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# SENATE BILL No. 536

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-6-3-4; IC 6-2.5-8-7; IC 9-13-2-86; IC 16-31-3-14.5; IC 20-28-5-8; IC 22-15-5-16; IC 24-5-0.5; IC 25-1-1.1-3; IC 25-26-13-4.1; IC 32-30-8; IC 34-24-1-1; IC 35-31.5-2; IC 35-45-6-1; IC 35-46-9-2; IC 35-48-4.

**Synopsis:** Synthetic drugs. Permits the attorney general to issue a civil investigative demand to obtain immediate access to records relating to the sale of synthetic drugs. Provides that the department of state revenue may revoke a retail merchant certificate if the holder commits certain violations relating to synthetic drugs. Provides that a person may be intoxicated if the person consumes any substance resulting in impairment, with certain exceptions. Defines certain acts in relation to synthetic drugs as deceptive acts. Permits the board of pharmacy, on its own initiative or upon formal request from the state police department, the federal Drug Enforcement Administration, or a poison control center, to adopt an emergency rule declaring certain substances to be synthetic drugs. Permits the attorney general to bring an action to abate a nuisance created in connection with the sale of synthetic drugs. Authorizes the seizure of certain property used in connection with dealing in synthetic drugs. Defines additional substances as synthetic drugs, and makes the sale of a synthetic drug lookalike substance a criminal offense. Adds dealing in synthetic drugs to the list of racketeering offenses. Makes conforming amendments.

**Effective:** July 1, 2013.

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## Merritt

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January 14, 2013, read first time and referred to Committee on Corrections & Criminal Law.

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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. 536



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 4-6-3-4 IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2013]: Sec. 4. An investigative demand shall  
 3 contain the following:  
 4 (1) A general description of the subject matter being investigated  
 5 and a statement of the applicable provisions of law.  
 6 (2) The date, time, and place at which the person is to appear,  
 7 answer written interrogatories, or produce documentary material  
 8 or other tangible items. The date shall not be less than ten (10)  
 9 days from the date of service of the demand. **However, the**  
 10 **attorney general may demand and obtain immediate access to**  
 11 **records and materials if access is necessary for purposes of**  
 12 **investigating alleged violations relating to sales or solicited**  
 13 **sales of a synthetic drug (as defined in IC 35-31.5-2-321) or a**  
 14 **synthetic drug lookalike substance (as defined in**  
 15 **IC 35-31.5-2-321.5).**  
 16 (3) Where the production of documents or other tangible items is  
 17 required, a description of those documents or items by class with



sufficient clarity so that they might be reasonably identified.

SECTION 2. IC 6-2.5-8-7, AS AMENDED BY P.L.78-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 7. (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection. **Good cause for revocation may include the following:**

- (1) Sale or solicitation of a sale involving a synthetic drug (as defined in IC 35-31.5-2-321) or a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5).
- (2) Failure to collect sales tax on a sale involving a synthetic drug or a synthetic drug lookalike substance.

**If the department gives notice of an intent to revoke based on an alleged violation of subdivision (1) or (2), the department shall hold a public hearing to determine whether good cause exists. If the department finds in a public hearing by a preponderance of the evidence that a person has committed a violation described in subdivision (1) or (2), the department shall suspend the person's registered retail merchant certificate subject to the requirements and prohibitions contained in subsection (i).**

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

- (1) file the returns required by IC 6-2.5-6-1; or
- (2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

- (1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and
- (2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

- (1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and
- (2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate

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- 1 holder's failure to comply with IC 6-9.
- 2 (e) The department shall revoke or suspend a certificate issued
- 3 under section 1 of this chapter after at least five (5) days notice to the
- 4 certificate holder if:
  - 5 (1) the certificate holder owes taxes, penalties, fines, interest, or
  - 6 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
  - 7 days after the due date under IC 6-1.1; and
  - 8 (2) the treasurer of the county to which the taxes are due requests
  - 9 the department to revoke or suspend the certificate.
- 10 (f) The department shall reinstate a certificate suspended under
- 11 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
- 12 or the county treasurer requests the department to reinstate the
- 13 certificate because an agreement for the payment of taxes and any
- 14 penalties due under IC 6-1.1 has been reached to the satisfaction of the
- 15 county treasurer.
- 16 (g) The department shall revoke a certificate issued under section
- 17 1 of this chapter after at least five (5) days notice to the certificate
- 18 holder if the department finds in a public hearing by a preponderance
- 19 of the evidence that the certificate holder has violated IC 35-45-5-3,
- 20 IC 35-45-5-3.5, or IC 35-45-5-4.
- 21 (h) If a person makes a payment for the certificate under section 1
- 22 or 3 of this chapter with a check, credit card, debit card, or electronic
- 23 funds transfer, and the department is unable to obtain payment of the
- 24 check, credit card, debit card, or electronic funds transfer for its full
- 25 face amount when the check, credit card, debit card, or electronic funds
- 26 transfer is presented for payment through normal banking channels, the
- 27 department shall notify the person by mail that the check, credit card,
- 28 debit card, or electronic funds transfer was not honored and that the
- 29 person has five (5) days after the notice is mailed to pay the fee in cash,
- 30 by certified check, or other guaranteed payment. If the person fails to
- 31 make the payment within the five (5) day period, the department shall
- 32 revoke the certificate.
- 33 (i) If the department finds in a public hearing by a preponderance of
- 34 the evidence that a person has ~~been convicted of violating~~
- 35 ~~IC 35-48-4-10~~ **a conviction or judgment for a violation of**
- 36 **IC 35-48-4-10.5** and the conviction **or violation** involved the sale of
- 37 **or the offer to sell, in the normal course of business, a synthetic drug**
- 38 **or a synthetic drug lookalike substance** by a retail merchant in a
- 39 place of business for which the retail merchant has been issued a
- 40 registered retail merchant certificate under section 1 of this chapter, the
- 41 department:
- 42 (1) shall suspend the registered retail merchant certificate for the

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1 place of business for one (1) year; and  
 2 (2) may not issue another retail merchant certificate under section  
 3 1 of this chapter for one (1) year to any person:

4 (A) that:

5 (i) applied for; or

6 (ii) made a retail transaction under;

7 the retail merchant certificate suspended under subdivision  
 8 (1); or

9 (B) that:

10 (i) owned or co-owned, directly or indirectly; or

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

12 the retail merchant that was issued the retail merchant  
 13 certificate suspended under subdivision (1).

14 SECTION 3. IC 9-13-2-86, AS AMENDED BY P.L.151-2006,  
 15 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2013]: Sec. 86. "Intoxicated" means under the influence of:

17 (1) alcohol;

18 (2) a controlled substance (as defined in IC 35-48-1);

19 (3) a drug other than alcohol or a controlled substance;

20 (4) a substance described in IC 35-46-6-2 or IC 35-46-6-3; ~~or~~

21 (5) a combination of substances described in subdivisions (1)  
 22 through (4); ~~or~~

23 **(6) any other substance, not including food and food**  
 24 **ingredients (as defined in IC 6-2.5-1-20), tobacco, or a dietary**  
 25 **supplement (as defined in IC 6-2.5-1-16);**

26 so that there is an impaired condition of thought and action and the loss  
 27 of normal control of a person's faculties.

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

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

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

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

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

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- 1 (5) Dealing in a schedule V controlled substance under
- 2 IC 35-48-4-4.
- 3 (6) Dealing in a substance represented to be a controlled
- 4 substance under IC 35-48-4-4.5.
- 5 (7) Knowingly or intentionally manufacturing, advertising,
- 6 distributing, or possessing with intent to manufacture, advertise,
- 7 or distribute a substance represented to be a controlled substance
- 8 under IC 35-48-4-4.6.
- 9 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 10 (9) Dealing in marijuana, hash oil, hashish, ~~or salvia or a~~
- 11 ~~synthetic drug~~ under IC 35-48-4-10(b).
- 12 **(10) Dealing in a synthetic drug or synthetic drug looklike**
- 13 **substance under IC 35-48-4-10.5.**
- 14 ~~(10)~~ **(11) Conspiracy under IC 35-41-5-2 to commit an offense**
- 15 **listed in subdivisions (1) through (9) this section.**
- 16 ~~(11)~~ **(12) Attempt under IC 35-41-5-1 to commit an offense listed**
- 17 **in subdivisions (1) through (9) this section.**
- 18 ~~(12)~~ **(13) A crime of violence (as defined in IC 35-50-1-2(a)).**
- 19 ~~(13)~~ **(14) An offense in any other jurisdiction in which the**
- 20 **elements of the offense for which the conviction was entered are**
- 21 **substantially similar to the elements of an offense described under**
- 22 **subdivisions (1) through (12) this section.**

23 SECTION 5. IC 20-28-5-8, AS AMENDED BY P.L.78-2012,  
 24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2013]: Sec. 8. (a) This section applies when a prosecuting  
 26 attorney knows that a licensed employee of a public school or a  
 27 nonpublic school has been convicted of an offense listed in subsection  
 28 (c). The prosecuting attorney shall immediately give written notice of  
 29 the conviction to the following:

- 30 (1) The state superintendent.
- 31 (2) Except as provided in subdivision (3), the superintendent of
- 32 the school corporation that employs the licensed employee or the
- 33 equivalent authority if a nonpublic school employs the licensed
- 34 employee.
- 35 (3) The presiding officer of the governing body of the school
- 36 corporation that employs the licensed employee, if the convicted
- 37 licensed employee is the superintendent of the school corporation.
- 38 (b) The superintendent of a school corporation, presiding officer of
- 39 the governing body, or equivalent authority for a nonpublic school shall
- 40 immediately notify the state superintendent when the individual knows
- 41 that a current or former licensed employee of the public school or
- 42 nonpublic school has been convicted of an offense listed in subsection

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1 (c), or when the governing body or equivalent authority for a nonpublic  
 2 school takes any final action in relation to an employee who engaged  
 3 in any offense listed in subsection (c).

4 (c) The department, after holding a hearing on the matter, shall  
 5 permanently revoke the license of a person who is known by the  
 6 department to have been convicted of any of the following felonies:

- 7 (1) Kidnapping (IC 35-42-3-2).  
 8 (2) Criminal confinement (IC 35-42-3-3).  
 9 (3) Rape (IC 35-42-4-1).  
 10 (4) Criminal deviate conduct (IC 35-42-4-2).  
 11 (5) Child molesting (IC 35-42-4-3).  
 12 (6) Child exploitation (IC 35-42-4-4(b)).  
 13 (7) Vicarious sexual gratification (IC 35-42-4-5).  
 14 (8) Child solicitation (IC 35-42-4-6).  
 15 (9) Child seduction (IC 35-42-4-7).  
 16 (10) Sexual misconduct with a minor (IC 35-42-4-9).  
 17 (11) Incest (IC 35-46-1-3).  
 18 (12) Dealing in or manufacturing cocaine or a narcotic drug  
 19 (IC 35-48-4-1).  
 20 (13) Dealing in methamphetamine (IC 35-48-4-1.1).  
 21 (14) Dealing in a schedule I, II, or III controlled substance  
 22 (IC 35-48-4-2).  
 23 (15) Dealing in a schedule IV controlled substance  
 24 (IC 35-48-4-3).  
 25 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).  
 26 (17) Dealing in a counterfeit substance (IC 35-48-4-5).  
 27 (18) Dealing in marijuana, hash oil, hashish, ~~or salvia or a~~  
 28 ~~synthetic drug~~ (IC 35-48-4-10(b)).  
 29 **(19) Dealing in a synthetic drug or synthetic drug lookalike**  
 30 **substance (IC 35-48-4-10.5).**  
 31 ~~(19)~~ **(20)** Possession of child pornography (IC 35-42-4-4(c)).  
 32 ~~(20)~~ **(21)** Homicide (IC 35-42-1).  
 33 ~~(21)~~ **(22)** Voluntary manslaughter (IC 35-42-1-3).  
 34 ~~(22)~~ **(23)** Reckless homicide (IC 35-42-1-5).  
 35 ~~(23)~~ **(24)** Battery as any of the following:  
 36 (A) A Class A felony (IC 35-42-2-1(a)(5)).  
 37 (B) A Class B felony (IC 35-42-2-1(a)(4)).  
 38 (C) A Class C felony (IC 35-42-2-1(a)(3)).  
 39 ~~(24)~~ **(25)** Aggravated battery (IC 35-42-2-1.5).  
 40 ~~(25)~~ **(26)** Robbery (IC 35-42-5-1).  
 41 ~~(26)~~ **(27)** Carjacking (IC 35-42-5-2).  
 42 ~~(27)~~ **(28)** Arson as a Class A felony or a Class B felony

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1 (IC 35-43-1-1(a)).  
 2 ~~(28)~~ **(29)** Burglary as a Class A felony or a Class B felony  
 3 (IC 35-43-2-1).  
 4 ~~(29)~~ **(30)** Attempt under IC 35-41-5-1 to commit an offense listed  
 5 in subdivisions ~~(1)~~ through ~~(28)~~ **this subsection.**  
 6 ~~(30)~~ **(31)** Conspiracy under IC 35-41-5-2 to commit an offense  
 7 listed in subdivisions ~~(1)~~ through ~~(28)~~ **this subsection.**  
 8 (d) The department, after holding a hearing on the matter, shall  
 9 permanently revoke the license of a person who is known by the  
 10 department to have been convicted of a federal offense or an offense in  
 11 another state that is comparable to a felony listed in subsection (c).  
 12 (e) A license may be suspended by the state superintendent as  
 13 specified in IC 20-28-7.5.  
 14 (f) The department shall develop a data base of information on  
 15 school corporation employees who have been reported to the  
 16 department under this section.  
 17 SECTION 6. IC 22-15-5-16, AS AMENDED BY P.L.78-2012,  
 18 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2013]: Sec. 16. (a) A practitioner shall comply with the  
 20 standards established under this licensing program. A practitioner is  
 21 subject to the exercise of the disciplinary sanctions under subsection  
 22 (b) if the department finds that a practitioner has:  
 23 (1) engaged in or knowingly cooperated in fraud or material  
 24 deception in order to obtain a license to practice, including  
 25 cheating on a licensing examination;  
 26 (2) engaged in fraud or material deception in the course of  
 27 professional services or activities;  
 28 (3) advertised services or goods in a false or misleading manner;  
 29 (4) falsified or knowingly allowed another person to falsify  
 30 attendance records or certificates of completion of continuing  
 31 education courses provided under this chapter;  
 32 (5) been convicted of a crime that has a direct bearing on the  
 33 practitioner's ability to continue to practice competently;  
 34 (6) knowingly violated a state statute or rule or federal statute or  
 35 regulation regulating the profession for which the practitioner is  
 36 licensed;  
 37 (7) continued to practice although the practitioner has become  
 38 unfit to practice due to:  
 39 (A) professional incompetence;  
 40 (B) failure to keep abreast of current professional theory or  
 41 practice;  
 42 (C) physical or mental disability; or

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- 1 (D) addiction to, abuse of, or severe dependency on alcohol or  
 2 other drugs that endanger the public by impairing a  
 3 practitioner's ability to practice safely;
- 4 (8) engaged in a course of lewd or immoral conduct in connection  
 5 with the delivery of services to the public;
- 6 (9) allowed the practitioner's name or a license issued under this  
 7 chapter to be used in connection with an individual or business  
 8 who renders services beyond the scope of that individual's or  
 9 business's training, experience, or competence;
- 10 (10) had disciplinary action taken against the practitioner or the  
 11 practitioner's license to practice in another state or jurisdiction on  
 12 grounds similar to those under this chapter;
- 13 (11) assisted another person in committing an act that would  
 14 constitute a ground for disciplinary sanction under this chapter;  
 15 or
- 16 (12) allowed a license issued by the department to be:  
 17 (A) used by another person; or  
 18 (B) displayed to the public when the license has expired, is  
 19 inactive, is invalid, or has been revoked or suspended.
- 20 For purposes of subdivision (10), a certified copy of a record of  
 21 disciplinary action constitutes prima facie evidence of a disciplinary  
 22 action in another jurisdiction.
- 23 (b) The department may impose one (1) or more of the following  
 24 sanctions if the department finds that a practitioner is subject to  
 25 disciplinary sanctions under subsection (a):
- 26 (1) Permanent revocation of a practitioner's license.  
 27 (2) Suspension of a practitioner's license.  
 28 (3) Censure of a practitioner.  
 29 (4) Issuance of a letter of reprimand.  
 30 (5) Assess a civil penalty against the practitioner in accordance  
 31 with the following:
- 32 (A) The civil penalty may not be more than one thousand  
 33 dollars (\$1,000) for each violation listed in subsection (a),  
 34 except for a finding of incompetency due to a physical or  
 35 mental disability.  
 36 (B) When imposing a civil penalty, the department shall  
 37 consider a practitioner's ability to pay the amount assessed. If  
 38 the practitioner fails to pay the civil penalty within the time  
 39 specified by the department, the department may suspend the  
 40 practitioner's license without additional proceedings. However,  
 41 a suspension may not be imposed if the sole basis for the  
 42 suspension is the practitioner's inability to pay a civil penalty.

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1 (6) Place a practitioner on probation status and require the  
2 practitioner to:

3 (A) report regularly to the department upon the matters that  
4 are the basis of probation;

5 (B) limit practice to those areas prescribed by the department;

6 (C) continue or renew professional education approved by the  
7 department until a satisfactory degree of skill has been attained  
8 in those areas that are the basis of the probation; or

9 (D) perform or refrain from performing any acts, including  
10 community restitution or service without compensation, that  
11 the department considers appropriate to the public interest or  
12 to the rehabilitation or treatment of the practitioner.

13 The department may withdraw or modify this probation if the  
14 department finds after a hearing that the deficiency that required  
15 disciplinary action has been remedied or that changed  
16 circumstances warrant a modification of the order.

17 (c) If an applicant or a practitioner has engaged in or knowingly  
18 cooperated in fraud or material deception to obtain a license to  
19 practice, including cheating on the licensing examination, the  
20 department may rescind the 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 license for a length of time  
23 established by the department.

24 (d) The department may deny licensure to an applicant who has had  
25 disciplinary action taken against the applicant or the applicant's license  
26 to practice in another state or jurisdiction or who has practiced without  
27 a license in violation of the law. A certified copy of the record of  
28 disciplinary action is conclusive evidence of the other jurisdiction's  
29 disciplinary action.

30 (e) The department may order a practitioner to submit to a  
31 reasonable physical or mental examination if the practitioner's physical  
32 or mental capacity to practice safely and competently is at issue in a  
33 disciplinary proceeding. Failure to comply with a department order to  
34 submit to a physical or mental examination makes a practitioner liable  
35 to temporary suspension under subsection (j).

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

42 (g) The department may deny, suspend, or revoke a license issued

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1 under this chapter if the individual who holds the license is convicted  
2 of any of the following:

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

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

- 30 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
- 31 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 32 (3) Dealing in a schedule I, II, or III controlled substance under  
33 IC 35-48-4-2.
- 34 (4) Dealing in a schedule IV controlled substance under  
35 IC 35-48-4-3.
- 36 (5) Dealing in a schedule V controlled substance under  
37 IC 35-48-4-4.
- 38 (6) Dealing in a substance represented to be a controlled  
39 substance under IC 35-48-4-4.5.
- 40 (7) Knowingly or intentionally manufacturing, advertising,  
41 distributing, or possessing with intent to manufacture, advertise,  
42 or distribute a substance represented to be a controlled substance

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- 1 under IC 35-48-4-4.6.
- 2 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 3 (9) Dealing in marijuana, hash oil, hashish, ~~or salvia or a~~
- 4 ~~synthetic drug~~ under IC 35-48-4-10(b).
- 5 **(10) Dealing in a synthetic drug or synthetic drug lookalike**
- 6 **substance under IC 35-48-4-10.5.**
- 7 ~~(10)~~ **(11) Conspiracy** under IC 35-41-5-2 to commit an offense
- 8 listed in ~~subdivisions (1) through (9)~~ **this subsection.**
- 9 ~~(11)~~ **(12) Attempt** under IC 35-41-5-1 to commit an offense listed
- 10 in ~~subdivisions (1) through (9)~~ **this subsection.**
- 11 ~~(12)~~ **(13) An offense** in any other jurisdiction in which the
- 12 elements of the offense for which the conviction was entered are
- 13 substantially similar to the elements of an offense described in
- 14 ~~subdivisions (1) through (11)~~ **this subsection.**
- 15 ~~(13)~~ **(14) A violation** of any federal or state drug law or rule
- 16 related to wholesale legend drug distributors licensed under
- 17 IC 25-26-14.
- 18 (i) A decision of the department under subsections (b) through (h)
- 19 may be appealed to the commission under IC 4-21.5-3-7.
- 20 (j) The department may temporarily suspend a practitioner's license
- 21 under IC 4-21.5-4 before a final adjudication or during the appeals
- 22 process if the department finds that a practitioner represents a clear and
- 23 immediate danger to the public's health, safety, or property if the
- 24 practitioner is allowed to continue to practice.
- 25 (k) On receipt of a complaint or an information alleging that a
- 26 person licensed under this chapter has engaged in or is engaging in a
- 27 practice that jeopardizes the public health, safety, or welfare, the
- 28 department shall initiate an investigation against the person.
- 29 (l) Any complaint filed with the office of the attorney general
- 30 alleging a violation of this licensing program shall be referred to the
- 31 department for summary review and for its general information and any
- 32 authorized action at the time of the filing.
- 33 (m) The department shall conduct a fact finding investigation as the
- 34 department considers proper in relation to the complaint.
- 35 (n) The department may reinstate a license that has been suspended
- 36 under this section if, after a hearing, the department is satisfied that the
- 37 applicant is able to practice with reasonable skill, safety, and
- 38 competency to the public. As a condition of reinstatement, the
- 39 department may impose disciplinary or corrective measures authorized
- 40 under this chapter.
- 41 (o) The department may not reinstate a license that has been
- 42 revoked under this chapter. An individual whose license has been

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1 revoked under this chapter may not apply for a new license until seven  
2 (7) years after the date of revocation.

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

7 (q) A practitioner may petition the department to accept the  
8 surrender of the practitioner's license instead of having a hearing before  
9 the commission. The practitioner may not surrender the practitioner's  
10 license without the written approval of the department, and the  
11 department may impose any conditions appropriate to the surrender or  
12 reinstatement of a surrendered license.

13 (r) A practitioner who has been subjected to disciplinary sanctions  
14 may be required by the commission to pay the costs of the proceeding.  
15 The practitioner's ability to pay shall be considered when costs are  
16 assessed. If the practitioner fails to pay the costs, a suspension may not  
17 be imposed solely upon the practitioner's inability to pay the amount  
18 assessed. The costs are limited to costs for the following:

- 19 (1) Court reporters.
- 20 (2) Transcripts.
- 21 (3) Certification of documents.
- 22 (4) Photo duplication.
- 23 (5) Witness attendance and mileage fees.
- 24 (6) Postage.
- 25 (7) Expert witnesses.
- 26 (8) Depositions.
- 27 (9) Notarizations.

28 SECTION 7. IC 24-5-0.5-3, AS AMENDED BY P.L.226-2011,  
29 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2013]: Sec. 3. (a) The following acts, and the following  
31 representations as to the subject matter of a consumer transaction,  
32 made orally, in writing, or by electronic communication, by a supplier,  
33 are deceptive acts:

- 34 (1) That such subject of a consumer transaction has sponsorship,  
35 approval, performance, characteristics, accessories, uses, or  
36 benefits it does not have which the supplier knows or should  
37 reasonably know it does not have.
- 38 (2) That such subject of a consumer transaction is of a particular  
39 standard, quality, grade, style, or model, if it is not and if the  
40 supplier knows or should reasonably know that it is not.
- 41 (3) That such subject of a consumer transaction is new or unused,  
42 if it is not and if the supplier knows or should reasonably know

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- 1 that it is not.
- 2 (4) That such subject of a consumer transaction will be supplied
- 3 to the public in greater quantity than the supplier intends or
- 4 reasonably expects.
- 5 (5) That replacement or repair constituting the subject of a
- 6 consumer transaction is needed, if it is not and if the supplier
- 7 knows or should reasonably know that it is not.
- 8 (6) That a specific price advantage exists as to such subject of a
- 9 consumer transaction, if it does not and if the supplier knows or
- 10 should reasonably know that it does not.
- 11 (7) That the supplier has a sponsorship, approval, or affiliation in
- 12 such consumer transaction the supplier does not have, and which
- 13 the supplier knows or should reasonably know that the supplier
- 14 does not have.
- 15 (8) That such consumer transaction involves or does not involve
- 16 a warranty, a disclaimer of warranties, or other rights, remedies,
- 17 or obligations, if the representation is false and if the supplier
- 18 knows or should reasonably know that the representation is false.
- 19 (9) That the consumer will receive a rebate, discount, or other
- 20 benefit as an inducement for entering into a sale or lease in return
- 21 for giving the supplier the names of prospective consumers or
- 22 otherwise helping the supplier to enter into other consumer
- 23 transactions, if earning the benefit, rebate, or discount is
- 24 contingent upon the occurrence of an event subsequent to the time
- 25 the consumer agrees to the purchase or lease.
- 26 (10) That the supplier is able to deliver or complete the subject of
- 27 the consumer transaction within a stated period of time, when the
- 28 supplier knows or should reasonably know the supplier could not.
- 29 If no time period has been stated by the supplier, there is a
- 30 presumption that the supplier has represented that the supplier
- 31 will deliver or complete the subject of the consumer transaction
- 32 within a reasonable time, according to the course of dealing or the
- 33 usage of the trade.
- 34 (11) That the consumer will be able to purchase the subject of the
- 35 consumer transaction as advertised by the supplier, if the supplier
- 36 does not intend to sell it.
- 37 (12) That the replacement or repair constituting the subject of a
- 38 consumer transaction can be made by the supplier for the estimate
- 39 the supplier gives a customer for the replacement or repair, if the
- 40 specified work is completed and:
- 41 (A) the cost exceeds the estimate by an amount equal to or
- 42 greater than ten percent (10%) of the estimate;

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- 1 (B) the supplier did not obtain written permission from the
- 2 customer to authorize the supplier to complete the work even
- 3 if the cost would exceed the amounts specified in clause (A);
- 4 (C) the total cost for services and parts for a single transaction
- 5 is more than seven hundred fifty dollars (\$750); and
- 6 (D) the supplier knew or reasonably should have known that
- 7 the cost would exceed the estimate in the amounts specified in
- 8 clause (A).
- 9 (13) That the replacement or repair constituting the subject of a
- 10 consumer transaction is needed, and that the supplier disposes of
- 11 the part repaired or replaced earlier than seventy-two (72) hours
- 12 after both:
- 13 (A) the customer has been notified that the work has been
- 14 completed; and
- 15 (B) the part repaired or replaced has been made available for
- 16 examination upon the request of the customer.
- 17 (14) Engaging in the replacement or repair of the subject of a
- 18 consumer transaction if the consumer has not authorized the
- 19 replacement or repair, and if the supplier knows or should
- 20 reasonably know that it is not authorized.
- 21 (15) The act of misrepresenting the geographic location of the
- 22 supplier by listing a fictitious business name or an assumed
- 23 business name (as described in IC 23-15-1) in a local telephone
- 24 directory if:
- 25 (A) the name misrepresents the supplier's geographic location;
- 26 (B) the listing fails to identify the locality and state of the
- 27 supplier's business;
- 28 (C) calls to the local telephone number are routinely forwarded
- 29 or otherwise transferred to a supplier's business location that
- 30 is outside the calling area covered by the local telephone
- 31 directory; and
- 32 (D) the supplier's business location is located in a county that
- 33 is not contiguous to a county in the calling area covered by the
- 34 local telephone directory.
- 35 (16) The act of listing a fictitious business name or assumed
- 36 business name (as described in IC 23-15-1) in a directory
- 37 assistance database if:
- 38 (A) the name misrepresents the supplier's geographic location;
- 39 (B) calls to the local telephone number are routinely forwarded
- 40 or otherwise transferred to a supplier's business location that
- 41 is outside the local calling area; and
- 42 (C) the supplier's business location is located in a county that

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- 1 is not contiguous to a county in the local calling area.
- 2 (17) The violation by a supplier of IC 24-3-4 concerning
- 3 cigarettes for import or export.
- 4 (18) The act of a supplier in knowingly selling or reselling a
- 5 product to a consumer if the product has been recalled, whether
- 6 by the order of a court or a regulatory body, or voluntarily by the
- 7 manufacturer, distributor, or retailer, unless the product has been
- 8 repaired or modified to correct the defect that was the subject of
- 9 the recall.
- 10 (19) The violation by a supplier of 47 U.S.C. 227, including any
- 11 rules or regulations issued under 47 U.S.C. 227.
- 12 (20) The violation by a supplier of the federal Fair Debt
- 13 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
- 14 rules or regulations issued under the federal Fair Debt Collection
- 15 Practices Act (15 U.S.C. 1692 et seq.).
- 16 (21) A violation of IC 24-5-7 (concerning health spa services), as
- 17 set forth in IC 24-5-7-17.
- 18 (22) A violation of IC 24-5-8 (concerning business opportunity
- 19 transactions), as set forth in IC 24-5-8-20.
- 20 (23) A violation of IC 24-5-10 (concerning home consumer
- 21 transactions), as set forth in IC 24-5-10-18.
- 22 (24) A violation of IC 24-5-11 (concerning home improvement
- 23 contracts), as set forth in IC 24-5-11-14.
- 24 (25) A violation of IC 24-5-12 (concerning telephone
- 25 solicitations), as set forth in IC 24-5-12-23.
- 26 (26) A violation of IC 24-5-13.5 (concerning buyback motor
- 27 vehicles), as set forth in IC 24-5-13.5-14.
- 28 (27) A violation of IC 24-5-14 (concerning automatic
- 29 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 30 (28) A violation of IC 24-5-15 (concerning credit services
- 31 organizations), as set forth in IC 24-5-15-11.
- 32 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 33 vehicle subleasing), as set forth in IC 24-5-16-18.
- 34 (30) A violation of IC 24-5-17 (concerning environmental
- 35 marketing claims), as set forth in IC 24-5-17-14.
- 36 (31) A violation of IC 24-5-19 (concerning deceptive commercial
- 37 solicitation), as set forth in IC 24-5-19-11.
- 38 (32) A violation of IC 24-5-21 (concerning prescription drug
- 39 discount cards), as set forth in IC 24-5-21-7.
- 40 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 41 appraisals), as set forth in IC 24-5-23.5-9.
- 42 (34) A violation of IC 24-5-26 (concerning identity theft), as set

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- 1           forth in IC 24-5-26-3.
- 2           (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 3           as set forth in IC 24-5.5-6-1.
- 4           (36) A violation of IC 24-8 (concerning promotional gifts and
- 5           contests), as set forth in IC 24-8-6-3.
- 6           (b) Any representations on or within a product or its packaging or
- 7           in advertising or promotional materials which would constitute a
- 8           deceptive act shall be the deceptive act both of the supplier who places
- 9           such representation thereon or therein, or who authored such materials,
- 10          and such other suppliers who shall state orally or in writing that such
- 11          representation is true if such other supplier shall know or have reason
- 12          to know that such representation was false.
- 13          (c) If a supplier shows by a preponderance of the evidence that an
- 14          act resulted from a bona fide error notwithstanding the maintenance of
- 15          procedures reasonably adopted to avoid the error, such act shall not be
- 16          deceptive within the meaning of this chapter.
- 17          (d) It shall be a defense to any action brought under this chapter that
- 18          the representation constituting an alleged deceptive act was one made
- 19          in good faith by the supplier without knowledge of its falsity and in
- 20          reliance upon the oral or written representations of the manufacturer,
- 21          the person from whom the supplier acquired the product, any testing
- 22          organization, or any other person provided that the source thereof is
- 23          disclosed to the consumer.
- 24          (e) For purposes of subsection (a)(12), a supplier that provides
- 25          estimates before performing repair or replacement work for a customer
- 26          shall give the customer a written estimate itemizing as closely as
- 27          possible the price for labor and parts necessary for the specific job
- 28          before commencing the work.
- 29          (f) For purposes of subsection (a)(15) and (a)(16), a telephone
- 30          company or other provider of a telephone directory or directory
- 31          assistance service or its officer or agent is immune from liability for
- 32          publishing the listing of a fictitious business name or assumed business
- 33          name of a supplier in its directory or directory assistance database
- 34          unless the telephone company or other provider of a telephone
- 35          directory or directory assistance service is the same person as the
- 36          supplier who has committed the deceptive act.
- 37          (g) For purposes of subsection (a)(18), it is an affirmative defense
- 38          to any action brought under this chapter that the product has been
- 39          altered by a person other than the defendant to render the product
- 40          completely incapable of serving its original purpose.
- 41          **(h) This subsection applies only to consumer transactions or**
- 42          **solicited consumer transactions relating to synthetic drugs (as**

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1 **defined in IC 35-31.5-2-321) or synthetic drug lookalike substances**  
2 **(as defined in IC 35-31.5-2-321.5). It is a deceptive act for a**  
3 **supplier to make, orally, in writing, by implication, or by electronic**  
4 **communication, any of the representations listed in subsection (a)**  
5 **in relation to the subject matter of a consumer transaction.**

6 SECTION 8. IC 24-5-0.5-4, AS AMENDED BY P.L.226-2011,  
7 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2013]: Sec. 4. (a) A person relying upon an uncured or  
9 incurable deceptive act may bring an action for the damages actually  
10 suffered as a consumer as a result of the deceptive act or five hundred  
11 dollars (\$500), whichever is greater. The court may increase damages  
12 for a willful deceptive act in an amount that does not exceed the greater  
13 of:

- 14 (1) three (3) times the actual damages of the consumer suffering  
15 the loss; or
- 16 (2) one thousand dollars (\$1,000).

17 Except as provided in subsection (j), the court may award reasonable  
18 attorney fees to the party that prevails in an action under this  
19 subsection. This subsection does not apply to a consumer transaction  
20 in real property, including a claim or action involving a construction  
21 defect (as defined in IC 32-27-3-1(5)) brought against a construction  
22 professional (as defined in IC 32-27-3-1(4)), except for purchases of  
23 time shares and camping club memberships. This subsection does not  
24 apply with respect to a deceptive act described in section 3(a)(20) of  
25 this chapter. This subsection also does not apply to a violation of  
26 IC 24-4.7, IC 24-5-12, or IC 24-5-14. Actual damages awarded to a  
27 person under this section have priority over any civil penalty imposed  
28 under this chapter.

29 (b) Any person who is entitled to bring an action under subsection  
30 (a) on the person's own behalf against a supplier for damages for a  
31 deceptive act may bring a class action against such supplier on behalf  
32 of any class of persons of which that person is a member and which has  
33 been damaged by such deceptive act, subject to and under the Indiana  
34 Rules of Trial Procedure governing class actions, except as herein  
35 expressly provided. Except as provided in subsection (j), the court may  
36 award reasonable attorney fees to the party that prevails in a class  
37 action under this subsection, provided that such fee shall be determined  
38 by the amount of time reasonably expended by the attorney and not by  
39 the amount of the judgment, although the contingency of the fee may  
40 be considered. Except in the case of an extension of time granted by the  
41 attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10,  
42 any money or other property recovered in a class action under this

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1 subsection which cannot, with due diligence, be restored to consumers  
2 within one (1) year after the judgment becomes final shall be returned  
3 to the party depositing the same. This subsection does not apply to a  
4 consumer transaction in real property, except for purchases of time  
5 shares and camping club memberships. This subsection does not apply  
6 with respect to a deceptive act described in section 3(a)(20) of this  
7 chapter. Actual damages awarded to a class have priority over any civil  
8 penalty imposed under this chapter.

9 (c) The attorney general may bring an action to enjoin a deceptive  
10 act, including a deceptive act described in section 3(a)(20) of this  
11 chapter, notwithstanding subsections (a) and (b). However, the attorney  
12 general may seek to enjoin patterns of incurable deceptive acts with  
13 respect to consumer transactions in real property. In addition, the court  
14 may:

- 15 (1) issue an injunction;
- 16 (2) order the supplier to make payment of the money unlawfully
- 17 received from the aggrieved consumers to be held in escrow for
- 18 distribution to aggrieved consumers;
- 19 (3) order the supplier to pay to the state the reasonable costs of
- 20 the attorney general's investigation and prosecution related to the
- 21 action; ~~and~~
- 22 (4) provide for the appointment of a receiver; **and**
- 23 **(5) order the department of state revenue to suspend the**
- 24 **supplier's registered retail merchant certificate, subject to the**
- 25 **requirements and prohibitions contained in IC 6-2.5-8-7(i), if**
- 26 **the court finds that a violation of this chapter involved the**
- 27 **sale or solicited sale of a synthetic drug (as defined in**
- 28 **IC 35-31.5-2-321) or a synthetic drug lookalike substance (as**
- 29 **defined in IC 35-31.5-2-321.5).**

30 (d) In an action under subsection (a), (b), or (c), the court may void  
31 or limit the application of contracts or clauses resulting from deceptive  
32 acts and order restitution to be paid to aggrieved consumers.

33 (e) In any action under subsection (a) or (b), upon the filing of the  
34 complaint or on the appearance of any defendant, claimant, or any  
35 other party, or at any later time, the trial court, the supreme court, or the  
36 court of appeals may require the plaintiff, defendant, claimant, or any  
37 other party or parties to give security, or additional security, in such  
38 sum as the court shall direct to pay all costs, expenses, and  
39 disbursements that shall be awarded against that party or which that  
40 party may be directed to pay by any interlocutory order by the final  
41 judgment or on appeal.

42 (f) Any person who violates the terms of an injunction issued under

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1 subsection (c) shall forfeit and pay to the state a civil penalty of not  
 2 more than fifteen thousand dollars (\$15,000) per violation. For the  
 3 purposes of this section, the court issuing an injunction shall retain  
 4 jurisdiction, the cause shall be continued, and the attorney general  
 5 acting in the name of the state may petition for recovery of civil  
 6 penalties. Whenever the court determines that an injunction issued  
 7 under subsection (c) has been violated, the court shall award  
 8 reasonable costs to the state.

9 (g) If a court finds any person has knowingly violated section 3 or  
 10 10 of this chapter, other than section 3(a)(19) or 3(a)(20) of this  
 11 chapter, the attorney general, in an action pursuant to subsection (c),  
 12 may recover from the person on behalf of the state a civil penalty of a  
 13 fine not exceeding five thousand dollars (\$5,000) per violation.

14 (h) If a court finds that a person has violated section 3(a)(19) of this  
 15 chapter, the attorney general, in an action under subsection (c), may  
 16 recover from the person on behalf of the state a civil penalty as follows:

17 (1) For a knowing or intentional violation, one thousand five  
 18 hundred dollars (\$1,500).

19 (2) For a violation other than a knowing or intentional violation,  
 20 five hundred dollars (\$500).

21 A civil penalty recovered under this subsection shall be deposited in  
 22 the consumer protection division telephone solicitation fund  
 23 established by IC 24-4.7-3-6 to be used for the administration and  
 24 enforcement of section 3(a)(19) of this chapter.

25 (i) An elderly person relying upon an uncured or incurable  
 26 deceptive act, including an act related to hypnotism, may bring an  
 27 action to recover treble damages, if appropriate.

28 (j) An offer to cure is:

29 (1) not admissible as evidence in a proceeding initiated under this  
 30 section unless the offer to cure is delivered by a supplier to the  
 31 consumer or a representative of the consumer before the supplier  
 32 files the supplier's initial response to a complaint; and

33 (2) only admissible as evidence in a proceeding initiated under  
 34 this section to prove that a supplier is not liable for attorney's fees  
 35 under subsection (k).

36 If the offer to cure is timely delivered by the supplier, the supplier may  
 37 submit the offer to cure as evidence to prove in the proceeding in  
 38 accordance with the Indiana Rules of Trial Procedure that the supplier  
 39 made an offer to cure.

40 (k) A supplier may not be held liable for the attorney's fees and  
 41 court costs of the consumer that are incurred following the timely  
 42 delivery of an offer to cure as described in subsection (j) unless the

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1 actual damages awarded, not including attorney's fees and costs, exceed  
2 the value of the offer to cure.

3 (l) If a court finds that a person has knowingly violated section  
4 3(a)(20) of this chapter, the attorney general, in an action under  
5 subsection (c), may recover from the person on behalf of the state a  
6 civil penalty not exceeding one thousand dollars (\$1,000) per  
7 consumer. In determining the amount of the civil penalty in any action  
8 by the attorney general under this subsection, the court shall consider,  
9 among other relevant factors, the frequency and persistence of  
10 noncompliance by the debt collector, the nature of the noncompliance,  
11 and the extent to which the noncompliance was intentional. A person  
12 may not be held liable in any action by the attorney general for a  
13 violation of section 3(a)(20) of this chapter if the person shows by a  
14 preponderance of evidence that the violation was not intentional and  
15 resulted from a bona fide error, notwithstanding the maintenance of  
16 procedures reasonably adapted to avoid the error. A person may not be  
17 held liable in any action for a violation of this chapter for contacting a  
18 person other than the debtor, if the contact is made in compliance with  
19 the Fair Debt Collection Practices Act.

20 SECTION 9. IC 25-1-1.1-3, AS AMENDED BY P.L.78-2012,  
21 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2013]: Sec. 3. A board, a commission, or a committee shall  
23 revoke or suspend a license or certificate issued under this title by the  
24 board, the commission, or the committee if the individual who holds  
25 the license or certificate is convicted of any of the following:

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

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- 1 synthetic drug under IC 35-48-4-10(b).
- 2 **(10) Dealing in a synthetic drug or synthetic drug lookalike**
- 3 **substance under IC 35-48-4-10.5.**
- 4 ~~(10)~~ **(11) Conspiracy under IC 35-41-5-2 to commit an offense**
- 5 **listed in subdivisions (1) through (9) this section.**
- 6 ~~(11)~~ **(12) Attempt under IC 35-41-5-1 to commit an offense listed**
- 7 **in subdivisions (1) through (9) this section.**
- 8 ~~(12)~~ **(13) 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 under**
- 11 **subdivisions (1) through (11) in this section.**
- 12 ~~(13)~~ **(14) A violation of any federal or state drug law or rule**
- 13 **related to wholesale legend drug distributors licensed under**
- 14 **IC 25-26-14.**

15 SECTION 10. IC 25-26-13-4.1, AS ADDED BY P.L.78-2012,  
 16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2013]: Sec. 4.1. (a) The board may adopt an emergency rule  
 18 to declare that a substance is a synthetic drug.

19 (b) The board may, **on its own initiative or under a written**  
 20 **request from the state police department, the United States Drug**  
 21 **Enforcement Administration, or a poison control center,** adopt an  
 22 emergency rule declaring a substance to be a synthetic drug if the board  
 23 finds that the substance:

- 24 (1) has been scheduled or emergency scheduled by the United
- 25 States Drug Enforcement Administration; ~~or~~
- 26 (2) has been scheduled, emergency scheduled, or criminalized by
- 27 another state; ~~or~~
- 28 **(3) has:**
  - 29 **(A) a high potential for abuse; and**
  - 30 **(B) no accepted medical use in treatment in the United**
  - 31 **States or lacks accepted safety for use in treatment under**
  - 32 **medical supervision.**

33 **(c) In making its determination under subsection (b)(3), the**  
 34 **board shall consider the following factors relating to the substance:**

- 35 **(1) The actual or relative potential for abuse.**
- 36 **(2) Scientific evidence of the substance's pharmacological**
- 37 **effect, if known.**
- 38 **(3) The state of current scientific knowledge regarding the**
- 39 **substance.**
- 40 **(4) The history and current pattern of abuse of the substance.**
- 41 **(5) The scope, duration, and significance of abuse of the**
- 42 **substance.**

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1           **(6) The degree of risk to the public health.**  
2           **(7) The psychic or psychological dependence liability of the**  
3           **substance.**  
4           ~~(c)~~ **(d)** A rule adopted under this section becomes effective thirty  
5 (30) days after it is filed with the publisher under IC 4-22-2-37.1.  
6           ~~(d)~~ **(e)** A rule adopted under this section expires on June 30 of the  
7 year following the year in which it is filed with the publisher under  
8 IC 4-22-2-37.1.  
9           ~~(e)~~ **(f)** The board may readopt under this section an emergency rule  
10 that has expired.  
11           SECTION 11. IC 32-30-8-2, AS AMENDED BY P.L.87-2005,  
12 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2013]: Sec. 2. (a) **Except as provided in subsection (d),** as  
14 used in this chapter, "property" means a house, a building, a mobile  
15 home, or an apartment that is leased for residential or commercial  
16 purposes.  
17           (b) The term includes:  
18           (1) an entire building or complex of buildings; or  
19           (2) a mobile home community;  
20 and all real property of any nature appurtenant to and used in  
21 connection with the house, building, mobile home, or apartment,  
22 including all individual rental units and common areas.  
23           (c) The term does not include a hotel, motel, or other guest house,  
24 part of which is rented to a transient guest.  
25           **(d) For actions brought by the attorney general in relation to the**  
26 **sale or solicited sale of a synthetic drug (as defined in**  
27 **IC 35-31.5-2-321) or a synthetic drug lookalike substance (as**  
28 **defined in IC 35-31.5-2-321.5), "property" means a house, a**  
29 **building, a mobile home, or an apartment that is owned or leased**  
30 **for commercial or residential purposes. The term includes all real**  
31 **property of any nature appurtenant to and used in connection with**  
32 **the house, building, mobile home, or apartment.**  
33           SECTION 12. IC 32-30-8-4 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 4. An action to abate  
35 a nuisance under this chapter may be initiated by any of the following:  
36           (1) The prosecuting attorney of the circuit where the nuisance is  
37 located.  
38           (2) The corporation counsel or city attorney of a city in which a  
39 nuisance is located.  
40           (3) An attorney representing a county in which a nuisance is  
41 located.  
42           (4) The property owner.

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**(5) The attorney general.**

SECTION 13. IC 32-30-8-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 10.5. In addition to the remedies and penalties specified in sections 10, 11, 12, and 13 of this chapter, the court may do any of the following in an action brought under this chapter concerning the sale or solicited sale of a synthetic drug (as defined in IC 35-31.5-2-321) or a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5):**

**(1) Issue a restraining order against the person subject to IC 32-30-7-9 and IC 32-30-7-13.**

**(2) Issue a preliminary injunction, temporary forfeiture, or closure order pending final decision on a permanent injunction subject to IC 32-30-7-12.**

**(3) Issue an order of abatement subject to IC 32-30-7-22.**

SECTION 14. IC 34-24-1-1, AS AMENDED BY P.L.125-2012, SECTION 411, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) The following may be seized:

(1) All vehicles (as defined by IC 35-31.5-2-346), if they are used or are intended for use by the person or persons in possession of them to transport or in any manner to facilitate the transportation of the following:

(A) A controlled substance for the purpose of committing, attempting to commit, or conspiring to commit any of the following:

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

(ii) Dealing in methamphetamine (IC 35-48-4-1.1).

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

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

(v) Dealing in a schedule V controlled substance (IC 35-48-4-4).

(vi) Dealing in a counterfeit substance (IC 35-48-4-5).

(vii) Possession of cocaine or a narcotic drug (IC 35-48-4-6).

(viii) Possession of methamphetamine (IC 35-48-4-6.1).

(ix) Dealing in paraphernalia (IC 35-48-4-8.5).

(x) Dealing in marijuana, hash oil, hashish, ~~or salvia or a synthetic cannabinoid~~ (IC 35-48-4-10).

**(xi) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5).**

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- 1 (B) Any stolen (IC 35-43-4-2) or converted property  
 2 (IC 35-43-4-3) if the retail or repurchase value of that property  
 3 is one hundred dollars (\$100) or more.  
 4 (C) Any hazardous waste in violation of IC 13-30-10-1.5.  
 5 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of  
 6 mass destruction (as defined in IC 35-31.5-2-354) used to  
 7 commit, used in an attempt to commit, or used in a conspiracy  
 8 to commit an offense under IC 35-47 as part of or in  
 9 furtherance of an act of terrorism (as defined by  
 10 IC 35-31.5-2-329).
- 11 (2) All money, negotiable instruments, securities, weapons,  
 12 communications devices, or any property used to commit, used in  
 13 an attempt to commit, or used in a conspiracy to commit an  
 14 offense under IC 35-47 as part of or in furtherance of an act of  
 15 terrorism or commonly used as consideration for a violation of  
 16 IC 35-48-4 (other than items subject to forfeiture under  
 17 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):  
 18 (A) furnished or intended to be furnished by any person in  
 19 exchange for an act that is in violation of a criminal statute;  
 20 (B) used to facilitate any violation of a criminal statute; or  
 21 (C) traceable as proceeds of the violation of a criminal statute.
- 22 (3) Any portion of real or personal property purchased with  
 23 money that is traceable as a proceed of a violation of a criminal  
 24 statute.
- 25 (4) A vehicle that is used by a person to:  
 26 (A) commit, attempt to commit, or conspire to commit;  
 27 (B) facilitate the commission of; or  
 28 (C) escape from the commission of;  
 29 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal  
 30 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting  
 31 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense  
 32 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 33 (5) Real property owned by a person who uses it to commit any of  
 34 the following as a Class A felony, a Class B felony, or a Class C  
 35 felony:  
 36 (A) Dealing in or manufacturing cocaine or a narcotic drug  
 37 (IC 35-48-4-1).  
 38 (B) Dealing in methamphetamine (IC 35-48-4-1.1).  
 39 (C) Dealing in a schedule I, II, or III controlled substance  
 40 (IC 35-48-4-2).  
 41 (D) Dealing in a schedule IV controlled substance  
 42 (IC 35-48-4-3).

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- 1 (E) Dealing in marijuana, hash oil, hashish, ~~or salvia or a~~  
 2 ~~synthetic cannabinoid~~ (IC 35-48-4-10).  
 3 **(F) Dealing in a synthetic drug or synthetic drug looklike**  
 4 **substance (IC 35-48-4-10.5).**  
 5 (6) Equipment and recordings used by a person to commit fraud  
 6 under IC 35-43-5-4(10).  
 7 (7) Recordings sold, rented, transported, or possessed by a person  
 8 in violation of IC 24-4-10.  
 9 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as  
 10 defined by IC 35-45-6-1) that is the object of a corrupt business  
 11 influence violation (IC 35-45-6-2).  
 12 (9) Unlawful telecommunications devices (as defined in  
 13 IC 35-45-13-6) and plans, instructions, or publications used to  
 14 commit an offense under IC 35-45-13.  
 15 (10) Any equipment, including computer equipment and cellular  
 16 telephones, used for or intended for use in preparing,  
 17 photographing, recording, videotaping, digitizing, printing,  
 18 copying, or disseminating matter in violation of IC 35-42-4.  
 19 (11) Destructive devices used, possessed, transported, or sold in  
 20 violation of IC 35-47.5.  
 21 (12) Tobacco products that are sold in violation of IC 24-3-5,  
 22 tobacco products that a person attempts to sell in violation of  
 23 IC 24-3-5, and other personal property owned and used by a  
 24 person to facilitate a violation of IC 24-3-5.  
 25 (13) Property used by a person to commit counterfeiting or  
 26 forgery in violation of IC 35-43-5-2.  
 27 (14) After December 31, 2005, if a person is convicted of an  
 28 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the  
 29 following real or personal property:  
 30 (A) Property used or intended to be used to commit, facilitate,  
 31 or promote the commission of the offense.  
 32 (B) Property constituting, derived from, or traceable to the  
 33 gross proceeds that the person obtained directly or indirectly  
 34 as a result of the offense.  
 35 (15) Except as provided in subsection (e), a vehicle used by a  
 36 person who operates the vehicle:  
 37 (A) while intoxicated, in violation of IC 9-30-5-1 through  
 38 IC 9-30-5-5, if in the previous five (5) years the person has two  
 39 (2) or more prior unrelated convictions:  
 40 (i) for operating a motor vehicle while intoxicated in  
 41 violation of IC 9-30-5-1 through IC 9-30-5-5; or  
 42 (ii) for an offense that is substantially similar to IC 9-30-5-1

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1 through IC 9-30-5-5 in another jurisdiction; or  
 2 (B) on a highway while the person's driving privileges are  
 3 suspended in violation of IC 9-24-19-2 through IC 9-24-19-4,  
 4 if in the previous five (5) years the person has two (2) or more  
 5 prior unrelated convictions:  
 6 (i) for operating a vehicle while intoxicated in violation of  
 7 IC 9-30-5-1 through IC 9-30-5-5; or  
 8 (ii) for an offense that is substantially similar to IC 9-30-5-1  
 9 through IC 9-30-5-5 in another jurisdiction.  
 10 If a court orders the seizure of a vehicle under this subdivision,  
 11 the court shall transmit an order to the bureau of motor vehicles  
 12 recommending that the bureau not permit a vehicle to be  
 13 registered in the name of the person whose vehicle was seized  
 14 until the person possesses a current driving license (as defined in  
 15 IC 9-13-2-41).  
 16 (16) The following real or personal property:  
 17 (A) Property used or intended to be used to commit, facilitate,  
 18 or promote the commission of an offense specified in  
 19 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or  
 20 IC 30-2-13-38(f).  
 21 (B) Property constituting, derived from, or traceable to the  
 22 gross proceeds that a person obtains directly or indirectly as a  
 23 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),  
 24 IC 30-2-10-9(b), or IC 30-2-13-38(f).  
 25 (b) A vehicle used by any person as a common or contract carrier in  
 26 the transaction of business as a common or contract carrier is not  
 27 subject to seizure under this section, unless it can be proven by a  
 28 preponderance of the evidence that the owner of the vehicle knowingly  
 29 permitted the vehicle to be used to engage in conduct that subjects it to  
 30 seizure under subsection (a).  
 31 (c) Equipment under subsection (a)(10) may not be seized unless it  
 32 can be proven by a preponderance of the evidence that the owner of the  
 33 equipment knowingly permitted the equipment to be used to engage in  
 34 conduct that subjects it to seizure under subsection (a)(10).  
 35 (d) Money, negotiable instruments, securities, weapons,  
 36 communications devices, or any property commonly used as  
 37 consideration for a violation of IC 35-48-4 found near or on a person  
 38 who is committing, attempting to commit, or conspiring to commit any  
 39 of the following offenses shall be admitted into evidence in an action  
 40 under this chapter as prima facie evidence that the money, negotiable  
 41 instrument, security, or other thing of value is property that has been  
 42 used or was to have been used to facilitate the violation of a criminal

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1 statute or is the proceeds of the violation of a criminal statute:

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

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

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

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

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

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

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

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

16 **(9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic  
17 drug lookalike substance) as a Class C felony or Class D  
18 felony.**

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

20 (1) an owner of the vehicle; or

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

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

26 SECTION 15. IC 35-31.5-2-321, AS ADDED BY P.L.114-2012,  
27 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2013]: Sec. 321. "Synthetic drug" means:

29 (1) a substance containing one (1) or more of the following  
30 chemical compounds, including an analog of the compound:

31 (A) JWH-015 ((2-Methyl-1-propyl-1H-  
32 indol-3-yl)-1-naphthalenylmethanone).

33 (B) JWH-018 (1-pentyl-3-(1-naphthoyl)indole).

34 (C) JWH-019 (1-hexyl-3-(naphthalen-1-oyl)indole).

35 (D) JWH-073

36 (naphthalen-1-yl-(1-butylindol-3-yl)methanone).

37 (E) JWH-081 (4-methoxynaphthalen- 1-yl- (1-pentylindol-  
38 3-yl)methanone).

39 (F) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).

40 (G) JWH-200 ((1-(2-morpholin-4-ylethyl)indol-3-yl)-  
41 naphthalen-1-yl-methanone).

42 (H) JWH-250 (1-pentyl-3-(2-methoxyphenylacetyl)indole).

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- 1 (I) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole).  
 2 (J) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).  
 3 (K) HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-  
 4 3-(2-methyloctan-2-yl)-  
 5 6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol).  
 6 (L) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-  
 7 3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo  
 8 [c]chromen-1-ol).  
 9 (M) HU-308 ([ (1R,2R,5R)-2-[2,6-dimethoxy-4-  
 10 (2-methyloctan-2-yl)phenyl]-  
 11 7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).  
 12 (N) HU-331 (3-hydroxy-2- [(1R,6R)-3-methyl-6-  
 13 (1-methylethenyl)-2-cyclohexen-1-yl]-5  
 14 -pentyl-2,5-cyclohexadiene-1,4-dione).  
 15 (O) CP 55,940  
 16 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-  
 17 5-(2-methyloctan-2-yl)phenol).  
 18 (P) CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]-5-  
 19 (2-methyloctan-2-yl)phenol) and its homologues, or  
 20 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)  
 21 phenol, where side chain n=5, and homologues where side  
 22 chain n=4, 6, or 7.  
 23 (Q) WIN 55212-2  
 24 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)  
 25 pyrrolo [1,2,3-de)-1,4-benzoxazin-  
 26 6-yl]-1-naphthalenylmethanone).  
 27 (R) RCS-4 ((4-methoxyphenyl)  
 28 (1-pentyl-1H-indol-3-yl)methanone).  
 29 (S) RCS-8 (1-(1-(2-cyclohexylethyl)-1H-  
 30 indol-3-yl)-2-(2-methoxyphenyl)ethanone).  
 31 (T) 4-Methylmethcathinone. Other name: mephedrone.  
 32 (U) 3,4-Methylenedioxy-methcathinone. Other name:  
 33 methylone.  
 34 (V) Fluoromethcathinone.  
 35 (W) 4-Methoxymethcathinone. Other name: methedrone.  
 36 (X) 4-Ethylmethcathinone (4-EMC).  
 37 (Y) Methylenedioxypropylvalerone. Other name: MDPV.  
 38 (Z) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole.  
 39 (AA) JWH-098, or  
 40 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole.  
 41 (BB) JWH-164, or  
 42 1-pentyl-3-(7-methoxy-1-naphthoyl)indole.

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1 (CC) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole.  
 2 (DD) JWH-201, or  
 3 1-pentyl-3-(4-methoxyphenylacetyl)indole.  
 4 (EE) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole.  
 5 (FF) AM-694, or  
 6 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.  
 7 (GG) CP 50,556-1, or  
 8 [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpe  
 9 ntan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1  
 10 -yl] acetate.  
 11 (HH) Dimethylheptylpyran, or DMHP.  
 12 (II) 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP.  
 13 (JJ) 6-APB [6-(2-aminopropyl)benzofuran].  
 14 (LL) 7-hydroxymitragynine.  
 15 (MM)  $\alpha$ -PPP [ $\alpha$ -pyrrolidinopropiophenone].  
 16 (NN)  $\alpha$ -PVP (desmethylpyrovalerone).  
 17 (OO) AM-251.  
 18 (PP) AM-1241.  
 19 (QQ) AM-2201.  
 20 (RR) AM-2233.  
 21 (SS) Buphedrone.  
 22 (TT) Butylone.  
 23 (UU) CP-47,497-C7.  
 24 (VV) CP-47,497-C8.  
 25 (WW) Desoxypipradol.  
 26 (XX) Ethylone.  
 27 (YY) Eutylone.  
 28 (ZZ) Flephedrone.  
 29 (AAA) JWH-011.  
 30 (BBB) JWH-020.  
 31 (CCC) JWH-022.  
 32 (DDD) JWH-030.  
 33 (EEE) JWH-182.  
 34 (FFF) JWH-302.  
 35 (GGG) MDAI [5,6-methylenedioxy-2-aminoindane].  
 36 (HHH) Mitragynine.  
 37 (III) Naphyrone.  
 38 (JJJ) Pentedrone.  
 39 (LLL) Pentylone.  
 40 (MMM) Methoxetamine  
 41 [2-(3-methoxyphenyl)-2-(ethylamino)-cyclohexanone].  
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- 1 [1-(2-morpholin-4-ylethyl)-1H-indol-3-yl]-  
 2 (2,2,3,3-tetramethylcyclopropyl)methanone].  
 3 (OOO) AB-001 [(1s,3s)-adamantan-1-yl]  
 4 (1-pentyl-1H-indol-3-yl)methanone] or [1-Pentyl-3-  
 5 (1-adamantoyl)indole].  
 6 (PPP) AM-356 [Methanandamide].  
 7 (QQQ) AM 1248 [1-[(1-methyl-2-piperidinyl) methyl]-  
 8 1H-indol-3-yl] tricyclo[3.3.1.1<sup>3,7</sup>] dec-1-yl-methanone] or  
 9 [ ( 1 - [ ( N - m e t h y l p i p e r i d i n - 2 -  
 10 yl)Methyl]-3-(Adamant-1-oyl)indole)].  
 11 (RRR) AM 2233 Azepane isomer [(2-iodophenyl)  
 12 (1-(1-methylazepan-3-yl)-1H-indol-3-yl)methanone].  
 13 (SSS) CB-13 [1-Naphthalenyl [4-(pentyoxy)-  
 14 1-naphthalenyl]methanone].  
 15 (TTT) UR-144 [(1-pentyl-1H-indol-3-yl)  
 16 (2,2,3,3-tetramethylcyclopropyl)-methanone].  
 17 (UUU) URB 597 [(3'-(aminocarbonyl) [1,1'-biphenyl]-3-yl)-  
 18 cyclohexylcarbamate].  
 19 (VVV) URB602 [[1,1'-biphenyl]- 3-yl-carbamic acid,  
 20 cyclohexyl ester].  
 21 (WWW) URB 754 [6-methyl-2-[(4-methylphenyl)  
 22 amino]-1-benzoxazin-4-one].  
 23 (XXX) XLR-11 or 5-fluoro UR-144  
 24 (1-(5-fluoropentyl)-1H-indol-3-yl)  
 25 (2,2,3,3-tetramethylcyclopropyl)methanone].  
 26 (2) Any compound structurally derived from  
 27 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by  
 28 substitution at the nitrogen atom of the indole ring by alkyl,  
 29 haloalkyl, **cyanoalkyl**, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
 30 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, or  
 31 **1-(N-methyl-2-pyrrolidinyl)methyl**, **1-(N-methyl-3-**  
 32 **morpholinyl)methyl**, or **tetrahydropyranylmethyl** group,  
 33 whether or not further substituted in the indole ring to any extent  
 34 and whether or not substituted in the naphthyl ring to any extent.  
 35 (3) Any compound structurally derived from 3-(1-naphthoyl)  
 36 pyrrole by substitution at the nitrogen atom of the pyrrole ring by  
 37 alkyl, haloalkyl, **cyanoalkyl**, alkenyl, cycloalkylmethyl,  
 38 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or  
 39 2-(4-morpholinyl)ethyl, or **1-(N-methyl-2-pyrrolidinyl)methyl**,  
 40 **1-(N-methyl-3-morpholinyl)methyl**, or  
 41 **tetrahydropyranylmethyl** group, whether or not further  
 42 substituted in the pyrrole ring to any extent and whether or not

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- 1 substituted in the naphthyl ring to any extent.
- 2 (4) Any compound structurally derived from  
3 1-(1-naphthylmethyl)indene by substitution at the 3-position of  
4 the indene ring by alkyl, haloalkyl, **cyanoalkyl**, alkenyl,  
5 **cycloalkylmethyl**, **cycloalkylethyl**,  
6 1-(N-methyl-2-piperidinyl)methyl, **or** 2-(4-morpholinyl)ethyl, **or**  
7 **1-(N-methyl-2-pyrrolidinyl)methyl**, **1-(N-methyl-3-**  
8 **morpholinyl)methyl**, **or tetrahydropyranylmethyl** group,  
9 whether or not further substituted in the indene ring to any extent  
10 and whether or not substituted in the naphthyl ring to any extent.
- 11 (5) Any compound structurally derived from 3-phenylacetylindole  
12 by substitution at the nitrogen atom of the indole ring with alkyl,  
13 haloalkyl, **cyanoalkyl**, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
14 1-(N-methyl-2-piperidinyl)methyl, **or** 2-(4-morpholinyl)ethyl, **or**  
15 **1-(N-methyl-2-pyrrolidinyl)methyl**, **1-(N-methyl-3-**  
16 **morpholinyl)methyl**, **or tetrahydropyranylmethyl** group,  
17 whether or not further substituted in the indole ring to any extent  
18 and whether or not substituted in the phenyl ring to any extent.
- 19 (6) Any compound structurally derived from  
20 2-(3-hydroxycyclohexyl)phenol by substitution at the 5-position  
21 of the phenolic ring by alkyl, haloalkyl, **cyanoalkyl**, alkenyl,  
22 **cycloalkylmethyl**, **cycloalkylethyl**,  
23 1-(N-methyl-2-piperidinyl)methyl, **or** 2-(4-morpholinyl)ethyl, **or**  
24 **1-(N-methyl-2-pyrrolidinyl)methyl**, **1-(N-methyl-3-**  
25 **morpholinyl)methyl**, **or tetrahydropyranylmethyl** group,  
26 whether or not substituted in the cyclohexyl ring to any extent.
- 27 (7) Any compound containing a 3-(benzoyl)indole structure with  
28 substitution at the nitrogen atom of the indole ring by alkyl,  
29 haloalkyl, **cyanoalkyl**, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
30 1-(N-methyl-2-piperidinyl)methyl, **or** 2-(4-morpholinyl)ethyl, **or**  
31 **1-(N-methyl-2-pyrrolidinyl)methyl**, **1-(N-methyl-3-**  
32 **morpholinyl)methyl**, **or tetrahydropyranylmethyl** group,  
33 whether or not further substituted in the indole ring to any extent  
34 and whether or not substituted in the phenyl ring to any extent.
- 35 (8) Any compound, except bupropion or a compound listed under  
36 a different schedule, structurally derived from  
37 2-aminopropan-1-one by substitution at the 1-position with either  
38 phenyl, naphthyl, or thiophene ring systems, whether or not the  
39 compound is further modified:
- 40 (A) by substitution in the ring system to any extent with alkyl,  
41 alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide  
42 substituents, whether or not further substituted in the ring

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1 system by one or more other univalent substituents;

2 (B) by substitution at the 3-position with an acyclic alkyl  
3 substituent;

4 (C) by substitution at the 2-amino nitrogen atom with alkyl,  
5 dialkyl, benzyl, or methoxybenzyl groups; or

6 (D) by inclusion of the 2-amino nitrogen atom in a cyclic  
7 structure.

8 **(9) Any compound structurally derived from 3-tetramethyl**  
9 **cyclopropanoylindole with substitution at the nitrogen atom**  
10 **of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl,**  
11 **cycloalkylmethyl, cycloalkylethyl,**  
12 **1-(N-methyl-2-piperidiny)methyl, 2-(4-morpholinyl) ethyl,**  
13 **1-(N-methyl-2-pyrrolidinyl) methyl, 1-(N-methyl-3-**  
14 **morpholinyl)methyl, or tetrahydropyranylmethyl group,**  
15 **whether or not further substituted in the indole ring to any**  
16 **extent and whether or not substituted in the**  
17 **tetramethylcyclopropyl ring to any extent.**

18 **(9) (10) Any compound determined to be a synthetic drug by rule**  
19 **adopted under IC 25-26-13-4.1.**

20 SECTION 16. IC 35-31.5-2-321.5 IS ADDED TO THE INDIANA  
21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 2013]: **Sec. 321.5. (a) "Synthetic drug**  
23 **lookalike substance", except as provided in subsection (b), means**  
24 **one (1) or more of the following:**

25 **(1) A substance that a reasonable person would believe is a**  
26 **synthetic drug.**

27 **(2) A substance that a reasonable person would believe is**  
28 **being purchased or sold as a synthetic drug.**

29 **(3) A substance that a person knows or should have known**  
30 **was intended to be consumed, and that consumption was**  
31 **intended to cause or simulate intoxication.**

32 **(b) The term "synthetic drug lookalike substance" does not**  
33 **include the following:**

34 **(1) Food and food ingredients (as defined in IC 6-2.5-1-20).**

35 **(2) Alcohol (as defined in IC 7.1-1-3-4).**

36 **(3) A legend drug (as defined in IC 16-18-2-199).**

37 **(4) Tobacco (as defined in IC 6-2.5-1-28).**

38 **(5) A dietary supplement (as defined in IC 6-2.5-1-16).**

39 SECTION 17. IC 35-45-6-1, AS AMENDED BY P.L.126-2012,  
40 SECTION 56, AND AS AMENDED BY P.L.149-2012, SECTION 19,  
41 IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 2013]: **Sec. 1. (a) The definitions in this section**

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- 1 apply throughout this chapter.
- 2 (b) "Documentary material" means any document, drawing,  
3 photograph, recording, or other tangible item containing compiled data  
4 from which information can be either obtained or translated into a  
5 usable form.
- 6 (c) "Enterprise" means:  
7 (1) a sole proprietorship, corporation, limited liability company,  
8 partnership, business trust, or governmental entity; or  
9 (2) a union, an association, or a group, whether a legal entity or  
10 merely associated in fact.
- 11 (d) "Pattern of racketeering activity" means engaging in at least two  
12 (2) incidents of racketeering activity that have the same or similar  
13 intent, result, accomplice, victim, or method of commission, or that are  
14 otherwise interrelated by distinguishing characteristics that are not  
15 isolated incidents. However, the incidents are a pattern of racketeering  
16 activity only if at least one (1) of the incidents occurred after August  
17 31, 1980, and if the last of the incidents occurred within five (5) years  
18 after a prior incident of racketeering activity.
- 19 (e) "Racketeering activity" means to commit, to attempt to commit,  
20 to conspire to commit a violation of, or aiding and abetting in a  
21 violation of any of the following:  
22 (1) A provision of IC 23-19, or of a rule or order issued under  
23 IC 23-19.  
24 (2) A violation of IC 35-45-9.  
25 (3) A violation of IC 35-47.  
26 (4) A violation of IC 35-49-3.  
27 (5) Murder (IC 35-42-1-1).  
28 (6) Battery as a Class C felony (IC 35-42-2-1).  
29 (7) Kidnapping (IC 35-42-3-2).  
30 (8) Human and sexual trafficking crimes (IC 35-42-3.5).  
31 (9) Child exploitation (IC 35-42-4-4).  
32 (10) Robbery (IC 35-42-5-1).  
33 (11) Carjacking (IC 35-42-5-2).  
34 (12) Arson (IC 35-43-1-1).  
35 (13) Burglary (IC 35-43-2-1).  
36 (14) Theft (IC 35-43-4-2).  
37 (15) Receiving stolen property (IC 35-43-4-2).  
38 (16) Forgery (IC 35-43-5-2).  
39 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).  
40 (18) Bribery (~~IC 35-44-1-1~~; (IC 35-44.1-1-2)).  
41 (19) Official misconduct (~~IC 35-44-1-2~~; (IC 35-44.1-1-1)).  
42 (20) Conflict of interest (~~IC 35-44-1-3~~; (IC 35-44.1-1-4)).

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- 1 (21) Perjury (~~IC 35-44-2-1~~): (IC 35-44.1-2-1).  
 2 (22) Obstruction of justice (~~IC 35-44-3-4~~): (IC 35-44.1-2-2).  
 3 (23) Intimidation (IC 35-45-2-1).  
 4 (24) Promoting prostitution (IC 35-45-4-4).  
 5 (25) Professional gambling (IC 35-45-5-3).  
 6 (26) Maintaining a professional gambling site  
 7 (IC 35-45-5-3.5(b)).  
 8 (27) Promoting professional gambling (IC 35-45-5-4).  
 9 (28) Dealing in or manufacturing cocaine or a narcotic drug  
 10 (IC 35-48-4-1).  
 11 (29) Dealing in or manufacturing methamphetamine  
 12 (IC 35-48-4-1.1).  
 13 (30) Dealing in a schedule I, II, or III controlled substance  
 14 (IC 35-48-4-2).  
 15 (31) Dealing in a schedule IV controlled substance  
 16 (IC 35-48-4-3).  
 17 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).  
 18 (33) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic  
 19 cannabinoid (IC 35-48-4-10).  
 20 (34) Money laundering (IC 35-45-15-5).  
 21 (35) A violation of IC 35-47.5-5.  
 22 (36) A violation of any of the following:  
 23 (A) IC 23-14-48-9.  
 24 (B) IC 30-2-9-7(b).  
 25 (C) IC 30-2-10-9(b).  
 26 (D) IC 30-2-13-38(f).  
 27 (37) *Practice of law by a person who is not an attorney*  
 28 (*IC 33-43-2-1*).  
 29 **(38) Dealing in a synthetic drug or synthetic drug lookalike**  
 30 **substance (IC 35-48-4-10.5).**  
 31 SECTION 18. IC 35-46-9-2, AS ADDED BY P.L.40-2012,  
 32 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 33 JULY 1, 2013]: Sec. 2. As used in this chapter, "intoxicated" means  
 34 under the influence of:  
 35 (1) alcohol;  
 36 (2) a controlled substance;  
 37 (3) any drug (as defined in IC 9-13-2-49.1) other than alcohol or  
 38 a controlled substance; ~~or~~  
 39 (4) any combination of alcohol, controlled substances, or drugs;  
 40 **or**  
 41 **(5) any other substance, not including food and food**  
 42 **ingredients (as defined in IC 6-2.5-1-20), tobacco, or a dietary**

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- 1           **supplement (as defined in IC 6-2.5-1-16);**  
 2           so that there is an impaired condition of thought and action and the loss  
 3           of normal control of an individual's faculties.
- 4           SECTION 19. IC 35-48-4-10, AS AMENDED BY P.L.78-2012,  
 5           SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6           JULY 1, 2013]: Sec. 10. (a) A person who:
- 7           (1) knowingly or intentionally:  
 8                (A) manufactures;  
 9                (B) finances the manufacture of;  
 10               (C) delivers; or  
 11               (D) finances the delivery of;  
 12           marijuana, hash oil, hashish, **or** salvia, ~~or a synthetic drug~~; pure  
 13           or adulterated; or  
 14           (2) possesses, with intent to:  
 15                (A) manufacture;  
 16                (B) finance the manufacture of;  
 17                (C) deliver; or  
 18                (D) finance the delivery of;  
 19           marijuana, hash oil, hashish, **or** salvia, ~~or a synthetic drug~~; pure  
 20           or adulterated;  
 21           commits dealing in marijuana, hash oil, hashish, **or** salvia, ~~or a~~  
 22           ~~synthetic drug~~, a Class A misdemeanor, except as provided in  
 23           subsection (b).
- 24           (b) The offense is:  
 25                (1) a Class D felony if:  
 26                    (A) the recipient or intended recipient is under eighteen (18)  
 27                    years of age;  
 28                    (B) the amount involved is  
 29                        (i) more than thirty (30) grams but less than ten (10) pounds  
 30                        of marijuana or more than two (2) grams but less than three  
 31                        hundred (300) grams of hash oil, hashish, or salvia; or  
 32                        (ii) ~~more than two (2) grams of a synthetic drug~~; or  
 33                    (C) the person has a prior conviction of an offense involving  
 34                    marijuana, hash oil, hashish, **or** salvia; ~~or a synthetic drug~~; and  
 35                (2) a Class C felony if  
 36                    ~~(A)~~ the amount involved is ten (10) pounds or more of  
 37                    marijuana or three hundred (300) or more grams of hash oil,  
 38                    hashish, or salvia, or the person delivered or financed the  
 39                    delivery of marijuana, hash oil, hashish, or salvia:  
 40                        (i) **(A)** on a school bus; or  
 41                        (ii) **(B)** in, on, or within one thousand (1,000) feet of, school  
 42                        property, a public park, a family housing complex, or a youth

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1 program center. or

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

5 (i) on a school bus; or

6 (ii) in, on, or within one thousand (1,000) feet of school  
7 property; a public park; a family housing complex; or a  
8 youth program center.

9 SECTION 20. IC 35-48-4-10.5 IS ADDED TO THE INDIANA  
10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
11 [EFFECTIVE JULY 1, 2013]: **Sec. 10.5. (a) A person who:**

12 **(1) manufactures;**

13 **(2) finances the manufacture of;**

14 **(3) delivers;**

15 **(4) finances the delivery of;**

16 **(5) possesses, with intent to deliver; or**

17 **(6) possesses, with intent to finance the delivery of;**

18 **a synthetic drug or a synthetic drug lookalike substance commits**  
19 **dealing in a synthetic drug or synthetic drug lookalike substance,**  
20 **a Class A infraction. However, the offense is a Class D felony if the**  
21 **offense is committed knowingly or intentionally and the person has**  
22 **a prior unrelated judgment or conviction under this subsection.**

23 **(b) A person who:**

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

25 **(A) manufactures;**

26 **(B) finances the manufacture of;**

27 **(C) delivers; or**

28 **(D) finances the delivery of;**

29 **a synthetic drug or synthetic drug lookalike substance; 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 synthetic drug or synthetic drug lookalike substance;**  
36 **commits dealing in a synthetic drug or synthetic drug lookalike**  
37 **substance, a Class A misdemeanor, except as provided in**  
38 **subsection (c).**

39 **(c) The offense in subsection (b) is:**

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

41 **(A) the recipient or intended recipient is less than eighteen**  
42 **(18) years of age;**

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- 1           **(B) the amount involved is more than two (2) grams; or**  
 2           **(C) the person has a prior conviction of an offense**  
 3           **involving a synthetic drug or synthetic drug lookalike**  
 4           **substance; and**  
 5           **(2) a Class C felony if the amount involved is more than two**  
 6           **(2) grams and the person delivered or financed the delivery of**  
 7           **the synthetic drug or synthetic drug lookalike substance:**  
 8               **(A) on a school bus; or**  
 9               **(B) in, on, or within one thousand (1,000) feet of, school**  
 10              **property, a public park, a family housing complex, or a**  
 11              **youth program center.**  
 12           **(d) In determining whether a substance is a synthetic drug**  
 13           **lookalike substance, the trier of fact may consider, in addition to**  
 14           **other relevant factors, the following:**  
 15               **(1) The overall appearance of the substance, including shape,**  
 16               **color, size, markings or lack of markings, taste, consistency,**  
 17               **or any other identifying physical characteristic of the**  
 18               **substance.**  
 19               **(2) A statement made by the owner or other person in control**  
 20               **of the substance concerning the substance's nature, use, or**  
 21               **effect.**  
 22               **(3) A statement made by any person to the buyer or recipient**  
 23               **of the substance suggesting or implying that the substance**  
 24               **may be resold for profit.**  
 25               **(4) Whether:**  
 26                   **(A) the distribution included an exchange of, or demand**  
 27                   **for, money or other property as consideration;**  
 28                   **(B) the amount of the consideration was substantially**  
 29                   **greater than the reasonable retail market value of the**  
 30                   **substance;**  
 31                   **(C) the substance is expressly or impliedly represented to**  
 32                   **be a synthetic drug; and**  
 33                   **(D) the substance is distributed under circumstances that**  
 34                   **would lead a reasonable person to believe that the**  
 35                   **substance is a controlled substance.**  
 36           **(e) In addition to a criminal or civil penalty imposed for a**  
 37           **violation of this section, if the court finds that a person has violated**  
 38           **this section and the violation involved the sale of or offer to sell, in**  
 39           **the normal course of business, a synthetic drug or a synthetic drug**  
 40           **lookalike substance by a retail merchant in a place of business for**  
 41           **which the retail merchant has been issued a registered retail**  
 42           **merchant certificate, the court shall recommend the suspension of**

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1 the registered retail merchant certificate for the place of business  
2 for one (1) year.  
3 (f) The department of state revenue shall suspend the registered  
4 retail merchant certificate of a retail merchant in accordance with  
5 the recommendation of the court. Whenever the department of  
6 state revenue is required to suspend a retail merchant's registered  
7 retail merchant certificate under this section, the department shall  
8 immediately mail a notice to the retail merchant's address that  
9 must state that the retail merchant's registered retail merchant  
10 certificate will be suspended for one (1) year, commencing five (5)  
11 days after the date of the notice.

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