



Reprinted
February 19, 2013

SENATE BILL No. 536

DIGEST OF SB 536 (Updated February 18, 2013 4:51 pm - DI 106)

Citations Affected: IC 4-6; IC 6-2.5; IC 9-13; IC 16-31; IC 20-28; IC 22-15; IC 24-5; IC 25-1; IC 25-26; IC 32-30; IC 34-24; IC 35-31.5; IC 35-45; IC 35-46; IC 35-48.

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 or possession of a synthetic drug lookalike substance a criminal offense. Adds dealing in synthetic drugs to the list of racketeering offenses. Makes conforming amendments.

Effective: Upon passage.

**Merritt, Alting, Head, Steele, Zakas,
Young R Michael, Randolph,
Miller Patricia**

January 14, 2013, read first time and referred to Committee on Corrections & Criminal Law.
January 31, 2013, amended, reported favorably — Do Pass.
February 18, 2013, read second time, amended, ordered engrossed.

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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.

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 UPON PASSAGE]: Sec. 4. An investigative demand
3 shall 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

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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 UPON PASSAGE]: 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 proceed in accordance with subsection (i) (if the violation resulted in a criminal conviction) or subsection (j) (if the violation resulted in a judgment for an infraction).

(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

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1 significant harm will result to the county from the certificate
 2 holder's failure to comply with IC 6-9.

3 (e) The department shall revoke or suspend a certificate issued
 4 under section 1 of this chapter after at least five (5) days notice to the
 5 certificate holder if:

6 (1) the certificate holder owes taxes, penalties, fines, interest, or
 7 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
 8 days after the due date under IC 6-1.1; and
 9 (2) the treasurer of the county to which the taxes are due requests
 10 the department to revoke or suspend the certificate.

11 (f) The department shall reinstate a certificate suspended under
 12 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
 13 or the county treasurer requests the department to reinstate the
 14 certificate because an agreement for the payment of taxes and any
 15 penalties due under IC 6-1.1 has been reached to the satisfaction of the
 16 county treasurer.

17 (g) The department shall revoke a certificate issued under section
 18 1 of this chapter after at least five (5) days notice to the certificate
 19 holder if the department finds in a public hearing by a preponderance
 20 of the evidence that the certificate holder has violated IC 35-45-5-3,
 21 IC 35-45-5-3.5, or IC 35-45-5-4.

22 (h) If a person makes a payment for the certificate under section 1
 23 or 3 of this chapter with a check, credit card, debit card, or electronic
 24 funds transfer, and the department is unable to obtain payment of the
 25 check, credit card, debit card, or electronic funds transfer for its full
 26 face amount when the check, credit card, debit card, or electronic funds
 27 transfer is presented for payment through normal banking channels, the
 28 department shall notify the person by mail that the check, credit card,
 29 debit card, or electronic funds transfer was not honored and that the
 30 person has five (5) days after the notice is mailed to pay the fee in cash,
 31 by certified check, or other guaranteed payment. If the person fails to
 32 make the payment within the five (5) day period, the department shall
 33 revoke the certificate.

34 (i) If the department finds in a public hearing by a preponderance of
 35 the evidence that a person has ~~been convicted of violating~~
 36 ~~IC 35-48-4-10~~ **a conviction for a violation of IC 35-48-4-10.5** and the
 37 conviction involved the sale of or the offer to sell, in the normal course
 38 of business, a synthetic drug **or a synthetic drug lookalike substance**
 39 by a retail merchant in a place of business for which the retail merchant
 40 has been issued a registered retail merchant certificate under section 1
 41 of this chapter, the 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 **(j) If the department finds in a public hearing by a**
 15 **preponderance of the evidence that a person has a judgment for a**
 16 **violation of IC 35-48-4-10.5 as an infraction and the violation**
 17 **involved the sale of or the offer to sell, in the normal course of**
 18 **business, a synthetic drug or a synthetic drug lookalike substance**
 19 **by a retail merchant in a place of business for which the retail**
 20 **merchant has been issued a registered retail merchant certificate**
 21 **under section 1 of this chapter, the department:**

22 **(1) may suspend the registered retail merchant certificate for**
 23 **the place of business for six (6) months; and**

24 **(2) may withhold issuance of another retail merchant**
 25 **certificate under section 1 of this chapter for six (6) months to**
 26 **any person:**

27 (A) that:

28 (i) applied for; or

29 (ii) made a retail transaction under;

30 the retail merchant certificate suspended under
 31 subdivision (1); or

32 (B) that:

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

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

35 the retail merchant that was issued the retail merchant
 36 certificate suspended under subdivision (1).

37 SECTION 3. IC 9-13-2-86, AS AMENDED BY P.L.151-2006,
 38 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 86. "Intoxicated" means under the influence
 40 of:

41 (1) alcohol;

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

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- 1 (3) a drug other than alcohol or a controlled substance;
- 2 (4) a substance described in IC 35-46-6-2 or IC 35-46-6-3; ~~or~~
- 3 (5) a combination of substances described in subdivisions (1)
- 4 through (4); **or**
- 5 **(6) any other substance, not including food and food**
- 6 **ingredients (as defined in IC 6-2.5-1-20), tobacco, or a dietary**
- 7 **supplement (as defined in IC 6-2.5-1-16);**

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

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

- 18 (1) engaged in or knowingly cooperated in fraud or material
- 19 deception in order to obtain a certificate or license, including
- 20 cheating on a certification or licensure examination;
- 21 (2) engaged in fraud or material deception in the course of
- 22 professional services or activities;
- 23 (3) advertised services or goods in a false or misleading manner;
- 24 (4) falsified or knowingly allowed another person to falsify
- 25 attendance records or certificates of completion of continuing
- 26 education courses required under this article or rules adopted
- 27 under this article;
- 28 (5) is convicted of a crime, if the act that resulted in the
- 29 conviction has a direct bearing on determining if the certificate
- 30 holder or license holder should be entrusted to provide emergency
- 31 medical services;
- 32 (6) is convicted of violating IC 9-19-14.5;
- 33 (7) fails to comply and maintain compliance with or violates any
- 34 applicable provision, standard, or other requirement of this article
- 35 or rules adopted under this article;
- 36 (8) continues to practice if the certificate holder or license holder
- 37 becomes unfit to practice due to:
 - 38 (A) professional incompetence that includes the undertaking
 - 39 of professional activities that the certificate holder or license
 - 40 holder is not qualified by training or experience to undertake;
 - 41 (B) failure to keep abreast of current professional theory or
 - 42 practice;

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- 1 (C) physical or mental disability; or
- 2 (D) addiction to, abuse of, or dependency on alcohol or other
- 3 drugs that endanger the public by impairing the certificate
- 4 holder's or license holder's ability to practice safely;
- 5 (9) engages in a course of lewd or immoral conduct in connection
- 6 with the delivery of services to the public;
- 7 (10) allows the certificate holder's or license holder's name or a
- 8 certificate or license issued under this article to be used in
- 9 connection with a person who renders services beyond the scope
- 10 of that person's training, experience, or competence;
- 11 (11) is subjected to disciplinary action in another state or
- 12 jurisdiction on grounds similar to those contained in this chapter.
- 13 For purposes of this subdivision, a certified copy of a record of
- 14 disciplinary action constitutes prima facie evidence of a
- 15 disciplinary action in another jurisdiction;
- 16 (12) assists another person in committing an act that would
- 17 constitute a ground for disciplinary sanction under this chapter;
- 18 or
- 19 (13) allows a certificate or license issued by the commission to
- 20 be:
- 21 (A) used by another person; or
- 22 (B) displayed to the public when the certificate or license is
- 23 expired, inactive, invalid, revoked, or suspended.
- 24 (b) The department of homeland security may issue an order under
- 25 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
- 26 the department of homeland security determines that a certificate
- 27 holder or license holder is subject to disciplinary sanctions under
- 28 subsection (a):
- 29 (1) Revocation of a certificate holder's certificate or license
- 30 holder's license for a period not to exceed seven (7) years.
- 31 (2) Suspension of a certificate holder's certificate or license
- 32 holder's license for a period not to exceed seven (7) years.
- 33 (3) Censure of a certificate holder or license holder.
- 34 (4) Issuance of a letter of reprimand.
- 35 (5) Assessment of a civil penalty against the certificate holder or
- 36 license holder in accordance with the following:
- 37 (A) The civil penalty may not exceed five hundred dollars
- 38 (\$500) per day per violation.
- 39 (B) If the certificate holder or license holder fails to pay the
- 40 civil penalty within the time specified by the department of
- 41 homeland security, the department of homeland security may
- 42 suspend the certificate holder's certificate or license holder's

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- 1 license without additional proceedings.
- 2 (6) Placement of a certificate holder or license holder on
- 3 probation status and requirement of the certificate holder or
- 4 license holder to:
- 5 (A) report regularly to the department of homeland security
- 6 upon the matters that are the basis of probation;
- 7 (B) limit practice to those areas prescribed by the department
- 8 of homeland security;
- 9 (C) continue or renew professional education approved by the
- 10 department of homeland security until a satisfactory degree of
- 11 skill has been attained in those areas that are the basis of the
- 12 probation; or
- 13 (D) perform or refrain from performing any acts, including
- 14 community restitution or service without compensation, that
- 15 the department of homeland security considers appropriate to
- 16 the public interest or to the rehabilitation or treatment of the
- 17 certificate holder or license holder.
- 18 The department of homeland security may withdraw or modify
- 19 this probation if the department of homeland security finds after
- 20 a hearing that the deficiency that required disciplinary action is
- 21 remedied or that changed circumstances warrant a modification
- 22 of the order.
- 23 (c) If an applicant or a certificate holder or license holder has
- 24 engaged in or knowingly cooperated in fraud or material deception to
- 25 obtain a certificate or license, including cheating on the certification or
- 26 licensure examination, the department of homeland security may
- 27 rescind the certificate or license if it has been granted, void the
- 28 examination or other fraudulent or deceptive material, and prohibit the
- 29 applicant from reapplying for the certificate or license for a length of
- 30 time established by the department of homeland security.
- 31 (d) The department of homeland security may deny certification or
- 32 licensure to an applicant who would be subject to disciplinary sanctions
- 33 under subsection (b) if that person were a certificate holder or license
- 34 holder, has had disciplinary action taken against the applicant or the
- 35 applicant's certificate or license to practice in another state or
- 36 jurisdiction, or has practiced without a certificate or license in violation
- 37 of the law. A certified copy of the record of disciplinary action is
- 38 conclusive evidence of the other jurisdiction's disciplinary action.
- 39 (e) The department of homeland security may order a certificate
- 40 holder or license holder to submit to a reasonable physical or mental
- 41 examination if the certificate holder's or license holder's physical or
- 42 mental capacity to practice safely and competently is at issue in a

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1 disciplinary proceeding. Failure to comply with a department of
 2 homeland security order to submit to a physical or mental examination
 3 makes a certificate holder or license holder liable to temporary
 4 suspension under subsection (i).

5 (f) Except as provided under subsection (a), subsection (g), and
 6 section 14.5 of this chapter, a certificate or license may not be denied,
 7 revoked, or suspended because the applicant, certificate holder, or
 8 license holder has been convicted of an offense. The acts from which
 9 the applicant's, certificate holder's, or license holder's conviction
 10 resulted may be considered as to whether the applicant or certificate
 11 holder or license holder should be entrusted to serve the public in a
 12 specific capacity.

13 (g) The department of homeland security may deny, suspend, or
 14 revoke a certificate or license issued under this article if the individual
 15 who holds or is applying for the certificate or license is convicted of
 16 any of the following:

- 17 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 18 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 19 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 20 (4) Fraudulently obtaining a controlled substance under
 21 IC 35-48-4-7(b).
- 22 (5) Manufacture of paraphernalia as a Class D felony under
 23 IC 35-48-4-8.1(b).
- 24 (6) Dealing in paraphernalia as a Class D felony under
 25 IC 35-48-4-8.5(b).
- 26 (7) Possession of paraphernalia as a Class D felony under
 27 IC 35-48-4-8.3(b).
- 28 (8) Possession of marijuana, hash oil, hashish, **or salvia or a**
 29 **synthetic drug** as a Class D felony under IC 35-48-4-11.
- 30 **(9) Possession of a synthetic drug or synthetic drug lookalike**
 31 **substance as a Class D felony under IC 35-48-4-11.5 (or under**
 32 **IC 35-48-4-11 before its amendment in 2013).**
- 33 ~~(9)~~ **(10)** Maintaining a common nuisance under IC 35-48-4-13.
- 34 ~~(10)~~ **(11)** An offense relating to registration, labeling, and
 35 prescription forms under IC 35-48-4-14.
- 36 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 37 listed in subdivisions ~~(1) through (10)~~; **this section.**
- 38 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
 39 in subdivisions ~~(1) through (10)~~; **this section.**
- 40 ~~(13)~~ **(14)** An offense in any other jurisdiction in which the
 41 elements of the offense for which the conviction was entered are
 42 substantially similar to the elements of an offense described by

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1 ~~subdivisions (1) through (12): in this section.~~

2 (h) A decision of the department of homeland security under
3 subsections (b) through (g) may be appealed to the commission under
4 IC 4-21.5-3-7.

5 (i) The department of homeland security may temporarily suspend
6 a certificate holder's certificate or license holder's license under
7 IC 4-21.5-4 before a final adjudication or during the appeals process if
8 the department of homeland security finds that a certificate holder or
9 license holder would represent a clear and immediate danger to the
10 public's health, safety, or property if the certificate holder or license
11 holder were allowed to continue to practice.

12 (j) On receipt of a complaint or information alleging that a person
13 certified or licensed under this chapter or IC 16-31-3.5 has engaged in
14 or is engaging in a practice that is subject to disciplinary sanctions
15 under this chapter, the department of homeland security must initiate
16 an investigation against the person.

17 (k) The department of homeland security shall conduct a factfinding
18 investigation as the department of homeland security considers proper
19 in relation to the complaint.

20 (l) The department of homeland security may reinstate a certificate
21 or license that has been suspended under this section if the department
22 of homeland security is satisfied that the applicant is able to practice
23 with reasonable skill, competency, and safety to the public. As a
24 condition of reinstatement, the department of homeland security may
25 impose disciplinary or corrective measures authorized under this
26 chapter.

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

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

33 (o) A certificate holder may not surrender the certificate holder's
34 certificate, and a license holder may not surrender the license holder's
35 license, without the written approval of the department of homeland
36 security, and the department of homeland security may impose any
37 conditions appropriate to the surrender or reinstatement of a
38 surrendered certificate or license.

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

- 41 (1) an unlimited certificate;
42 (2) a limited or probationary certificate; or

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- 1 (3) an inactive certificate.
- 2 (q) For purposes of this section, "license holder" means a person
- 3 who holds:
- 4 (1) an unlimited license;
- 5 (2) a limited or probationary license; or
- 6 (3) an inactive license.
- 7 SECTION 5. IC 16-31-3-14.5, AS AMENDED BY P.L.77-2012,
- 8 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 UPON PASSAGE]: Sec. 14.5. The department of homeland security
- 10 may issue an order under IC 4-21.5-3-6 to deny an applicant's request
- 11 for certification or licensure or permanently revoke a certificate or
- 12 license under procedures provided by section 14 of this chapter if the
- 13 individual who holds the certificate or license issued under this title is
- 14 convicted of any of the following:
- 15 (1) Dealing in or manufacturing cocaine or a narcotic drug under
- 16 IC 35-48-4-1.
- 17 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 18 (3) Dealing in a schedule I, II, or III controlled substance under
- 19 IC 35-48-4-2.
- 20 (4) Dealing in a schedule IV controlled substance under
- 21 IC 35-48-4-3.
- 22 (5) Dealing in a schedule V controlled substance under
- 23 IC 35-48-4-4.
- 24 (6) Dealing in a substance represented to be a controlled
- 25 substance under IC 35-48-4-4.5.
- 26 (7) Knowingly or intentionally manufacturing, advertising,
- 27 distributing, or possessing with intent to manufacture, advertise,
- 28 or distribute a substance represented to be a controlled substance
- 29 under IC 35-48-4-4.6.
- 30 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 31 (9) Dealing in marijuana, hash oil, hashish, ~~or~~ salvia ~~or~~ a
- 32 ~~synthetic drug~~ under IC 35-48-4-10(b).
- 33 **(10) Dealing in a synthetic drug or synthetic drug lookalike**
- 34 **substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)**
- 35 **before its amendment in 2013).**
- 36 ~~(11)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense
- 37 listed in subdivisions ~~(1)~~ **(1)** through ~~(9)~~ **(9)** **this section.**
- 38 ~~(12)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed
- 39 in subdivisions ~~(1)~~ **(1)** through ~~(9)~~ **(9)** **this section.**
- 40 ~~(13)~~ **(13)** A crime of violence (as defined in IC 35-50-1-2(a)).
- 41 ~~(14)~~ **(14)** An offense in any other jurisdiction in which the
- 42 elements of the offense for which the conviction was entered are

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1 substantially similar to the elements of an offense described under
 2 subdivisions (1) through (12) **this section.**
 3 SECTION 6. IC 20-28-5-8, AS AMENDED BY P.L.78-2012,
 4 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 8. (a) This section applies when a prosecuting
 6 attorney knows that a licensed employee of a public school or a
 7 nonpublic school has been convicted of an offense listed in subsection
 8 (c). The prosecuting attorney shall immediately give written notice of
 9 the conviction to the following:
 10 (1) The state superintendent.
 11 (2) Except as provided in subdivision (3), the superintendent of
 12 the school corporation that employs the licensed employee or the
 13 equivalent authority if a nonpublic school employs the licensed
 14 employee.
 15 (3) The presiding officer of the governing body of the school
 16 corporation that employs the licensed employee, if the convicted
 17 licensed employee is the superintendent of the school corporation.
 18 (b) The superintendent of a school corporation, presiding officer of
 19 the governing body, or equivalent authority for a nonpublic school shall
 20 immediately notify the state superintendent when the individual knows
 21 that a current or former licensed employee of the public school or
 22 nonpublic school has been convicted of an offense listed in subsection
 23 (c), or when the governing body or equivalent authority for a nonpublic
 24 school takes any final action in relation to an employee who engaged
 25 in any offense listed in subsection (c).
 26 (c) The department, after holding a hearing on the matter, shall
 27 permanently revoke the license of a person who is known by the
 28 department to have been convicted of any of the following felonies:
 29 (1) Kidnapping (IC 35-42-3-2).
 30 (2) Criminal confinement (IC 35-42-3-3).
 31 (3) Rape (IC 35-42-4-1).
 32 (4) Criminal deviate conduct (IC 35-42-4-2).
 33 (5) Child molesting (IC 35-42-4-3).
 34 (6) Child exploitation (IC 35-42-4-4(b)).
 35 (7) Vicarious sexual gratification (IC 35-42-4-5).
 36 (8) Child solicitation (IC 35-42-4-6).
 37 (9) Child seduction (IC 35-42-4-7).
 38 (10) Sexual misconduct with a minor (IC 35-42-4-9).
 39 (11) Incest (IC 35-46-1-3).
 40 (12) Dealing in or manufacturing cocaine or a narcotic drug
 41 (IC 35-48-4-1).
 42 (13) Dealing in methamphetamine (IC 35-48-4-1.1).

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- 1 (14) Dealing in a schedule I, II, or III controlled substance
- 2 (IC 35-48-4-2).
- 3 (15) Dealing in a schedule IV controlled substance
- 4 (IC 35-48-4-3).
- 5 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 6 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 7 (18) Dealing in marijuana, hash oil, hashish, or salvia or a
- 8 synthetic drug (IC 35-48-4-10(b)).
- 9 **(19) Dealing in a synthetic drug or synthetic drug lookalike**
- 10 **substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its**
- 11 **amendment in 2013).**
- 12 ~~(19)~~ **(20)** Possession of child pornography (IC 35-42-4-4(c)).
- 13 ~~(20)~~ **(21)** Homicide (IC 35-42-1).
- 14 ~~(21)~~ **(22)** Voluntary manslaughter (IC 35-42-1-3).
- 15 ~~(22)~~ **(23)** Reckless homicide (IC 35-42-1-5).
- 16 ~~(23)~~ **(24)** Battery as any of the following:
- 17 (A) A Class A felony (IC 35-42-2-1(a)(5)).
- 18 (B) A Class B felony (IC 35-42-2-1(a)(4)).
- 19 (C) A Class C felony (IC 35-42-2-1(a)(3)).
- 20 ~~(24)~~ **(25)** Aggravated battery (IC 35-42-2-1.5).
- 21 ~~(25)~~ **(26)** Robbery (IC 35-42-5-1).
- 22 ~~(26)~~ **(27)** Carjacking (IC 35-42-5-2).
- 23 ~~(27)~~ **(28)** Arson as a Class A felony or a Class B felony
- 24 (IC 35-43-1-1(a)).
- 25 ~~(28)~~ **(29)** Burglary as a Class A felony or a Class B felony
- 26 (IC 35-43-2-1).
- 27 ~~(29)~~ **(30)** Attempt under IC 35-41-5-1 to commit an offense listed
- 28 in subdivisions ~~(1)~~ through ~~(28)~~ **this subsection.**
- 29 ~~(30)~~ **(31)** Conspiracy under IC 35-41-5-2 to commit an offense
- 30 listed in subdivisions ~~(1)~~ through ~~(28)~~ **this subsection.**
- 31 (d) The department, after holding a hearing on the matter, shall
- 32 permanently revoke the license of a person who is known by the
- 33 department to have been convicted of a federal offense or an offense in
- 34 another state that is comparable to a felony listed in subsection (c).
- 35 (e) A license may be suspended by the state superintendent as
- 36 specified in IC 20-28-7.5.
- 37 (f) The department shall develop a data base of information on
- 38 school corporation employees who have been reported to the
- 39 department under this section.
- 40 SECTION 7. IC 22-15-5-16, AS AMENDED BY P.L.78-2012,
- 41 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 42 UPON PASSAGE]: Sec. 16. (a) A practitioner shall comply with the

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1 standards established under this licensing program. A practitioner is
 2 subject to the exercise of the disciplinary sanctions under subsection
 3 (b) if the department finds that a practitioner has:

- 4 (1) engaged in or knowingly cooperated in fraud or material
 5 deception in order to obtain a license to practice, including
 6 cheating on a licensing examination;
 7 (2) engaged in fraud or material deception in the course of
 8 professional services or activities;
 9 (3) advertised services or goods in a false or misleading manner;
 10 (4) falsified or knowingly allowed another person to falsify
 11 attendance records or certificates of completion of continuing
 12 education courses provided under this chapter;
 13 (5) been convicted of a crime that has a direct bearing on the
 14 practitioner's ability to continue to practice competently;
 15 (6) knowingly violated a state statute or rule or federal statute or
 16 regulation regulating the profession for which the practitioner is
 17 licensed;
 18 (7) continued to practice although the practitioner has become
 19 unfit to practice due to:
 20 (A) professional incompetence;
 21 (B) failure to keep abreast of current professional theory or
 22 practice;
 23 (C) physical or mental disability; or
 24 (D) addiction to, abuse of, or severe dependency on alcohol or
 25 other drugs that endanger the public by impairing a
 26 practitioner's ability to practice safely;
 27 (8) engaged in a course of lewd or immoral conduct in connection
 28 with the delivery of services to the public;
 29 (9) allowed the practitioner's name or a license issued under this
 30 chapter to be used in connection with an individual or business
 31 who renders services beyond the scope of that individual's or
 32 business's training, experience, or competence;
 33 (10) had disciplinary action taken against the practitioner or the
 34 practitioner's license to practice in another state or jurisdiction on
 35 grounds similar to those under this chapter;
 36 (11) assisted another person in committing an act that would
 37 constitute a ground for disciplinary sanction under this chapter;
 38 or
 39 (12) allowed a license issued by the department to be:
 40 (A) used by another person; or
 41 (B) displayed to the public when the license has expired, is
 42 inactive, is invalid, or has been revoked or suspended.

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1 For purposes of subdivision (10), a certified copy of a record of
2 disciplinary action constitutes prima facie evidence of a disciplinary
3 action in another jurisdiction.

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

- 7 (1) Permanent revocation of a practitioner's license.
- 8 (2) Suspension of a practitioner's license.
- 9 (3) Censure of a practitioner.
- 10 (4) Issuance of a letter of reprimand.
- 11 (5) Assess a civil penalty against the practitioner in accordance
12 with the following:

13 (A) The civil penalty may not be more than one thousand
14 dollars (\$1,000) for each violation listed in subsection (a),
15 except for a finding of incompetency due to a physical or
16 mental disability.

17 (B) When imposing a civil penalty, the department shall
18 consider a practitioner's ability to pay the amount assessed. If
19 the practitioner fails to pay the civil penalty within the time
20 specified by the department, the department may suspend the
21 practitioner's license without additional proceedings. However,
22 a suspension may not be imposed if the sole basis for the
23 suspension is the practitioner's inability to pay a civil penalty.

24 (6) Place a practitioner on probation status and require the
25 practitioner to:

- 26 (A) report regularly to the department upon the matters that
27 are the basis of probation;
- 28 (B) limit practice to those areas prescribed by the department;
- 29 (C) continue or renew professional education approved by the
30 department until a satisfactory degree of skill has been attained
31 in those areas that are the basis of the probation; or
- 32 (D) perform or refrain from performing any acts, including
33 community restitution or service without compensation, that
34 the department considers appropriate to the public interest or
35 to the rehabilitation or treatment of the practitioner.

36 The department may withdraw or modify this probation if the
37 department finds after a hearing that the deficiency that required
38 disciplinary action has been remedied or that changed
39 circumstances warrant a modification of the order.

40 (c) If an applicant or a practitioner has engaged in or knowingly
41 cooperated in fraud or material deception to obtain a license to
42 practice, including cheating on the licensing examination, the

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1 department may rescind the license if it has been granted, void the
 2 examination or other fraudulent or deceptive material, and prohibit the
 3 applicant from reapplying for the license for a length of time
 4 established by the department.

5 (d) The department may deny licensure to an applicant who has had
 6 disciplinary action taken against the applicant or the applicant's license
 7 to practice in another state or jurisdiction or who has practiced without
 8 a license in violation of the law. A certified copy of the record of
 9 disciplinary action is conclusive evidence of the other jurisdiction's
 10 disciplinary action.

11 (e) The department may order a practitioner to submit to a
 12 reasonable physical or mental examination if the practitioner's physical
 13 or mental capacity to practice safely and competently is at issue in a
 14 disciplinary proceeding. Failure to comply with a department order to
 15 submit to a physical or mental examination makes a practitioner liable
 16 to temporary suspension under subsection (j).

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

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

- 26 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 27 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 28 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 29 (4) Fraudulently obtaining a controlled substance under
 30 IC 35-48-4-7(b).
- 31 (5) Manufacture of paraphernalia as a Class D felony under
 32 IC 35-48-4-8.1(b).
- 33 (6) Dealing in paraphernalia as a Class D felony under
 34 IC 35-48-4-8.5(b).
- 35 (7) Possession of paraphernalia as a Class D felony under
 36 IC 35-48-4-8.3(b).
- 37 (8) Possession of marijuana, hash oil, hashish, **or salvia or a**
 38 **synthetic drug** as a Class D felony under IC 35-48-4-11.
- 39 **(9) Possession of a synthetic drug or synthetic drug lookalike**
 40 **substance as a Class D felony under IC 35-48-4-11.5 (or under**
 41 **IC 35-48-4-11 before its amendment in 2013).**
- 42 ~~(9)~~ **(10) Maintaining a common nuisance under IC 35-48-4-13.**



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- 1 ~~(10)~~ **(11)** An offense relating to registration, labeling, and
 2 prescription forms under IC 35-48-4-14.
 3 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 4 listed in ~~subdivisions (1) through (10)~~. **this subsection.**
 5 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
 6 in ~~subdivisions (1) through (10)~~. **this subsection.**
 7 ~~(13)~~ **(14)** An offense in any other jurisdiction in which the
 8 elements of the offense for which the conviction was entered are
 9 substantially similar to the elements of an offense described in
 10 ~~subdivisions (1) through (12)~~. **this subsection.**
 11 (h) The department shall deny, revoke, or suspend a license issued
 12 under this chapter if the individual who holds the license is convicted
 13 of any of the following:
 14 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
 15 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 16 (3) Dealing in a schedule I, II, or III controlled substance under
 17 IC 35-48-4-2.
 18 (4) Dealing in a schedule IV controlled substance under
 19 IC 35-48-4-3.
 20 (5) Dealing in a schedule V controlled substance under
 21 IC 35-48-4-4.
 22 (6) Dealing in a substance represented to be a controlled
 23 substance under IC 35-48-4-4.5.
 24 (7) Knowingly or intentionally manufacturing, advertising,
 25 distributing, or possessing with intent to manufacture, advertise,
 26 or distribute a substance represented to be a controlled substance
 27 under IC 35-48-4-4.6.
 28 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 29 (9) Dealing in marijuana, hash oil, hashish, **or** salvia **or** a
 30 **synthetic drug** under IC 35-48-4-10(b).
 31 **(10) Dealing in a synthetic drug or synthetic drug lookalike**
 32 **substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)**
 33 **before its amendment in 2013).**
 34 ~~(10)~~ **(11)** Conspiracy under IC 35-41-5-2 to commit an offense
 35 listed in ~~subdivisions (1) through (9)~~. **this subsection.**
 36 ~~(11)~~ **(12)** Attempt under IC 35-41-5-1 to commit an offense listed
 37 in ~~subdivisions (1) through (9)~~ **this subsection.**
 38 ~~(12)~~ **(13)** An offense in any other jurisdiction in which the
 39 elements of the offense for which the conviction was entered are
 40 substantially similar to the elements of an offense described in
 41 ~~subdivisions (1) through (11)~~ **this subsection.**
 42 ~~(13)~~ **(14)** A violation of any federal or state drug law or rule

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

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1 assessed. If the practitioner fails to pay the costs, a suspension may not
2 be imposed solely upon the practitioner's inability to pay the amount
3 assessed. The costs are limited to costs for the following:

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

13 SECTION 8. IC 24-5-0.5-3, AS AMENDED BY P.L.226-2011,
14 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 UPON PASSAGE]: Sec. 3. (a) The following acts, and the following
16 representations as to the subject matter of a consumer transaction,
17 made orally, in writing, or by electronic communication, by a supplier,
18 are deceptive acts:

- 19 (1) That such subject of a consumer transaction has sponsorship,
20 approval, performance, characteristics, accessories, uses, or
21 benefits it does not have which the supplier knows or should
22 reasonably know it does not have.
- 23 (2) That such subject of a consumer transaction is of a particular
24 standard, quality, grade, style, or model, if it is not and if the
25 supplier knows or should reasonably know that it is not.
- 26 (3) That such subject of a consumer transaction is new or unused,
27 if it is not and if the supplier knows or should reasonably know
28 that it is not.
- 29 (4) That such subject of a consumer transaction will be supplied
30 to the public in greater quantity than the supplier intends or
31 reasonably expects.
- 32 (5) That replacement or repair constituting the subject of a
33 consumer transaction is needed, if it is not and if the supplier
34 knows or should reasonably know that it is not.
- 35 (6) That a specific price advantage exists as to such subject of a
36 consumer transaction, if it does not and if the supplier knows or
37 should reasonably know that it does not.
- 38 (7) That the supplier has a sponsorship, approval, or affiliation in
39 such consumer transaction the supplier does not have, and which
40 the supplier knows or should reasonably know that the supplier
41 does not have.
- 42 (8) That such consumer transaction involves or does not involve

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- 1 a warranty, a disclaimer of warranties, or other rights, remedies,
- 2 or obligations, if the representation is false and if the supplier
- 3 knows or should reasonably know that the representation is false.
- 4 (9) That the consumer will receive a rebate, discount, or other
- 5 benefit as an inducement for entering into a sale or lease in return
- 6 for giving the supplier the names of prospective consumers or
- 7 otherwise helping the supplier to enter into other consumer
- 8 transactions, if earning the benefit, rebate, or discount is
- 9 contingent upon the occurrence of an event subsequent to the time
- 10 the consumer agrees to the purchase or lease.
- 11 (10) That the supplier is able to deliver or complete the subject of
- 12 the consumer transaction within a stated period of time, when the
- 13 supplier knows or should reasonably know the supplier could not.
- 14 If no time period has been stated by the supplier, there is a
- 15 presumption that the supplier has represented that the supplier
- 16 will deliver or complete the subject of the consumer transaction
- 17 within a reasonable time, according to the course of dealing or the
- 18 usage of the trade.
- 19 (11) That the consumer will be able to purchase the subject of the
- 20 consumer transaction as advertised by the supplier, if the supplier
- 21 does not intend to sell it.
- 22 (12) That the replacement or repair constituting the subject of a
- 23 consumer transaction can be made by the supplier for the estimate
- 24 the supplier gives a customer for the replacement or repair, if the
- 25 specified work is completed and:
 - 26 (A) the cost exceeds the estimate by an amount equal to or
 - 27 greater than ten percent (10%) of the estimate;
 - 28 (B) the supplier did not obtain written permission from the
 - 29 customer to authorize the supplier to complete the work even
 - 30 if the cost would exceed the amounts specified in clause (A);
 - 31 (C) the total cost for services and parts for a single transaction
 - 32 is more than seven hundred fifty dollars (\$750); and
 - 33 (D) the supplier knew or reasonably should have known that
 - 34 the cost would exceed the estimate in the amounts specified in
 - 35 clause (A).
- 36 (13) That the replacement or repair constituting the subject of a
- 37 consumer transaction is needed, and that the supplier disposes of
- 38 the part repaired or replaced earlier than seventy-two (72) hours
- 39 after both:
 - 40 (A) the customer has been notified that the work has been
 - 41 completed; and
 - 42 (B) the part repaired or replaced has been made available for

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- 1 examination upon the request of the customer.
- 2 (14) Engaging in the replacement or repair of the subject of a
- 3 consumer transaction if the consumer has not authorized the
- 4 replacement or repair, and if the supplier knows or should
- 5 reasonably know that it is not authorized.
- 6 (15) The act of misrepresenting the geographic location of the
- 7 supplier by listing a fictitious business name or an assumed
- 8 business name (as described in IC 23-15-1) in a local telephone
- 9 directory if:
- 10 (A) the name misrepresents the supplier's geographic location;
- 11 (B) the listing fails to identify the locality and state of the
- 12 supplier's business;
- 13 (C) calls to the local telephone number are routinely forwarded
- 14 or otherwise transferred to a supplier's business location that
- 15 is outside the calling area covered by the local telephone
- 16 directory; and
- 17 (D) the supplier's business location is located in a county that
- 18 is not contiguous to a county in the calling area covered by the
- 19 local telephone directory.
- 20 (16) The act of listing a fictitious business name or assumed
- 21 business name (as described in IC 23-15-1) in a directory
- 22 assistance database if:
- 23 (A) the name misrepresents the supplier's geographic location;
- 24 (B) calls to the local telephone number are routinely forwarded
- 25 or otherwise transferred to a supplier's business location that
- 26 is outside the local calling area; and
- 27 (C) the supplier's business location is located in a county that
- 28 is not contiguous to a county in the local calling area.
- 29 (17) The violation by a supplier of IC 24-3-4 concerning
- 30 cigarettes for import or export.
- 31 (18) The act of a supplier in knowingly selling or reselling a
- 32 product to a consumer if the product has been recalled, whether
- 33 by the order of a court or a regulatory body, or voluntarily by the
- 34 manufacturer, distributor, or retailer, unless the product has been
- 35 repaired or modified to correct the defect that was the subject of
- 36 the recall.
- 37 (19) The violation by a supplier of 47 U.S.C. 227, including any
- 38 rules or regulations issued under 47 U.S.C. 227.
- 39 (20) The violation by a supplier of the federal Fair Debt
- 40 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
- 41 rules or regulations issued under the federal Fair Debt Collection
- 42 Practices Act (15 U.S.C. 1692 et seq.).

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- 1 (21) A violation of IC 24-5-7 (concerning health spa services), as
- 2 set forth in IC 24-5-7-17.
- 3 (22) A violation of IC 24-5-8 (concerning business opportunity
- 4 transactions), as set forth in IC 24-5-8-20.
- 5 (23) A violation of IC 24-5-10 (concerning home consumer
- 6 transactions), as set forth in IC 24-5-10-18.
- 7 (24) A violation of IC 24-5-11 (concerning home improvement
- 8 contracts), as set forth in IC 24-5-11-14.
- 9 (25) A violation of IC 24-5-12 (concerning telephone
- 10 solicitations), as set forth in IC 24-5-12-23.
- 11 (26) A violation of IC 24-5-13.5 (concerning buyback motor
- 12 vehicles), as set forth in IC 24-5-13.5-14.
- 13 (27) A violation of IC 24-5-14 (concerning automatic
- 14 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 15 (28) A violation of IC 24-5-15 (concerning credit services
- 16 organizations), as set forth in IC 24-5-15-11.
- 17 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 18 vehicle subleasing), as set forth in IC 24-5-16-18.
- 19 (30) A violation of IC 24-5-17 (concerning environmental
- 20 marketing claims), as set forth in IC 24-5-17-14.
- 21 (31) A violation of IC 24-5-19 (concerning deceptive commercial
- 22 solicitation), as set forth in IC 24-5-19-11.
- 23 (32) A violation of IC 24-5-21 (concerning prescription drug
- 24 discount cards), as set forth in IC 24-5-21-7.
- 25 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 26 appraisals), as set forth in IC 24-5-23.5-9.
- 27 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 28 forth in IC 24-5-26-3.
- 29 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
- 30 as set forth in IC 24-5.5-6-1.
- 31 (36) A violation of IC 24-8 (concerning promotional gifts and
- 32 contests), as set forth in IC 24-8-6-3.
- 33 (b) Any representations on or within a product or its packaging or
- 34 in advertising or promotional materials which would constitute a
- 35 deceptive act shall be the deceptive act both of the supplier who places
- 36 such representation thereon or therein, or who authored such materials,
- 37 and such other suppliers who shall state orally or in writing that such
- 38 representation is true if such other supplier shall know or have reason
- 39 to know that such representation was false.
- 40 (c) If a supplier shows by a preponderance of the evidence that an
- 41 act resulted from a bona fide error notwithstanding the maintenance of
- 42 procedures reasonably adopted to avoid the error, such act shall not be

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1 deceptive within the meaning of this chapter.
 2 (d) It shall be a defense to any action brought under this chapter that
 3 the representation constituting an alleged deceptive act was one made
 4 in good faith by the supplier without knowledge of its falsity and in
 5 reliance upon the oral or written representations of the manufacturer,
 6 the person from whom the supplier acquired the product, any testing
 7 organization, or any other person provided that the source thereof is
 8 disclosed to the consumer.
 9 (e) For purposes of subsection (a)(12), a supplier that provides
 10 estimates before performing repair or replacement work for a customer
 11 shall give the customer a written estimate itemizing as closely as
 12 possible the price for labor and parts necessary for the specific job
 13 before commencing the work.
 14 (f) For purposes of subsection (a)(15) and (a)(16), a telephone
 15 company or other provider of a telephone directory or directory
 16 assistance service or its officer or agent is immune from liability for
 17 publishing the listing of a fictitious business name or assumed business
 18 name of a supplier in its directory or directory assistance database
 19 unless the telephone company or other provider of a telephone
 20 directory or directory assistance service is the same person as the
 21 supplier who has committed the deceptive act.
 22 (g) For purposes of subsection (a)(18), it is an affirmative defense
 23 to any action brought under this chapter that the product has been
 24 altered by a person other than the defendant to render the product
 25 completely incapable of serving its original purpose.
 26 **(h) This subsection applies only to consumer transactions or**
 27 **solicited consumer transactions relating to synthetic drugs (as**
 28 **defined in IC 35-31.5-2-321) or synthetic drug lookalike substances**
 29 **(as defined in IC 35-31.5-2-321.5). It is a deceptive act for a**
 30 **supplier to make, orally, in writing, by implication, or by electronic**
 31 **communication, any of the representations listed in subsection (a)**
 32 **in relation to the subject matter of a consumer transaction.**
 33 SECTION 9. IC 24-5-0.5-4, AS AMENDED BY P.L.226-2011,
 34 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 4. (a) A person relying upon an uncured or
 36 incurable deceptive act may bring an action for the damages actually
 37 suffered as a consumer as a result of the deceptive act or five hundred
 38 dollars (\$500), whichever is greater. The court may increase damages
 39 for a willful deceptive act in an amount that does not exceed the greater
 40 of:
 41 (1) three (3) times the actual damages of the consumer suffering
 42 the loss; or

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1 (2) one thousand dollars (\$1,000).
 2 Except as provided in subsection (j), the court may award reasonable
 3 attorney fees to the party that prevails in an action under this
 4 subsection. This subsection does not apply to a consumer transaction
 5 in real property, including a claim or action involving a construction
 6 defect (as defined in IC 32-27-3-1(5)) brought against a construction
 7 professional (as defined in IC 32-27-3-1(4)), except for purchases of
 8 time shares and camping club memberships. This subsection does not
 9 apply with respect to a deceptive act described in section 3(a)(20) of
 10 this chapter. This subsection also does not apply to a violation of
 11 IC 24-4.7, IC 24-5-12, or IC 24-5-14. Actual damages awarded to a
 12 person under this section have priority over any civil penalty imposed
 13 under this chapter.

14 (b) Any person who is entitled to bring an action under subsection
 15 (a) on the person's own behalf against a supplier for damages for a
 16 deceptive act may bring a class action against such supplier on behalf
 17 of any class of persons of which that person is a member and which has
 18 been damaged by such deceptive act, subject to and under the Indiana
 19 Rules of Trial Procedure governing class actions, except as herein
 20 expressly provided. Except as provided in subsection (j), the court may
 21 award reasonable attorney fees to the party that prevails in a class
 22 action under this subsection, provided that such fee shall be determined
 23 by the amount of time reasonably expended by the attorney and not by
 24 the amount of the judgment, although the contingency of the fee may
 25 be considered. Except in the case of an extension of time granted by the
 26 attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10,
 27 any money or other property recovered in a class action under this
 28 subsection which cannot, with due diligence, be restored to consumers
 29 within one (1) year after the judgment becomes final shall be returned
 30 to the party depositing the same. This subsection does not apply to a
 31 consumer transaction in real property, except for purchases of time
 32 shares and camping club memberships. This subsection does not apply
 33 with respect to a deceptive act described in section 3(a)(20) of this
 34 chapter. Actual damages awarded to a class have priority over any civil
 35 penalty imposed under this chapter.

36 (c) The attorney general may bring an action to enjoin a deceptive
 37 act, including a deceptive act described in section 3(a)(20) of this
 38 chapter, notwithstanding subsections (a) and (b). However, the attorney
 39 general may seek to enjoin patterns of incurable deceptive acts with
 40 respect to consumer transactions in real property. In addition, the court
 41 may:

42 (1) issue an injunction;



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- 1 (2) order the supplier to make payment of the money unlawfully
- 2 received from the aggrieved consumers to be held in escrow for
- 3 distribution to aggrieved consumers;
- 4 (3) order the supplier to pay to the state the reasonable costs of
- 5 the attorney general's investigation and prosecution related to the
- 6 action; ~~and~~
- 7 (4) provide for the appointment of a receiver; **and**
- 8 **(5) order the department of state revenue to suspend the**
- 9 **supplier's registered retail merchant certificate, subject to the**
- 10 **requirements and prohibitions contained in IC 6-2.5-8-7(i), if**
- 11 **the court finds that a violation of this chapter involved the**
- 12 **sale or solicited sale of a synthetic drug (as defined in**
- 13 **IC 35-31.5-2-321) or a synthetic drug lookalike substance (as**
- 14 **defined in IC 35-31.5-2-321.5).**
- 15 (d) In an action under subsection (a), (b), or (c), the court may void
- 16 or limit the application of contracts or clauses resulting from deceptive
- 17 acts and order restitution to be paid to aggrieved consumers.
- 18 (e) In any action under subsection (a) or (b), upon the filing of the
- 19 complaint or on the appearance of any defendant, claimant, or any
- 20 other party, or at any later time, the trial court, the supreme court, or the
- 21 court of appeals may require the plaintiff, defendant, claimant, or any
- 22 other party or parties to give security, or additional security, in such
- 23 sum as the court shall direct to pay all costs, expenses, and
- 24 disbursements that shall be awarded against that party or which that
- 25 party may be directed to pay by any interlocutory order by the final
- 26 judgment or on appeal.
- 27 (f) Any person who violates the terms of an injunction issued under
- 28 subsection (c) shall forfeit and pay to the state a civil penalty of not
- 29 more than fifteen thousand dollars (\$15,000) per violation. For the
- 30 purposes of this section, the court issuing an injunction shall retain
- 31 jurisdiction, the cause shall be continued, and the attorney general
- 32 acting in the name of the state may petition for recovery of civil
- 33 penalties. Whenever the court determines that an injunction issued
- 34 under subsection (c) has been violated, the court shall award
- 35 reasonable costs to the state.
- 36 (g) If a court finds any person has knowingly violated section 3 or
- 37 10 of this chapter, other than section 3(a)(19) or 3(a)(20) of this
- 38 chapter, the attorney general, in an action pursuant to subsection (c),
- 39 may recover from the person on behalf of the state a civil penalty of a
- 40 fine not exceeding five thousand dollars (\$5,000) per violation.
- 41 (h) If a court finds that a person has violated section 3(a)(19) of this
- 42 chapter, the attorney general, in an action under subsection (c), may

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- 1 recover from the person on behalf of the state a civil penalty as follows:
 2 (1) For a knowing or intentional violation, one thousand five
 3 hundred dollars (\$1,500).
 4 (2) For a violation other than a knowing or intentional violation,
 5 five hundred dollars (\$500).
 6 A civil penalty recovered under this subsection shall be deposited in
 7 the consumer protection division telephone solicitation fund
 8 established by IC 24-4.7-3-6 to be used for the administration and
 9 enforcement of section 3(a)(19) of this chapter.
 10 (i) An elderly person relying upon an uncured or incurable
 11 deceptive act, including an act related to hypnotism, may bring an
 12 action to recover treble damages, if appropriate.
 13 (j) An offer to cure is:
 14 (1) not admissible as evidence in a proceeding initiated under this
 15 section unless the offer to cure is delivered by a supplier to the
 16 consumer or a representative of the consumer before the supplier
 17 files the supplier's initial response to a complaint; and
 18 (2) only admissible as evidence in a proceeding initiated under
 19 this section to prove that a supplier is not liable for attorney's fees
 20 under subsection (k).
 21 If the offer to cure is timely delivered by the supplier, the supplier may
 22 submit the offer to cure as evidence to prove in the proceeding in
 23 accordance with the Indiana Rules of Trial Procedure that the supplier
 24 made an offer to cure.
 25 (k) A supplier may not be held liable for the attorney's fees and
 26 court costs of the consumer that are incurred following the timely
 27 delivery of an offer to cure as described in subsection (j) unless the
 28 actual damages awarded, not including attorney's fees and costs, exceed
 29 the value of the offer to cure.
 30 (l) If a court finds that a person has knowingly violated section
 31 3(a)(20) of this chapter, the attorney general, in an action under
 32 subsection (c), may recover from the person on behalf of the state a
 33 civil penalty not exceeding one thousand dollars (\$1,000) per
 34 consumer. In determining the amount of the civil penalty in any action
 35 by the attorney general under this subsection, the court shall consider,
 36 among other relevant factors, the frequency and persistence of
 37 noncompliance by the debt collector, the nature of the noncompliance,
 38 and the extent to which the noncompliance was intentional. A person
 39 may not be held liable in any action by the attorney general for a
 40 violation of section 3(a)(20) of this chapter if the person shows by a
 41 preponderance of evidence that the violation was not intentional and
 42 resulted from a bona fide error, notwithstanding the maintenance of

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1 procedures reasonably adapted to avoid the error. A person may not be
 2 held liable in any action for a violation of this chapter for contacting a
 3 person other than the debtor, if the contact is made in compliance with
 4 the Fair Debt Collection Practices Act.

5 SECTION 10. IC 25-1-1.1-2, AS AMENDED BY P.L.78-2012,
 6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 2. Notwithstanding IC 25-1-7, a board, a
 8 commission, or a committee may suspend, deny, or revoke a license or
 9 certificate issued under this title by the board, the commission, or the
 10 committee without an investigation by the office of the attorney general
 11 if the individual who holds the license or certificate is convicted of any
 12 of the following and the board, commission, or committee determines,
 13 after the individual has appeared in person, that the offense affects the
 14 individual's ability to perform the duties of the profession:

- 15 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 16 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 17 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 18 (4) Fraudulently obtaining a controlled substance under
 19 IC 35-48-4-7(b).
- 20 (5) Manufacture of paraphernalia as a Class D felony under
 21 IC 35-48-4-8.1(b).
- 22 (6) Dealing in paraphernalia as a Class D felony under
 23 IC 35-48-4-8.5(b).
- 24 (7) Possession of paraphernalia as a Class D felony under
 25 IC 35-48-4-8.3(b).
- 26 (8) Possession of marijuana, hash oil, hashish, ~~or salvia or a~~
 27 ~~synthetic drug~~ as a Class D felony under IC 35-48-4-11.
- 28 **(9) Possession of a synthetic drug or synthetic drug lookalike**
 29 **substance as a Class D felony under IC 35-48-4-11.5 (or under**
 30 **IC 35-48-4-11 before its amendment in 2013).**
- 31 ~~(9)~~ **(10)** Maintaining a common nuisance under IC 35-48-4-13.
- 32 ~~(10)~~ **(11)** An offense relating to registration, labeling, and
 33 prescription forms under IC 35-48-4-14.
- 34 ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense
 35 listed in subdivisions ~~(1) through (10)~~: **this section.**
- 36 ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed
 37 in subdivisions ~~(1) through (10)~~: **this section.**
- 38 ~~(13)~~ **(14)** A sex crime under IC 35-42-4.
- 39 ~~(14)~~ **(15)** A felony that reflects adversely on the individual's
 40 fitness to hold a professional license.
- 41 ~~(15)~~ **(16)** An offense in any other jurisdiction in which the
 42 elements of the offense for which the conviction was entered are

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1 substantially similar to the elements of an offense described in
 2 this section.
 3 SECTION 11. IC 25-1-1.1-3, AS AMENDED BY P.L.78-2012,
 4 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 3. A board, a commission, or a committee
 6 shall revoke or suspend a license or certificate issued under this title by
 7 the board, the commission, or the committee if the individual who
 8 holds the license or certificate is convicted of any of the following:
 9 (1) Dealing in or manufacturing cocaine or a narcotic drug under
 10 IC 35-48-4-1.
 11 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 12 (3) Dealing in a schedule I, II, or III controlled substance under
 13 IC 35-48-4-2.
 14 (4) Dealing in a schedule IV controlled substance under
 15 IC 35-48-4-3.
 16 (5) Dealing in a schedule V controlled substance under
 17 IC 35-48-4-4.
 18 (6) Dealing in a substance represented to be a controlled
 19 substance under IC 35-48-4-4.5.
 20 (7) Knowingly or intentionally manufacturing, advertising,
 21 distributing, or possessing with intent to manufacture, advertise,
 22 or distribute a substance represented to be a controlled substance
 23 under IC 35-48-4-4.6.
 24 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 25 (9) Dealing in marijuana, hash oil, hashish, or salvia or a
 26 synthetic drug under IC 35-48-4-10(b).
 27 **(10) Dealing in a synthetic drug or synthetic drug lookalike**
 28 **substance under IC 35-48-4-10.5 (or under IC 35-48-4-10(b)**
 29 **before its amendment in 2013).**
 30 ~~(10)~~ **(11) Conspiracy under IC 35-41-5-2 to commit an offense**
 31 **listed in subdivisions (1) through (9) this section.**
 32 ~~(11)~~ **(12) Attempt under IC 35-41-5-1 to commit an offense listed**
 33 **in subdivisions (1) through (9) this section.**
 34 ~~(12)~~ **(13) An offense in any other jurisdiction in which the**
 35 **elements of the offense for which the conviction was entered are**
 36 **substantially similar to the elements of an offense described under**
 37 **subdivisions (1) through (11) in this section.**
 38 ~~(13)~~ **(14) A violation of any federal or state drug law or rule**
 39 **related to wholesale legend drug distributors licensed under**
 40 **IC 25-26-14.**
 41 SECTION 12. IC 25-26-13-4.1, AS ADDED BY P.L.78-2012,
 42 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 UPON PASSAGE]: Sec. 4.1. (a) The board may adopt an emergency
2 rule to declare that a substance is a synthetic drug.

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

8 (1) has been scheduled or emergency scheduled by the United
9 States Drug Enforcement Administration; **or**

10 (2) has been scheduled, emergency scheduled, or criminalized by
11 another state; **or**

12 **(3) has:**

13 **(A) a high potential for abuse; and**

14 **(B) no accepted medical use in treatment in the United**
15 **States or lacks accepted safety for use in treatment under**
16 **medical supervision.**

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

19 **(1) The actual or relative potential for abuse.**

20 **(2) Scientific evidence of the substance's pharmacological**
21 **effect, if known.**

22 **(3) The state of current scientific knowledge regarding the**
23 **substance.**

24 **(4) The history and current pattern of abuse of the substance.**

25 **(5) The scope, duration, and significance of abuse of the**
26 **substance.**

27 **(6) The degree of risk to the public health.**

28 **(7) The psychic or psychological dependence liability of the**
29 **substance.**

30 ~~(e)~~ **(d)** A rule adopted under this section becomes effective thirty
31 (30) days after it is filed with the publisher under IC 4-22-2-37.1.

32 ~~(d)~~ **(e)** A rule adopted under this section expires on June 30 of the
33 year following the year in which it is filed with the publisher under
34 IC 4-22-2-37.1.

35 ~~(e)~~ **(f)** The board may readopt under this section an emergency rule
36 that has expired.

37 SECTION 13. IC 32-30-8-2, AS AMENDED BY P.L.87-2005,
38 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 UPON PASSAGE]: Sec. 2. (a) **Except as provided in subsection (d),**
40 as used in this chapter, "property" means a house, a building, a mobile
41 home, or an apartment that is leased for residential or commercial
42 purposes.

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- 1 (b) The term includes:
- 2 (1) an entire building or complex of buildings; or
- 3 (2) a mobile home community;
- 4 and all real property of any nature appurtenant to and used in
- 5 connection with the house, building, mobile home, or apartment,
- 6 including all individual rental units and common areas.
- 7 (c) The term does not include a hotel, motel, or other guest house,
- 8 part of which is rented to a transient guest.
- 9 (d) **For actions brought by the attorney general in relation to the**
- 10 **sale or solicited sale of a synthetic drug (as defined in**
- 11 **IC 35-31.5-2-321) or a synthetic drug lookalike substance (as**
- 12 **defined in IC 35-31.5-2-321.5), "property" means a house, a**
- 13 **building, a mobile home, or an apartment that is owned or leased**
- 14 **for commercial or residential purposes. The term includes all real**
- 15 **property of any nature appurtenant to and used in connection with**
- 16 **the house, building, mobile home, or apartment.**

17 SECTION 14. IC 32-30-8-4 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. An action to
 19 abate a nuisance under this chapter may be initiated by any of the
 20 following:

- 21 (1) The prosecuting attorney of the circuit where the nuisance is
- 22 located.
- 23 (2) The corporation counsel or city attorney of a city in which a
- 24 nuisance is located.
- 25 (3) An attorney representing a county in which a nuisance is
- 26 located.
- 27 (4) The property owner.
- 28 (5) **The attorney general.**

29 SECTION 15. IC 32-30-8-10.5 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. In addition to the**
 32 **remedies and penalties specified in sections 10, 11, 12, and 13 of**
 33 **this chapter, the court may do any of the following in an action**
 34 **brought under this chapter concerning the sale or solicited sale of**
 35 **a synthetic drug (as defined in IC 35-31.5-2-321) or a synthetic**
 36 **drug lookalike substance (as defined in IC 35-31.5-2-321.5):**

- 37 (1) **Issue a restraining order against the person subject to**
- 38 **IC 32-30-7-9 and IC 32-30-7-13.**
- 39 (2) **Issue a preliminary injunction, temporary forfeiture, or**
- 40 **closure order pending final decision on a permanent**
- 41 **injunction subject to IC 32-30-7-12.**
- 42 (3) **Issue an order of abatement subject to IC 32-30-7-22.**

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1 SECTION 16. IC 34-24-1-1, AS AMENDED BY P.L.125-2012,
 2 SECTION 411, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following may be
 4 seized:

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

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

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

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

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

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

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

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

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

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

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

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

27 **(xi) Dealing in a synthetic drug or synthetic drug**
 28 **lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10**
 29 **before its amendment in 2013).**

30 (B) Any stolen (IC 35-43-4-2) or converted property
 31 (IC 35-43-4-3) if the retail or repurchase value of that property
 32 is one hundred dollars (\$100) or more.

33 (C) Any hazardous waste in violation of IC 13-30-10-1.5.

34 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of
 35 mass destruction (as defined in IC 35-31.5-2-354) used to
 36 commit, used in an attempt to commit, or used in a conspiracy
 37 to commit an offense under IC 35-47 as part of or in
 38 furtherance of an act of terrorism (as defined by
 39 IC 35-31.5-2-329).

40 (2) All money, negotiable instruments, securities, weapons,
 41 communications devices, or any property used to commit, used in
 42 an attempt to commit, or used in a conspiracy to commit an

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1 offense under IC 35-47 as part of or in furtherance of an act of
 2 terrorism or commonly used as consideration for a violation of
 3 IC 35-48-4 (other than items subject to forfeiture under
 4 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

5 (A) furnished or intended to be furnished by any person in
 6 exchange for an act that is in violation of a criminal statute;

7 (B) used to facilitate any violation of a criminal statute; or

8 (C) traceable as proceeds of the violation of a criminal statute.

9 (3) Any portion of real or personal property purchased with
 10 money that is traceable as a proceed of a violation of a criminal
 11 statute.

12 (4) A vehicle that is used by a person to:

13 (A) commit, attempt to commit, or conspire to commit;

14 (B) facilitate the commission of; or

15 (C) escape from the commission of;

16 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 17 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 18 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 19 under IC 35-47 as part of or in furtherance of an act of terrorism.

20 (5) Real property owned by a person who uses it to commit any of
 21 the following as a Class A felony, a Class B felony, or a Class C
 22 felony:

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

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

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

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

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

32 **(F) Dealing in a synthetic drug or synthetic drug lookalike**
 33 **substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its**
 34 **amendment in 2013).**

35 (6) Equipment and recordings used by a person to commit fraud
 36 under IC 35-43-5-4(10).

37 (7) Recordings sold, rented, transported, or possessed by a person
 38 in violation of IC 24-4-10.

39 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
 40 defined by IC 35-45-6-1) that is the object of a corrupt business
 41 influence violation (IC 35-45-6-2).

42 (9) Unlawful telecommunications devices (as defined in

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

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

4 (16) The following real or personal property:

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

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

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

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

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

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

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

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

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

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

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

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

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1 A felony, Class B felony, or Class C felony.

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

4 **(9) IC 35-48-4-10.5 (dealing in a synthetic drug or synthetic
5 drug lookalike substance) as a Class C felony or Class D
6 felony (or as a Class C or Class D felony under IC 35-48-4-10
7 before its amendment in 2013).**

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

9 (1) an owner of the vehicle; or

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

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

15 SECTION 17. IC 35-31.5-2-321, AS ADDED BY P.L.114-2012,
16 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 UPON PASSAGE]: Sec. 321. "Synthetic drug" means:

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

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

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

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

24 (D) JWH-073

25 (naphthalen-1-yl-(1-butylylindol-3-yl)methanone).

26 (E) JWH-081 (4-methoxynaphthalen- 1-yl- (1-pentylindol-
27 3-yl)methanone).

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

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

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

32 (I) JWH-251 (1-pentyl-3-(2-methylphenylacetyl)indole).

33 (J) JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).

34 (K) HU-210 ((6aR,10aR)- 9-(Hydroxymethyl)- 6,6-dimethyl-
35 3-(2-methyloctan-2-yl)-

36 6a,7,10,10a-tetrahydrobenzo [c]chromen- 1-ol).

37 (L) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)- 6,6-dimethyl-
38 3-(2-methyloctan-2-yl)- 6a,7,10,10a-tetrahydrobenzo

39 [c]chromen-1-ol).

40 (M) HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-
41 (2-methyloctan- 2-yl)phenyl]-

42 7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol).

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- 1 (N) HU-331 (3-hydroxy-2- [(1R,6R)-3-methyl-6-
2 (1-methylethenyl)-2-cyclohexen-1-yl]-5
3 -pentyl-2,5-cyclohexadiene-1,4-dione).
4 (O) CP 55,940
5 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-
6 5-(2-methyloctan-2-yl)phenol).
7 (P) CP 47,497 (2-[(1R,3S)-3-hydroxycyclohexyl]- 5-
8 (2-methyloctan-2-yl)phenol) and its homologues, or
9 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)
10 phenol), where side chain n=5, and homologues where side
11 chain n=4, 6, or 7.
12 (Q) WIN 55212-2
13 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)
14 pyrrolo [1,2,3-de)- 1,4- benzoxazin-
15 6-yl]-1-naphthalenylmethanone).
16 (R) RCS-4 ((4-methoxyphenyl)
17 (1-pentyl-1H-indol-3-yl)methanone).
18 (S) RCS-8 (1-(1-(2-cyclohexylethyl)-1H-
19 indol-3-yl)-2-(2-methoxyphenyl)ethanone).
20 (T) 4-Methylmethcathinone. Other name: mephedrone.
21 (U) 3,4-Methylenedioxy-methcathinone. Other name:
22 methylone.
23 (V) Fluoromethcathinone.
24 (W) 4-Methoxymethcathinone. Other name: methedrone.
25 (X) 4-Ethylmethcathinone (4-EMC).
26 (Y) Methylenedioxy-pyrovalerone. Other name: MDPV.
27 (Z) JWH-007, or 1-pentyl-2-methyl-3-(1-naphthoyl)indole.
28 (AA) JWH-098, or
29 1-pentyl-2-methyl-3-(4-methoxy-1-naphthoyl)indole.
30 (BB) JWH-164, or
31 1-pentyl-3-(7-methoxy-1-naphthoyl)indole.
32 (CC) JWH-210, or 1-pentyl-3-(4-ethyl-1-naphthoyl)indole.
33 (DD) JWH-201, or
34 1-pentyl-3-(4-methoxyphenylacetyl)indole.
35 (EE) JWH-203, or 1-pentyl-3-(2-chlorophenylacetyl)indole.
36 (FF) AM-694, or
37 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole.
38 (GG) CP 50,556-1, or
39 [(6S,6aR,9R,10aR)-9-hydroxy-6-methyl-3-[(2R)-5-phenylpe
40 ntan-2-yl]oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1
41 -yl] acetate.
42 (HH) Dimethylheptylpyran, or DMHP.

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- 1 (II) 4-Methyl-alpha-pyrrolidinobutiophenone, or MPBP.
 2 (JJ) 6-APB [6-(2-aminopropyl)benzofuran].
 3 (LL) 7-hydroxymitragynine.
 4 (MM) α -PPP [α -pyrrolidinopropiophenone].
 5 (NN) α -PVP (desmethylpyrovalerone).
 6 (OO) AM-251.
 7 (PP) AM-1241.
 8 (QQ) AM-2201.
 9 (RR) AM-2233.
 10 (SS) Buphedrone.
 11 (TT) Butylone.
 12 (UU) CP-47,497-C7.
 13 (VV) CP-47,497-C8.
 14 (WW) Desoxypipradol.
 15 (XX) Ethylone.
 16 (YY) Eutylone.
 17 (ZZ) Flephedrone.
 18 (AAA) JWH-011.
 19 (BBB) JWH-020.
 20 (CCC) JWH-022.
 21 (DDD) JWH-030.
 22 (EEE) JWH-182.
 23 (FFF) JWH-302.
 24 (GGG) MDAI [5,6-methylenedioxy-2-aminoindane].
 25 (HHH) Mitragynine.
 26 (III) Naphyrone.
 27 (JJJ) Pentedrone.
 28 (LLL) Pentylone.
 29 (MMM) Methoxetamine
 30 [2-(3-methoxyphenyl)-2-(ethylamino)- cyclohexanone].
 31 **(NNN) A796,260**
 32 **[1-(2-morpholin-4-ylethyl)-1H-indol-3-yl]-**
 33 **(2,2,3,3-tetramethylcyclopropyl)methanone].**
 34 **(OOO) AB-001 [(1s,3s)-adamantan-1-yl]**
 35 **(1-pentyl-1H-indol-3-yl)methanone] or [1-Pentyl-3-**
 36 **(1-adamantoyl)indole].**
 37 **(PPP) AM-356 [Methanandamide].**
 38 **(QQQ) AM 1248 [1-[(1-methyl-2- piperidinyl) methyl]-**
 39 **1H-indol-3-yl] tricyclo[3.3.1.1^{3,7}] dec-1-yl-methanone]or**
 40 **[(1-[(N-methylpiperindin-2-yl)**
 41 **Methyl]-3-(Adamant-1-oyl)indole)].**
 42 **(RRR) AM 2233 Azepane isomer [(2-iodophenyl)**

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- 1 (1-(1-methylazepan-3-yl)-1H-indol-3-yl)methanone].
 2 (SSS) CB-13 [1-Naphthalenyl [4-(pentyoxy)-
 3 1-naphthalenyl]methanone].
 4 (TTT) UR-144 [(1-pentyl-1H-indol-3-yl)
 5 (2,2,3,3-tetramethylcyclopropyl)-methanone].
 6 (UUU) URB 597 [(3'-(aminocarbonyl) [1,1'-biphenyl]-3-yl)-
 7 cyclohexylcarbamate].
 8 (VVV) URB602 [[1,1'-biphenyl]- 3-yl-carbamic acid,
 9 cyclohexyl ester].
 10 (WWW) URB 754 [6-methyl-2-[(4-methylphenyl)
 11 amino]-1-benzoxazin-4-one].
 12 (XXX) XLR-11 or 5-fluoro UR-144
 13 (1-(5-fluoropentyl)-1H-indol-3-yl)
 14 (2,2,3,3-tetramethylcyclopropyl)methanone].
 15 (YYY) AKB48 (Other names include:
 16 N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide;
 17 1-pentyl-N-tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-indazole-3-
 18 carboxamide).
 19 (ZZZ) 25I-NBOMe (Other names include:
 20 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-
 21 benzeneethanamine);
 22 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)
 23 methyl]ethanamine).
 24 (AAAA) 2C-C-NBOMe (Other names include:
 25 25C-NBOMe;
 26 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)
 27 methyl]ethanamine;
 28 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)
 29 phenethylamine).
 30 (BBBB) 2NE-1 (Other names include: 1-Pentyl-3-
 31 (1-adamantylamido)indole).
 32 (CCCC) STS-135 (Other names include:
 33 N-Adamantyl-1-fluoropentylindole-3- carboxamide
 34 (1-5-fluoropentyl)-N-tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-
 35 indole-3-carboxamide).
 36 (2) Any compound structurally derived from
 37 3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane by
 38 substitution at the nitrogen atom of the indole ring by alkyl,
 39 haloalkyl, **cyanoalkyl**, alkenyl, cycloalkylmethyl, cycloalkylethyl,
 40 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, or
 41 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-
 42 morpholinyl)methyl, or tetrahydropyranylmethyl group,

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

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1 whether or not further substituted in the indole ring to any extent
2 and whether or not substituted in the phenyl ring to any extent.

3 (8) Any compound, except bupropion or a compound listed under
4 a different schedule, structurally derived from
5 2-aminopropan-1-one by substitution at the 1-position with either
6 phenyl, naphthyl, or thiophene ring systems, whether or not the
7 compound is further modified:

8 (A) by substitution in the ring system to any extent with alkyl,
9 alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide
10 substituents, whether or not further substituted in the ring
11 system by one or more other univalent substituents;

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

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

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

18 **(9) Any compound structurally derived from 3-tetramethyl**
19 **cyclopropanoylindole with substitution at the nitrogen atom**
20 **of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl,**
21 **cycloalkylmethyl, cycloalkylethyl,**
22 **1-(N-methyl-2-piperidinyl)methyl, 2-(4-morpholinyl) ethyl,**
23 **1-(N-methyl-2-pyrrolidinyl) methyl, 1-(N-methyl-3-**
24 **morpholinyl)methyl, or tetrahydropyranylmethyl group,**
25 **whether or not further substituted in the indole ring to any**
26 **extent and whether or not substituted in the**
27 **tetramethylcyclopropyl ring to any extent.**

28 **(10) Any compound containing a N-(1-adamantyl)-**
29 **1H-indazole-3-carboxamide structure with substitution at**
30 **the nitrogen atom of the indazole ring by an alkyl,**
31 **haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl,**
32 **cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or**
33 **2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl,**
34 **1-(N-methyl-3-morpholinyl)methyl, or**
35 **tetrahydropyranylmethyl group, whether or not further**
36 **substituted at the nitrogen of the carboxamide to any**
37 **extent, whether or not further substituted in the indazole**
38 **ring to any extent, and whether or not further substituted**
39 **on the adamantyl ring system to any extent. An example of**
40 **this structural class includes AKB48.**

41 **(11) Any compound containing a N-(1-adamantyl)-**
42 **1H-indole-3-carboxamide structure with substitution at the**

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1 nitrogen atom of the indole ring by an alkyl, haloalkyl,
 2 cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
 3 1-(N-methyl-2- piperidinyl)methyl, or
 4 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl,
 5 1-(N-methyl-3-morpholinyl)methyl, or
 6 tetrahydropyranylmethyl group, whether or not further
 7 substituted at the nitrogen of the carboxamide to any
 8 extent, whether or not further substituted in the indole ring
 9 to any extent, and whether or not further substituted on the
 10 adamantyl ring system to any extent. An example of this
 11 structural class includes STS-135.

12 (12) Any compound containing a 3-(1-adamantoyl)indole
 13 structure with substitution at the nitrogen atom of the indole
 14 ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl,
 15 cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
 16 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-
 17 pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or
 18 tetrahydropyranylmethyl group, whether or not further
 19 substituted on the adamantyl ring system to any extent. An
 20 example of this structural class includes AM-1248.

21 (9) (13) Any compound determined to be a synthetic drug by rule
 22 adopted under IC 25-26-13-4.1.

23 SECTION 18. IC 35-31.5-2-321.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE UPON PASSAGE]: Sec. 321.5. (a) "Synthetic drug
 26 lookalike substance", except as provided in subsection (b), means
 27 one (1) or more of the following:

28 (1) A substance that a reasonable person would believe is a
 29 synthetic drug.

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

32 (3) A substance that a person knows or should have known
 33 was intended to be consumed, and that consumption was
 34 intended to cause or simulate intoxication.

35 (b) The term "synthetic drug lookalike substance" does not
 36 include the following:

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

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

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

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

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

42 SECTION 19. IC 35-45-6-1, AS AMENDED BY P.L.126-2012,



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1 SECTION 56, AND AS AMENDED BY P.L.149-2012, SECTION 19,
 2 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The definitions in this
 4 section apply throughout this chapter.

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

9 (c) "Enterprise" means:

10 (1) a sole proprietorship, corporation, limited liability company,
 11 partnership, business trust, or governmental entity; or

12 (2) a union, an association, or a group, whether a legal entity or
 13 merely associated in fact.

14 (d) "Pattern of racketeering activity" means engaging in at least two
 15 (2) incidents of racketeering activity that have the same or similar
 16 intent, result, accomplice, victim, or method of commission, or that are
 17 otherwise interrelated by distinguishing characteristics that are not
 18 isolated incidents. However, the incidents are a pattern of racketeering
 19 activity only if at least one (1) of the incidents occurred after August
 20 31, 1980, and if the last of the incidents occurred within five (5) years
 21 after a prior incident of racketeering activity.

22 (e) "Racketeering activity" means to commit, to attempt to commit,
 23 to conspire to commit a violation of, or aiding and abetting in a
 24 violation of any of the following:

25 (1) A provision of IC 23-19, or of a rule or order issued under
 26 IC 23-19.

27 (2) A violation of IC 35-45-9.

28 (3) A violation of IC 35-47.

29 (4) A violation of IC 35-49-3.

30 (5) Murder (IC 35-42-1-1).

31 (6) Battery as a Class C felony (IC 35-42-2-1).

32 (7) Kidnapping (IC 35-42-3-2).

33 (8) Human and sexual trafficking crimes (IC 35-42-3.5).

34 (9) Child exploitation (IC 35-42-4-4).

35 (10) Robbery (IC 35-42-5-1).

36 (11) Carjacking (IC 35-42-5-2).

37 (12) Arson (IC 35-43-1-1).

38 (13) Burglary (IC 35-43-2-1).

39 (14) Theft (IC 35-43-4-2).

40 (15) Receiving stolen property (IC 35-43-4-2).

41 (16) Forgery (IC 35-43-5-2).

42 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).

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- 1 (18) Bribery (~~IC 35-44-1-1~~). (IC 35-44.1-1-2).
 2 (19) Official misconduct (~~IC 35-44-1-2~~). (IC 35-44.1-1-1).
 3 (20) Conflict of interest (~~IC 35-44-1-3~~). (IC 35-44.1-1-4).
 4 (21) Perjury (~~IC 35-44-2-1~~). (IC 35-44.1-2-1).
 5 (22) Obstruction of justice (~~IC 35-44-3-4~~). (IC 35-44.1-2-2).
 6 (23) Intimidation (IC 35-45-2-1).
 7 (24) Promoting prostitution (IC 35-45-4-4).
 8 (25) Professional gambling (IC 35-45-5-3).
 9 (26) Maintaining a professional gambling site
 10 (IC 35-45-5-3.5(b)).
 11 (27) Promoting professional gambling (IC 35-45-5-4).
 12 (28) Dealing in or manufacturing cocaine or a narcotic drug
 13 (IC 35-48-4-1).
 14 (29) Dealing in or manufacturing methamphetamine
 15 (IC 35-48-4-1.1).
 16 (30) Dealing in a schedule I, II, or III controlled substance
 17 (IC 35-48-4-2).
 18 (31) Dealing in a schedule IV controlled substance
 19 (IC 35-48-4-3).
 20 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 21 (33) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 22 cannabinoid (IC 35-48-4-10).
 23 (34) Money laundering (IC 35-45-15-5).
 24 (35) A violation of IC 35-47-5-5.
 25 (36) A violation of any of the following:
 26 (A) IC 23-14-48-9.
 27 (B) IC 30-2-9-7(b).
 28 (C) IC 30-2-10-9(b).
 29 (D) IC 30-2-13-38(f).
 30 (37) *Practice of law by a person who is not an attorney*
 31 (*IC 33-43-2-1*).
 32 **(38) Dealing in a synthetic drug or synthetic drug lookalike**
 33 **substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its**
 34 **amendment in 2013).**
 35 SECTION 20. IC 35-46-9-2, AS ADDED BY P.L.40-2012,
 36 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 2. As used in this chapter, "intoxicated"
 38 means under the influence of:
 39 (1) alcohol;
 40 (2) a controlled substance;
 41 (3) any drug (as defined in IC 9-13-2-49.1) other than alcohol or
 42 a controlled substance; or

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- 1 (4) any combination of alcohol, controlled substances, or drugs;
 2 **or**
 3 **(5) any other substance, not including food and food**
 4 **ingredients (as defined in IC 6-2.5-1-20), tobacco, or a dietary**
 5 **supplement (as defined in IC 6-2.5-1-16);**
 6 so that there is an impaired condition of thought and action and the loss
 7 of normal control of an individual's faculties.
 8 SECTION 21. IC 35-48-2-4, AS AMENDED BY P.L.114-2012,
 9 SECTION 144, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The controlled substances
 11 listed in this section are included in schedule I.
 12 (b) Opiates. Any of the following opiates, including their isomers,
 13 esters, ethers, salts, and salts of isomers, esters, and ethers, unless
 14 specifically excepted by rule of the board or unless listed in another
 15 schedule, whenever the existence of these isomers, esters, ethers, and
 16 salts is possible within the specific chemical designation:
 17 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-
 18 piperidinyl]-N-phenylacetamide) (9815)
 19 Acetylmethadol (9601)
 20 Allylprodine (9602)
 21 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-
 22 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) (9832)
 23 Alphacetylmethadol (9603)
 24 Alphameprodine (9604)
 25 Alphamethadol (9605)
 26 Alphamethylfentanyl (9814)
 27 Benzethidine (9606)
 28 Beta-hydroxy-3-methylfentanyl (9831). Other name:
 29 N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl
 30]-N-phenylpropanamide
 31 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-
 32 phenethyl)-4-piperidinyl]-N-phenylpropanamide) (9830)
 33 Betacetylmethadol (9607)
 34 Betameprodine (9608)
 35 Betamethadol (9609)
 36 Betaprodine (9611)
 37 Clonitazene (9612)
 38 Dextromoramide (9613)
 39 Diampromide (9615)
 40 Diethylthiambutene (9616)
 41 Difenoxin (9168)
 42 Dimenoxadol (9617)



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1	Dimepheptanol (9618)
2	Dimethylthiambutene (9619)
3	Dioxaphetyl butyrate (9621)
4	Dipipanone (9622)
5	Ethylmethylthiambutene (9623)
6	Etonitazene (9624)
7	Etoxidine (9625)
8	Furethidine (9626)
9	Hydroxypethidine (9627)
10	Ketobemidone (9628)
11	Levomoramide (9629)
12	Levophenacymorphan (9631)
13	3-Methylfentanyl [N-[3-methyl-1-(2-phenylethyl)-4-
14	piperidyl]-N-phenyl-propanamide](9813)
15	3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-
16	piperidinyl]-N-phenylpropanamide) (9833)
17	MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) (9961)
18	Morpheridine (9632)
19	N-[1-benzyl-4-piperidyl]-N-phenylpropanamide
20	(benzylfentanyl), including any isomers, salts, or salts of
21	isomers (9818)
22	N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide
23	(thenylfentanyl), including any isomers, salts, or salts of
24	isomers (9834)
25	Noracymethadol (9633)
26	Norlevorphanol (9634)
27	Normethadone (9635)
28	Norpipanone (9636)
29	Para-fluorofentanyl (N-(4-fluorophenyl)-N-
30	[1-(2-phenethyl)-4-piperidinyl] propanamide (9812)
31	Phenadoxone (9637)
32	Phenampramide (9638)
33	Phenomorphane (9647)
34	Phenoperidine (9641)
35	PEPAP [1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine] (9663)
36	Piritramide (9642)
37	Proheptazine (9643)
38	Properidine (9644)
39	Propiram (9649)
40	Racemoramide (9645)
41	Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-
42	piperidinyl]-propanamide) (9835)

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- 1 Tilidine (9750)
 2 Trimeperidine (9646)
 3 (c) Opium derivatives. Any of the following opium derivatives, their
 4 salts, isomers, and salts of isomers, unless specifically excepted by rule
 5 of the board or unless listed in another schedule, whenever the
 6 existence of these salts, isomers, and salts of isomers is possible within
 7 the specific chemical designation:
 8 Acetorphine (9319)
 9 Acetyldihydrocodeine (9051)
 10 Benzylmorphine (9052)
 11 Codeine methylbromide (9070)
 12 Codeine-N-Oxide (9053)
 13 Cyprenorphine (9054)
 14 Desomorphine (9055)
 15 Dihydromorphine (9145)
 16 Drotebanol (9335)
 17 Etorphine (except hydrochloride salt) (9056)
 18 Heroin (9200)
 19 Hydromorphanol (9301)
 20 Methyldesorphine (9302)
 21 Methyldihydromorphine (9304)
 22 Morphine methylbromide (9305)
 23 Morphine methylsulfonate (9306)
 24 Morphine-N-Oxide (9307)
 25 Myrophine (9308)
 26 Nicocodeine (9309)
 27 Nicomorphine (9312)
 28 Normorphine (9313)
 29 Pholcodine (9314)
 30 Thebacon (9315)
 31 (d) Hallucinogenic substances. Any material, compound, mixture,
 32 or preparation which contains any quantity of the following
 33 hallucinogenic, psychedelic, or psychogenic substances, their salts,
 34 isomers, and salts of isomers, unless specifically excepted by rule of
 35 the board or unless listed in another schedule, whenever the existence
 36 of these salts, isomers, and salts of isomers is possible within the
 37 specific chemical designation:
 38 (1) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (7473). Other name:
 39 TCPy.
 40 (2) 4-Bromo-2, 5-Dimethoxyamphetamine (7391). Some trade
 41 or other names: 4-Bromo-2,
 42 5-Dimethoxy-a-methylphenethylamine; 4-Bromo-2, 5-DMA.

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- 1 (3) ~~4-Bromo-2, 5-dimethoxyphenethylamine (7392):~~
 2 **4-Bromo-2, 5-dimethoxyphenethylamine (7392)**. Some trade
 3 or other names:
 4 2-[4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;
 5 alpha-desmethyl DOB; 2C-B, Nexus.
 6 (4) 2, 5-Dimethoxy-4-ethylamphet-amine (7399). Other name:
 7 DOET.
 8 (5) 2, 5-Dimethoxy-4-(n)-propylthiophenethylamine (7348).
 9 Other name: 2C-T-7.
 10 (6) 2, 5-Dimethoxyamphetamine (7396). Some trade or other
 11 names: 2, 5-Dimethoxy-a-methylphenethylamine; 2, 5-DMA.
 12 (7) 4-Methoxyamphetamine (7411). Some trade or other
 13 names: 4-Methoxy-a-methylphenethylamine;
 14 Paramethoxyamphetamine; PMA.
 15 (8) 5-Methoxy-3, 4-methylenedioxy amphetamine (7401).
 16 Other Name: MDMA.
 17 (9) 5-Methoxy-N, N-diisopropyltryptamine, including any
 18 isomers, salts, or salts of isomers (7439). Other name:
 19 5-MeO-DIPT.
 20 (10) 4-methyl-2, 5-dimethoxyamphetamine (7395). Some trade
 21 and other names: 4-methyl-2,
 22 5-dimethoxy-a-methylphenethylamine; DOM; and STP.
 23 (11) 3, 4-methylenedioxy amphetamine (7400). Other name:
 24 MDA.
 25 (12) 3,4-methylenedioxy-N-ethylamphetamine (7404). Other
 26 names: N-ethyl-alpha-methyl-3,4(methylenedioxy)
 27 phenethylamine; N-ethyl MDA; MDE; and MDEA.
 28 (13) 3, 4-methylenedioxymethamphetamine (MDMA) (7405).
 29 (14) 3, 4, 5-trimethoxy amphetamine (7390). Other name:
 30 TMA.
 31 (15) Alpha-ethyltryptamine (7249). Some trade and other
 32 names: Etryptamine; Monase;
 33 [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl)
 34 indole; [alpha]-ET; and AET.
 35 (16) Alpha-methyltryptamine (7432). Other name: AMT.
 36 (17) Bufotenine (7433). Some trade and other names:
 37 3-(B-Dimethylaminoethyl)-5-hydroxyindole;
 38 3-(2-dimethylaminonethyl)-5-indolol; N, N-dimethylserotonin;
 39 5-hydroxy-N, N-dimethyltryptamine; mappine.
 40 (18) Diethyltryptamine (7434). Some trade or other names: N,
 41 N-Diethyltryptamine; DET.
 42 (19) ~~Dimethyltryptamine (7435):~~ **Dimethyltryptamine (7435)**.



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- 1 Some trade or other names: DMT.
 2 (20) Ibogaine (7260). Some trade and other names: 7-Ethyl-6,
 3 6b, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,
 4 9-methano-5H-pyrido (1', 2': 1, 2, azepino 4, 5-b) indole;
 5 tabernanthe iboga.
 6 (21) Lysergic acid diethylamide (7315). Other name: LSD.
 7 (22) Marijuana (7360).
 8 (23) Mescaline (7381).
 9 (24) Parahexyl (7374). Some trade or other names:
 10 3-Hexyl-1-hydroxy-7, 8, 9, 10-Tetrahydro-6, 6,
 11 9-trimethyl-6H-dibenzo (b,d) pyran; Snyhexyl.
 12 (25) Peyote (7415), including:
 13 (A) all parts of the plant that are classified botanically as
 14 lophophora williamsii lemaire, whether growing or not;
 15 (B) the seeds thereof;
 16 (C) any extract from any part of the plant; and
 17 (D) every compound, manufacture, salt, derivative, mixture, or
 18 preparation of the plant, its seeds, or extracts.
 19 (26) N-ethyl-3-piperidyl benzilate (7482). Other name: DMZ.
 20 (27) N-hydroxy-3,4-methylenedioxyamphetamine (7402).
 21 Other names: N-hydroxy-alpha-methyl-3,4
 22 (methylenedioxy)phenethylamine; and N-hydroxy MDA.
 23 (28) N-methyl-3-piperidyl benzilate (7484). Other name: LBJ.
 24 (29) Psilocybin (7437).
 25 (30) Psilocyn (7438).
 26 (31) Tetrahydrocannabinols (7370), including synthetic
 27 equivalents of the substances contained in the plant, or in the
 28 resinous extractives of Cannabis, sp. and synthetic substances,
 29 derivatives, and their isomers with similar chemical structure and
 30 pharmacological activity such as:
 31 (A) π^1 cis or trans tetrahydrocannabinol, and their optical
 32 isomers;
 33 (B) π^6 cis or trans tetrahydrocannabinol, and their optical
 34 isomers; and
 35 (C) π^3_4 cis or trans tetrahydrocannabinol, and their optical
 36 isomers.
 37 Since nomenclature of these substances is not internationally
 38 standardized, compounds of these structures, regardless of
 39 numerical designation of atomic positions are covered. Other
 40 name: THC.
 41 (32) Ethylamine analog of phencyclidine (7455). Some trade or
 42 other names: N-Ethyl-1-phenylcyclohexylamine;

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- 1 (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)
 2 ethylamine; cyclohexamine; PCE.
- 3 (33) Pyrrolidine analog of phencyclidine (7458). Some trade or
 4 other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCP_y; PHP.
- 5 (34) Thiophene analog of phencyclidine (7470). Some trade or
 6 other names: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl
 7 Analog of Phencyclidine; TPCP.
- 8 (35) Synthetic drugs (as defined in IC 35-31.5-2-321).
- 9 (36) *Salvia divinorum* or salvinorin A, including:
 10 (A) all parts of the plant that are classified botanically as *salvia*
 11 *divinorum*, whether growing or not;
 12 (B) the seeds of the plant;
 13 (C) any extract from any part of the plant; and
 14 (D) every compound, manufacture, salt, derivative, mixture, or
 15 preparation of the plant, its seeds, or extracts.
- 16 (e) Depressants. Unless specifically excepted in a rule adopted by
 17 the board or unless listed in another schedule, any material, compound,
 18 mixture, or preparation which contains any quantity of the following
 19 substances having a depressant effect on the central nervous system,
 20 including its salts, isomers, and salts of isomers whenever the existence
 21 of such salts, isomers, and salts of isomers is possible within the
 22 specific chemical designation:
 23 Gamma-hydroxybutyric acid (other names include GHB;
 24 gamma-hydroxybutyrate; 4-hydroxybutanoic acid; sodium
 25 oxybate; sodium oxybutyrate) (2010)
 26 Mecloqualone (2572)
 27 Methaqualone (2565)
- 28 (f) Stimulants. Unless specifically excepted or unless listed in
 29 another schedule, any material, compound, mixture, or preparation that
 30 contains any quantity of the following substances having a stimulant
 31 effect on the central nervous system, including its salts, isomers, and
 32 salts of isomers:
 33 ([+/-] cis-4-methylaminorex (([+/-]cis-4,5-
 34 dihydro-4-methyl-5-phenyl-2-oxazolamine) (1590)
 35 Aminorex (1585). Other names: aminoxaphen;
 36 2-amino-5-phenyl-2-oxazoline; or
 37 4,5-dihydro-5-phenyl-2-oxazolamine.
 38 Cathinone (1235). Some trade or other names:
 39 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone;
 40 2-aminopropiophenone; and norephedrone.
 41 Fenethylamine (1503).
 42 N-Benzylpiperazine (7493). Other names: BZP; and

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- 1 1-benzylpiperazine.
 2 N-ethylamphetamine (1475)
 3 Methcathinone (1237) Some other trade names:
 4 2-Methylamino-1-Phenylpropan-I-one; Ephedrone;
 5 Monomethylpropion; UR 1431.
 6 N, N-dimethylamphetamine (1480). Other names: N,
 7 N-alpha-trimethyl-benzeneethanamine; and N,
 8 N-alpha-trimethylphenethylamine.
- 9 SECTION 22. IC 35-48-4-10, AS AMENDED BY P.L.78-2012,
 10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]: Sec. 10. (a) A person who:
 12 (1) knowingly or intentionally:
 13 (A) manufactures;
 14 (B) finances the manufacture of;
 15 (C) delivers; or
 16 (D) finances the delivery of;
 17 marijuana, hash oil, hashish, ~~or salvia, or a synthetic drug~~; pure
 18 or adulterated; or
 19 (2) possesses, with intent to:
 20 (A) manufacture;
 21 (B) finance the manufacture of;
 22 (C) deliver; or
 23 (D) finance the delivery of;
 24 marijuana, hash oil, hashish, ~~or salvia, or a synthetic drug~~; pure
 25 or adulterated;
 26 commits dealing in marijuana, hash oil, hashish, ~~or salvia, or a~~
 27 ~~synthetic drug~~, a Class A misdemeanor, except as provided in
 28 subsection (b).
 29 (b) The offense is:
 30 (1) a Class D felony if:
 31 (A) the recipient or intended recipient is under eighteen (18)
 32 years of age;
 33 (B) the amount involved is
 34 (i) more than thirty (30) grams but less than ten (10) pounds
 35 of marijuana or more than two (2) grams but less than three
 36 hundred (300) grams of hash oil, hashish, or salvia; or
 37 (ii) ~~more than two (2) grams of a synthetic drug~~; or
 38 (C) the person has a prior conviction of an offense involving
 39 marijuana, hash oil, hashish, ~~or salvia; or a synthetic drug~~; and
 40 (2) a Class C felony if
 41 (A) the amount involved is ten (10) pounds or more of
 42 marijuana or three hundred (300) or more grams of hash oil,

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1 hashish, or salvia, or the person delivered or financed the
 2 delivery of marijuana, hash oil, hashish, or salvia:

3 (i) (A) on a school bus; or

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

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

10 (i) on a school bus; or

11 (ii) in, on, or within one thousand (1,000) feet of school
 12 property, a public park, a family housing complex, or a
 13 youth program center.

14 SECTION 23. IC 35-48-4-10.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) A person who:**

17 (1) manufactures;

18 (2) finances the manufacture of;

19 (3) delivers;

20 (4) finances the delivery of;

21 (5) possesses, with intent to deliver; or

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

23 a synthetic drug or a synthetic drug lookalike substance commits
 24 dealing in a synthetic drug or synthetic drug lookalike substance,
 25 a Class A infraction. However, the offense is a Class D felony if the
 26 offense is committed knowingly or intentionally and the person has
 27 a prior unrelated judgment or conviction under this subsection.

28 (b) A person who:

29 (1) knowingly or intentionally:

30 (A) manufactures;

31 (B) finances the manufacture of;

32 (C) delivers; or

33 (D) finances the delivery of;

34 a synthetic drug or synthetic drug lookalike substance; or

35 (2) possesses, with intent to:

36 (A) manufacture;

37 (B) finance the manufacture of;

38 (C) deliver; or

39 (D) finance the delivery of;

40 a synthetic drug or synthetic drug lookalike substance;
 41 commits dealing in a synthetic drug or synthetic drug lookalike
 42 substance, a Class A misdemeanor, except as provided in

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- 1 subsection (c).
 2 (c) The offense in subsection (b) is:
 3 (1) a Class D felony if:
 4 (A) the recipient or intended recipient is less than eighteen
 5 (18) years of age;
 6 (B) the amount involved is more than two (2) grams; or
 7 (C) the person has a prior conviction of an offense
 8 involving a synthetic drug or synthetic drug lookalike
 9 substance; and
 10 (2) a Class C felony if the amount involved is more than two
 11 (2) grams and the person delivered or financed the delivery of
 12 the synthetic drug or synthetic drug lookalike substance:
 13 (A) on a school bus; or
 14 (B) in, on, or within five hundred (500) feet of:
 15 (i) school property; or
 16 (ii) a public park;
 17 while a person under eighteen (18) years of age was
 18 reasonably expected to be present.
 19 (d) In determining whether a substance is a synthetic drug
 20 lookalike substance, the trier of fact may consider, in addition to
 21 other relevant factors, the following:
 22 (1) The overall appearance of the substance, including shape,
 23 color, size, markings or lack of markings, taste, consistency,
 24 or any other identifying physical characteristic of the
 25 substance.
 26 (2) A statement made by the owner or other person in control
 27 of the substance concerning the substance's nature, use, or
 28 effect.
 29 (3) A statement made by any person to the buyer or recipient
 30 of the substance suggesting or implying that the substance
 31 may be resold for profit.
 32 (4) Whether:
 33 (A) the distribution included an exchange of, or demand
 34 for, money or other property as consideration;
 35 (B) the amount of the consideration was substantially
 36 greater than the reasonable retail market value of the
 37 substance;
 38 (C) the substance is expressly or impliedly represented to
 39 be a synthetic drug; and
 40 (D) the substance is distributed under circumstances that
 41 would lead a reasonable person to believe that the
 42 substance is a controlled substance.



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1 (e) In addition to a criminal or civil penalty imposed for a
 2 violation of this section, if the court finds that a person has violated
 3 this section and the violation involved the sale of or offer to sell, in
 4 the normal course of business, a synthetic drug or a synthetic drug
 5 lookalike substance by a retail merchant in a place of business for
 6 which the retail merchant has been issued a registered retail
 7 merchant certificate, the court:

8 (1) shall recommend the suspension of the registered retail
 9 merchant certificate for the place of business for one (1) year
 10 if the person's violation of this section resulted in a criminal
 11 conviction; and

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

16 (f) The department of state revenue shall suspend the registered
 17 retail merchant certificate of a retail merchant in accordance with
 18 the recommendation of the court. Whenever the department of
 19 state revenue is required to suspend a retail merchant's registered
 20 retail merchant certificate under this section, the department shall
 21 immediately mail a notice to the retail merchant's address that
 22 must state that the retail merchant's registered retail merchant
 23 certificate will be suspended for the period recommended by the
 24 court, commencing five (5) days after the date of the notice.

25 SECTION 24. IC 35-48-4-11, AS AMENDED BY P.L.78-2012,
 26 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 UPON PASSAGE]: Sec. 11. A person who:

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

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

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

33 commits possession of marijuana, hash oil, hashish, ~~or salvia, or a~~
 34 ~~synthetic drug;~~ a Class A misdemeanor. However, the offense is a Class
 35 D felony if the amount involved is more than thirty (30) grams of
 36 marijuana or two (2) grams of hash oil, hashish, ~~or salvia, or a~~
 37 ~~synthetic drug;~~ or if the person has a prior conviction of an offense
 38 involving marijuana, hash oil, ~~or hashish, or salvia. or a synthetic drug.~~

39 SECTION 25. IC 35-48-4-11.5 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE UPON PASSAGE]: Sec. 11.5. (a) As used in this
 42 section, "synthetic drug lookalike substance" has the meaning set

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forth in IC 35-31.5-2-321.5(a)(3).

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

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

SECTION 26. IC 35-48-4-12, AS AMENDED BY P.L.78-2012, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. If a person who has no prior conviction of an offense under this article or under a law of another jurisdiction relating to controlled substances pleads guilty to possession of marijuana, hashish, salvia, or a synthetic drug **or synthetic drug lookalike substance** as a Class A misdemeanor, the court, without entering a judgment of conviction and with the consent of the person, may defer further proceedings and place the person in the custody of the court under such conditions as the court determines. Upon violation of a condition of the custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the custody, the court shall dismiss the charges against the person. There may be only one (1) dismissal under this section with respect to a person.

SECTION 27. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 536, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 20 with "[EFFECTIVE UPON PASSAGE]".

Page 30, between lines 25 and 26, begin a new line block indented and insert:

**"(YYY) AKB48 (Other names include:
N-Adamantyl-1-pentyl-1H-Indazole-3-carboxamide;
1-pentyl-N-tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-indazole-3-carboxamide).**
**(ZZZ) 25I-NBOMe (Other names include:
4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzenethanamine);
2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine).**
**(AAA) 2C-C-NBOMe (Other names include:
25C-NBOMe;
2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine;
2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine).**
(BBB) 2NE-1 (Other names include: 1-Pentyl-3-(1-adamantylamido)indole).
**(CCC) STS-135 (Other names include:
N-Adamantyl-1-fluoropentylindole-3-carboxamide
(1-5-fluoropentyl)-N-tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-indole-3-carboxamide)."**

Page 32, between lines 17 and 18, begin a new line block indented and insert:

"(10) Any compound containing a N-(1-adamantyl)-1H-indazole-3-carboxamide structure with substitution at the nitrogen atom of the indazole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted at the nitrogen of the carboxamide to any



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extent, whether or not further substituted in the indazole ring to any extent, and whether or not further substituted on the adamantyl ring system to any extent. An example of this structural class includes AKB48.

(11) Any compound containing a N-(1-adamantyl)-1H-indole-3-carboxamide structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cyanoalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl, 1-(N-methyl-2-pyrrolidinyl)methyl, 1-(N-methyl-3-morpholinyl)methyl, or tetrahydropyranylmethyl group, whether or not further substituted at the nitrogen of the carboxamide to any extent, whether or not further substituted in the indole ring to any extent, and whether or not further substituted on the adamantyl ring system to any extent. An example of this structural class includes STS-135."

Page 32, line 18, delete "(10)" and insert "(12)".

Page 35, between lines 3 and 4, begin a new paragraph and insert: "SECTION 19. IC 35-48-2-4, AS AMENDED BY P.L.114-2012, SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The controlled substances listed in this section are included in schedule I.

(b) Opiates. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted by rule of the board or unless listed in another schedule, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide) (9815)

Acetylmethadol (9601)

Allylprodine (9602)

Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) (9832)

Alphacetylmethadol (9603)

Alphameprodine (9604)

Alphamethadol (9605)

Alphamethylfentanyl (9814)

Benzethidine (9606)

Beta-hydroxy-3-methylfentanyl (9831). Other name:

N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide

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Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide) (9830)
 Betacetylmethadol (9607)
 Betameprodine (9608)
 Betamethadol (9609)
 Betaprodine (9611)
 Clonitazene (9612)
 Dextromoramide (9613)
 Diampromide (9615)
 Diethylthiambutene (9616)
 Difenoxyin (9168)
 Dimenoxadol (9617)
 Dimepheptanol (9618)
 Dimethylthiambutene (9619)
 Dioxaphetyl butyrate (9621)
 Dipipanone (9622)
 Ethylmethylthiambutene (9623)
 Etonitazene (9624)
 Etoxadine (9625)
 Furethidine (9626)
 Hydroxypethidine (9627)
 Ketobemidone (9628)
 Levomoramide (9629)
 Levophenacymorphan (9631)
 3-Methylfentanyl [N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide](9813)
 3-Methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) (9833)
 MPPP (1-methyl-4-phenyl-4-propionoxypiperidine) (9961)
 Morpheridine (9632)
 N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), including any isomers, salts, or salts of isomers (9818)
 N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thienylfentanyl), including any isomers, salts, or salts of isomers (9834)
 Noracymethadol (9633)
 Norlevorphanol (9634)
 Normethadone (9635)
 Norpipanone (9636)
 Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide) (9812)

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Phenadoxone (9637)
 Phenampromide (9638)
 Phenomorphan (9647)
 Phenoperidine (9641)
 PEPAP [1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine] (9663)
 Piritramide (9642)
 Proheptazine (9643)
 Properidine (9644)
 Propiram (9649)
 Racemoramide (9645)
 Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide) (9835)
 Tilidine (9750)
 Trimeperidine (9646)

(c) Opium derivatives. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted by rule of the board or unless listed in another schedule, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine (9319)
 Acetyldihydrocodeine (9051)
 Benzylmorphine (9052)
 Codeine methylbromide (9070)
 Codeine-N-Oxide (9053)
 Cyprenorphine (9054)
 Desomorphine (9055)
 Dihydromorphine (9145)
 Drotebanol (9335)
 Etorphine (except hydrochloride salt) (9056)
 Heroin (9200)
 Hydromorphanol (9301)
 Methyldesorphine (9302)
 Methylhydromorphine (9304)
 Morphine methylbromide (9305)
 Morphine methylsulfonate (9306)
 Morphine-N-Oxide (9307)
 Myrophine (9308)
 Nicocodeine (9309)
 Nicomorphine (9312)
 Normorphine (9313)
 Pholcodine (9314)
 Thebacon (9315)

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(d) Hallucinogenic substances. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic, psychedelic, or psychogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted by rule of the board or unless listed in another schedule, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (7473). Other name: TCPy.
- (2) ~~4-Bromo-2, 5-Dimethoxyamphetamine (7391)~~; **4-Bromo-2, 5-dimethoxyphenethylamine (7392)**. Some trade or other names: 4-Bromo-2, 5-Dimethoxy-a-methylphenethylamine; 4-Bromo-2, 5-DMA.
- (3) 4-Bromo-2, 5-dimethoxyphenethylamine (7392). Some trade or other names:
2-[4-bromo-2,5-dimethoxyphenyl]-1-aminoethane;
alpha-desmethyl DOB; 2C-B, Nexus.
- (4) 2, 5-Dimethoxy-4-ethylamphet-amine (7399). Other name: DOET.
- (5) 2, 5-Dimethoxy-4-(n)-propylthiophenethylamine (7348). Other name: 2C-T-7.
- (6) 2, 5-Dimethoxyamphetamine (7396). Some trade or other names: 2, 5-Dimethoxy-a-methylphenethylamine; 2, 5-DMA.
- (7) 4-Methoxyamphetamine (7411). Some trade or other names: 4-Methoxy-a-methylphenethylamine; Paramethoxyamphetamine; PMA.
- (8) 5-Methoxy-3, 4-methylenedioxy amphetamine (7401). Other Name: MMDA.
- (9) 5-Methoxy-N, N-diisopropyltryptamine, including any isomers, salts, or salts of isomers (7439). Other name: 5-MeO-DIPT.
- (10) 4-methyl-2, 5-dimethoxyamphetamine (7395). Some trade and other names: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP.
- (11) 3, 4-methylenedioxy amphetamine (7400). Other name: MDA.
- (12) 3,4-methylenedioxy-N-ethylamphetamine (7404). Other names: N-ethyl-alpha-methyl-3,4(methylenedioxy) phenethylamine; N-ethyl MDA; MDE; and MDEA.
- (13) 3, 4-methylenedioxymethamphetamine (MDMA) (7405).
- (14) 3, 4, 5-trimethoxy amphetamine (7390). Other name: TMA.



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- (15) Alpha-ethyltryptamine (7249). Some trade and other names: Etryptamine; Monase; [alpha]-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; [alpha]-ET; and AET.
- (16) Alpha-methyltryptamine (7432). Other name: AMT.
- (17) Bufotenine (7433). Some trade and other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminonethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.
- (18) Diethyltryptamine (7434). Some trade or other names: N, N-Diethyltryptamine; DET.
- (19) ~~Dimethyltryptamine (7435)~~: **Dimethyltryptamine (7435)**. Some trade or other names: DMT.
- (20) Ibogaine (7260). Some trade and other names: 7-Ethyl-6, 6b, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1', 2': 1, 2, azepino 4, 5-b) indole; tabernanthe iboga.
- (21) Lysergic acid diethylamide (7315). Other name: LSD.
- (22) Marijuana (7360).
- (23) Mescaline (7381).
- (24) Parahexyl (7374). Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-Tetrahydro-6, 6, 9-trimethyl-6H-dibenzo (b,d) pyran; Snyhexyl.
- (25) Peyote (7415), including:
- (A) all parts of the plant that are classified botanically as *lophophora williamsii lemaire*, whether growing or not;
 - (B) the seeds thereof;
 - (C) any extract from any part of the plant; and
 - (D) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.
- (26) N-ethyl-3-piperidyl benzilate (7482). Other name: DMZ.
- (27) N-hydroxy-3,4-methylenedioxyamphetamine (7402). Other names: N-hydroxy-alpha-methyl-3,4 (methylenedioxy)phenethylamine; and N-hydroxy MDA.
- (28) N-methyl-3-piperidyl benzilate (7484). Other name: LBJ.
- (29) Psilocybin (7437).
- (30) Psilocyn (7438).
- (31) Tetrahydrocannabinols (7370), including synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:

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- (A) π^1 cis or trans tetrahydrocannabinol, and their optical isomers;
- (B) π^6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- (C) π^3_4 cis or trans tetrahydrocannabinol, and their optical isomers.

Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions are covered. Other name: THC.

(32) Ethylamine analog of phencyclidine (7455). Some trade or other names: N-Ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl) ethylamine; cyclohexamine; PCE.

(33) Pyrrolidine analog of phencyclidine (7458). Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine; PCP_y; PHP.

(34) Thiophene analog of phencyclidine (7470). Some trade or other names: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP.

(35) Synthetic drugs (as defined in IC 35-31.5-2-321).

(36) *Salvia divinorum* or salvinorin A, including:

- (A) all parts of the plant that are classified botanically as *salvia divinorum*, whether growing or not;
- (B) the seeds of the plant;
- (C) any extract from any part of the plant; and
- (D) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or extracts.

(e) Depressants. Unless specifically excepted in a rule adopted by the board or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Gamma-hydroxybutyric acid (other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate) (2010)

Mecloqualone (2572)

Methaqualone (2565)

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant

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effect on the central nervous system, including its salts, isomers, and salts of isomers:

([+/-]) cis-4-methylaminorex (([+/-])cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine) (1590)

Aminorex (1585). Other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine.

Cathinone (1235). Some trade or other names: 2-amino-1-phenyl-1-propanone; alpha-aminopropiophenone; 2-aminopropiophenone; and norephedrone.

Fenethylamine (1503).

N-Benzylpiperazine (7493). Other names: BZP; and 1-benzylpiperazine.

N-ethylamphetamine (1475)

Methcathinone (1237) Some other trade names:

2-Methylamino-1-Phenylpropan-1-one; Ephedrone; Monomethylpropion; UR 1431.

N, N-dimethylamphetamine (1480). Other names: N, N-alpha-trimethyl-benzeneethanamine; and N, N-alpha-trimethylphenethylamine."

Page 38, after line 11, begin a new paragraph and insert: "SECTION 22. **An emergency is declared for this act.**". Renummer all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 536 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 6, Nays 3.

SENATE MOTION

Madam President: I move that Senate Bill 536 be amended to read as follows:

Page 2, line 19, delete "suspend the person's" and insert "**proceed in accordance with subsection (i) (if the violation resulted in a criminal conviction) or subsection (j) (if the violation resulted in a judgment for an infraction).**".

Page 2, delete lines 20 through 21.

Page 3, line 35, delete "or judgment".

Page 3, line 36, delete "or violation".

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Page 4, between lines 13 and 14, begin a new paragraph and insert:

"(j) If the department finds in a public hearing by a preponderance of the evidence that a person has a judgment for a violation of IC 35-48-4-10.5 as an infraction and the violation involved the sale of or the offer to sell, in the normal course of business, a synthetic drug or a synthetic drug lookalike substance by a retail merchant in a place of business for which the retail merchant has been issued a registered retail merchant certificate under section 1 of this chapter, the department:

(1) may suspend the registered retail merchant certificate for the place of business for six (6) months; and

(2) may withhold issuance of another retail merchant certificate under section 1 of this chapter for six (6) months to any person:

(A) that:

(i) applied for; or

(ii) made a retail transaction under;

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

(B) that:

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

(ii) was an officer, a director, a manager, or a partner of; the retail merchant that was issued the retail merchant certificate suspended under subdivision (1)."

Page 4, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 5. IC 16-31-3-14, AS AMENDED BY P.L.77-2012, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) A person holding a certificate or license issued under this article must comply with the applicable standards and rules established under this article. A certificate holder or license holder is subject to disciplinary sanctions under subsection (b) if the department of homeland security determines that the certificate holder or license holder:

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

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

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

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



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under this article;

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

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

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

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

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

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

(C) physical or mental disability; or

(D) addiction to, abuse of, or dependency on alcohol or other drugs that endanger the public by impairing the certificate holder's or license holder's ability to practice safely;

(9) engages in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(10) allows the certificate holder's or license holder's name or a certificate or license issued under this article to be used in connection with a person who renders services beyond the scope of that person's training, experience, or competence;

(11) is subjected to disciplinary action in another state or jurisdiction on grounds similar to those contained in this chapter. For purposes of this subdivision, a certified copy of a record of disciplinary action constitutes prima facie evidence of a disciplinary action in another jurisdiction;

(12) assists another person in committing an act that would constitute a ground for disciplinary sanction under this chapter; or

(13) allows a certificate or license issued by the commission to be:

(A) used by another person; or

(B) displayed to the public when the certificate or license is expired, inactive, invalid, revoked, or suspended.

(b) The department of homeland security may issue an order under IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if the department of homeland security determines that a certificate

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holder or license holder is subject to disciplinary sanctions under subsection (a):

- (1) Revocation of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.
- (2) Suspension of a certificate holder's certificate or license holder's license for a period not to exceed seven (7) years.
- (3) Censure of a certificate holder or license holder.
- (4) Issuance of a letter of reprimand.
- (5) Assessment of a civil penalty against the certificate holder or license holder in accordance with the following:
 - (A) The civil penalty may not exceed five hundred dollars (\$500) per day per violation.
 - (B) If the certificate holder or license holder fails to pay the civil penalty within the time specified by the department of homeland security, the department of homeland security may suspend the certificate holder's certificate or license holder's license without additional proceedings.
- (6) Placement of a certificate holder or license holder on probation status and requirement of the certificate holder or license holder to:
 - (A) report regularly to the department of homeland security upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the department of homeland security;
 - (C) continue or renew professional education approved by the department of homeland security until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community restitution or service without compensation, that the department of homeland security considers appropriate to the public interest or to the rehabilitation or treatment of the certificate holder or license holder.

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

(c) If an applicant or a certificate holder or license holder has engaged in or knowingly cooperated in fraud or material deception to obtain a certificate or license, including cheating on the certification or licensure examination, the department of homeland security may

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rescind the certificate or license if it has been granted, void the examination or other fraudulent or deceptive material, and prohibit the applicant from reapplying for the certificate or license for a length of time established by the department of homeland security.

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

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

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

(g) The department of homeland security may deny, suspend, or revoke a certificate or license issued under this article if the individual who holds or is applying for the certificate or license is convicted of any of the following:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
- (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony under



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IC 35-48-4-8.3(b).

(8) Possession of marijuana, hash oil, hashish, or salvia or a synthetic drug as a Class D felony under IC 35-48-4-11.

(9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013).

~~(9)~~ (10) Maintaining a common nuisance under IC 35-48-4-13.

~~(10)~~ (11) An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.

~~(11)~~ (12) Conspiracy under IC 35-41-5-2 to commit an offense listed in subdivisions (1) through (10): **this section.**

~~(12)~~ (13) Attempt under IC 35-41-5-1 to commit an offense listed in subdivisions (1) through (10): **this section.**

~~(13)~~ (14) An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described by subdivisions (1) through (12): **in this section.**

(h) A decision of the department of homeland security under subsections (b) through (g) may be appealed to the commission under IC 4-21.5-3-7.

(i) The department of homeland security may temporarily suspend a certificate holder's certificate or license holder's license under IC 4-21.5-4 before a final adjudication or during the appeals process if the department of homeland security finds that a certificate holder or license holder would represent a clear and immediate danger to the public's health, safety, or property if the certificate holder or license holder were allowed to continue to practice.

(j) On receipt of a complaint or information alleging that a person certified or licensed under this chapter or IC 16-31-3.5 has engaged in or is engaging in a practice that is subject to disciplinary sanctions under this chapter, the department of homeland security must initiate an investigation against the person.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

Page 10 line 16, strike "synthetic drug".

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

"(9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013)."

Page 10, line 17, strike "(9)" and insert **"(10)"**.

Page 10, line 18, strike "(10)" and insert **"(11)"**.

Page 10, line 20, strike "(11)" and insert **"(12)"**.

Page 10, line 21, strike "subdivisions (1) through (10)." and insert **"this subsection."**



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Page 10, line 22, strike "(12)" and insert "**(13)**".

Page 10, line 23, strike "subdivisions (1) through (10)." and insert "**this subsection.**".

Page 10, line 24, strike "(13)" and insert "**(14)**".

Page 10, line 26, strike "subdivisions (1)".

Page 10, line 27, strike "through (12)." and insert "**this subsection**".

Page 11, line 7, delete "IC 35-48-4-10.5." and insert "**IC 35-48-4-10.5 (or under IC 35-48-4-10(b) before its amendment in 2013).**".

Page 20, between lines 20 and 21, begin a new paragraph and insert:

"SECTION 9. IC 25-1-1.1-2, AS AMENDED BY P.L.78-2012, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Notwithstanding IC 25-1-7, a board, a commission, or a committee may suspend, deny, or revoke a license or certificate issued under this title by the board, the commission, or the committee without an investigation by the office of the attorney general if the individual who holds the license or certificate is convicted of any of the following and the board, commission, or committee determines, after the individual has appeared in person, that the offense affects the individual's ability to perform the duties of the profession:

- (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- (2) Possession of methamphetamine under IC 35-48-4-6.1.
- (3) Possession of a controlled substance under IC 35-48-4-7(a).
- (4) Fraudulently obtaining a controlled substance under IC 35-48-4-7(b).
- (5) Manufacture of paraphernalia as a Class D felony under IC 35-48-4-8.1(b).
- (6) Dealing in paraphernalia as a Class D felony under IC 35-48-4-8.5(b).
- (7) Possession of paraphernalia as a Class D felony under IC 35-48-4-8.3(b).
- (8) Possession of marijuana, hash oil, hashish, **or** salvia **or** a synthetic drug as a Class D felony under IC 35-48-4-11.
- (9) Possession of a synthetic drug or synthetic drug lookalike substance as a Class D felony under IC 35-48-4-11.5 (or under IC 35-48-4-11 before its amendment in 2013).**
- ~~(9)~~ **(10)** Maintaining a common nuisance under IC 35-48-4-13.
- ~~(10)~~ **(11)** An offense relating to registration, labeling, and prescription forms under IC 35-48-4-14.
- ~~(11)~~ **(12)** Conspiracy under IC 35-41-5-2 to commit an offense listed in ~~subdivisions (1) through (10):~~ **this section.**
- ~~(12)~~ **(13)** Attempt under IC 35-41-5-1 to commit an offense listed

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in subdivisions ~~(1)~~ through ~~(10)~~; **this section.**

~~(13)~~ **(14)** A sex crime under IC 35-42-4.

~~(14)~~ **(15)** A felony that reflects adversely on the individual's fitness to hold a professional license.

~~(15)~~ **(16)** An offense in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of an offense described in this section."

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

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

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

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

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

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

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

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

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

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

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

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

Page 44, delete lines 18 through 20, begin a new line double block



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indented and insert:

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

(i) school property; or

(ii) a public park;

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

Page 45, line 9, after "court" insert ":

(1)".

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

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

Page 45, line 19, delete "one (1) year," and insert "**the period recommended by the court,"**

Page 45, between lines 20 and 21, begin a new paragraph and insert:

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

- (1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, **or** salvia; ~~or a synthetic drug;~~
- (2) knowingly or intentionally grows or cultivates marijuana; or
- (3) knowing that marijuana is growing on the person's premises, fails to destroy the marijuana plants;

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

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

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

(c) A person who knowingly or intentionally possesses a synthetic drug or synthetic drug lookalike substance commits possession of a synthetic drug or synthetic drug lookalike



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substance, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section or under section 10.5 of this chapter.

SECTION 24. IC 35-48-4-12, AS AMENDED BY P.L.78-2012, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. If a person who has no prior conviction of an offense under this article or under a law of another jurisdiction relating to controlled substances pleads guilty to possession of marijuana, hashish, salvia, or a synthetic drug **or synthetic drug lookalike substance** as a Class A misdemeanor, the court, without entering a judgment of conviction and with the consent of the person, may defer further proceedings and place the person in the custody of the court under such conditions as the court determines. Upon violation of a condition of the custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the custody, the court shall dismiss the charges against the person. There may be only one (1) dismissal under this section with respect to a person."

Renumber all SECTIONS consecutively.

(Reference is to SB 536 as printed February 1, 2013.)

YOUNG R MICHAEL

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