention of production samples of noncontrolled
- 10 substances produced before September 1, 1986, where such
- 11 samples are required by federal law.
- 12 **(e) In addition to any other penalty imposed for conviction of an**
- 13 **offense under this section, a court shall assess the actual cost of any**
- 14 **environmental cleanup against the defendant to cover the costs of**
- 15 **an environmental cleanup incurred by a law enforcement agency**
- 16 **as a result of the offense.**
- 17 **(f) The amount collected under subsection (e) shall be used to**
- 18 **reimburse the law enforcement agency that assumed the costs**
- 19 **associated with the environmental cleanup described in subsection**
- 20 **(e).**
- 21 SECTION 2. IC 35-48-4-14.5 IS ADDED TO THE INDIANA
- 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 23 [EFFECTIVE JULY 1, 1999]: **Sec. 14.5. A person who possesses**
- 24 **ephedrine, salts of ephedrine, pseudoephedrine or their salts,**
- 25 **optical isomers, or salts of optical isomers, or equipment with**
- 26 **intent to manufacture:**
- 27 (1) Methcathinone, a schedule I controlled substance under
- 28 IC 35-48-2-4;
- 29 (2) Methamphetamine, a schedule II controlled substance
- 30 under IC 35-48-2-6;
- 31 (3) Amphetamine, a schedule II controlled substance under
- 32 IC 35-48-2-6; or
- 33 (4) Phentermine, a schedule IV controlled substance under
- 34 IC 35-48-2-10;
- 35 **commits possession of ephedrine, a Class D felony.**

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SENATE MOTION

Mr. President: I move that Senator Meeks R be added as second author and Senator Meeks C be added as coauthor of Senate Bill 292.

MILLER

SENATE MOTION

Mr. President: I move that Senators Wyss and Howard be added as coauthors of Senate Bill 292.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 292, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 12, delete "fee" and insert "**penalty**".

Page 2, line 13, delete "a fee" and insert "**the actual cost of any environmental cleanup**".

Page 2, line 16, delete "fee" and insert "**amount**".

and when so amended that said bill do pass.

(Reference is to SB 292 as introduced.)

MEEKS R, Chairperson

Committee Vote: Yeas 11, Nays 0.

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