
HOUSE BILL No. 1277

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-12-3.7-3; IC 16-31-3-14.5; IC 20-28-5-8; IC 22-15-5-16; IC 25-1-1.1-3; IC 34-24-1-1; IC 35-41-1-26.3; IC 35-45-6-1; IC 35-48-4.

Synopsis: Prohibits sale of synthetic cannabinoids. Defines "synthetic cannabinoid" and makes dealing in, manufacturing, or delivering a synthetic cannabinoid equivalent to possessing, dealing in, manufacturing, or delivering marijuana, hash oil, or hashish. Enhances the penalty based on the same weights used to enhance the penalty for dealing in, manufacturing, or delivering hash oil or hashish. Makes conforming amendments and a technical correction.

Effective: July 1, 2011.

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January 12, 2011, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1277



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 11-12-3.7-3, AS AMENDED BY P.L.151-2006,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 3. As used in this chapter, "drug dealing offense"
4 means one (1) or more of the following offenses:
5 (1) Dealing in cocaine or a narcotic drug (IC 35-48-4-1), unless
6 the person received only minimal consideration as a result of the
7 drug transaction.
8 (2) Dealing in methamphetamine (IC 35-48-4-1.1), unless the
9 person received only minimal consideration as a result of the drug
10 transaction.
11 (3) Dealing in a schedule I, II, III, IV, or V controlled substance
12 (IC 35-48-4-2 through IC 35-48-4-4), unless the person received
13 only minimal consideration as a result of the drug transaction.
14 (4) Dealing in marijuana, hash oil, or hashish, **or a synthetic**
15 **cannabinoid** (IC 35-48-4-10), unless the person received only
16 minimal consideration as a result of the drug transaction.
17 SECTION 2. IC 16-31-3-14.5, AS AMENDED BY P.L.151-2006,



1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2011]: Sec. 14.5. The department of homeland security may
3 issue an order under IC 4-21.5-3-6 to deny an applicant's request for
4 certification or permanently revoke a certificate under procedures
5 provided by section 14 of this chapter if the individual who holds the
6 certificate issued under this title is convicted of any of the following:

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

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

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

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

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

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

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

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

23 (9) Dealing in marijuana, hash oil, or hashish, **or a synthetic**
24 **cannabinoid** under IC 35-48-4-10(b).

25 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
26 in subdivisions (1) through (9).

27 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
28 subdivisions (1) through (9).

29 (12) A crime of violence (as defined in IC 35-50-1-2(a)).

30 (13) An offense in any other jurisdiction in which the elements of
31 the offense for which the conviction was entered are substantially
32 similar to the elements of an offense described under subdivisions
33 (1) through (12).

34 SECTION 3. IC 20-28-5-8, AS AMENDED BY P.L.121-2009,
35 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2011]: Sec. 8. (a) This section applies when a prosecuting
37 attorney knows that a licensed employee of a public school or a
38 nonpublic school has been convicted of an offense listed in subsection
39 (c). The prosecuting attorney shall immediately give written notice of
40 the conviction to the following:

41 (1) The state superintendent.

42 (2) Except as provided in subdivision (3), the superintendent of

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1 the school corporation that employs the licensed employee or the
 2 equivalent authority if a nonpublic school employs the licensed
 3 employee.
 4 (3) The presiding officer of the governing body of the school
 5 corporation that employs the licensed employee, if the convicted
 6 licensed employee is the superintendent of the school corporation.
 7 (b) The superintendent of a school corporation, presiding officer of
 8 the governing body, or equivalent authority for a nonpublic school shall
 9 immediately notify the state superintendent when the individual knows
 10 that a current or former licensed employee of the public school or
 11 nonpublic school has been convicted of an offense listed in subsection
 12 (c), or when the governing body or equivalent authority for a nonpublic
 13 school takes any final action in relation to an employee who engaged
 14 in any offense listed in subsection (c).
 15 (c) The department, after holding a hearing on the matter, shall
 16 permanently revoke the license of a person who is known by the
 17 department to have been convicted of any of the following felonies:
 18 (1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen
 19 (18) years of age.
 20 (2) Criminal confinement (IC 35-42-3-3), if the victim is less than
 21 eighteen (18) years of age.
 22 (3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)
 23 years of age.
 24 (4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less
 25 than eighteen (18) years of age.
 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), if the victim is less than eighteen (18)
 33 years of age.
 34 (12) Dealing in or manufacturing cocaine or a narcotic drug
 35 (IC 35-48-4-1).
 36 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
 37 (14) Dealing in a schedule I, II, or III controlled substance
 38 (IC 35-48-4-2).
 39 (15) Dealing in a schedule IV controlled substance
 40 (IC 35-48-4-3).
 41 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 42 (17) Dealing in a counterfeit substance (IC 35-48-4-5).

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1 (18) Dealing in marijuana, hash oil, or hashish, or a synthetic
2 **cannabinoid** (IC 35-48-4-10(b)).

3 (19) Possession of child pornography (IC 35-42-4-4(c)).

4 (d) A license may be suspended by the state superintendent as
5 specified in IC 20-28-7-7.

6 (e) The department shall develop a data base of information on
7 school corporation employees who have been reported to the
8 department under this section.

9 SECTION 4. IC 22-15-5-16, AS AMENDED BY P.L.1-2007,
10 SECTION 161, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) A practitioner shall comply
12 with the standards established under this licensing program. A
13 practitioner is subject to the exercise of the disciplinary sanctions under
14 subsection (b) if the department finds that a practitioner has:

15 (1) engaged in or knowingly cooperated in fraud or material
16 deception in order to obtain a license to practice, including
17 cheating on a licensing examination;

18 (2) engaged in fraud or material deception in the course of
19 professional services or activities;

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

21 (4) falsified or knowingly allowed another person to falsify
22 attendance records or certificates of completion of continuing
23 education courses provided under this chapter;

24 (5) been convicted of a crime that has a direct bearing on the
25 practitioner's ability to continue to practice competently;

26 (6) knowingly violated a state statute or rule or federal statute or
27 regulation regulating the profession for which the practitioner is
28 licensed;

29 (7) continued to practice although the practitioner has become
30 unfit to practice due to:

31 (A) professional incompetence;

32 (B) failure to keep abreast of current professional theory or
33 practice;

34 (C) physical or mental disability; or

35 (D) addiction to, abuse of, or severe dependency on alcohol or
36 other drugs that endanger the public by impairing a
37 practitioner's ability to practice safely;

38 (8) engaged in a course of lewd or immoral conduct in connection
39 with the delivery of services to the public;

40 (9) allowed the practitioner's name or a license issued under this
41 chapter to be used in connection with an individual or business
42 who renders services beyond the scope of that individual's or

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- 1 business's training, experience, or competence;
 2 (10) had disciplinary action taken against the practitioner or the
 3 practitioner's license to practice in another state or jurisdiction on
 4 grounds similar to those under this chapter;
 5 (11) assisted another person in committing an act that would
 6 constitute a ground for disciplinary sanction under this chapter;
 7 or
 8 (12) allowed a license issued by the department to be:
 9 (A) used by another person; or
 10 (B) displayed to the public when the license has expired, is
 11 inactive, is invalid, or has been revoked or suspended.

12 For purposes of subdivision (10), a certified copy of a record of
 13 disciplinary action constitutes prima facie evidence of a disciplinary
 14 action in another jurisdiction.

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

- 18 (1) Permanent revocation of a practitioner's license.
 19 (2) Suspension of a practitioner's license.
 20 (3) Censure of a practitioner.
 21 (4) Issuance of a letter of reprimand.
 22 (5) Assess a civil penalty against the practitioner in accordance
 23 with the following:
 24 (A) The civil penalty may not be more than one thousand
 25 dollars (\$1,000) for each violation listed in subsection (a),
 26 except for a finding of incompetency due to a physical or
 27 mental disability.
 28 (B) When imposing a civil penalty, the department shall
 29 consider a practitioner's ability to pay the amount assessed. If
 30 the practitioner fails to pay the civil penalty within the time
 31 specified by the department, the department may suspend the
 32 practitioner's license without additional proceedings. However,
 33 a suspension may not be imposed if the sole basis for the
 34 suspension is the practitioner's inability to pay a civil penalty.
 35 (6) Place a practitioner on probation status and require the
 36 practitioner to:
 37 (A) report regularly to the department upon the matters that
 38 are the basis of probation;
 39 (B) limit practice to those areas prescribed by the department;
 40 (C) continue or renew professional education approved by the
 41 department until a satisfactory degree of skill has been attained
 42 in those areas that are the basis of the probation; or

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1 (D) perform or refrain from performing any acts, including
2 community restitution or service without compensation, that
3 the department considers appropriate to the public interest or
4 to the rehabilitation or treatment of the practitioner.

5 The department may withdraw or modify this probation if the
6 department finds after a hearing that the deficiency that required
7 disciplinary action has been remedied or that changed
8 circumstances warrant a modification of the order.

9 (c) If an applicant or a practitioner has engaged in or knowingly
10 cooperated in fraud or material deception to obtain a license to
11 practice, including cheating on the licensing examination, the
12 department may rescind the license if it has been granted, void the
13 examination or other fraudulent or deceptive material, and prohibit the
14 applicant from reapplying for the license for a length of time
15 established by the department.

16 (d) The department may deny licensure to an applicant who has had
17 disciplinary action taken against the applicant or the applicant's license
18 to practice in another state or jurisdiction or who has practiced without
19 a license in violation of the law. A certified copy of the record of
20 disciplinary action is conclusive evidence of the other jurisdiction's
21 disciplinary action.

22 (e) The department may order a practitioner to submit to a
23 reasonable physical or mental examination if the practitioner's physical
24 or mental capacity to practice safely and competently is at issue in a
25 disciplinary proceeding. Failure to comply with a department order to
26 submit to a physical or mental examination makes a practitioner liable
27 to temporary suspension under subsection (j).

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

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

- 37 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 38 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 39 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 40 (4) Fraudulently obtaining a controlled substance under
- 41 IC 35-48-4-7(b).
- 42 (5) Manufacture of paraphernalia as a Class D felony under

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- 1 IC 35-48-4-8.1(b).
- 2 (6) Dealing in paraphernalia as a Class D felony under
- 3 IC 35-48-4-8.5(b).
- 4 (7) Possession of paraphernalia as a Class D felony under
- 5 IC 35-48-4-8.3(b).
- 6 (8) Possession of marijuana, hash oil, or hashish, as a Class D
- 7 felony under IC 35-48-4-11.
- 8 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 9 (10) An offense relating to registration, labeling, and prescription
- 10 forms under IC 35-48-4-14.
- 11 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 12 in subdivisions (1) through (10).
- 13 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
- 14 subdivisions (1) through (10).
- 15 (13) An offense in any other jurisdiction in which the elements of
- 16 the offense for which the conviction was entered are substantially
- 17 similar to the elements of an offense described in subdivisions (1)
- 18 through (12).
- 19 (h) The department shall deny, revoke, or suspend a license issued
- 20 under this chapter if the individual who holds the license is convicted
- 21 of any of the following:
- 22 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
- 23 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 24 (3) Dealing in a schedule I, II, or III controlled substance under
- 25 IC 35-48-4-2.
- 26 (4) Dealing in a schedule IV controlled substance under
- 27 IC 35-48-4-3.
- 28 (5) Dealing in a schedule V controlled substance under
- 29 IC 35-48-4-4.
- 30 (6) Dealing in a substance represented to be a controlled
- 31 substance under IC 35-48-4-4.5.
- 32 (7) Knowingly or intentionally manufacturing, advertising,
- 33 distributing, or possessing with intent to manufacture, advertise,
- 34 or distribute a substance represented to be a controlled substance
- 35 under IC 35-48-4-4.6.
- 36 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 37 (9) Dealing in marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 38 **cannabinoid** under IC 35-48-4-10(b).
- 39 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 40 in subdivisions (1) through (9).
- 41 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
- 42 subdivisions (1) through (9).

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1 (12) An offense in any other jurisdiction in which the elements of
 2 the offense for which the conviction was entered are substantially
 3 similar to the elements of an offense described in subdivisions (1)
 4 through (11).
 5 (13) A violation of any federal or state drug law or rule related to
 6 wholesale legend drug distributors licensed under IC 25-26-14.
 7 (i) A decision of the department under subsections (b) through (h)
 8 may be appealed to the commission under IC 4-21.5-3-7.
 9 (j) The department may temporarily suspend a practitioner's license
 10 under IC 4-21.5-4 before a final adjudication or during the appeals
 11 process if the department finds that a practitioner represents a clear and
 12 immediate danger to the public's health, safety, or property if the
 13 practitioner is allowed to continue to practice.
 14 (k) On receipt of a complaint or an information alleging that a
 15 person licensed under this chapter has engaged in or is engaging in a
 16 practice that jeopardizes the public health, safety, or welfare, the
 17 department shall initiate an investigation against the person.
 18 (l) Any complaint filed with the office of the attorney general
 19 alleging a violation of this licensing program shall be referred to the
 20 department for summary review and for its general information and any
 21 authorized action at the time of the filing.
 22 (m) The department shall conduct a fact finding investigation as the
 23 department considers proper in relation to the complaint.
 24 (n) The department may reinstate a license that has been suspended
 25 under this section if, after a hearing, the department is satisfied that the
 26 applicant is able to practice with reasonable skill, safety, and
 27 competency to the public. As a condition of reinstatement, the
 28 department may impose disciplinary or corrective measures authorized
 29 under this chapter.
 30 (o) The department may not reinstate a license that has been
 31 revoked under this chapter. An individual whose license has been
 32 revoked under this chapter may not apply for a new license until seven
 33 (7) years after the date of revocation.
 34 (p) The department shall seek to achieve consistency in the
 35 application of sanctions authorized in this chapter. Significant
 36 departures from prior decisions involving similar conduct must be
 37 explained in the department's findings or orders.
 38 (q) A practitioner may petition the department to accept the
 39 surrender of the practitioner's license instead of having a hearing before
 40 the commission. The practitioner may not surrender the practitioner's
 41 license without the written approval of the department, and the
 42 department may impose any conditions appropriate to the surrender or

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1 reinstatement of a surrendered license.

2 (r) A practitioner who has been subjected to disciplinary sanctions
3 may be required by the commission to pay the costs of the proceeding.
4 The practitioner's ability to pay shall be considered when costs are
5 assessed. If the practitioner fails to pay the costs, a suspension may not
6 be imposed solely upon the practitioner's inability to pay the amount
7 assessed. The costs are limited to costs for the following:

- 8 (1) Court reporters.
- 9 (2) Transcripts.
- 10 (3) Certification of documents.
- 11 (4) Photo duplication.
- 12 (5) Witness attendance and mileage fees.
- 13 (6) Postage.
- 14 (7) Expert witnesses.
- 15 (8) Depositions.
- 16 (9) Notarizations.

17 SECTION 5. IC 25-1-1.1-3, AS AMENDED BY P.L.151-2006,
18 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]: Sec. 3. A board, a commission, or a committee shall
20 revoke or suspend a license or certificate issued under this title by the
21 board, the commission, or the committee if the individual who holds
22 the license or certificate is convicted of any of the following:

- 23 (1) Dealing in or manufacturing cocaine or a narcotic drug under
24 IC 35-48-4-1.
- 25 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 26 (3) Dealing in a schedule I, II, or III controlled substance under
27 IC 35-48-4-2.
- 28 (4) Dealing in a schedule IV controlled substance under
29 IC 35-48-4-3.
- 30 (5) Dealing in a schedule V controlled substance under
31 IC 35-48-4-4.
- 32 (6) Dealing in a substance represented to be a controlled
33 substance under IC 35-48-4-4.5.
- 34 (7) Knowingly or intentionally manufacturing, advertising,
35 distributing, or possessing with intent to manufacture, advertise,
36 or distribute a substance represented to be a controlled substance
37 under IC 35-48-4-4.6.
- 38 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 39 (9) Dealing in marijuana, hash oil, or hashish, or a **synthetic**
40 **cannabinoid** under IC 35-48-4-10(b).
- 41 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
42 in subdivisions (1) through (9).

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- 1 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
- 2 subdivisions (1) through (9).
- 3 (12) An offense in any other jurisdiction in which the elements of
- 4 the offense for which the conviction was entered are substantially
- 5 similar to the elements of an offense described under subdivisions
- 6 (1) through (11).
- 7 (13) A violation of any federal or state drug law or rule related to
- 8 wholesale legend drug distributors licensed under IC 25-26-14.
- 9 SECTION 6. IC 34-24-1-1, AS AMENDED BY P.L.143-2009,
- 10 SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JULY 1, 2011]: Sec. 1. (a) The following may be seized:
- 12 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
- 13 intended for use by the person or persons in possession of them to
- 14 transport or in any manner to facilitate the transportation of the
- 15 following:
- 16 (A) A controlled substance for the purpose of committing,
- 17 attempting to commit, or conspiring to commit any of the
- 18 following:
- 19 (i) Dealing in or manufacturing cocaine or a narcotic drug
- 20 (IC 35-48-4-1).
- 21 (ii) Dealing in methamphetamine (IC 35-48-4-1.1).
- 22 (iii) Dealing in a schedule I, II, or III controlled substance
- 23 (IC 35-48-4-2).
- 24 (iv) Dealing in a schedule IV controlled substance
- 25 (IC 35-48-4-3).
- 26 (v) Dealing in a schedule V controlled substance
- 27 (IC 35-48-4-4).
- 28 (vi) Dealing in a counterfeit substance (IC 35-48-4-5).
- 29 (vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).
- 30 (viii) Possession of methamphetamine (IC 35-48-4-6.1).
- 31 (ix) Dealing in paraphernalia (IC 35-48-4-8.5).
- 32 (x) Dealing in marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 33 **cannabinoid** (IC 35-48-4-10).
- 34 (B) Any stolen (IC 35-43-4-2) or converted property
- 35 (IC 35-43-4-3) if the retail or repurchase value of that property
- 36 is one hundred dollars (\$100) or more.
- 37 (C) Any hazardous waste in violation of IC 13-30-10-1.5.
- 38 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
- 39 destruction (as defined in IC 35-41-1-29.4) used to commit,
- 40 used in an attempt to commit, or used in a conspiracy to
- 41 commit an offense under IC 35-47 as part of or in furtherance
- 42 of an act of terrorism (as defined by IC 35-41-1-26.5).

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- 1 (2) All money, negotiable instruments, securities, weapons,
- 2 communications devices, or any property used to commit, used in
- 3 an attempt to commit, or used in a conspiracy to commit an
- 4 offense under IC 35-47 as part of or in furtherance of an act of
- 5 terrorism or commonly used as consideration for a violation of
- 6 IC 35-48-4 (other than items subject to forfeiture under
- 7 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
- 8 (A) furnished or intended to be furnished by any person in
- 9 exchange for an act that is in violation of a criminal statute;
- 10 (B) used to facilitate any violation of a criminal statute; or
- 11 (C) traceable as proceeds of the violation of a criminal statute.
- 12 (3) Any portion of real or personal property purchased with
- 13 money that is traceable as a proceed of a violation of a criminal
- 14 statute.
- 15 (4) A vehicle that is used by a person to:
- 16 (A) commit, attempt to commit, or conspire to commit;
- 17 (B) facilitate the commission of; or
- 18 (C) escape from the commission of;
- 19 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
- 20 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
- 21 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
- 22 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 23 (5) Real property owned by a person who uses it to commit any of
- 24 the following as a Class A felony, a Class B felony, or a Class C
- 25 felony:
- 26 (A) Dealing in or manufacturing cocaine or a narcotic drug
- 27 (IC 35-48-4-1).
- 28 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
- 29 (C) Dealing in a schedule I, II, or III controlled substance
- 30 (IC 35-48-4-2).
- 31 (D) Dealing in a schedule IV controlled substance
- 32 (IC 35-48-4-3).
- 33 (E) Dealing in marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 34 **cannabinoid** (IC 35-48-4-10).
- 35 (6) Equipment and recordings used by a person to commit fraud
- 36 under IC 35-43-5-4(10).
- 37 (7) Recordings sold, rented, transported, or possessed by a person
- 38 in violation of IC 24-4-10.
- 39 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
- 40 defined by IC 35-45-6-1) that is the object of a corrupt business
- 41 influence violation (IC 35-45-6-2).
- 42 (9) Unlawful telecommunications devices (as defined in

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1 IC 35-45-13-6) and plans, instructions, or publications used to
 2 commit an offense under IC 35-45-13.
 3 (10) Any equipment, including computer equipment and cellular
 4 telephones, used for or intended for use in preparing,
 5 photographing, recording, videotaping, digitizing, printing,
 6 copying, or disseminating matter in violation of IC 35-42-4.
 7 (11) Destructive devices used, possessed, transported, or sold in
 8 violation of IC 35-47.5.
 9 (12) Tobacco products that are sold in violation of IC 24-3-5,
 10 tobacco products that a person attempts to sell in violation of
 11 IC 24-3-5, and other personal property owned and used by a
 12 person to facilitate a violation of IC 24-3-5.
 13 (13) Property used by a person to commit counterfeiting or
 14 forgery in violation of IC 35-43-5-2.
 15 (14) After December 31, 2005, if a person is convicted of an
 16 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 17 following real or personal property:
 18 (A) Property used or intended to be used to commit, facilitate,
 19 or promote the commission of the offense.
 20 (B) Property constituting, derived from, or traceable to the
 21 gross proceeds that the person obtained directly or indirectly
 22 as a result of the offense.
 23 (15) Except as provided in subsection (e), a motor vehicle used by
 24 a person who operates the motor vehicle:
 25 (A) while intoxicated, in violation of IC 9-30-5-1 through
 26 IC 9-30-5-5, if in the previous five (5) years the person has two
 27 (2) or more prior unrelated convictions:
 28 (i) for operating a motor vehicle while intoxicated in
 29 violation of IC 9-30-5-1 through IC 9-30-5-5; or
 30 (ii) for an offense that is substantially similar to IC 9-30-5-1
 31 through IC 9-30-5-5 in another jurisdiction; or
 32 (B) on a highway while the person's driver's license is
 33 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,
 34 if in the previous five (5) years the person has two (2) or more
 35 prior unrelated convictions:
 36 (i) for operating a motor vehicle while intoxicated in
 37 violation of IC 9-30-5-1 through IC 9-30-5-5; or
 38 (ii) for an offense that is substantially similar to IC 9-30-5-1
 39 through IC 9-30-5-5 in another jurisdiction.
 40 If a court orders the seizure of a motor vehicle under this
 41 subdivision, the court shall transmit an order to the bureau of
 42 motor vehicles recommending that the bureau not permit a motor

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1 vehicle to be registered in the name of the person whose motor
2 vehicle was seized until the person possesses a current driving
3 license (as defined in IC 9-13-2-41).

4 (16) The following real or personal property:

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

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

13 (b) A vehicle used by any person as a common or contract carrier in
14 the transaction of business as a common or contract carrier is not
15 subject to seizure under this section, unless it can be proven by a
16 preponderance of the evidence that the owner of the vehicle knowingly
17 permitted the vehicle to be used to engage in conduct that subjects it to
18 seizure under subsection (a).

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

23 (d) Money, negotiable instruments, securities, weapons,
24 communications devices, or any property commonly used as
25 consideration for a violation of IC 35-48-4 found near or on a person
26 who is committing, attempting to commit, or conspiring to commit any
27 of the following offenses shall be admitted into evidence in an action
28 under this chapter as prima facie evidence that the money, negotiable
29 instrument, security, or other thing of value is property that has been
30 used or was to have been used to facilitate the violation of a criminal
31 statute or is the proceeds of the violation of a criminal statute:

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

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

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

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

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

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

42 (7) IC 35-48-4-6.1 (possession of methamphetamine) as a Class

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1 A felony, Class B felony, or Class C felony.
 2 (8) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish, or
 3 **a synthetic cannabinoid**) as a Class C felony.
 4 (e) A motor vehicle operated by a person who is not:
 5 (1) an owner of the motor vehicle; or
 6 (2) the spouse of the person who owns the motor vehicle;
 7 is not subject to seizure under subsection (a)(15) unless it can be
 8 proven by a preponderance of the evidence that the owner of the
 9 vehicle knowingly permitted the vehicle to be used to engage in
 10 conduct that subjects it to seizure under subsection (a)(15).

11 SECTION 7. IC 35-41-1-26.3 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2011]: **Sec. 26.3. "Synthetic cannabinoid"**
 14 **means a substance containing one (1) or more of the following**
 15 **chemical compounds:**

- 16 (1) **JWH-015.**
- 17 (2) **JWH-018.**
- 18 (3) **JWH-019.**
- 19 (4) **JWH-073.**
- 20 (5) **JWH-081.**
- 21 (6) **JWH-122.**
- 22 (7) **JWH-200.**
- 23 (8) **JWH-250.**
- 24 (9) **JWH-251.**
- 25 (10) **JWH-398.**
- 26 (11) **HU-210.**
- 27 (12) **HU-211.**
- 28 (13) **HU-308.**
- 29 (14) **HU-331.**
- 30 (15) **CP 55,940.**
- 31 (16) **CP 47,497 and its homologues.**
- 32 (17) **WIN 55212-2.**

33 SECTION 8. IC 35-45-6-1, AS AMENDED BY P.L.143-2009,
 34 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 1. (a) The definitions in this section apply
 36 throughout this chapter.

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

41 (c) "Enterprise" means:
 42 (1) a sole proprietorship, corporation, limited liability company,

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- 1 partnership, business trust, or governmental entity; or
- 2 (2) a union, an association, or a group, whether a legal entity or
- 3 merely associated in fact.
- 4 (d) "Pattern of racketeering activity" means engaging in at least two
- 5 (2) incidents of racketeering activity that have the same or similar
- 6 intent, result, accomplice, victim, or method of commission, or that are
- 7 otherwise interrelated by distinguishing characteristics that are not
- 8 isolated incidents. However, the incidents are a pattern of racketeering
- 9 activity only if at least one (1) of the incidents occurred after August
- 10 31, 1980, and if the last of the incidents occurred within five (5) years
- 11 after a prior incident of racketeering activity.
- 12 (e) "Racketeering activity" means to commit, to attempt to commit,
- 13 to conspire to commit a violation of, or aiding and abetting in a
- 14 violation of any of the following:
- 15 (1) A provision of IC 23-19, or of a rule or order issued under
- 16 IC 23-19.
- 17 (2) A violation of IC 35-45-9.
- 18 (3) A violation of IC 35-47.
- 19 (4) A violation of IC 35-49-3.
- 20 (5) Murder (IC 35-42-1-1).
- 21 (6) Battery as a Class C felony (IC 35-42-2-1).
- 22 (7) Kidnapping (IC 35-42-3-2).
- 23 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 24 (9) Child exploitation (IC 35-42-4-4).
- 25 (10) Robbery (IC 35-42-5-1).
- 26 (11) Carjacking (IC 35-42-5-2).
- 27 (12) Arson (IC 35-43-1-1).
- 28 (13) Burglary (IC 35-43-2-1).
- 29 (14) Theft (IC 35-43-4-2).
- 30 (15) Receiving stolen property (IC 35-43-4-2).
- 31 (16) Forgery (IC 35-43-5-2).
- 32 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- 33 (18) Bribery (IC 35-44-1-1).
- 34 (19) Official misconduct (IC 35-44-1-2).
- 35 (20) Conflict of interest (IC 35-44-1-3).
- 36 (21) Perjury (IC 35-44-2-1).
- 37 (22) Obstruction of justice (IC 35-44-3-4).
- 38 (23) Intimidation (IC 35-45-2-1).
- 39 (24) Promoting prostitution (IC 35-45-4-4).
- 40 (25) Professional gambling (IC 35-45-5-3).
- 41 (26) Maintaining a professional gambling site
- 42 (IC 35-45-5-3.5(b)).

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- 1 (27) Promoting professional gambling (IC 35-45-5-4).
- 2 (28) Dealing in or manufacturing cocaine or a narcotic drug
- 3 (IC 35-48-4-1).
- 4 (29) Dealing in or manufacturing methamphetamine
- 5 (IC 35-48-4-1.1).
- 6 (30) Dealing in a schedule I, II, or III controlled substance
- 7 (IC 35-48-4-2).
- 8 (31) Dealing in a schedule IV controlled substance
- 9 (IC 35-48-4-3).
- 10 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 11 (33) Dealing in marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 12 **cannabinoid** (IC 35-48-4-10).
- 13 (34) Money laundering (IC 35-45-15-5).
- 14 (35) A violation of IC 35-47.5-5.
- 15 (36) A violation of any of the following:
- 16 (A) IC 23-14-48-9.
- 17 (B) IC 30-2-9-7(b).
- 18 (C) IC 30-2-10-9(b).
- 19 (D) IC 30-2-13-38(f).
- 20 SECTION 9. IC 35-48-4-2 IS AMENDED TO READ AS
- 21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person who:
- 22 (1) knowingly or intentionally:
- 23 (A) manufactures;
- 24 (B) finances the manufacture of;
- 25 (C) delivers; or
- 26 (D) finances the delivery of;
- 27 a controlled substance, pure or adulterated, classified in schedule
- 28 I, II, or III, except marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 29 **cannabinoid; or**
- 30 (2) possesses, with intent to:
- 31 (A) manufacture;
- 32 (B) finance the manufacture of;
- 33 (C) deliver; or
- 34 (D) finance the delivery of;
- 35 a controlled substance, pure or adulterated, classified in schedule
- 36 I, II, or III, except marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 37 **cannabinoid;**
- 38 commits dealing in a schedule I, II, or III controlled substance, a Class
- 39 B felony, except as provided in subsection (b).
- 40 (b) The offense is a Class A felony if:
- 41 (1) the person:
- 42 (A) delivered; or

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- 1 (B) financed the delivery of;
- 2 the substance to a person under eighteen (18) years of age at least
- 3 three (3) years junior to the person; or
- 4 (2) the person delivered or financed the delivery of the substance:
- 5 (A) on a school bus; or
- 6 (B) in, on, or within one thousand (1,000) feet of:
- 7 (i) school property;
- 8 (ii) a public park;
- 9 (iii) a family housing complex; or
- 10 (iv) a youth program center.

11 SECTION 10. IC 35-48-4-8.5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8.5. (a) A person who
 13 keeps for sale, offers for sale, delivers, or finances the delivery of a raw
 14 material, an instrument, a device, or other object that is intended to be
 15 or that is designed or marketed to be used primarily for:

- 16 (1) ingesting, inhaling, or otherwise introducing into the human
- 17 body marijuana, hash oil, hashish, **a synthetic cannabinoid**, or a
- 18 controlled substance;
- 19 (2) testing the strength, effectiveness, or purity of marijuana, hash
- 20 oil, hashish, **a synthetic cannabinoid**, or a controlled substance;
- 21 (3) enhancing the effect of a controlled substance;
- 22 (4) manufacturing, compounding, converting, producing,
- 23 processing, or preparing marijuana, hash oil, hashish, **a synthetic**
- 24 **cannabinoid**, or a controlled substance;
- 25 (5) diluting or adulterating marijuana, hash oil, hashish, **a**
- 26 **synthetic cannabinoid**, or a controlled substance by individuals;
- 27 or
- 28 (6) any purpose announced or described by the seller that is in
- 29 violation of this chapter;

30 commits a Class A infraction for dealing in paraphernalia.

31 (b) A person who knowingly or intentionally violates subsection (a)
 32 commits a Class A misdemeanor. However, the offense is a Class D
 33 felony if the person has a prior unrelated judgment or conviction under
 34 this section.

35 (c) A person who recklessly keeps for sale, offers for sale, or
 36 delivers an instrument, a device, or other object that is to be used
 37 primarily for:

- 38 (1) ingesting, inhaling, or otherwise introducing into the human
- 39 body marijuana, hash oil, hashish, **a synthetic cannabinoid**, or a
- 40 controlled substance;
- 41 (2) testing the strength, effectiveness, or purity of marijuana, hash
- 42 oil, hashish, **a synthetic cannabinoid**, or a controlled substance;

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- 1 (3) enhancing the effect of a controlled substance;
- 2 (4) manufacturing, compounding, converting, producing,
- 3 processing, or preparing marijuana, hash oil, hashish, **a synthetic**
- 4 **cannabinoid**, or a controlled substance;
- 5 (5) diluting or adulterating marijuana, hash oil, hashish, **a**
- 6 **synthetic cannabinoid**, or a controlled substance by individuals;
- 7 or
- 8 (6) any purpose announced or described by the seller that is in
- 9 violation of this chapter;

10 commits reckless dealing in paraphernalia, a Class B misdemeanor.
 11 However, the offense is a Class D felony if the person has a previous
 12 judgment or conviction under this section.

13 (d) This section does not apply to the following:

- 14 (1) Items marketed for use in the preparation, compounding,
- 15 packaging, labeling, or other use of marijuana, hash oil, hashish,
- 16 **a synthetic cannabinoid**, or a controlled substance as an incident
- 17 to lawful research, teaching, or chemical analysis and not for sale.
- 18 (2) Items marketed for or historically and customarily used in
- 19 connection with the planting, propagating, cultivating, growing,
- 20 harvesting, manufacturing, compounding, converting, producing,
- 21 processing, preparing, testing, analyzing, packaging, repackaging,
- 22 storing, containing, concealing, injecting, ingesting, or inhaling
- 23 of tobacco or any other lawful substance.

24 SECTION 11. IC 35-48-4-10 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) A person who:

- 26 (1) knowingly or intentionally:
 - 27 (A) manufactures;
 - 28 (B) finances the manufacture of;
 - 29 (C) delivers; or
 - 30 (D) finances the delivery of;
- 31 marijuana, hash oil, ~~or~~ hashish, **or a synthetic cannabinoid**, pure
- 32 or adulterated; or
- 33 (2) possesses, with intent to:
 - 34 (A) manufacture;
 - 35 (B) finance the manufacture of;
 - 36 (C) deliver; or
 - 37 (D) finance the delivery of;
- 38 marijuana, hash oil, ~~or~~ hashish, **or a synthetic cannabinoid**, pure
- 39 or adulterated;
- 40 commits dealing in marijuana, hash oil, ~~or~~ hashish, **or a synthetic**
- 41 **cannabinoid**, a Class A misdemeanor, except as provided in subsection
- 42 (b).

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- 1 (b) The offense is:
- 2 (1) a Class D felony if:
- 3 (A) the recipient or intended recipient is under eighteen (18)
- 4 years of age;
- 5 (B) the amount involved is more than thirty (30) grams but
- 6 less than ten (10) pounds of marijuana or **more than** two (2)
- 7 grams but less than three hundred (300) grams of hash oil, **or**
- 8 hashish, **or a synthetic cannabinoid;** or
- 9 (C) the person has a prior conviction of an offense involving
- 10 marijuana, hash oil, **or** hashish, **or a synthetic cannabinoid;**
- 11 and
- 12 (2) a Class C felony if the amount involved is ten (10) pounds or
- 13 more of marijuana or three hundred (300) or more grams of hash
- 14 oil, **or** hashish, **or a synthetic cannabinoid,** or the person
- 15 delivered or financed the delivery of marijuana, hash oil, **or**
- 16 hashish, **or a synthetic cannabinoid:**
- 17 (A) on a school bus; or
- 18 (B) in, on, or within one thousand (1,000) feet of:
- 19 (i) school property;
- 20 (ii) a public park;
- 21 (iii) a family housing complex; or
- 22 (iv) a youth program center.

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