

HOUSE BILL No. 1370

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-19-3-30; IC 35-48.

Synopsis: Medicinal marijuana. Requires the executive board of the state department of health to adopt rules to regulate registered medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees. Provides that marijuana crimes do not apply in certain circumstances to medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees. Makes a technical correction.

Effective: July 1, 2012.

Knollman, White

January 11, 2012, read first time and referred to Committee on Public Policy.

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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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1370



A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

- 1 SECTION 1. IC 16-19-3-30 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]: **Sec. 30. (a) The state department shall:**
- 4 (1) **process applications for medicinal marijuana cardholders**
- 5 **under IC 35-48-8-2;**
- 6 (2) **issue cards for approved medicinal marijuana cardholders**
- 7 **under IC 35-48-8-2; and**
- 8 (3) **regulate medicinal marijuana dispensaries under**
- 9 **IC 35-48-8-4.**
- 10 (b) **The executive board shall adopt reasonable rules under**
- 11 **IC 4-22-2 to regulate:**
- 12 (1) **registered medicinal marijuana cardholders under**
- 13 **IC 35-48-8-2;**
- 14 (2) **medical marijuana dispensaries under IC 35-48-8-4; and**
- 15 (3) **registered medicinal marijuana dispensary employees**
- 16 **under IC 35-48-8-4.**
- 17 (c) **The state department shall prescribe forms to carry out the**



1 **state department's duties under this section.**

2 SECTION 2. IC 35-48-4-8.5, AS AMENDED BY P.L.182-2011,
3 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2012]: Sec. 8.5. (a) A person who keeps for sale, offers for
5 sale, delivers, or finances the delivery of a raw material, an instrument,
6 a device, or other object that is intended to be or that is designed or
7 marketed to be used primarily for:

8 (1) ingesting, inhaling, or otherwise introducing into the human
9 body marijuana, hash oil, hashish, salvia, a synthetic cannabinoid,
10 or a controlled substance;

11 (2) testing the strength, effectiveness, or purity of marijuana, hash
12 oil, hashish, salvia, a synthetic cannabinoid, or a controlled
13 substance;

14 (3) enhancing the effect of a controlled substance;

15 (4) manufacturing, compounding, converting, producing,
16 processing, or preparing marijuana, hash oil, hashish, salvia, a
17 synthetic cannabinoid, or a controlled substance;

18 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
19 synthetic cannabinoid, or a controlled substance by individuals;
20 or

21 (6) any purpose announced or described by the seller that is in
22 violation of this chapter;

23 commits a Class A infraction for dealing in paraphernalia.

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

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

31 (1) ingesting, inhaling, or otherwise introducing into the human
32 body marijuana, hash oil, hashish, salvia, a synthetic cannabinoid,
33 or a controlled substance;

34 (2) testing the strength, effectiveness, or purity of marijuana, hash
35 oil, hashish, salvia, a synthetic cannabinoid, or a controlled
36 substance;

37 (3) enhancing the effect of a controlled substance;

38 (4) manufacturing, compounding, converting, producing,
39 processing, or preparing marijuana, hash oil, hashish, salvia, a
40 synthetic cannabinoid, or a controlled substance;

41 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
42 synthetic cannabinoid, or a controlled substance by individuals;

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1 or
 2 (6) any purpose announced or described by the seller that is in
 3 violation of this chapter;
 4 commits reckless dealing in paraphernalia, a Class B misdemeanor.
 5 However, the offense is a Class D felony if the person has a previous
 6 judgment or conviction under this section.

- 7 (d) This section does not apply to the following:
- 8 (1) Items marketed for use in the preparation, compounding,
 9 packaging, labeling, or other use of marijuana, hash oil, hashish,
 10 salvia, a synthetic cannabinoid, or a controlled substance as an
 11 incident to lawful research, teaching, or chemical analysis and not
 12 for sale.
 - 13 (2) Items marketed for or historically and customarily used in
 14 connection with the planting, propagating, cultivating, growing,
 15 harvesting, manufacturing, compounding, converting, producing,
 16 processing, preparing, testing, analyzing, packaging, repackaging,
 17 storing, containing, concealing, injecting, ingesting, or inhaling
 18 of tobacco or any other lawful substance.
 - 19 **(3) A medicinal marijuana dispensary under IC 35-48-8 or a**
 20 **registered medicinal marijuana dispensary employee acting**
 21 **in the capacity as a medicinal marijuana dispensary**
 22 **employee.**

23 SECTION 3. IC 35-48-4-10, AS AMENDED BY P.L.182-2011,
 24 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2012]: Sec. 10. (a) **Except as provided in subsection (c),** a
 26 person who:

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

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1 (b).

2 (b) The offense is:

3 (1) a Class D felony if:

4 (A) the recipient or intended recipient is under eighteen (18)
5 years of age;

6 (B) the amount involved is more than thirty (30) grams but
7 less than ten (10) pounds of marijuana or more than two (2)
8 grams but less than three hundred (300) grams of hash oil,
9 hashish, salvia, or a synthetic cannabinoid; or

10 (C) the person has a prior conviction of an offense involving
11 marijuana, hash oil, hashish, salvia, or a synthetic
12 cannabinoid; and

13 (2) a Class C felony if the amount involved is ten (10) pounds or
14 more of marijuana or three hundred (300) or more grams of hash
15 oil, hashish, salvia, or a synthetic cannabinoid, or the person
16 delivered or financed the delivery of marijuana, hash oil, hashish,
17 salvia, or a synthetic cannabinoid:

18 (A) on a school bus; or

19 (B) in, on, or within one thousand (1,000) feet of:

20 (i) school property;

21 (ii) a public park;

22 (iii) a family housing complex; or

23 (iv) a youth program center.

24 **(c) This section does not apply to a medicinal marijuana**
25 **dispensary under IC 35-48-8 or a registered medicinal marijuana**
26 **dispensary employee acting in the capacity as a medicinal**
27 **marijuana dispensary employee.**

28 SECTION 4. IC 35-48-4-11, AS AMENDED BY P.L.138-2011,
29 SECTION 17, AND AS AMENDED BY P.L.182-2011, SECTION 17,
30 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2012]: Sec. 11. **(a)** A person who:

32 (1) knowingly or intentionally possesses (pure or adulterated)
33 marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;

34 (2) knowingly or intentionally grows or cultivates marijuana; or

35 (3) knowing that marijuana is growing on the person's premises,
36 fails to destroy the marijuana plants;

37 commits possession of marijuana, hash oil, hashish, salvia, or a
38 synthetic cannabinoid, a Class A misdemeanor. However, the offense
39 is a Class D felony ~~(#)~~ if the amount involved is more than thirty (30)
40 grams of marijuana or two (2) grams of hash oil, hashish, salvia, or a
41 synthetic cannabinoid, or ~~(##)~~ if the person has a prior conviction of an
42 offense involving marijuana, hash oil, ~~or~~ hashish, salvia, or a synthetic

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cannabinoid.

(b) The crime of possession of marijuana, hash oil, or hashish under subsection (a) does not apply to a:

- (1) person who is a registered medicinal marijuana cardholder under IC 35-48-8;**
- (2) medicinal marijuana dispensary under IC 35-48-8; or**
- (3) registered medicinal marijuana dispensary employee acting in the capacity as a medicinal marijuana dispensary employee.**

SECTION 5. IC 35-48-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 8. Medicinal Marijuana

Sec. 1. As used in this chapter, "debilitating medical condition" means:

- (1) cancer;**
- (2) glaucoma;**
- (3) positive status for human immunodeficiency virus;**
- (4) acquired immune deficiency syndrome;**
- (5) hepatitis C;**
- (6) amyotrophic lateral sclerosis;**
- (7) Crohn's disease;**
- (8) Alzheimer's disease;**
- (9) nail patella;**
- (10) multiple sclerosis;**
- (11) injury or disease to the spinal cord, spinal column, or vertebra;**
- (12) myelomalacia;**
- (13) celiac disease;**
- (14) sickle cell anemia;**
- (15) a chronic or debilitating disease or medical condition or the treatment for a chronic or debilitating disease or medical condition that produces:**
 - (A) cachexia or wasting syndrome;**
 - (B) severe or chronic pain;**
 - (C) severe or chronic nausea;**
 - (D) seizures, including seizures that are characteristic of epilepsy; or**
 - (E) severe or persistent muscle spasms; or**
- (16) any other disease, condition, or symptom that the state department of health has determined by its rulemaking authority under IC 4-22-2 to be a debilitating medical**

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condition.
Sec. 2. (a) A person may apply to the state department of health to be a registered medicinal marijuana cardholder if the person has a debilitating medical condition.

(b) To be approved as a registered medicinal marijuana cardholder, a person must submit to the state department of health a letter from a physician licensed to practice medicine under IC 25-22.5 stating that the person has a debilitating medical condition.

(c) The state department of health shall issue a person a card indicating the person is a registered medicinal marijuana cardholder after receiving an application under subsection (a) and a letter under subsection (b).

Sec. 3. A registered medicinal marijuana cardholder may not be prosecuted for possession of marijuana, hash oil, or hashish that the cardholder purchases at a medicinal marijuana dispensary licensed under section 4 of this chapter.

Sec. 4. The state department of health shall license and regulate medicinal marijuana dispensaries and medicinal marijuana dispensary employees under rules adopted by the executive board under IC 4-22-2.

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