

IC 35-48-4

Chapter 4. Offenses Relating to Controlled Substances

IC 35-48-4-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

- (1) The amendments made to section 13 of this chapter by P.L.31-1998 apply only to offenses committed after June 30, 1998. An offense committed under section 13 of this chapter before July 1, 1998, may be prosecuted and remains punishable as provided in section 13 of this chapter, as effective before July 1, 1998.
- (2) The amendments made to sections 1, 2, 3, 4, 6, 7, 10, and 13 of this chapter by P.L.17-2001 apply only to offenses committed after June 30, 2001.
- (3) The addition of section 4.1 of this chapter by P.L.17-2001 applies only to offenses committed after June 30, 2001.
- (4) The addition of section 13.3 of this chapter by P.L.225-2003 applies only to acts committed after June 30, 2003.
- (5) The amendments made to section 14.5 of this chapter by P.L.225-2003 apply only to acts committed after June 30, 2003.
- (6) The addition of section 0.5 of this chapter by P.L.225-2003 applies only to a controlled substance offense under this chapter that occurs after June 30, 2003.
- (7) The amendments made to section 14.5 of this chapter by P.L.192-2005 apply only to offenses committed after June 30, 2005.
- (8) The addition of section 14.7 of this chapter by P.L.192-2005 applies only to offenses committed after June 30, 2005.
- (9) The addition of sections 1.1 and 6.1 of this chapter by P.L.151-2006 applies only to crimes committed after June 30, 2006.
- (10) The amendments made to sections 1, 6, 14.5, and 14.7 of this chapter by P.L.151-2006 apply only to crimes committed after June 30, 2006.

As added by P.L.220-2011, SEC.630.

IC 35-48-4-0.5

Controlled substance analog; schedule I controlled substance

Sec. 0.5. For purposes of this chapter, a "controlled substance analog" is considered to be a controlled substance in schedule I if the analog is in whole or in part intended for human consumption.

As added by P.L.225-2003, SEC.2.

IC 35-48-4-1

Dealing in cocaine or narcotic drug

Sec. 1. (a) A person who:

- (1) knowingly or intentionally:
 - (A) manufactures;

(B) finances the manufacture of;
(C) delivers; or
(D) finances the delivery of;
cocaine or a narcotic drug, pure or adulterated, classified in
schedule I or II; or
(2) possesses, with intent to:
(A) manufacture;
(B) finance the manufacture of;
(C) deliver; or
(D) finance the delivery of;
cocaine or a narcotic drug, pure or adulterated, classified in
schedule I or II;
commits dealing in cocaine or a narcotic drug, a Class B felony,
except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the amount of the drug involved weighs three (3) grams or
more;

(2) the person:

(A) delivered; or

(B) financed the delivery of;

the drug to a person under eighteen (18) years of age at least
three (3) years junior to the person; or

(3) the person manufactured, delivered, or financed the delivery
of the drug:

(A) on a school bus; or

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

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

*As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977,
P.L.340, SEC.96; Acts 1979, P.L.303, SEC.8; P.L.296-1987, SEC.5;
P.L.165-1990, SEC.3; P.L.296-1995, SEC.3; P.L.65-1996, SEC.11;
P.L.17-2001, SEC.19; P.L.151-2006, SEC.22.*

IC 35-48-4-1.1

Dealing in methamphetamine

Sec. 1.1. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

methamphetamine, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

methamphetamine, pure or adulterated;

commits dealing in methamphetamine, a Class B felony, except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the amount of the drug involved weighs three (3) grams or more;

(2) the person:

(A) delivered; or

(B) financed the delivery of;

the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(3) the person manufactured, delivered, or financed the delivery of the drug:

(A) on a school bus; or

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

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

As added by P.L.151-2006, SEC.23.

IC 35-48-4-2

Dealing in a schedule I, II, or III controlled substance

Sec. 2. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;

commits dealing in a schedule I, II, or III controlled substance, a Class B felony, except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the person:

(A) delivered; or

(B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

(A) on a school bus; or

- (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.97; Acts 1979, P.L.303, SEC.9; P.L.296-1987, SEC.6; P.L.165-1990, SEC.4; P.L.296-1995, SEC.4; P.L.65-1996, SEC.12; P.L.17-2001, SEC.20; P.L.138-2011, SEC.13; P.L.182-2011, SEC.13.

IC 35-48-4-3

Dealing in a schedule IV controlled substance

Sec. 3. (a) A person who:

- (1) knowingly or intentionally:
 - (A) manufactures;
 - (B) finances the manufacture of;
 - (C) delivers; or
 - (D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule IV; or

- (2) possesses, with intent to manufacture or deliver, a controlled substance, pure or adulterated, classified in schedule IV;

commits dealing in a schedule IV controlled substance, a Class C felony, except as provided in subsection (b).

(b) The offense is a Class B felony if:

- (1) the person:
 - (A) delivered; or
 - (B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

- (2) the person delivered or financed the delivery of the substance:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.98; P.L.296-1987, SEC.7; P.L.165-1990, SEC.5; P.L.296-1995, SEC.5; P.L.65-1996, SEC.13; P.L.17-2001, SEC.21.

IC 35-48-4-4

Dealing in a schedule V controlled substance

Sec. 4. (a) A person who:

- (1) knowingly or intentionally:
 - (A) manufactures;
 - (B) finances the manufacture of;
 - (C) delivers; or

- (D) finances the delivery of;
a controlled substance, pure or adulterated, classified in
schedule V; or
 - (2) possesses, with intent to:
 - (A) manufacture;
 - (B) finance the manufacture of;
 - (C) deliver; or
 - (D) finance the delivery of;
a controlled substance, pure or adulterated, classified in
schedule V;
- commits dealing in a schedule V controlled substance, a Class D
felony, except as provided in subsection (b).
- (b) The offense is a Class B felony if:
- (1) the person:
 - (A) delivered; or
 - (B) financed the delivery of;
the substance to a person under eighteen (18) years of age at
least three (3) years junior to the person; or
 - (2) the person delivered or financed the delivery of the
substance:
 - (A) on a school bus; or
 - (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center.

*As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977,
P.L.340, SEC.99; P.L.296-1987, SEC.8; P.L.165-1990, SEC.6;
P.L.296-1995, SEC.6; P.L.65-1996, SEC.14; P.L.17-2001, SEC.22.*

IC 35-48-4-4.1

Dumping controlled substance waste

Sec. 4.1. (a) A person who dumps, discharges, discards,
transports, or otherwise disposes of:

- (1) chemicals, knowing the chemicals were used in the illegal
manufacture of a controlled substance or an immediate
precursor; or
- (2) waste, knowing that the waste was produced from the illegal
manufacture of a controlled substance or an immediate
precursor;

commits dumping controlled substance waste, a Class D felony.

(b) It is not a defense in a prosecution under subsection (a) that
the person did not manufacture the controlled substance or
immediate precursor.

As added by P.L.17-2001, SEC.23.

IC 35-48-4-4.5

Dealing in a substance represented to be a controlled substance

Sec. 4.5. (a) A person who knowingly or intentionally delivers or
finances the delivery of any substance, other than a controlled

substance or a drug for which a prescription is required under federal or state law, that:

- (1) is expressly or impliedly represented to be a controlled substance;
- (2) is distributed under circumstances that would lead a reasonable person to believe that the substance is a controlled substance; or
- (3) by overall dosage unit appearance, including shape, color, size, markings, or lack of markings, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe the substance is a controlled substance;

commits dealing in a substance represented to be a controlled substance, a Class D felony.

(b) In determining whether representations have been made, subject to subsection (a)(1), or whether circumstances of distribution exist, subject to subsection (a)(2), the trier of fact may consider, in addition to other relevant factors, the following:

- (1) Statements made by the owner or other person in control of the substance, concerning the substance's nature, use, or effect.
- (2) Statements made by any person, to the buyer or recipient of the substance, that the substance may be resold for profit.
- (3) Whether the substance is packaged in a manner uniquely used for the illegal distribution of controlled substances.
- (4) Whether:
 - (A) the distribution included an exchange of, or demand for, money or other property as consideration; and
 - (B) the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

As added by Acts 1981, P.L.305, SEC.1. Amended by P.L.210-1986, SEC.1; P.L.165-1990, SEC.7.

IC 35-48-4-4.6

Unlawful manufacture, distribution, or possession of counterfeit substance

Sec. 4.6. (a) A person who knowingly or intentionally:

- (1) manufactures;
- (2) finances the manufacture of;
- (3) advertises;
- (4) distributes; or
- (5) possesses with intent to manufacture, finance the manufacture of, advertise, or distribute;

a substance described in section 4.5 of this chapter commits a Class C felony.

(b) A person who knowingly or intentionally possesses a substance described in section 4.5 of this chapter commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous conviction under this section.

(c) In any prosecution brought under this section it is not a defense that the person believed the substance actually was a

controlled substance.

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

- (1) The manufacture, financing the manufacture of, processing, packaging, distribution, or sale of noncontrolled substances to licensed medical practitioners for use as placebos in professional practice or research.
- (2) Persons acting in the course and legitimate scope of their employment as law enforcement officers.
- (3) The retention of production samples of noncontrolled substances produced before September 1, 1986, where such samples are required by federal law.

As added by P.L.210-1986, SEC.2. Amended by P.L.165-1990, SEC.8; P.L.150-1999, SEC.1; P.L.225-2003, SEC.3.

IC 35-48-4-5

Dealing in a counterfeit substance

Sec. 5. A person who:

- (1) knowingly or intentionally:
 - (A) creates;
 - (B) delivers; or
 - (C) finances the delivery of;a counterfeit substance; or
- (2) possesses, with intent to:
 - (A) deliver; or
 - (B) finance the delivery of;a counterfeit substance;

commits dealing in a counterfeit substance, a Class D felony.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.100; P.L.165-1990, SEC.9.

IC 35-48-4-6

Possession of cocaine or narcotic drug

Sec. 6. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated) or a narcotic drug (pure or adulterated) classified in schedule I or II, commits possession of cocaine or a narcotic drug, a Class D felony, except as provided in subsection (b).

(b) The offense is:

- (1) a Class C felony if:
 - (A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
 - (B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);
- (2) a Class B felony if the person in possession of the cocaine or narcotic drug possesses less than three (3) grams of pure or adulterated cocaine or a narcotic drug:
 - (A) on a school bus; or
 - (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;

- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center; and
- (3) a Class A felony if the person possesses the cocaine or narcotic drug in an amount (pure or adulterated) weighing at least three (3) grams:
 - (A) on a school bus; or
 - (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.101; Acts 1979, P.L.303, SEC.10; P.L.138-1983, SEC.3; P.L.296-1987, SEC.9; P.L.296-1995, SEC.7; P.L.65-1996, SEC.15; P.L.188-1999, SEC.7; P.L.17-2001, SEC.24; P.L.151-2006, SEC.24.

IC 35-48-4-6.1

Possession of methamphetamine

Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Class D felony, except as provided in subsection (b).

(b) The offense is:

- (1) a Class C felony if:
 - (A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
 - (B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);
- (2) a Class B felony if the person in possession of the methamphetamine possesses less than three (3) grams of pure or adulterated methamphetamine:
 - (A) on a school bus; or
 - (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center; and
- (3) a Class A felony if the person possesses the methamphetamine in an amount (pure or adulterated) weighing at least three (3) grams:
 - (A) on a school bus; or
 - (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center.

As added by P.L.151-2006, SEC.25.

IC 35-48-4-7

Possession of a controlled substance; obtaining a schedule V controlled substance

Sec. 7. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, except marijuana, hashish, salvia, or a synthetic cannabinoid, commits possession of a controlled substance, a Class D felony. However, the offense is a Class C felony if the person in possession of the controlled substance possesses the controlled substance:

- (1) on a school bus; or
- (2) in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

(b) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally obtains:

- (1) more than four (4) ounces of schedule V controlled substances containing codeine in any given forty-eight (48) hour period unless pursuant to a prescription;
- (2) a schedule V controlled substance pursuant to written or verbal misrepresentation; or
- (3) possession of a schedule V controlled substance other than by means of a prescription or by means of signing an exempt narcotic register maintained by a pharmacy licensed by the Indiana state board of pharmacy;

commits a Class D felony.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.102; P.L.138-1983, SEC.4; P.L.327-1985, SEC.4; P.L.296-1987, SEC.10; P.L.296-1995, SEC.8; P.L.65-1996, SEC.16; P.L.17-2001, SEC.25; P.L.138-2011, SEC.14; P.L.182-2011, SEC.14.

IC 35-48-4-8

Repealed

(Repealed by Acts 1980, P.L.115, SEC.5.)

IC 35-48-4-8.1

Manufacture of paraphernalia

Sec. 8.1. (a) A person who manufactures, finances the manufacture of, or designs an instrument, a device, or other object that is intended to be used primarily for:

- (1) introducing into the human body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance; or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits a Class A infraction for

manufacturing paraphernalia.

(b) A person who:

- (1) knowingly or intentionally violates this section; and
- (2) has a previous judgment for violation of this section;

commits manufacture of paraphernalia, a Class D felony.

As added by Acts 1980, P.L. 115, SEC.2. Amended by P.L.202-1989, SEC.3; P.L.165-1990, SEC.10.

IC 35-48-4-8.2

Repealed

(Repealed by P.L.1-1991, SEC.205.)

IC 35-48-4-8.3

Possession of paraphernalia

Sec. 8.3. (a) A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance; or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits a Class A infraction for possessing paraphernalia.

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

(c) A person who recklessly possesses a raw material, an instrument, a device, or other object that is to be used primarily for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance; or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits reckless possession of paraphernalia, a Class B misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

As added by Acts 1980, P.L. 115, SEC.4. Amended by P.L.202-1989, SEC.5; P.L.166-1990, SEC.2; P.L.58-2003, SEC.1.

IC 35-48-4-8.5

Dealing in paraphernalia

Sec. 8.5. (a) A person who keeps for sale, offers for sale, delivers, or finances the delivery of a raw material, an instrument, a device, or other object that is intended to be or that is designed or marketed to be used primarily for:

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

hash oil, hashish, salvia, a synthetic cannabinoid, or a controlled substance;

(3) enhancing the effect of a controlled substance;

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

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

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

commits a Class A infraction for dealing in paraphernalia.

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

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

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

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

(3) enhancing the effect of a controlled substance;

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

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

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

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

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

(1) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of marijuana, hash oil, hashish, salvia, a synthetic cannabinoid, or a controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(2) Items marketed for or historically and customarily used in connection with the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, or inhaling of tobacco or any other lawful substance.

As added by P.L.1-1991, SEC.206. Amended by P.L.58-2003, SEC.2;

P.L.138-2011, SEC.15; P.L.182-2011, SEC.15.

IC 35-48-4-9

Repealed

(Repealed by Acts 1980, P.L.115, SEC.5.)

IC 35-48-4-10

Dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Sec. 10. (a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, pure or adulterated; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, pure or adulterated;

commits dealing in marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is:

(1) a Class D felony if:

- (A) the recipient or intended recipient is under eighteen (18) years of age;
- (B) the amount involved is more than thirty (30) grams but less than ten (10) pounds of marijuana or more than two (2) grams but less than three hundred (300) grams of hash oil, hashish, salvia, or a synthetic cannabinoid; or
- (C) the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid; and

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

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
 - (i) school property;
 - (ii) a public park;
 - (iii) a family housing complex; or
 - (iv) a youth program center.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977,

P.L.340, SEC.105; Acts 1979, P.L.303, SEC.11; Acts 1982, P.L.204, SEC.38; P.L.296-1987, SEC.11; P.L.165-1990, SEC.12; P.L.296-1995, SEC.9; P.L.65-1996, SEC.17; P.L.17-2001, SEC.26; P.L.138-2011, SEC.16; P.L.182-2011, SEC.16.

IC 35-48-4-11 Version a

Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Note: This version of section amended by P.L.138-2011, SEC.17. See also following version of this section amended by P.L.182-2011, SEC.17.

Sec. 11. A person who:

- (1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;
- (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, salvia, or a synthetic cannabinoid, a Class A misdemeanor. However, the offense is a Class D felony (i) if the amount involved is more than thirty (30) grams of marijuana or two (2) grams of hash oil, hashish, salvia, or a synthetic cannabinoid, or (ii) if the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.106; Acts 1979, P.L.303, SEC.12; P.L.138-1983, SEC.5; P.L.138-2011, SEC.17.

IC 35-48-4-11 Version b

Possession of marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid

Note: This version of section amended by P.L.182-2011, SEC.17. See also preceding version of this section amended by P.L.138-2011, SEC.17.

Sec. 11. A person who:

- (1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid;
- (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, salvia, or a synthetic cannabinoid, 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, salvia, or a synthetic cannabinoid, or if the person has a prior conviction of an offense involving marijuana, hash oil, hashish, salvia, or a synthetic cannabinoid.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.106; Acts 1979, P.L.303, SEC.12; P.L.138-1983, SEC.5; P.L.182-2011, SEC.17.

IC 35-48-4-12

Conditional discharge for possession as first offense

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 cannabinoid 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.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.107; P.L.138-2011, SEC.18; P.L.182-2011, SEC.18.

IC 35-48-4-13

Visiting or maintaining a common nuisance

Sec. 13. (a) A person who knowingly or intentionally visits a building, structure, vehicle, or other place that is used by any person to unlawfully use a controlled substance commits visiting a common nuisance, a Class B misdemeanor.

(b) A person who knowingly or intentionally maintains a building, structure, vehicle, or other place that is used one (1) or more times:

(1) by persons to unlawfully use controlled substances; or

(2) for unlawfully:

(A) manufacturing;

(B) keeping;

(C) offering for sale;

(D) selling;

(E) delivering; or

(F) financing the delivery of;

controlled substances, or items of drug paraphernalia as described in IC 35-48-4-8.5;

commits maintaining a common nuisance, a Class D felony.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.108; P.L.210-1986, SEC.4; P.L.165-1990, SEC.13; P.L.1-1991, SEC.207; P.L.31-1998, SEC.11; P.L.17-2001, SEC.27.

IC 35-48-4-13.3

Taking juvenile or endangered adult to location used for drug sale, manufacture, or possession

Sec. 13.3. A person who recklessly, knowingly, or intentionally takes a person less than eighteen (18) years of age or an endangered adult (as defined in IC 12-10-3-2) into a building, structure, vehicle, or other place that is being used by any person to:

(1) unlawfully possess drugs or controlled substances; or

(2) unlawfully:

(A) manufacture;

- (B) keep;
- (C) offer for sale;
- (D) sell;
- (E) deliver; or
- (F) finance the delivery of;

drugs or controlled substances;

commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this section.

As added by P.L.225-2003, SEC.4.

IC 35-48-4-14

Offenses relating to registration labeling and prescription forms

Sec. 14. (a) A person who:

(1) is subject to IC 35-48-3 and who recklessly, knowingly, or intentionally distributes or dispenses a controlled substance in violation of IC 35-48-3;

(2) is a registrant and who recklessly, knowingly, or intentionally:

(A) manufactures; or

(B) finances the manufacture of;

a controlled substance not authorized by his registration or distributes or dispenses a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) recklessly, knowingly, or intentionally fails to make, keep, or furnish a record, a notification, an order form, a statement, an invoice, or information required under this article; or

(4) recklessly, knowingly, or intentionally refuses entry into any premises for an inspection authorized by this article;

commits a Class D felony.

(b) A person who knowingly or intentionally:

(1) distributes as a registrant a controlled substance classified in schedule I or II, except under an order form as required by IC 35-48-3;

(2) uses in the course of the:

(A) manufacture of;

(B) the financing of the manufacture of; or

(C) distribution of;

a controlled substance a federal or state registration number that is fictitious, revoked, suspended, or issued to another person;

(3) furnishes false or fraudulent material information in, or omits any material information from, an application, report, or other document required to be kept or filed under this article; or

(4) makes, distributes, or possesses a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or a likeness of any of the foregoing on a drug or container or labeling thereof so as to render the drug a counterfeit substance;

commits a Class D felony.

(c) A person who knowingly or intentionally acquires possession of a controlled substance by misrepresentation, fraud, forgery, deception, subterfuge, alteration of a prescription order, concealment of a material fact, or use of a false name or false address commits a Class D felony. However, the offense is a Class C felony if the person has a prior conviction of an offense under this subsection.

(d) A person who knowingly or intentionally affixes any false or forged label to a package or receptacle containing a controlled substance commits a Class D felony. However, the offense is a Class C felony if the person has a prior conviction of an offense under this subsection. This subsection does not apply to law enforcement agencies or their representatives while engaged in enforcing IC 16-42-19 or this chapter (or IC 16-6-8 before its repeal).

(e) A person who duplicates, reproduces, or prints any prescription pads or forms without the prior written consent of a practitioner commits a Class D felony. However, the offense is a Class C felony if the person has a prior conviction of an offense under this subsection. This subsection does not apply to the printing of prescription pads or forms upon a written, signed order placed by a practitioner or pharmacist, by legitimate printing companies.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.109; P.L.131-1986, SEC.3; P.L.165-1990, SEC.14; P.L.2-1993, SEC.193.

IC 35-48-4-14.5

Possession or sale of drug precursors

Sec. 14.5. (a) As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.
- (19) Benzyl cyanide.
- (20) Phenylacetic acid and its esters or salts.

- (21) Piperidine and its salts.
- (22) Methylamine and its salts.
- (23) Isosafrole.
- (24) Safrole.
- (25) Piperonal.
- (26) Hydriodic acid.
- (27) Benzaldehyde.
- (28) Nitroethane.
- (29) Gamma-butyrolactone.
- (30) White phosphorus.
- (31) Hypophosphorous acid and its salts.
- (32) Acetic anhydride.
- (33) Benzyl chloride.
- (34) Ammonium nitrate.
- (35) Ammonium sulfate.
- (36) Hydrogen peroxide.
- (37) Thionyl chloride.
- (38) Ethyl acetate.
- (39) Pseudoephedrine hydrochloride.

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a Class D felony. However, the offense is a Class C felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6; or
- (2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

- (d) Subsection (b) does not apply to a:
- (1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
 - (2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
 - (A) the location in which the substance is stored;
 - (B) the possession of the substance in a variety of:
 - (i) strengths;
 - (ii) brands; or
 - (iii) types; or
 - (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.

(e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a Class D felony.

(f) An offense under subsection (e) is a Class C felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or
- (2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a Class D felony.

As added by P.L.150-1999, SEC.2. Amended by P.L.17-2001, SEC.28; P.L.225-2003, SEC.5; P.L.192-2005, SEC.8; P.L.151-2006, SEC.26.

IC 35-48-4-14.7

Sale and storage of ephedrine or pseudoephedrine; identification; record keeping; electronic transmission to NPLeX; warning signs; convenience packages; suspicious orders and thefts; liability

Sec. 14.7. (a) This section does not apply to the following:

- (1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.
- (2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor,

wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Retailer" means a grocery store, general merchandise store, drug store, or other similar establishment where ephedrine or pseudoephedrine products are available for sale.

(6) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).

(7) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A

retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the retailer complies with the following conditions:

(1) The retailer does not sell the drug to a person less than eighteen (18) years of age.

(2) The retailer does not sell drugs containing more than three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day, or seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period.

(3) The retailer requires:

(A) the purchaser to produce a valid government issued photo identification card showing the date of birth of the person;

(B) the purchaser to sign a written or electronic log attesting to the validity of the information; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A retailer may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct.

(4) The retailer maintains a record of information for each sale of a nonprescription product containing pseudoephedrine or ephedrine. Required information includes:

(A) the name and address of each purchaser;

(B) the type of identification presented;

(C) the governmental entity that issued the identification;

(D) the identification number; and

(E) the ephedrine or pseudoephedrine product purchased, including the number of grams the product contains and the date and time of the transaction.

(5) Beginning January 1, 2012, a retailer shall, except as provided in subdivision (6), before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine, electronically submit the required information to the National Precursor Log Exchange (NPLEx) administered by the National Association of Drug Diversion Investigators (NADDI), if the NPLEx system is available to retailers in the state without a charge for accessing the system. The retailer may not complete the sale if the system generates a stop sale alert.

(6) If a retailer selling an over-the-counter product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the retailer shall maintain a written log or an alternative electronic recordkeeping mechanism until the retailer is able to comply with the electronic sales tracking requirement.

(7) The retailer stores the drug behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

(8) The retailer posts a sign warning that:

(A) it is a criminal offense for a person to purchase drugs containing more than seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period;

(B) it is a criminal offense for a person to purchase drugs containing more than three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day; and

(C) depending on the amount of ephedrine or pseudoephedrine contained in the drug, purchasing more than one (1) package of drugs containing ephedrine or pseudoephedrine on one (1) day may be a crime.

The warning sign must list maximum amounts of ephedrine or pseudoephedrine that may be purchased in both grams and milligrams.

(d) A person may not purchase drugs containing more than three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day, or more than seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period. These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

(e) This subsection only applies to convenience packages. A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

(f) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular retail store, the retailer shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular retail store behind a counter in an

area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(i) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(j) A retailer who uses the electronic sales tracking system in accordance with this section is immune from civil liability for any act or omission committed in carrying out the duties required by this section, unless the act or omission was due to negligence, recklessness, or deliberate or wanton misconduct. A retailer is immune from liability to a third party unless the retailer has violated a provision of this section and the third party brings an action based on the retailer's violation of this section.

(k) The following requirements apply to the NPLeX:

(1) Information contained in the NPLeX may be shared only with law enforcement officials.

(2) A law enforcement official may access Indiana transaction information maintained in the NPLeX for investigative purposes.

(3) NADDI may not modify sales transaction data that is shared with law enforcement officials.

(4) At least one (1) time per week, NADDI shall forward Indiana data contained in the NPLeX, including data concerning a transaction that could not be completed due to the issuance of a stop sale alert, to the state police department.

As added by P.L.192-2005, SEC.9. Amended by P.L.151-2006, SEC.27; P.L.186-2007, SEC.9; P.L.97-2010, SEC.1; P.L.221-2011, SEC.1.

IC 35-48-4-15

Driver's license and motor vehicle registration; suspension

Sec. 15. (a) If a person is convicted of an offense under section 1, 2, 3, 4, 5, 6, 7, 10, or 11 of this chapter, or conspiracy to commit an offense under section 1, 2, 3, 4, 5, 6, 7, 10, or 11 of this chapter, and the court finds that a motor vehicle was used in the commission of the offense, the court shall, in addition to any other order the court enters, order that the person's:

(1) operator's license be suspended;

(2) existing motor vehicle registrations be suspended; and

(3) ability to register motor vehicles be suspended;

by the bureau of motor vehicles for a period specified by the court of at least six (6) months but not more than two (2) years.

(b) If a person is convicted of an offense described in subsection (a) and the person does not hold an operator's license or a learner's permit, the court shall order that the person may not receive an

operator's license or a learner's permit from the bureau of motor vehicles for a period of not less than six (6) months.

As added by P.L.67-1990, SEC.13. Amended by P.L.107-1991, SEC.3; P.L.129-1993, SEC.2; P.L.64-1994, SEC.6; P.L.76-2004, SEC.23.

IC 35-48-4-16

Defenses to charge of selling narcotics near school or family housing

Sec. 16. (a) For an offense under this chapter that requires proof of:

- (1) delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance;
- (2) financing the delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance; or
- (3) possession of cocaine, narcotic drug, methamphetamine, or controlled substance;

within one thousand (1,000) feet of school property, a public park, a family housing complex, or a youth program center, the person charged may assert the defense in subsection (b) or (c).

(b) It is a defense for a person charged under this chapter with an offense that contains an element listed in subsection (a) that:

- (1) a person was briefly in, on, or within one thousand (1,000) feet of school property, a public park, a family housing complex, or a youth program center; and
- (2) no person under eighteen (18) years of age at least three (3) years junior to the person was in, on, or within one thousand (1,000) feet of the school property, public park, family housing complex, or youth program center at the time of the offense.

(c) It is a defense for a person charged under this chapter with an offense that contains an element listed in subsection (a) that a person was in, on, or within one thousand (1,000) feet of school property, a public park, a family housing complex, or a youth program center at the request or suggestion of a law enforcement officer or an agent of a law enforcement officer.

(d) The defense under this section applies only to the element of the offense that requires proof that the delivery, financing of the delivery, or possession of cocaine, a narcotic drug, methamphetamine, or a controlled substance occurred in, on, or within one thousand (1,000) feet of school property, a public park, a family housing complex, or a youth program center.

As added by P.L.17-2001, SEC.29.

IC 35-48-4-17

Restitution for environmental cleanup

Sec. 17. (a) In addition to any other penalty imposed for conviction of an offense under this chapter involving the manufacture or intent to manufacture methamphetamine, a court shall order restitution under IC 35-50-5-3 to cover the costs, if necessary, of an environmental cleanup incurred by a law

enforcement agency or other person as a result of the offense.

(b) The amount collected under subsection (a) shall be used to reimburse the law enforcement agency that assumed the costs associated with the environmental cleanup described in subsection (a).

As added by P.L.225-2003, SEC.6.