

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1524 be amended to read as follows:

- 1 Page 2, line 19, delete "suspend the person's" and insert "**proceed**
- 2 **in accordance with subsection (i) (if the violation resulted in a**
- 3 **criminal conviction) or subsection (j) (if the violation resulted in a**
- 4 **judgment for an infraction)."**
- 5 Page 2, delete lines 20 through 21.
- 6 Page 3, line 35, delete "or judgment".
- 7 Page 3, line 36, delete "or violation".
- 8 Page 4, between lines 13 and 14, begin a new paragraph and insert:
- 9 "**(j) If the department finds in a public hearing by a**
- 10 **preponderance of the evidence that a person has a judgment for a**
- 11 **violation of IC 35-48-4-10.5 as an infraction and the violation**
- 12 **involved the sale of or the offer to sell, in the normal course of**
- 13 **business, a synthetic drug or a synthetic drug lookalike substance**
- 14 **by a retail merchant in a place of business for which the retail**
- 15 **merchant has been issued a registered retail merchant certificate**
- 16 **under section 1 of this chapter, the department:**
- 17 **(1) may suspend the registered retail merchant certificate for**
- 18 **the place of business for six (6) months; and**
- 19 **(2) may withhold issuance of another retail merchant**
- 20 **certificate under section 1 of this chapter for six (6) months to**
- 21 **any person:**
- 22 **(A) that:**
- 23 **(i) applied for; or**
- 24 **(ii) made a retail transaction under;**

1 **the retail merchant certificate suspended under**
 2 **subdivision (1); or**

3 **(B) that:**

4 **(i) owned or co-owned, directly or indirectly; or**

5 **(ii) was an officer, a director, a manager, or a partner of;**

6 **the retail merchant that was issued the retail merchant**
 7 **certificate suspended under subdivision (1)."**

8 Page 4, line 25, delete "tobacco," and insert "**tobacco (as defined**
 9 **in IC 6-2.5-1-28),"**

10 Page 4, between lines 28 and 29, begin a new paragraph and insert:
 11 "SECTION 5. IC 16-31-3-14, AS AMENDED BY P.L.77-2012,
 12 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 UPON PASSAGE]: Sec. 14. (a) A person holding a certificate or
 14 license issued under this article must comply with the applicable
 15 standards and rules established under this article. A certificate holder
 16 or license holder is subject to disciplinary sanctions under subsection
 17 (b) if the department of homeland security determines that the
 18 certificate holder or license holder:

19 (1) engaged in or knowingly cooperated in fraud or material
 20 deception in order to obtain a certificate or license, including
 21 cheating on a certification or licensure examination;

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

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

25 (4) falsified or knowingly allowed another person to falsify
 26 attendance records or certificates of completion of continuing
 27 education courses required under this article or rules adopted
 28 under this article;

29 (5) is convicted of a crime, if the act that resulted in the
 30 conviction has a direct bearing on determining if the certificate
 31 holder or license holder should be entrusted to provide emergency
 32 medical services;

33 (6) is convicted of violating IC 9-19-14.5;

34 (7) fails to comply and maintain compliance with or violates any
 35 applicable provision, standard, or other requirement of this article
 36 or rules adopted under this article;

37 (8) continues to practice if the certificate holder or license holder
 38 becomes unfit to practice due to:

39 (A) professional incompetence that includes the undertaking
 40 of professional activities that the certificate holder or license
 41 holder is not qualified by training or experience to undertake;

42 (B) failure to keep abreast of current professional theory or
 43 practice;

44 (C) physical or mental disability; or

45 (D) addiction to, abuse of, or dependency on alcohol or other
 46 drugs that endanger the public by impairing the certificate

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

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

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

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

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

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

40 (f) Except as provided under subsection (a), subsection (g), and
41 section 14.5 of this chapter, a certificate or license may not be denied,
42 revoked, or suspended because the applicant, certificate holder, or
43 license holder has been convicted of an offense. The acts from which
44 the applicant's, certificate holder's, or license holder's conviction
45 resulted may be considered as to whether the applicant or certificate
46 holder or license holder should be entrusted to serve the public in a

- 1 specific capacity.
- 2 (g) The department of homeland security may deny, suspend, or
 3 revoke a certificate or license issued under this article if the individual
 4 who holds or is applying for the certificate or license is convicted of
 5 any of the following:
- 6 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
 - 7 (2) Possession of methamphetamine under IC 35-48-4-6.1.
 - 8 (3) Possession of a controlled substance under IC 35-48-4-7(a).
 - 9 (4) Fraudulently obtaining a controlled substance under
 10 IC 35-48-4-7(b).
 - 11 (5) Manufacture of paraphernalia as a Class D felony under
 12 IC 35-48-4-8.1(b).
 - 13 (6) Dealing in paraphernalia as a Class D felony under
 14 IC 35-48-4-8.5(b).
 - 15 (7) Possession of paraphernalia as a Class D felony under
 16 IC 35-48-4-8.3(b).
 - 17 (8) Possession of marijuana, hash oil, hashish, ~~or~~ salvia ~~or a~~
 18 ~~synthetic drug~~ as a Class D felony under IC 35-48-4-11.
 - 19 **(9) Possession of a synthetic drug or synthetic drug lookalike**
 20 **substance as a Class D felony under IC 35-48-4-11.5 (or under**
 21 **IC 35-48-4-11 before its amendment in 2013).**
 - 22 ~~(9)~~ **(10)** Maintaining a common nuisance under IC 35-48-4-13.
 - 23 ~~(10)~~ **(11)** An offense relating to registration, labeling, and
 24 prescription forms under IC 35-48-4-14.
 - 25 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 26 listed in subdivisions ~~(1) through (10)~~: **this section.**
 - 27 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
 28 in subdivisions ~~(1) through (10)~~: **this section.**
 - 29 ~~(13)~~ **(14)** An offense in any other jurisdiction in which the
 30 elements of the offense for which the conviction was entered are
 31 substantially similar to the elements of an offense described by
 32 subdivisions ~~(1) through (12)~~: **in this section.**
 - 33 (h) A decision of the department of homeland security under
 34 subsections (b) through (g) may be appealed to the commission under
 35 IC 4-21.5-3-7.
 - 36 (i) The department of homeland security may temporarily suspend
 37 a certificate holder's certificate or license holder's license under
 38 IC 4-21.5-4 before a final adjudication or during the appeals process if
 39 the department of homeland security finds that a certificate holder or
 40 license holder would represent a clear and immediate danger to the
 41 public's health, safety, or property if the certificate holder or license
 42 holder were allowed to continue to practice.
 - 43 (j) On receipt of a complaint or information alleging that a person
 44 certified or licensed under this chapter or IC 16-31-3.5 has engaged in
 45 or is engaging in a practice that is subject to disciplinary sanctions
 46 under this chapter, the department of homeland security must initiate

1 an investigation against the person.

2 (k) The department of homeland security shall conduct a factfinding
3 investigation as the department of homeland security considers proper
4 in relation to the complaint.

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

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

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

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

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

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

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

- 31 (1) an unlimited license;
- 32 (2) a limited or probationary license; or
- 33 (3) an inactive license."

34 Page 5, line 14, delete "IC 35-48-4-10.5." and insert
35 **"IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment**
36 **in 2013)."**

37 Page 6, line 31, delete "(IC 35-48-4-10.5)." and insert
38 **"(IC 35-48-4-10.5 or IC 35-48-4-10(b) before its amendment in**
39 **2013)."**

40 Page 10, line 15, after "hashish," insert "**or**".

41 Page 10, line 15, after "salvia" delete ",".

42 Page 10, line 15, strike "or a".

43 Page 10 line 16, strike "synthetic drug".

44 Page 10, between lines 16 and 17, begin a new line block indented
45 and insert:

46 **"(9) Possession of a synthetic drug or synthetic drug lookalike**

- 1 **substance as a Class D felony under IC 35-48-4-11.5 (or under**
 2 **IC 35-48-4-11 before its amendment in 2013)."**
 3 Page 10, line 17, strike "(9)" and insert "**(10)**".
 4 Page 10, line 18, strike "(10)" and insert "**(11)**".
 5 Page 10, line 20, strike "(11)" and insert "**(12)**".
 6 Page 10, line 21, strike "subdivisions (1) through (10)." and insert
 7 **"this subsection."**
 8 Page 10, line 22, strike "(12)" and insert "**(13)**".
 9 Page 10, line 23, strike "subdivisions (1) through (10)." and insert
 10 **"this subsection."**
 11 Page 10, line 24, strike "(13)" and insert "**(14)**".
 12 Page 10, line 26, strike "subdivisions (1)".
 13 Page 10, line 27, strike "through (12)." and insert **"this subsection."**
 14 Page 11, line 7, delete "IC 35-48-4-10.5." and insert
 15 **"IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment**
 16 **in 2013)."**
 17 Page 20, between lines 20 and 21, begin a new paragraph and insert:
 18 "SECTION 9. IC 25-1-1.1-2, AS AMENDED BY P.L.78-2012,
 19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 2. Notwithstanding IC 25-1-7, a board, a
 21 commission, or a committee may suspend, deny, or revoke a license or
 22 certificate issued under this title by the board, the commission, or the
 23 committee without an investigation by the office of the attorney general
 24 if the individual who holds the license or certificate is convicted of any
 25 of the following and the board, commission, or committee determines,
 26 after the individual has appeared in person, that the offense affects the
 27 individual's ability to perform the duties of the profession:
 28 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
 29 (2) Possession of methamphetamine under IC 35-48-4-6.1.
 30 (3) Possession of a controlled substance under IC 35-48-4-7(a).
 31 (4) Fraudulently obtaining a controlled substance under
 32 IC 35-48-4-7(b).
 33 (5) Manufacture of paraphernalia as a Class D felony under
 34 IC 35-48-4-8.1(b).
 35 (6) Dealing in paraphernalia as a Class D felony under
 36 IC 35-48-4-8.5(b).
 37 (7) Possession of paraphernalia as a Class D felony under
 38 IC 35-48-4-8.3(b).
 39 (8) Possession of marijuana, hash oil, hashish, ~~or salvia or a~~
 40 ~~synthetic drug~~ as a Class D felony under IC 35-48-4-11.
 41 **(9) Possession of a synthetic drug or synthetic drug lookalike**
 42 **substance as a Class D felony under IC 35-48-4-11.5 (or under**
 43 **IC 35-48-4-11 before its amendment in 2013).**
 44 ~~(9)~~ **(10)** Maintaining a common nuisance under IC 35-48-4-13.
 45 ~~(10)~~ **(11)** An offense relating to registration, labeling, and
 46 prescription forms under IC 35-48-4-14.

- 1 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 2 listed in ~~subdivisions (1) through (10)~~; **this section.**
 3 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
 4 in ~~subdivisions (1) through (10)~~; **this section.**
 5 ~~(13)~~ **(14)** A sex crime under IC 35-42-4.
 6 ~~(14)~~ **(15)** A felony that reflects adversely on the individual's
 7 fitness to hold a professional license.
 8 ~~(15)~~ **(16)** An offense in any other jurisdiction in which the
 9 elements of the offense for which the conviction was entered are
 10 substantially similar to the elements of an offense described in
 11 this section."

12 Page 21, line 4, delete "IC 35-48-4-10.5." and insert
 13 **"IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment**
 14 **in 2013)."**

15 Page 24, line 3, delete "(IC 35-48-4-10.5)." and insert
 16 **"(IC 35-48-4-10.5 or IC 35-48-4-10 before its amendment in**
 17 **2013)."**

18 Page 25, line 7, delete "(IC 35-48-4-10.5)." and insert
 19 **"(IC 35-48-4-10.5 or IC 35-48-4-10 before its amendment in**
 20 **2013)."**

21 Page 27, line 21, delete "." and insert **"(or as a Class C or Class D**
 22 **felony under IC 35-48-4-10 before its amendment in 2013)."**

23 Page 33, between lines 25 and 26, begin a new line block indented
 24 and insert:

25 **"(12) Any compound containing a 3-(1-adamantoyl)indole**
 26 **structure with substitution at the nitrogen atom of the indole**
 27 **ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl,**
 28 **cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-**
 29 **piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-**
 30 **pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or**
 31 **tetrahydropyranylmethyl group, whether or not further**
 32 **substituted on the adamantyl ring system to any extent. An**
 33 **example of this structural class includes AM-1248."**

34 Page 33, line 26, delete "(12)" and insert **"(13)"**.

35 Page 35, line 38, delete "(IC 35-48-4-10.5)." and insert
 36 **"(IC 35-48-4-10.5 or IC 35-48-4-10 before its amendment in**
 37 **2013)."**

38 Page 36, line 9, delete "IC 35-46-1-1.7)," and insert **"IC**
 39 **6-2.5-1-28),"**

40 Page 39, line 2, reset in roman **"4-Bromo-2,**
 41 **5-Dimethoxyamphetamine (7391)."**

42 Page 39, line 2, after "(7391)." delete "4-Bromo-2,".

43 Page 39, line 3, delete "5-dimethoxyphenethylamine (7392)."

44 Page 39, line 6, strike "4-Bromo-2, 5-dimethoxyphenethylamine
 45 (7392)." and insert **"4-Bromo-2, 5-dimethoxyphenethylamine**
 46 **(7392)."**

1 Page 44, delete lines 15 through 17, begin a new line double block
2 indented and insert:

3 **"(B) in, on, or within five hundred (500) feet of:**

4 **(i) school property; or**

5 **(ii) a public park;**

6 **while a person under eighteen (18) years of age was**
7 **reasonably expected to be present."**

8 Page 45, line 6, after "court" insert ":

9 **(1)".**

10 Page 45, line 8, delete "year." and insert "**year if the person's**
11 **violation of this section resulted in a criminal conviction; and**

12 **(2) may recommend the suspension of the registered retail**
13 **merchant certificate for the place of business for six (6)**
14 **months if the person's violation of this section resulted in an**
15 **adjudication that the person committed an infraction."**

16 Page 45, line 16, delete "one (1) year," and insert "**the period**
17 **recommended by the court,".**

18 Page 45, between lines 17 and 18, begin a new paragraph and insert:

19 "SECTION 22. IC 35-48-4-11, AS AMENDED BY P.L.78-2012,
20 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 11. A person who:

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

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

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

27 commits possession of marijuana, hash oil, hashish, **or** salvia, ~~or a~~
28 ~~synthetic drug;~~ a Class A misdemeanor. However, the offense is a Class
29 D felony if the amount involved is more than thirty (30) grams of
30 marijuana or two (2) grams of hash oil, hashish, **or** salvia, ~~or a~~
31 ~~synthetic drug;~~ or if the person has a prior conviction of an offense
32 involving marijuana, hash oil, ~~or~~ hashish, **or** salvia. ~~or a synthetic drug.~~

33 SECTION 23. IC 35-48-4-11.5 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) As used in this**
36 **section, "synthetic drug lookalike substance" has the meaning set**
37 **forth in IC 35-31.5-2-321.5(a)(3).**

38 **(b) A person who possesses a synthetic drug or synthetic drug**
39 **lookalike substance commits possession of a synthetic drug or**
40 **synthetic drug lookalike substance, a Class B infraction.**

41 **(c) A person who knowingly or intentionally possesses a**
42 **synthetic drug or synthetic drug lookalike substance commits**
43 **possession of a synthetic drug or synthetic drug lookalike**
44 **substance, a Class A misdemeanor. However, the offense is a Class**
45 **D felony if the person has a prior unrelated conviction under this**
46 **section or under section 10.5 of this chapter.**

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 UPON PASSAGE]: Sec. 12. If a person who has no prior conviction of
4 an offense under this article or under a law of another jurisdiction
5 relating to controlled substances pleads guilty to possession of
6 marijuana, hashish, salvia, or a synthetic drug **or synthetic drug**
7 **lookalike substance** as a Class A misdemeanor, the court, without
8 entering a judgment of conviction and with the consent of the person,
9 may defer further proceedings and place the person in the custody of
10 the court under such conditions as the court determines. Upon violation
11 of a condition of the custody, the court may enter a judgment of
12 conviction. However, if the person fulfills the conditions of the
13 custody, the court shall dismiss the charges against the person. There
14 may be only one (1) dismissal under this section with respect to a
15 person."

16 Renumber all SECTIONS consecutively.

(Reference is to HB 1524 as printed February 15, 2013.)

Representative Smith M