

SENATE BILL No. 23

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-3-4; IC 6-2.5-8-7; IC 16-31-3; IC 16-42-27-2; IC 20-28-5-8; IC 22-15-5-16; IC 24-5-0.5-4; IC 25-1-1.1; IC 32-30-8; IC 34-24-1-1; IC 35-31.5-2; IC 35-42-1-1.5; IC 35-45-6-1; IC 35-48; IC 35-50-10-1.

Synopsis: Crimes involving synthetic drugs. Makes possessing or dealing in a substance that is a controlled substance analog an offense of the same level as possession of or dealing in the controlled substance of which the substance is an analog. Defines "substance represented to be a controlled substance" and establishes certain factors the trier of fact may consider to determine if a substance meets the definition. Repeals crimes concerning synthetic drug lookalike substances. Provides that convictions for synthetic drug offenses will, in certain cases, no longer be treated the same as marijuana offenses. Makes conforming amendments.

Effective: July 1, 2019.

Merritt

January 3, 2019, read first time and referred to Committee on Corrections and Criminal Law.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 23

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, AS AMENDED BY P.L.196-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 4. An investigative demand shall contain the
4 following:
5 (1) A general description of the subject matter being investigated
6 and a statement of the applicable provisions of law.
7 (2) The date, time, and place at which the person is to appear,
8 answer written interrogatories, or produce documentary material
9 or other tangible items. The date shall not be less than ten (10)
10 days from the date of service of the demand. However, the
11 attorney general may demand and obtain immediate access to
12 records and materials if access is necessary for purposes of
13 investigating alleged violations relating to sales or solicited sales
14 of a synthetic drug (as defined in IC 35-31.5-2-321), ~~or~~ a synthetic
15 drug lookalike substance (as defined in IC 35-31.5-2-321.5
16 **(repealed)) before July 1, 2019, a controlled substance analog**
17 **(as defined in IC 35-48-1-9.3), or a substance represented to**



1 **be a controlled substance (as described in IC 35-48-4-6).**

2 (3) Where the production of documents or other tangible items is
3 required, a description of those documents or items by class with
4 sufficient clarity so that they might be reasonably identified.

5 SECTION 2. IC 6-2.5-8-7, AS AMENDED BY P.L.153-2018,
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 7. (a) The department may, for good cause, revoke
8 a certificate issued under section 1, 3, or 4 of this chapter. However,
9 the department must give the certificate holder at least five (5) days
10 notice before it revokes the certificate under this subsection. Good
11 cause for revocation may include the following:

12 (1) Failure to:

13 (A) file a return required under this chapter or for any tax
14 collected for the state in trust; or

15 (B) remit any tax collected for the state in trust.

16 (2) Being charged with a violation of any provision under IC 35.

17 (3) Being subject to a court order under IC 7.1-2-6-7,
18 IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.

19 (4) Being charged with a violation of IC 23-15-12.

20 The department may revoke a certificate before a criminal adjudication
21 or without a criminal charge being filed. If the department gives notice
22 of an intent to revoke based on an alleged violation of subdivision (2),
23 the department shall hold a public hearing to determine whether good
24 cause exists. If the department finds in a public hearing by a
25 preponderance of the evidence that a person has committed a violation
26 described in subdivision (2), the department shall proceed in
27 accordance with subsection (i) (if the violation resulted in a criminal
28 conviction) or subsection (j) (if the violation resulted in a judgment for
29 an infraction).

30 (b) The department shall revoke a certificate issued under section
31 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
32 holder fails to:

33 (1) file the returns required by IC 6-2.5-6-1; or

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

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

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

41 (1) the certificate holder is subject to an innkeeper's tax under
42 IC 6-9; and



- 1 (2) a board, bureau, or commission established under IC 6-9 files
 2 a written statement with the department.
- 3 (d) The statement filed under subsection (c) must state that:
 4 (1) information obtained by the board, bureau, or commission
 5 under IC 6-8.1-7-1 indicates that the certificate holder has not
 6 complied with IC 6-9; and
 7 (2) the board, bureau, or commission has determined that
 8 significant harm will result to the county from the certificate
 9 holder's failure to comply with IC 6-9.
- 10 (e) The department shall revoke or suspend a certificate issued
 11 under section 1 of this chapter after at least five (5) days notice to the
 12 certificate holder if:
 13 (1) the certificate holder owes taxes, penalties, fines, interest, or
 14 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
 15 days after the due date under IC 6-1.1; and
 16 (2) the treasurer of the county to which the taxes are due requests
 17 the department to revoke or suspend the certificate.
- 18 (f) The department shall reinstate a certificate suspended under
 19 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
 20 or the county treasurer requests the department to reinstate the
 21 certificate because an agreement for the payment of taxes and any
 22 penalties due under IC 6-1.1 has been reached to the satisfaction of the
 23 county treasurer.
- 24 (g) The department shall revoke a certificate issued under section
 25 1 of this chapter after at least five (5) days notice to the certificate
 26 holder if the department finds in a public hearing by a preponderance
 27 of the evidence that the certificate holder has violated IC 35-45-5-3,
 28 IC 35-45-5-3.5, or IC 35-45-5-4.
- 29 (h) If a person makes a payment for the certificate under section 1
 30 or 3 of this chapter with a check, credit card, debit card, or electronic
 31 funds transfer, and the department is unable to obtain payment of the
 32 check, credit card, debit card, or electronic funds transfer for its full
 33 face amount when the check, credit card, debit card, or electronic funds
 34 transfer is presented for payment through normal banking channels, the
 35 department shall notify the person by mail that the check, credit card,
 36 debit card, or electronic funds transfer was not honored and that the
 37 person has five (5) days after the notice is mailed to pay the fee in cash,
 38 by certified check, or other guaranteed payment. If the person fails to
 39 make the payment within the five (5) day period, the department shall
 40 revoke the certificate.
- 41 (i) If the department finds in a public hearing by a preponderance of
 42 the evidence that a person has a conviction for a violation of



1 ~~IC 35-48-4-10.5~~ **an offense under IC 35-48-4** and the conviction
 2 involved the sale of or the offer to sell, in the normal course of
 3 business, a synthetic drug ~~or (as defined in IC 35-31.5-2-321), a~~
 4 synthetic drug lookalike substance **(as defined in IC 35-31.5-2-321.5**
 5 **(repealed) (before July 1, 2019), a controlled substance analog (as**
 6 **defined in IC 35-48-1-9.3), or a substance represented to be a**
 7 **controlled substance (as described in IC 35-48-4-4.6)** by a retail
 8 merchant in a place of business for which the retail merchant has been
 9 issued a registered retail merchant certificate under section 1 of this
 10 chapter, the department:

11 (1) shall suspend the registered retail merchant certificate for the
 12 place of business for one (1) year; and

13 (2) may not issue another retail merchant certificate under section
 14 1 of this chapter for one (1) year to any person:

15 (A) that:

16 (i) applied for; or

17 (ii) made a retail transaction under;

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

20 (B) that:

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

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

23 the retail merchant that was issued the retail merchant
 24 certificate suspended under subdivision (1).

25 (j) If the department finds in a public hearing by a preponderance of
 26 the evidence that a person has a judgment for a violation of
 27 IC 35-48-4-10.5 **(before its repeal on July 1, 2019)** as an infraction
 28 and the violation involved the sale of or the offer to sell, in the normal
 29 course of business, a synthetic drug or a synthetic drug lookalike
 30 substance by a retail merchant in a place of business for which the
 31 retail merchant has been issued a registered retail merchant certificate
 32 under section 1 of this chapter, the department:

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

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

37 (A) that:

38 (i) applied for; or

39 (ii) made a retail transaction under;

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

42 (B) that:



- 1 (i) owned or co-owned, directly or indirectly; or
 2 (ii) was an officer, a director, a manager, or a partner of;
 3 the retail merchant that was issued the retail merchant
 4 certificate suspended under subdivision (1).
- 5 (k) If the department finds in a public hearing by a preponderance
 6 of the evidence that a person has a conviction for a violation of
 7 IC 35-48-4-10(d)(3) and the conviction involved an offense committed
 8 by a retail merchant in a place of business for which the retail merchant
 9 has been issued a registered retail merchant certificate under section 1
 10 of this chapter, the department:
- 11 (1) shall suspend the registered retail merchant certificate for the
 12 place of business for one (1) year; and
 13 (2) may not issue another retail merchant certificate under section
 14 1 of this chapter for one (1) year to any person:
- 15 (A) that:
- 16 (i) applied for; or
 17 (ii) made a retail transaction under;
 18 the retail merchant certificate suspended under subdivision
 19 (1); or
 20 (B) that:
- 21 (i) owned or co-owned, directly or indirectly; or
 22 (ii) was an officer, a director, a manager, or a partner of;
 23 the retail merchant that was issued the retail merchant
 24 certificate suspended under subdivision (1).
- 25 SECTION 3. IC 16-31-3-14, AS AMENDED BY P.L.85-2017,
 26 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2019]: Sec. 14. (a) A person holding a certificate or license
 28 issued under this article must comply with the applicable standards and
 29 rules established under this article. A certificate holder or license
 30 holder is subject to disciplinary sanctions under subsection (b) if the
 31 department of homeland security determines that the certificate holder
 32 or license holder:
- 33 (1) engaged in or knowingly cooperated in fraud or material
 34 deception in order to obtain a certificate or license, including
 35 cheating on a certification or licensure examination;
 36 (2) engaged in fraud or material deception in the course of
 37 professional services or activities;
 38 (3) advertised services or goods in a false or misleading manner;
 39 (4) falsified or knowingly allowed another person to falsify
 40 attendance records or certificates of completion of continuing
 41 education courses required under this article or rules adopted
 42 under this article;



- 1 (5) is convicted of a crime, if the act that resulted in the
 2 conviction has a direct bearing on determining if the certificate
 3 holder or license holder should be entrusted to provide emergency
 4 medical services;
- 5 (6) is convicted of violating IC 9-19-14.5;
- 6 (7) fails to comply and maintain compliance with or violates any
 7 applicable provision, standard, or other requirement of this article
 8 or rules adopted under this article;
- 9 (8) continues to practice if the certificate holder or license holder
 10 becomes unfit to practice due to:
- 11 (A) professional incompetence that includes the undertaking
 12 of professional activities that the certificate holder or license
 13 holder is not qualified by training or experience to undertake;
- 14 (B) failure to keep abreast of current professional theory or
 15 practice;
- 16 (C) physical or mental disability; or
- 17 (D) addiction to, abuse of, or dependency on alcohol or other
 18 drugs that endanger the public by impairing the certificate
 19 holder's or license holder's ability to practice safely;
- 20 (9) engages in a course of lewd or immoral conduct in connection
 21 with the delivery of services to the public;
- 22 (10) allows the certificate holder's or license holder's name or a
 23 certificate or license issued under this article to be used in
 24 connection with a person who renders services beyond the scope
 25 of that person's training, experience, or competence;
- 26 (11) is subjected to disciplinary action in another state or
 27 jurisdiction on grounds similar to those contained in this chapter.
 28 For purposes of this subdivision, a certified copy of a record of
 29 disciplinary action constitutes prima facie evidence of a
 30 disciplinary action in another jurisdiction;
- 31 (12) assists another person in committing an act that would
 32 constitute a ground for disciplinary sanction under this chapter;
 33 or
- 34 (13) allows a certificate or license issued by the commission to
 35 be:
- 36 (A) used by another person; or
- 37 (B) displayed to the public when the certificate or license is
 38 expired, inactive, invalid, revoked, or suspended.
- 39 (b) The department of homeland security may issue an order under
 40 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
 41 the department of homeland security determines that a certificate
 42 holder or license holder is subject to disciplinary sanctions under



- 1 subsection (a):
- 2 (1) Revocation of a certificate holder's certificate or license
- 3 holder's license for a period not to exceed seven (7) years.
- 4 (2) Suspension of a certificate holder's certificate or license
- 5 holder's license for a period not to exceed seven (7) years.
- 6 (3) Censure of a certificate holder or license holder.
- 7 (4) Issuance of a letter of reprimand.
- 8 (5) Assessment of a civil penalty against the certificate holder or
- 9 license holder in accordance with the following:
- 10 (A) The civil penalty may not exceed five hundred dollars
- 11 (\$500) per day per violation.
- 12 (B) If the certificate holder or license holder fails to pay the
- 13 civil penalty within the time specified by the department of
- 14 homeland security, the department of homeland security may
- 15 suspend the certificate holder's certificate or license holder's
- 16 license without additional proceedings.
- 17 (6) Placement of a certificate holder or license holder on
- 18 probation status and requirement of the certificate holder or
- 19 license holder to:
- 20 (A) report regularly to the department of homeland security
- 21 upon the matters that are the basis of probation;
- 22 (B) limit practice to those areas prescribed by the department
- 23 of homeland security;
- 24 (C) continue or renew professional education approved by the
- 25 department of homeland security until a satisfactory degree of
- 26 skill has been attained in those areas that are the basis of the
- 27 probation; or
- 28 (D) perform or refrain from performing any acts, including
- 29 community restitution or service without compensation, that
- 30 the department of homeland security considers appropriate to
- 31 the public interest or to the rehabilitation or treatment of the
- 32 certificate holder or license holder.
- 33 The department of homeland security may withdraw or modify
- 34 this probation if the department of homeland security finds after
- 35 a hearing that the deficiency that required disciplinary action is
- 36 remedied or that changed circumstances warrant a modification
- 37 of the order.
- 38 (c) If an applicant or a certificate holder or license holder has
- 39 engaged in or knowingly cooperated in fraud or material deception to
- 40 obtain a certificate or license, including cheating on the certification or
- 41 licensure examination, the department of homeland security may
- 42 rescind the certificate or license if it has been granted, void the



1 examination or other fraudulent or deceptive material, and prohibit the
2 applicant from reapplying for the certificate or license for a length of
3 time established by the department of homeland security.

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

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

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

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

- 32 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 33 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 34 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 35 (4) Fraudulently obtaining a controlled substance under
36 IC 35-48-4-7(c).
- 37 (5) Manufacture of paraphernalia as a Class D felony (for a crime
38 committed before July 1, 2014) or Level 6 felony (for a crime
39 committed after June 30, 2014) under IC 35-48-4-8.1(b).
- 40 (6) Dealing in paraphernalia as a Class D felony (for a crime
41 committed before July 1, 2014) or Level 6 felony (for a crime
42 committed after June 30, 2014) under IC 35-48-4-8.5(b).



1 (7) Possession of paraphernalia as a Class D felony (for a crime
2 committed before July 1, 2014) or Level 6 felony (for a crime
3 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before
4 its amendment on July 1, 2015).

5 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
6 D felony (for a crime committed before July 1, 2014) or Level 6
7 felony (for a crime committed after June 30, 2014) under
8 IC 35-48-4-11.

9 (9) **A felony offense under IC 35-48-4 involving:**

10 (A) possession of a synthetic drug (as defined in
11 **IC 35-31.5-2-321**); or

12 (B) possession of a synthetic drug lookalike substance (as
13 defined in **IC 35-31.5-2-321.5 (repealed)**) as a:

14 (i) Class D felony (for a crime committed before July 1,
15 2014); or

16 (ii) Level 6 felony (for a crime committed after June 30,
17 2014);

18 under IC 35-48-4-11.5 (or under ~~IC 35-48-4-11~~ before its
19 amendment in 2013); (before its repeal on July 1, 2019); or

20 (C) possession of a controlled substance analog (as defined
21 in **IC 35-48-1-9.3**).

22 (10) Maintaining a common nuisance under IC 35-48-4-13
23 (repealed) or IC 35-45-1-5, if the common nuisance involves a
24 controlled substance.

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

27 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
28 in this section.

29 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
30 this section.

31 (14) An offense in any other jurisdiction in which the elements of
32 the offense for which the conviction was entered are substantially
33 similar to the elements of an offense described in this section.

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

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



1 holder were allowed to continue to practice.

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

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

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

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

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

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

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

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

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

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

39 SECTION 4. IC 16-31-3-14.5, AS AMENDED BY P.L.198-2018,
40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2019]: Sec. 14.5. The department of homeland security may
42 issue an order under IC 4-21.5-3-6 to deny an applicant's request for



1 certification or licensure or permanently revoke a certificate or license
 2 under procedures provided by section 14 of this chapter if the
 3 individual who holds the certificate or license issued under this title is
 4 convicted of any of the following:

5 (1) Dealing in a controlled substance resulting in death under
 6 IC 35-42-1-1.5.

7 (2) Dealing in or manufacturing cocaine or a narcotic drug under
 8 IC 35-48-4-1.

9 (3) Dealing in methamphetamine under IC 35-48-4-1.1.

10 (4) Manufacturing methamphetamine under IC 35-48-4-1.2.

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

13 (6) Dealing in a schedule IV controlled substance under
 14 IC 35-48-4-3.

15 (7) Dealing in a schedule V controlled substance under
 16 IC 35-48-4-4.

17 (8) Dealing in a substance represented to be a controlled
 18 substance under IC 35-48-4-4.5 **(repealed)**.

19 (9) Knowingly or intentionally manufacturing, advertising,
 20 distributing, or possessing with intent to manufacture, advertise,
 21 or distribute a substance represented to be a controlled substance
 22 under IC 35-48-4-4.6.

23 (10) Dealing in a counterfeit substance under IC 35-48-4-5.

24 (11) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 25 under IC 35-48-4-10.

26 ~~Dealing in a~~ **An offense under IC 35-48-4 involving the**
 27 **manufacture or sale of a synthetic drug (as defined in**
 28 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 29 **defined in IC 35-31.5-2-321.5 (repealed))** under IC 35-48-4-10.5
 30 ~~(or under IC 35-48-4-10(b) before its amendment in 2013):~~
 31 **(before its repeal on July 1, 2019), a controlled substance**
 32 **analog (as defined in IC 35-48-1-9.3), or a substance**
 33 **represented to be a controlled substance (as described in**
 34 **IC 35-48-4-4.6).**

35 (13) Conspiracy under IC 35-41-5-2 to commit an offense listed
 36 in this section.

37 (14) Attempt under IC 35-41-5-1 to commit an offense listed in
 38 this section.

39 (15) A crime of violence (as defined in IC 35-50-1-2(a)).

40 (16) An offense in any other jurisdiction in which the elements of
 41 the offense for which the conviction was entered are substantially
 42 similar to the elements of an offense described under this section.



1 SECTION 5. IC 16-42-27-2, AS AMENDED BY P.L.6-2016,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. (a) A prescriber may, directly or by standing
4 order, prescribe or dispense an overdose intervention drug without
5 examining the individual to whom it may be administered if all of the
6 following conditions are met:

7 (1) The overdose intervention drug is dispensed or prescribed to:

8 (A) a person at risk of experiencing an opioid-related
9 overdose; or

10 (B) a family member, a friend, or any other individual or entity
11 in a position to assist an individual who, there is reason to
12 believe, is at risk of experiencing an opioid-related overdose.

13 (2) The prescriber instructs the individual receiving the overdose
14 intervention drug or prescription to summon emergency services
15 either immediately before or immediately after administering the
16 overdose intervention drug to an individual experiencing an
17 opioid-related overdose.

18 (3) The prescriber provides education and training on drug
19 overdose response and treatment, including the administration of
20 an overdose intervention drug.

21 (4) The prescriber provides drug addiction treatment information
22 and referrals to drug treatment programs, including programs in
23 the local area and programs that offer medication assisted
24 treatment that includes a federal Food and Drug Administration
25 approved long acting, nonaddictive medication for the treatment
26 of opioid or alcohol dependence.

27 (b) A prescriber may provide a prescription of an overdose
28 intervention drug to an individual as a part of the individual's addiction
29 treatment plan.

30 (c) An individual described in subsection (a)(1) may administer an
31 overdose intervention drug to an individual who is suffering from an
32 overdose.

33 (d) An individual described in subsection (a)(1) may not be
34 considered to be practicing medicine without a license in violation of
35 IC 25-22.5-8-2, if the individual, acting in good faith, does the
36 following:

37 (1) Obtains the overdose intervention drug from a prescriber or
38 entity acting under a standing order issued by a prescriber.

39 (2) Administers the overdose intervention drug to an individual
40 who is experiencing an apparent opioid-related overdose.

41 (3) Attempts to summon emergency services either immediately
42 before or immediately after administering the overdose



- 1 intervention drug.
- 2 (e) An entity acting under a standing order issued by a prescriber
3 must do the following:
- 4 (1) Annually register with either the:
- 5 (A) state department; or
- 6 (B) local health department in the county where services will
7 be provided by the entity;
8 in a manner prescribed by the state department.
- 9 (2) Provide education and training on drug overdose response and
10 treatment, including the administration of an overdose
11 intervention drug.
- 12 (3) Provide drug addiction treatment information and referrals to
13 drug treatment programs, including programs in the local area and
14 programs that offer medication assisted treatment that includes a
15 federal Food and Drug Administration approved long acting,
16 nonaddictive medication for the treatment of opioid or alcohol
17 dependence.
- 18 (4) Submit an annual report to the state department containing:
- 19 (A) the number of sales of the overdose intervention drug
20 dispensed;
- 21 (B) the dates of sale of the overdose intervention drug
22 dispensed; and
- 23 (C) any additional information requested by the state
24 department.
- 25 (f) The state department shall ensure that a statewide standing order
26 for the dispensing of an overdose intervention drug in Indiana is issued
27 under this section. The state health commissioner or a designated
28 public health authority who is a licensed prescriber may, as part of the
29 individual's official capacity, issue a statewide standing order that may
30 be used for the dispensing of an overdose intervention drug under this
31 section. The immunity provided in IC 34-13-3-3 applies to an
32 individual described in this subsection.
- 33 (g) A law enforcement officer may not take an individual into
34 custody based solely on the commission of an offense described in
35 subsection (h), if the law enforcement officer, after making a
36 reasonable determination and considering the facts and surrounding
37 circumstances, reasonably believes that the individual:
- 38 (1) obtained the overdose intervention drug as described in
39 subsection (a)(1);
- 40 (2) complied with the provisions in subsection (d);
- 41 (3) administered an overdose intervention drug to an individual
42 who appeared to be experiencing an opioid-related overdose;



- 1 (4) provided:
- 2 (A) the individual's full name; and
- 3 (B) any other relevant information requested by the law
- 4 enforcement officer;
- 5 (5) remained at the scene with the individual who reasonably
- 6 appeared to be in need of medical assistance until emergency
- 7 medical assistance arrived;
- 8 (6) cooperated with emergency medical assistance personnel and
- 9 law enforcement officers at the scene; and
- 10 (7) came into contact with law enforcement because the
- 11 individual requested emergency medical assistance for another
- 12 individual who appeared to be experiencing an opioid-related
- 13 overdose.

14 (h) An individual who meets the criteria in subsection (g) is immune
 15 from criminal prosecution for the following:

- 16 (1) IC 35-48-4-6 (possession of cocaine).
- 17 (2) IC 35-48-4-6.1 (possession of methamphetamine).
- 18 (3) IC 35-48-4-7 (possession of a controlled substance).
- 19 (4) IC 35-48-4-8.3 (possession of paraphernalia).
- 20 (5) IC 35-48-4-11 (possession of marijuana).
- 21 (6) ~~IC 35-48-4-11.5 (possession of a synthetic drug or synthetic~~
- 22 ~~drug lookalike substance). An offense under IC 35-48-4~~
- 23 ~~involving possession of a synthetic drug (as defined in~~
- 24 ~~IC 35-31.5-2-321), possession of a controlled substance analog~~
- 25 ~~(as defined in IC 35-48-1-9.3), or possession of a substance~~
- 26 ~~represented to be a controlled substance (as described in~~
- 27 ~~IC 35-48-4-4.6).~~

28 SECTION 6. IC 20-28-5-8, AS AMENDED BY P.L.161-2018,
 29 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2019]: Sec. 8. (a) This section applies when a prosecuting
 31 attorney knows that a licensed employee of a public school or a
 32 nonpublic school has been convicted of an offense listed in subsection
 33 (c). The prosecuting attorney shall immediately give written notice of
 34 the conviction to the following:

- 35 (1) The state superintendent.
- 36 (2) Except as provided in subdivision (3), the superintendent of
- 37 the school corporation that employs the licensed employee or the
- 38 equivalent authority if a nonpublic school employs the licensed
- 39 employee.
- 40 (3) The presiding officer of the governing body of the school
- 41 corporation that employs the licensed employee, if the convicted
- 42 licensed employee is the superintendent of the school corporation.



1 (b) The superintendent of a school corporation, presiding officer of
 2 the governing body, or equivalent authority for a nonpublic school shall
 3 immediately notify the state superintendent when the individual knows
 4 that a current or former licensed employee of the public school or
 5 nonpublic school has been convicted of an offense listed in subsection
 6 (c), or when the governing body or equivalent authority for a nonpublic
 7 school takes any final action in relation to an employee who engaged
 8 in any offense listed in subsection (c).

9 (c) Except as provided in section 8.5 of this chapter, the department
 10 shall permanently revoke the license of a person who is known by the
 11 department to have been convicted of any of the following felonies:

- 12 (1) Kidnapping (IC 35-42-3-2).
- 13 (2) Criminal confinement (IC 35-42-3-3).
- 14 (3) Rape (IC 35-42-4-1).
- 15 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 16 (5) Child molesting (IC 35-42-4-3).
- 17 (6) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- 18 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 19 (8) Child solicitation (IC 35-42-4-6).
- 20 (9) Child seduction (IC 35-42-4-7).
- 21 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 22 (11) Incest (IC 35-46-1-3).
- 23 (12) Dealing in or manufacturing cocaine or a narcotic drug
 24 (IC 35-48-4-1).
- 25 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 26 (14) Manufacturing methamphetamine (IC 35-48-4-1.2).
- 27 (15) Dealing in a schedule I, II, or III controlled substance
 28 (IC 35-48-4-2).
- 29 (16) Dealing in a schedule IV controlled substance
 30 (IC 35-48-4-3).
- 31 (17) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 32 (18) Dealing in a counterfeit substance (IC 35-48-4-5).
- 33 (19) Dealing in marijuana, hash oil, hashish, or salvia as a felony
 34 (IC 35-48-4-10).
- 35 (20) **Dealing in An offense under IC 35-48-4 involving the**
 36 **manufacture or sale of a synthetic drug (as defined in**
 37 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 38 **defined in IC 35-31.5-2-321.5 (repealed)) under**
 39 **(~~IC 35-48-4-10.5, or IC 35-48-4-10(b) before its amendment in~~**
 40 **2013); IC 35-48-4-10.5 (before its repeal on July 1, 2019), a**
 41 **controlled substance analog (as defined in IC 35-48-1-9.3), or**
 42 **a substance represented to be a controlled substance (as**



- 1 **described in IC 35-48-4-4.6).**
 2 (21) Possession of child pornography (IC 35-42-4-4(d) or
 3 IC 35-42-4-4(e)).
 4 (22) Homicide (IC 35-42-1).
 5 (23) Voluntary manslaughter (IC 35-42-1-3).
 6 (24) Reckless homicide (IC 35-42-1-5).
 7 (25) Battery as any of the following:
 8 (A) A Class A felony (for a crime committed before July 1,
 9 2014) or a Level 2 felony (for a crime committed after June
 10 30, 2014).
 11 (B) A Class B felony (for a crime committed before July 1,
 12 2014) or a Level 3 felony (for a crime committed after June
 13 30, 2014).
 14 (C) A Class C felony (for a crime committed before July 1,
 15 2014) or a Level 5 felony (for a crime committed after June
 16 30, 2014).
 17 (26) Aggravated battery (IC 35-42-2-1.5).
 18 (27) Robbery (IC 35-42-5-1).
 19 (28) Carjacking (IC 35-42-5-2) (before its repeal).
 20 (29) Arson as a Class A felony or Class B felony (for a crime
 21 committed before July 1, 2014) or as a Level 2, Level 3, or Level
 22 4 felony (for a crime committed after June 30, 2014)
 23 (IC 35-43-1-1(a)).
 24 (30) Burglary as a Class A felony or Class B felony (for a crime
 25 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
 26 or Level 4 felony (for a crime committed after June 30, 2014)
 27 (IC 35-43-2-1).
 28 (31) Human trafficking (IC 35-42-3.5).
 29 (32) Dealing in a controlled substance resulting in death
 30 (IC 35-42-1-1.5).
 31 (33) Attempt under IC 35-41-5-1 to commit an offense listed in
 32 this subsection.
 33 (34) Conspiracy under IC 35-41-5-2 to commit an offense listed
 34 in this subsection.
 35 (d) The department shall permanently revoke the license of a person
 36 who is known by the department to have been convicted of a federal
 37 offense or an offense in another state that is comparable to a felony
 38 listed in subsection (c).
 39 (e) A license may be suspended by the state superintendent as
 40 specified in IC 20-28-7.5.
 41 (f) The department shall develop a data base of information on
 42 school corporation employees who have been reported to the



1 department under this section.

2 (g) Upon receipt of information from the office of judicial
3 administration in accordance with IC 33-24-6-3 concerning persons
4 convicted of an offense listed in subsection (c), the department shall:

5 (1) cross check the information received from the office of
6 judicial administration with information concerning licensed
7 teachers (as defined in IC 20-18-2-22(b)) maintained by the
8 department; and

9 (2) if a licensed teacher (as defined in IC 20-18-2-22(b)) has been
10 convicted of an offense described in subsection (c), revoke the
11 licensed teacher's license.

12 SECTION 7. IC 22-15-5-16, AS AMENDED BY P.L.198-2018,
13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2019]: Sec. 16. (a) A practitioner shall comply with the
15 standards established under this licensing program. A practitioner is
16 subject to the exercise of the disciplinary sanctions under subsection
17 (b) if the department finds that a practitioner has:

18 (1) engaged in or knowingly cooperated in fraud or material
19 deception in order to obtain a license to practice, including
20 cheating on a licensing 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 provided under this chapter;

27 (5) been convicted of a crime that has a direct bearing on the
28 practitioner's ability to continue to practice competently;

29 (6) knowingly violated a state statute or rule or federal statute or
30 regulation regulating the profession for which the practitioner is
31 licensed;

32 (7) continued to practice although the practitioner has become
33 unfit to practice due to:

34 (A) professional incompetence;

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

37 (C) physical or mental disability; or

38 (D) addiction to, abuse of, or severe dependency on alcohol or
39 other drugs that endanger the public by impairing a
40 practitioner's ability to practice safely;

41 (8) engaged in a course of lewd or immoral conduct in connection
42 with the delivery of services to the public;



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



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

4 (D) perform or refrain from performing any acts, including
5 community restitution or service without compensation, that
6 the department considers appropriate to the public interest or
7 to the rehabilitation or treatment of the practitioner.

8 The department may withdraw or modify this probation if the
9 department finds after a hearing that the deficiency that required
10 disciplinary action has been remedied or that changed
11 circumstances warrant a modification of the order.

12 (c) If an applicant or a practitioner has engaged in or knowingly
13 cooperated in fraud or material deception to obtain a license to
14 practice, including cheating on the licensing examination, the
15 department may rescind the license if it has been granted, void the
16 examination or other fraudulent or deceptive material, and prohibit the
17 applicant from reapplying for the license for a length of time
18 established by the department.

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

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

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

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

- 40 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
41 (2) Possession of methamphetamine under IC 35-48-4-6.1.
42 (3) Possession of a controlled substance under IC 35-48-4-7(a).



- 1 (4) Fraudulently obtaining a controlled substance under
 2 IC 35-48-4-7(b) (for a crime committed before July 1, 2014) or
 3 IC 35-48-4-7(c) (for a crime committed after June 30, 2014).
 4 (5) Manufacture of paraphernalia as a Class D felony (for a crime
 5 committed before July 1, 2014) or a Level 6 felony (for a crime
 6 committed after June 30, 2014) under IC 35-48-4-8.1(b).
 7 (6) Dealing in paraphernalia as a Class D felony (for a crime
 8 committed before July 1, 2014) or a Level 6 felony (for a crime
 9 committed after June 30, 2014) under IC 35-48-4-8.5(b).
 10 (7) Possession of paraphernalia as a Class D felony (for a crime
 11 committed before July 1, 2014) or a Level 6 felony (for a crime
 12 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before
 13 its amendment on July 1, 2015).
 14 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
 15 D felony (for a crime committed before July 1, 2014) or a Level
 16 6 felony (for a crime committed after June 30, 2014) under
 17 IC 35-48-4-11.
 18 (9) **A felony offense under IC 35-48-4 involving possession of**
 19 **a synthetic drug (as defined in IC 35-31.5-2-321), possession of**
 20 **a controlled substance analog (as defined in IC 35-48-1-9.3),**
 21 **or possession of a synthetic drug lookalike substance (as defined**
 22 **in IC 35-31.5-2-321.5 (repealed)) as a:**
 23 (A) Class D felony for a crime committed before July 1, 2014;
 24 **under:**
 25 (i) ~~IC 35-48-4-11, before its amendment in 2013; or~~
 26 (ii) ~~IC 35-48-4-11.5; or~~
 27 (B) Level 6 felony for a crime committed after June 30, 2014;
 28 **under IC 35-48-4-11.5 (before its repeal on July 1, 2019).**
 29 (10) Maintaining a common nuisance under IC 35-48-4-13
 30 (repealed) or IC 35-45-1-5, if the common nuisance involves a
 31 controlled substance.
 32 (11) An offense relating to registration, labeling, and prescription
 33 forms under IC 35-48-4-14.
 34 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 35 in this subsection.
 36 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 37 this subsection.
 38 (14) An offense in any other jurisdiction in which the elements of
 39 the offense for which the conviction was entered are substantially
 40 similar to the elements of an offense described in this subsection.
 41 (h) The department shall deny, revoke, or suspend a license issued
 42 under this chapter if the individual who holds the license is convicted



- 1 of any of the following:
- 2 (1) Dealing in a controlled substance resulting in death under
- 3 IC 35-42-1-1.5.
- 4 (2) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
- 5 (3) Dealing in methamphetamine under IC 35-48-4-1.1.
- 6 (4) Manufacturing methamphetamine under IC 35-48-4-1.2.
- 7 (5) Dealing in a schedule I, II, or III controlled substance under
- 8 IC 35-48-4-2.
- 9 (6) Dealing in a schedule IV controlled substance under
- 10 IC 35-48-4-3.
- 11 (7) Dealing in a schedule V controlled substance under
- 12 IC 35-48-4-4.
- 13 (8) Dealing in a substance represented to be a controlled
- 14 substance under IC 35-48-4-4.5 **(repealed)**.
- 15 (9) Knowingly or intentionally manufacturing, advertising,
- 16 distributing, or possessing with intent to manufacture, advertise,
- 17 or distribute a substance represented to be a controlled substance
- 18 under IC 35-48-4-4.6.
- 19 (10) Dealing in a counterfeit substance under IC 35-48-4-5.
- 20 (11) Dealing in marijuana, hash oil, hashish, or salvia as a felony
- 21 under IC 35-48-4-10.
- 22 **(12) Dealing in An offense under IC 35-48-4 involving the**
- 23 **manufacture or sale of a synthetic drug (as defined in**
- 24 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
- 25 **defined in IC 35-31.5-2-321.5 (repealed)) under IC 35-48-4-10.5**
- 26 **(or under IC 35-48-4-10(b) before its amendment in 2013):**
- 27 **(before its repeal on July 1, 2019), a controlled substance**
- 28 **analog (as defined in IC 35-48-1-9.3), or a substance**
- 29 **represented to be a controlled substance (as described in**
- 30 **IC 35-48-4-4.6).**
- 31 (13) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 32 in this subsection.
- 33 (14) Attempt under IC 35-41-5-1 to commit an offense listed in
- 34 this subsection.
- 35 (15) An offense in any other jurisdiction in which the elements of
- 36 the offense for which the conviction was entered are substantially
- 37 similar to the elements of an offense described in this subsection.
- 38 (16) A violation of any federal or state drug law or rule related to
- 39 wholesale legend drug distributors licensed under IC 25-26-14.
- 40 (i) A decision of the department under subsections (b) through (h)
- 41 may be appealed to the commission under IC 4-21.5-3-7.
- 42 (j) The department may temporarily suspend a practitioner's license



1 under IC 4-21.5-4 before a final adjudication or during the appeals
2 process if the department finds that a practitioner represents a clear and
3 immediate danger to the public's health, safety, or property if the
4 practitioner is allowed to continue to practice.

5 (k) On receipt of a complaint or an information alleging that a
6 person licensed under this chapter has engaged in or is engaging in a
7 practice that jeopardizes the public health, safety, or welfare, the
8 department shall initiate an investigation against the person.

9 (l) Any complaint filed with the office of the attorney general
10 alleging a violation of this licensing program shall be referred to the
11 department for summary review and for its general information and any
12 authorized action at the time of the filing.

13 (m) The department shall conduct a fact finding investigation as the
14 department considers proper in relation to the complaint.

15 (n) The department may reinstate a license that has been suspended
16 under this section if, after a hearing, the department is satisfied that the
17 applicant is able to practice with reasonable skill, safety, and
18 competency to the public. As a condition of reinstatement, the
19 department may impose disciplinary or corrective measures authorized
20 under this chapter.

21 (o) The department may not reinstate a license that has been
22 revoked under this chapter. An individual whose license has been
23 revoked under this chapter may not apply for a new license until seven
24 (7) years after the date of revocation.

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

29 (q) A practitioner may petition the department to accept the
30 surrender of the practitioner's license instead of having a hearing before
31 the commission. The practitioner may not surrender the practitioner's
32 license without the written approval of the department, and the
33 department may impose any conditions appropriate to the surrender or
34 reinstatement of a surrendered license.

35 (r) A practitioner who has been subjected to disciplinary sanctions
36 may be required by the commission to pay the costs of the proceeding.
37 The practitioner's ability to pay shall be considered when costs are
38 assessed. If the practitioner fails to pay the costs, a suspension may not
39 be imposed solely upon the practitioner's inability to pay the amount
40 assessed. The costs are limited to costs for the following:

- 41 (1) Court reporters.
42 (2) Transcripts.



- 1 (3) Certification of documents.
 2 (4) Photo duplication.
 3 (5) Witness attendance and mileage fees.
 4 (6) Postage.
 5 (7) Expert witnesses.
 6 (8) Depositions.
 7 (9) Notarizations.
- 8 SECTION 8. IC 24-5-0.5-4, AS AMENDED BY P.L.65-2014,
 9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 4. (a) A person relying upon an uncured or
 11 incurable deceptive act may bring an action for the damages actually
 12 suffered as a consumer as a result of the deceptive act or five hundred
 13 dollars (\$500), whichever is greater. The court may increase damages
 14 for a willful deceptive act in an amount that does not exceed the greater
 15 of:
 16 (1) three (3) times the actual damages of the consumer suffering
 17 the loss; or
 18 (2) one thousand dollars (\$1,000).
- 19 Except as provided in subsection (j), the court may award reasonable
 20 attorney fees to the party that prevails in an action under this
 21 subsection. This subsection does not apply to a consumer transaction
 22 in real property, including a claim or action involving a construction
 23 defect (as defined in IC 32-27-3-1(5)) brought against a construction
 24 professional (as defined in IC 32-27-3-1(4)), except for purchases of
 25 time shares and camping club memberships. This subsection does not
 26 apply with respect to a deceptive act described in section 3(b)(20) of
 27 this chapter. This subsection also does not apply to a violation of
 28 IC 24-4.7, IC 24-5-12, IC 24-5-14, or IC 24-5-14.5. Actual damages
 29 awarded to a person under this section have priority over any civil
 30 penalty imposed under this chapter.
- 31 (b) Any person who is entitled to bring an action under subsection
 32 (a) on the person's own behalf against a supplier for damages for a
 33 deceptive act may bring a class action against such supplier on behalf
 34 of any class of persons of which that person is a member and which has
 35 been damaged by such deceptive act, subject to and under the Indiana
 36 Rules of Trial Procedure governing class actions, except as herein
 37 expressly provided. Except as provided in subsection (j), the court may
 38 award reasonable attorney fees to the party that prevails in a class
 39 action under this subsection, provided that such fee shall be determined
 40 by the amount of time reasonably expended by the attorney and not by
 41 the amount of the judgment, although the contingency of the fee may
 42 be considered. Except in the case of an extension of time granted by the



1 attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10,
 2 any money or other property recovered in a class action under this
 3 subsection which cannot, with due diligence, be restored to consumers
 4 within one (1) year after the judgment becomes final shall be returned
 5 to the party depositing the same. This subsection does not apply to a
 6 consumer transaction in real property, except for purchases of time
 7 shares and camping club memberships. This subsection does not apply
 8 with respect to a deceptive act described in section 3(b)(20) of this
 9 chapter. Actual damages awarded to a class have priority over any civil
 10 penalty imposed under this chapter.

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

- 17 (1) issue an injunction;
- 18 (2) order the supplier to make payment of the money unlawfully
 19 received from the aggrieved consumers to be held in escrow for
 20 distribution to aggrieved consumers;
- 21 (3) for a knowing violation against a senior consumer, increase
 22 the amount of restitution ordered under subdivision (2) in any
 23 amount up to three (3) times the amount of damages incurred or
 24 value of property or assets lost;
- 25 (4) order the supplier to pay to the state the reasonable costs of
 26 the attorney general's investigation and prosecution related to the
 27 action;
- 28 (5) provide for the appointment of a receiver; and
- 29 (6) order the department of state revenue to suspend the supplier's
 30 registered retail merchant certificate, subject to the requirements
 31 and prohibitions contained in IC 6-2.5-8-7(i), if the court finds
 32 that a violation of this chapter involved the sale or solicited sale
 33 of a synthetic drug (as defined in IC 35-31.5-2-321), ~~or~~ a synthetic
 34 drug lookalike substance (as defined in IC 35-31.5-2-321.5
 35 **(repealed)**) **(before July 1, 2019), a controlled substance**
 36 **analog (as defined in IC 35-48-1-9.3), or a substance**
 37 **represented to be a controlled substance (as described in**
 38 **IC 35-48-4-4.6).**

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

42 (e) In any action under subsection (a) or (b), upon the filing of the



1 complaint or on the appearance of any defendant, claimant, or any
 2 other party, or at any later time, the trial court, the supreme court, or the
 3 court of appeals may require the plaintiff, defendant, claimant, or any
 4 other party or parties to give security, or additional security, in such
 5 sum as the court shall direct to pay all costs, expenses, and
 6 disbursements that shall be awarded against that party or which that
 7 party may be directed to pay by any interlocutory order by the final
 8 judgment or on appeal.

9 (f) Any person who violates the terms of an injunction issued under
 10 subsection (c) shall forfeit and pay to the state a civil penalty of not
 11 more than fifteen thousand dollars (\$15,000) per violation. For the
 12 purposes of this section, the court issuing an injunction shall retain
 13 jurisdiction, the cause shall be continued, and the attorney general
 14 acting in the name of the state may petition for recovery of civil
 15 penalties. Whenever the court determines that an injunction issued
 16 under subsection (c) has been violated, the court shall award
 17 reasonable costs to the state.

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

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

- 26 (1) For a knowing or intentional violation, one thousand five
 27 hundred dollars (\$1,500).
- 28 (2) For a violation other than a knowing or intentional violation,
 29 five hundred dollars (\$500).

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

34 (i) A senior consumer relying upon an uncured or incurable
 35 deceptive act, including an act related to hypnotism, may bring an
 36 action to recover treble damages, if appropriate.

37 (j) An offer to cure is:

- 38 (1) not admissible as evidence in a proceeding initiated under this
 39 section unless the offer to cure is delivered by a supplier to the
 40 consumer or a representative of the consumer before the supplier
 41 files the supplier's initial response to a complaint; and
- 42 (2) only admissible as evidence in a proceeding initiated under



1 this section to prove that a supplier is not liable for attorney's fees
2 under subsection (k).

3 If the offer to cure is timely delivered by the supplier, the supplier may
4 submit the offer to cure as evidence to prove in the proceeding in
5 accordance with the Indiana Rules of Trial Procedure that the supplier
6 made an offer to cure.

7 (k) A supplier may not be held liable for the attorney's fees and
8 court costs of the consumer that are incurred following the timely
9 delivery of an offer to cure as described in subsection (j) unless the
10 actual damages awarded, not including attorney's fees and costs, exceed
11 the value of the offer to cure.

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

29 SECTION 9. IC 25-1-1.1-2, AS AMENDED BY P.L.85-2017,
30 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2019]: Sec. 2. Notwithstanding IC 25-1-7, a board, a
32 commission, or a committee may suspend, deny, or revoke a license or
33 certificate issued under this title by the board, the commission, or the
34 committee without an investigation by the office of the attorney general
35 if the individual who holds the license or certificate is convicted of any
36 of the following and the board, commission, or committee determines,
37 after the individual has appeared in person, that the offense affects the
38 individual's ability to perform the duties of the profession:

- 39 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
40 (2) Possession of methamphetamine under IC 35-48-4-6.1.
41 (3) Possession of a controlled substance under IC 35-48-4-7(a).
42 (4) Fraudulently obtaining a controlled substance under



- 1 IC 35-48-4-7(c).
 2 (5) Manufacture of paraphernalia as a Class D felony (for a crime
 3 committed before July 1, 2014) or a Level 6 felony (for a crime
 4 committed after June 30, 2014) under IC 35-48-4-8.1(b).
 5 (6) Dealing in paraphernalia as a Class D felony (for a crime
 6 committed before July 1, 2014) or a Level 6 felony (for a crime
 7 committed after June 30, 2014) under IC 35-48-4-8.5(b).
 8 (7) Possession of paraphernalia as a Class D felony (for a crime
 9 committed before July 1, 2014) or a Level 6 felony (for a crime
 10 committed after June 30, 2014) under IC 35-48-4-8.3(b) (before
 11 its amendment on July 1, 2015).
 12 (8) Possession of marijuana, hash oil, hashish, or salvia as a Class
 13 D felony (for a crime committed before July 1, 2014) or a Level
 14 6 felony (for a crime committed after June 30, 2014) under
 15 IC 35-48-4-11.
 16 (9) **A felony offense under IC 35-48-4 involving** possession of
 17 a synthetic drug **(as defined in IC 35-31.5-2-321), possession of**
 18 **a controlled substance analog (as defined in IC 35-48-1-9.3),**
 19 **or possession of a synthetic drug lookalike substance (as defined**
 20 **in IC 35-31.5-2-321.5 (repealed))** as a:
 21 (A) Class D felony for a crime committed before July 1, 2014;
 22 **under:**
 23 (i) ~~IC 35-48-4-11, before its amendment in 2013; or~~
 24 (ii) ~~IC 35-48-4-11.5; or~~
 25 (B) Level 6 felony for a crime committed after June 30, 2014;
 26 under IC 35-48-4-11.5 **(before its repeal on July 1, 2019).**
 27 (10) Maintaining a common nuisance under IC 35-48-4-13
 28 (repealed) or IC 35-45-1-5, if the common nuisance involves a
 29 controlled substance.
 30 (11) An offense relating to registration, labeling, and prescription
 31 forms under IC 35-48-4-14.
 32 (12) Conspiracy under IC 35-41-5-2 to commit an offense listed
 33 in this section.
 34 (13) Attempt under IC 35-41-5-1 to commit an offense listed in
 35 this section.
 36 (14) A sex crime under IC 35-42-4.
 37 (15) A felony that reflects adversely on the individual's fitness to
 38 hold a professional license.
 39 (16) An offense in any other jurisdiction in which the elements of
 40 the offense for which the conviction was entered are substantially
 41 similar to the elements of an offense described in this section.
 42 SECTION 10. IC 25-1-1.1-3, AS AMENDED BY P.L.198-2018,



1 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2019]: Sec. 3. A board, a commission, or a committee shall
3 revoke or suspend a license or certificate issued under this title by the
4 board, the commission, or the committee if the individual who holds
5 the license or certificate is convicted of any of the following:

6 (1) Dealing in a controlled substance resulting in death under
7 IC 35-42-1-1.5.

8 (2) Dealing in or manufacturing cocaine or a narcotic drug under
9 IC 35-48-4-1.

10 (3) Dealing in methamphetamine under IC 35-48-4-1.1.

11 (4) Manufacturing methamphetamine under IC 35-48-4-1.2.

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

14 (6) Dealing in a schedule IV controlled substance under
15 IC 35-48-4-3.

16 (7) Dealing in a schedule V controlled substance under
17 IC 35-48-4-4.

18 (8) Dealing in a substance represented to be a controlled
19 substance under IC 35-48-4-4.5 **(before its repeal on July 1,**
20 **2019).**

21 (9) Knowingly or intentionally manufacturing, advertising,
22 distributing, or possessing with intent to manufacture, advertise,
23 or distribute a substance represented to be a controlled substance
24 under IC 35-48-4-4.6.

25 (10) Dealing in a counterfeit substance under IC 35-48-4-5.

26 (11) Dealing in marijuana, hash oil, hashish, or salvia as a felony
27 under IC 35-48-4-10.

28 ~~Dealing in~~ **An offense under IC 35-48-4 involving the**
29 **manufacture or sale of a synthetic drug (as defined in**
30 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
31 **defined in IC 35-31.5-2-321.5 (repealed))** under IC 35-48-4-10.5
32 ~~(or under IC 35-48-4-10(b) before its amendment in 2013):~~
33 **(before its repeal on July 1, 2019), a controlled substance**
34 **analog (as defined in IC 35-48-1-9.3), or a substance**
35 **represented to be a controlled substance (as described in**
36 **IC 35-48-4-4.6).**

37 (13) Conspiracy under IC 35-41-5-2 to commit an offense listed
38 in this section.

39 (14) Attempt under IC 35-41-5-1 to commit an offense listed in
40 this section.

41 (15) An offense in any other jurisdiction in which the elements of
42 the offense for which the conviction was entered are substantially



1 similar to the elements of an offense described in this section.

2 (16) A violation of any federal or state drug law or rule related to
3 wholesale legend drug distributors licensed under IC 25-26-14.

4 SECTION 11. IC 32-30-8-2, AS AMENDED BY P.L.196-2013,
5 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2019]: Sec. 2. (a) Except as provided in subsection (d), as
7 used in this chapter, "property" means a house, a building, a mobile
8 home, or an apartment that is leased for residential or commercial
9 purposes.

10 (b) The term includes:

11 (1) an entire building or complex of buildings; or

12 (2) a mobile home community;

13 and all real property of any nature appurtenant to and used in
14 connection with the house, building, mobile home, or apartment,
15 including all individual rental units and common areas.

16 (c) The term does not include a hotel, motel, or other guest house,
17 part of which is rented to a transient guest.

18 (d) For actions brought by the attorney general in relation to the sale
19 or solicited sale of a synthetic drug (as defined in IC 35-31.5-2-321),
20 ~~or a synthetic drug lookalike substance (as defined in~~
21 ~~IC 35-31.5-2-321.5);~~ **a controlled substance analog (as defined in**
22 **IC 35-48-1-9.3), or a substance represented to be a controlled**
23 **substance (as described in IC 35-48-4-4.6),** "property" means a
24 house, a building, a mobile home, or an apartment that is owned or
25 leased for commercial or residential purposes. The term includes all
26 real property of any nature appurtenant to and used in connection with
27 the house, building, mobile home, or apartment.

28 SECTION 12. IC 32-30-8-10.5, AS ADDED BY P.L.196-2013,
29 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2019]: Sec. 10.5. In addition to the remedies and penalties
31 specified in sections 10, 11, 12, and 13 of this chapter, the court may
32 do any of the following in an action brought under this chapter
33 concerning the sale or solicited sale of a synthetic drug (as defined in
34 IC 35-31.5-2-321), ~~or a synthetic drug lookalike substance (as defined~~
35 ~~in IC 35-31.5-2-321.5);~~ **a controlled substance analog (as defined in**
36 **IC 35-48-1-9.3), or a substance represented to be a controlled**
37 **substance (as described in IC 35-48-4-4.6):**

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

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



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

2 SECTION 13. IC 34-24-1-1, AS AMENDED BY P.L.215-2018(ss),
3 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2019]: Sec. 1. (a) The following may be 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) Manufacturing methamphetamine (IC 35-48-4-1.2).

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

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

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

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

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

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

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

27 (xi) Dealing in marijuana, hash oil, hashish, or salvia
28 (IC 35-48-4-10).

29 (xii) ~~Dealing in~~ **An offense under IC 35-48-4 involving a**
30 **synthetic drug (as defined in IC 35-31.5-2-321), or a**
31 **synthetic drug lookalike substance (as defined in**
32 **IC 35-31.5-2-321.5 (repealed)) under (IC 35-48-4-10.5; or**
33 **IC 35-48-4-10 before its amendment in 2013):**
34 **IC 35-48-4-10.5 (before its repeal on July 1, 2019), a**
35 **controlled substance analog (as defined in**
36 **IC 35-48-1-9.3), or a substance represented to be a**
37 **controlled substance (as described in IC 35-48-4-4.6).**

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

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

42 (D) A bomb (as defined in IC 35-31.5-2-31) or weapon of



- 1 mass destruction (as defined in IC 35-31.5-2-354) used to
 2 commit, used in an attempt to commit, or used in a conspiracy
 3 to commit an offense under IC 35-47 as part of or in
 4 furtherance of an act of terrorism (as defined by
 5 IC 35-31.5-2-329).
- 6 (2) All money, negotiable instruments, securities, weapons,
 7 communications devices, or any property used to commit, used in
 8 an attempt to commit, or used in a conspiracy to commit an
 9 offense under IC 35-47 as part of or in furtherance of an act of
 10 terrorism or commonly used as consideration for a violation of
 11 IC 35-48-4 (other than items subject to forfeiture under
 12 IC 16-42-20-5 or IC 16-6-8.5-5.1, before its repeal):
- 13 (A) furnished or intended to be furnished by any person in
 14 exchange for an act that is in violation of a criminal statute;
 15 (B) used to facilitate any violation of a criminal statute; or
 16 (C) traceable as proceeds of the violation of a criminal statute.
- 17 (3) Any portion of real or personal property purchased with
 18 money that is traceable as a proceed of a violation of a criminal
 19 statute.
- 20 (4) A vehicle that is used by a person to:
- 21 (A) commit, attempt to commit, or conspire to commit;
 22 (B) facilitate the commission of; or
 23 (C) escape from the commission of;
 24 murder (IC 35-42-1-1), dealing in a controlled substance resulting
 25 in death (IC 35-42-1-1.5), kidnapping (IC 35-42-3-2), criminal
 26 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 27 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 28 under IC 35-47 as part of or in furtherance of an act of terrorism.
- 29 (5) Real property owned by a person who uses it to commit any of
 30 the following as a Level 1, Level 2, Level 3, Level 4, or Level 5
 31 felony:
- 32 (A) Dealing in or manufacturing cocaine or a narcotic drug
 33 (IC 35-48-4-1).
 34 (B) Dealing in methamphetamine (IC 35-48-4-1.1).
 35 (C) Manufacturing methamphetamine (IC 35-48-4-1.2).
 36 (D) Dealing in a schedule I, II, or III controlled substance
 37 (IC 35-48-4-2).
 38 (E) Dealing in a schedule IV controlled substance
 39 (IC 35-48-4-3).
 40 (F) Dealing in marijuana, hash oil, hashish, or salvia
 41 (IC 35-48-4-10).
 42 (G) Dealing in a synthetic drug or synthetic drug lookalike



- 1 substance (~~IC 35-48-4-10.5; or IC 35-48-4-10 before its~~
 2 ~~amendment in 2013); under IC 35-48-4-10.5 (before its~~
 3 ~~repeal on July 1, 2019) or IC 35-48-4-10 (before its~~
 4 ~~amendment in 2013).~~
- 5 (H) Dealing in a controlled substance resulting in death
 6 (IC 35-42-1-1.5).
- 7 (6) Equipment and recordings used by a person to commit fraud
 8 under IC 35-43-5-4(10).
- 9 (7) Recordings sold, rented, transported, or possessed by a person
 10 in violation of IC 24-4-10.
- 11 (8) Property (as defined by IC 35-31.5-2-253) or an enterprise (as
 12 defined by IC 35-45-6-1) that is the object of a corrupt business
 13 influence violation (IC 35-45-6-2).
- 14 (9) Unlawful telecommunications devices (as defined in
 15 IC 35-45-13-6) and plans, instructions, or publications used to
 16 commit an offense under IC 35-45-13.
- 17 (10) Any equipment, including computer equipment and cellular
 18 telephones, used for or intended for use in preparing,
 19 photographing, recording, videotaping, digitizing, printing,
 20 copying, or disseminating matter in violation of IC 35-42-4.
- 21 (11) Destructive devices used, possessed, transported, or sold in
 22 violation of IC 35-47.5.
- 23 (12) Tobacco products that are sold in violation of IC 24-3-5,
 24 tobacco products that a person attempts to sell in violation of
 25 IC 24-3-5, and other personal property owned and used by a
 26 person to facilitate a violation of IC 24-3-5.
- 27 (13) Property used by a person to commit counterfeiting or
 28 forgery in violation of IC 35-43-5-2.
- 29 (14) After December 31, 2005, if a person is convicted of an
 30 offense specified in IC 25-26-14-26(b) or IC 35-43-10, the
 31 following real or personal property:
- 32 (A) Property used or intended to be used to commit, facilitate,
 33 or promote the commission of the offense.
- 34 (B) Property constituting, derived from, or traceable to the
 35 gross proceeds that the person obtained directly or indirectly
 36 as a result of the offense.
- 37 (15) Except as provided in subsection (e), a vehicle used by a
 38 person who operates the vehicle:
- 39 (A) while intoxicated, in violation of IC 9-30-5-1 through
 40 IC 9-30-5-5, if in the previous five (5) years the person has two
 41 (2) or more prior unrelated convictions:
- 42 (i) for operating a motor vehicle while intoxicated in



- 1 violation of IC 9-30-5-1 through IC 9-30-5-5; or
 2 (ii) for an offense that is substantially similar to IC 9-30-5-1
 3 through IC 9-30-5-5 in another jurisdiction; or
 4 (B) on a highway while the person's driving privileges are
 5 suspended in violation of IC 9-24-19-2 through IC 9-24-19-3,
 6 if in the previous five (5) years the person has two (2) or more
 7 prior unrelated convictions:
 8 (i) for operating a vehicle while intoxicated in violation of
 9 IC 9-30-5-1 through IC 9-30-5-5; or
 10 (ii) for an offense that is substantially similar to IC 9-30-5-1
 11 through IC 9-30-5-5 in another jurisdiction.
- 12 If a court orders the seizure of a vehicle under this subdivision,
 13 the court shall transmit an order to the bureau of motor vehicles
 14 recommending that the bureau not permit a vehicle to be
 15 registered in the name of the person whose vehicle was seized
 16 until the person possesses a current driving license (as defined in
 17 IC 9-13-2-41).
- 18 (16) The following real or personal property:
 19 (A) Property used or intended to be used to commit, facilitate,
 20 or promote the commission of an offense specified in
 21 IC 23-14-48-9, IC 30-2-9-7(b), IC 30-2-10-9(b), or
 22 IC 30-2-13-38(f).
 23 (B) Property constituting, derived from, or traceable to the
 24 gross proceeds that a person obtains directly or indirectly as a
 25 result of an offense specified in IC 23-14-48-9, IC 30-2-9-7(b),
 26 IC 30-2-10-9(b), or IC 30-2-13-38(f).
- 27 (17) An automated sales suppression device (as defined in
 28 IC 35-43-5-4.6(a)(1) or phantom-ware (as defined in
 29 IC 35-43-5-4.6(a)(3)).
- 30 (18) Real or personal property, including a vehicle, that is used by
 31 a person to:
 32 (A) commit, attempt to commit, or conspire to commit;
 33 (B) facilitate the commission of; or
 34 (C) escape from the commission of;
 35 a violation of IC 35-42-3.5-1 through IC 35-42-3.5-1.4 (human
 36 trafficking) or IC 35-45-4-4 (promoting prostitution).
- 37 (b) A vehicle used by any person as a common or contract carrier in
 38 the transaction of business as a common or contract carrier is not
 39 subject to seizure under this section, unless it can be proven by a
 40 preponderance of the evidence that the owner of the vehicle knowingly
 41 permitted the vehicle to be used to engage in conduct that subjects it to
 42 seizure under subsection (a).



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

5 (d) Money, negotiable instruments, securities, weapons,
 6 communications devices, or any property commonly used as
 7 consideration for a violation of IC 35-48-4 found near or on a person
 8 who is committing, attempting to commit, or conspiring to commit any
 9 of the following offenses shall be admitted into evidence in an action
 10 under this chapter as prima facie evidence that the money, negotiable
 11 instrument, security, or other thing of value is property that has been
 12 used or was to have been used to facilitate the violation of a criminal
 13 statute or is the proceeds of the violation of a criminal statute:

14 (1) IC 35-42-1-1.5 (dealing in a controlled substance resulting in
 15 death).

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

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

19 (4) IC 35-48-4-1.2 (manufacturing methamphetamine).

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

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

23 (7) IC 35-48-4-4 (dealing in a schedule V controlled substance)
 24 as a Level 4 felony.

25 (8) IC 35-48-4-6 (possession of cocaine or a narcotic drug) as a
 26 Level 3, Level 4, or Level 5 felony.

27 (9) IC 35-48-4-6.1 (possession of methamphetamine) as a Level
 28 3, Level 4, or Level 5 felony.

29 (10) IC 35-48-4-10 (dealing in marijuana, hash oil, hashish, or
 30 salvia) as a Level 5 felony.

31 (11) IC 35-48-4-10.5 (**before its repeal on July 1, 2019**) (dealing
 32 in a synthetic drug or synthetic drug lookalike substance) as a
 33 Level 5 felony or Level 6 felony (or as a Class C felony or Class
 34 D felony under IC 35-48-4-10 before its amendment in 2013).

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

36 (1) an owner of the vehicle; or

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

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

42 SECTION 14. IC 35-31.5-2-16.5 IS REPEALED [EFFECTIVE



1 JULY 1, 2019]. Sec. 16.5. "Analog", for purposes of section 321 of this
 2 chapter, means a new or novel chemical entity, independent of
 3 synthetic route or natural origin, having substantially the same:

- 4 (1) carbon backbone structure; and
 5 (2) pharmacological mechanism of action;

6 as a compound specifically defined as a synthetic drug in section 321
 7 of this chapter.

8 SECTION 15. IC 35-31.5-2-321.5 IS REPEALED [EFFECTIVE
 9 JULY 1, 2019]. Sec. 321.5. (a) "Synthetic drug lookalike substance",
 10 except as provided in subsection (b); means one (1) or more of the
 11 following:

12 (1) A substance, other than a synthetic drug, which any of the
 13 factors listed in subsection (c) would lead a reasonable person to
 14 believe to be a synthetic drug.

15 (2) A substance, other than a synthetic drug:

16 (A) that a person knows or should have known was intended
 17 to be consumed; and

18 (B) the consumption of which the person knows or should
 19 have known to be intended to cause intoxication.

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

22 (1) Food and food ingredients (as defined in IC 6-2.5-1-20);

23 (2) Alcohol (as defined in IC 7-1-1-3-4);

24 (3) A legend drug (as defined in IC 16-18-2-199);

25 (4) Tobacco;

26 (5) A dietary supplement (as defined in IC 6-2.5-1-16);

27 (c) In determining whether a substance is a synthetic drug lookalike
 28 substance, the following factors may be considered:

29 (1) The overall appearance of a dosage unit of the substance,
 30 including its shape, color, size, markings or lack of markings,
 31 taste, consistency, and any other identifying physical
 32 characteristics.

33 (2) How the substance is packaged for sale or distribution;
 34 including the shape, color, size, markings or lack of markings, and
 35 any other identifying physical characteristics of the packaging.

36 (3) Any statement made by the owner or person in control of the
 37 substance concerning the substance's nature, use, or effect.

38 (4) Any statement made to the buyer or recipient of the substance
 39 suggesting or implying that the substance is a synthetic drug.

40 (5) Any statement made to the buyer or recipient of the substance
 41 suggesting or implying that the substance may be resold for profit.

42 (6) The overall circumstances under which the substance is



1 distributed, including whether:

2 (A) the distribution included an exchange of, or demand for,
3 money or other property as consideration; and

4 (B) the amount of the consideration was substantially greater
5 than the reasonable retail market value of the substance the
6 seller claims the substance to be.

7 SECTION 16. IC 35-42-1-1.5, AS ADDED BY P.L.198-2018,
8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2019]: Sec. 1.5. (a) A person who knowingly or intentionally
10 manufactures or delivers a controlled substance or controlled substance
11 analog, in violation of:

12 (1) IC 35-48-4-1 (dealing in cocaine or a narcotic drug);

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

14 (3) IC 35-48-4-1.2 (manufacturing methamphetamine); or

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

17 that, when the controlled substance is used, injected, inhaled, absorbed,
18 or ingested, results in the death of a human being who used the
19 controlled substance, commits dealing in a controlled substance
20 resulting in death, a Level 1 felony.

21 (b) A person who knowingly or intentionally manufactures or
22 delivers a controlled substance, in violation of IC 35-48-4-3, that, when
23 the controlled substance is used, injected, inhaled, absorbed, or
24 ingested, results in the death of a human being who used the controlled
25 substance, commits dealing in a controlled substance resulting in death,
26 a Level 2 felony.

27 (c) A person who knowingly or intentionally manufactures or
28 delivers a controlled substance, in violation of IC 35-48-4-4, ~~or~~
29 ~~IC 35-48-4-10.5, an offense under IC 35-48-4 involving a synthetic~~
30 **drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike**
31 **substance (as defined in IC 35-31.5-2-321.5 (repealed)) under**
32 **IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled**
33 **substance analog (as defined in IC 35-48-1-9.3), or a substance**
34 **represented to be a controlled substance (as described in**
35 **IC 35-48-4-4.6),** that, when the controlled substance is used, injected,
36 inhaled, absorbed, or ingested, results in the death of a human being
37 who used the controlled substance, commits dealing in a controlled
38 substance resulting in death, a Level 3 felony.

39 (d) It is not a defense to an offense described in this section that the
40 human being died:

41 (1) after voluntarily using, injecting, inhaling, absorbing, or
42 ingesting a controlled substance or controlled substance analog;



1 or

2 (2) as a result of using the controlled substance or controlled
3 substance analog in combination with alcohol or another
4 controlled substance or with any other compound, mixture,
5 diluent, or substance.

6 SECTION 17. IC 35-45-6-1, AS AMENDED BY P.L.176-2018,
7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2019]: Sec. 1. (a) The definitions in this section apply
9 throughout this chapter.

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

14 (c) "Enterprise" means:

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

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

19 (d) "Pattern of racketeering activity" means engaging in at least two
20 (2) incidents of racketeering activity that have the same or similar
21 intent, result, accomplice, victim, or method of commission, or that are
22 otherwise interrelated by distinguishing characteristics that are not
23 isolated incidents. However, the incidents are a pattern of racketeering
24 activity only if at least one (1) of the incidents occurred after August
25 31, 1980, and if the last of the incidents occurred within five (5) years
26 after a prior incident of racketeering activity.

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

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

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

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

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

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

36 (6) Battery as a Class C felony before July 1, 2014, or a Level 5
37 felony after June 30, 2014 (IC 35-42-2-1).

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

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

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

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

42 (11) Carjacking (IC 35-42-5-2) (before its repeal).



- 1 (12) Arson (IC 35-43-1-1).
 2 (13) Burglary (IC 35-43-2-1).
 3 (14) Theft (IC 35-43-4-2).
 4 (15) Receiving stolen property (IC 35-43-4-2) (before its
 5 amendment on July 1, 2018).
 6 (16) Forgery (IC 35-43-5-2).
 7 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
 8 (18) Bribery (IC 35-44.1-1-2).
 9 (19) Official misconduct (IC 35-44.1-1-1).
 10 (20) Conflict of interest (IC 35-44.1-1-4).
 11 (21) Perjury (IC 35-44.1-2-1).
 12 (22) Obstruction of justice (IC 35-44.1-2-2).
 13 (23) Intimidation (IC 35-45-2-1).
 14 (24) Promoting prostitution (IC 35-45-4-4).
 15 (25) Professional gambling (IC 35-45-5-3).
 16 (26) Maintaining a professional gambling site
 17 (IC 35-45-5-3.5(b)).
 18 (27) Promoting professional gambling (IC 35-45-5-4).
 19 (28) Dealing in or manufacturing cocaine or a narcotic drug
 20 (IC 35-48-4-1).
 21 (29) Dealing in methamphetamine (IC 35-48-4-1.1).
 22 (30) Manufacturing methamphetamine (IC 35-48-4-1.2).
 23 (31) Dealing in a schedule I, II, or III controlled substance
 24 (IC 35-48-4-2).
 25 (32) Dealing in a schedule IV controlled substance
 26 (IC 35-48-4-3).
 27 (33) Dealing in a schedule V controlled substance (IC 35-48-4-4).
 28 (34) Dealing in marijuana, hash oil, hashish, or salvia
 29 (IC 35-48-4-10).
 30 (35) Money laundering (IC 35-45-15-5).
 31 (36) A violation of IC 35-47.5-5.
 32 (37) A violation of any of the following:
 33 (A) IC 23-14-48-9.
 34 (B) IC 30-2-9-7(b).
 35 (C) IC 30-2-10-9(b).
 36 (D) IC 30-2-13-38(f).
 37 (38) Practice of law by a person who is not an attorney
 38 (IC 33-43-2-1).
 39 (39) **Dealing in An offense listed in IC 35-48-4 involving the**
 40 **manufacture or sale of a synthetic drug (as defined in**
 41 **IC 35-31.5-2-321), or a synthetic drug lookalike substance (as**
 42 **defined in IC 35-31.5-2-321.5 (repealed)) under**



1 ~~(IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in~~
 2 ~~2013): IC 35-48-4-10.5 (before its repeal on July 1, 2019), a~~
 3 **controlled substance analog (as defined in IC 35-48-1-9.3), or**
 4 **a substance represented to be a controlled substance (as**
 5 **described in IC 35-48-4-4.6).**

6 (40) Dealing in a controlled substance resulting in death
 7 (IC 35-42-1-1.5).

8 SECTION 18. IC 35-48-1-9.3, AS AMENDED BY P.L.153-2018,
 9 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2019]: Sec. 9.3. (a) "Controlled substance analog" means a
 11 substance **that, due to its chemical structure and potential for abuse**
 12 **or misuse, meets the following criteria:**

13 (1) The ~~chemical structure of which substance~~ is substantially
 14 similar to ~~that of a controlled substance included in schedule I or~~
 15 ~~H and that has; or classified under IC 35-48-2.~~

16 (2) ~~that a person represents or intends to have; The substance has~~
 17 a narcotic, stimulant, depressant, or hallucinogenic effect on the
 18 central nervous system ~~substantially similar to or greater than the~~
 19 **or is represented or intended to have a narcotic, stimulant,**
 20 **depressant, or hallucinogenic effect on the central nervous system**
 21 **substantially similar to or greater than that of a controlled**
 22 **substance included in schedule I or H: classified under**
 23 **IC 35-48-2.**

24 (b) The definition set forth in subsection (a) does not include:

25 (1) a controlled substance;

26 **(2) a legend drug;**

27 ~~(2) (3)~~ **(3)** a substance for which there is an approved new drug
 28 application;

29 **(4) any compound, mixture, or preparation that contains any**
 30 **controlled substance, that is not for administration to a**
 31 **human being or animal, and that is packaged in a form or**
 32 **concentration, or with adulterants or denaturants, such that**
 33 **as packaged it does not present any significant potential for**
 34 **abuse; or**

35 ~~(3) (5)~~ **(5)** a substance ~~for to~~ which an **investigational** exemption is
 36 ~~in effect for investigational use by a person applies~~ under Section
 37 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52
 38 Stat. 1052 (21 U.S.C. 355)), **but only** to the extent that conduct
 39 with respect to the substance is ~~permitted under pursuant to the~~
 40 exemption; **or**

41 ~~(4)~~ **(4)** a substance to the extent not intended for human consumption
 42 before an exemption takes effect regarding the substance; or



1 ~~(5)~~ (6) low THC hemp extract.

2 **(c) For purposes of subsection (a), "substantially similar", as it**
 3 **applies to the chemical structure of a substance, means that the**
 4 **chemical structure of the substance, when compared to the**
 5 **structure of a controlled substance, has a single difference in the**
 6 **structural formula that substitutes one (1) atom or functional**
 7 **group for another, including:**

8 **(1) one (1) halogen for another halogen;**

9 **(2) one (1) hydrogen for a halogen;**

10 **(3) one (1) halogen for a hydrogen; or**

11 **(4) an alkyl group added or deleted:**

12 **(A) as a side chain to or from a molecule; or**

13 **(B) from a side chain of a molecule.**

14 SECTION 19. IC 35-48-1-16 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. **(a) Except as**
 16 **provided in subsection (b), "drug" has the meaning set forth in**
 17 **IC 16-42-19-2. It does not include devices or their components, parts,**
 18 **or accessories, nor does it include food.**

19 **(b) For purposes of IC 35-48-4, "drug":**

20 **(1) has the meaning set forth in subsection (a); and**

21 **(2) includes a controlled substance (as defined in IC 35-48-1-9)**
 22 **and a controlled substance analog (as defined in**
 23 **IC 35-48-1-9.3).**

24 SECTION 20. IC 35-48-1-16.3, AS ADDED BY P.L.252-2017,
 25 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2019]: Sec. 16.3. "Drug related felony" means a felony
 27 conviction for an offense described in:

28 (1) IC 35-48-4-1 through IC 35-48-4-11.5 **(repealed)**; or

29 (2) IC 35-48-4-13 **(repealed)** through IC 35-48-4-14.7.

30 SECTION 21. IC 35-48-1-16.5, AS AMENDED BY P.L.168-2014,
 31 SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2019]: Sec. 16.5. "Enhancing circumstance" means one (1) or
 33 more of the following:

34 (1) The person has a prior conviction, in any jurisdiction, for
 35 dealing in a controlled substance that is not marijuana, hashish,
 36 hash oil, **or** salvia divinorum, **or** a **synthetic drug**, including an
 37 attempt or conspiracy to commit the offense.

38 (2) The person committed the offense while in possession of a
 39 firearm.

40 (3) The person committed the offense:

41 (A) on a school bus; or

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



- 1 (i) school property while a person under eighteen (18) years
 2 of age was reasonably expected to be present; or
 3 (ii) a public park while a person under eighteen (18) years
 4 of age was reasonably expected to be present.
- 5 (4) The person delivered or financed the delivery of the drug to a
 6 person under eighteen (18) years of age at least three (3) years
 7 junior to the person.
- 8 (5) The person manufactured or financed the manufacture of the
 9 drug.
- 10 (6) The person committed the offense in the physical presence of
 11 a child less than eighteen (18) years of age, knowing that the child
 12 was present and might be able to see or hear the offense.
- 13 SECTION 22. IC 35-48-4-0.5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 0.5. For purposes of
 15 this chapter, a "controlled substance analog" is considered to be a
 16 controlled substance in schedule I if the analog is in whole or in part
 17 intended for human consumption: **(a) In determining whether a
 18 controlled substance analog has a narcotic, stimulant, depressant,
 19 or hallucinogenic effect on the central nervous system, or is
 20 represented or intended to have a narcotic, stimulant, depressant,
 21 or hallucinogenic effect on the central nervous system, the trier of
 22 fact may consider the following:**
- 23 **(1) The actual or relative potential for abuse of the substance.**
 24 **(2) Scientific evidence of the pharmacological effect of the
 25 substance, if known.**
 26 **(3) The state of current scientific knowledge regarding the
 27 substance.**
 28 **(4) The history and current pattern of abuse of the substance.**
 29 **(5) The scope, duration, and significance of abuse of the
 30 substance.**
 31 **(6) The risk to the public health presented by the substance.**
 32 **(7) The substance's psychological or physiological dependence
 33 liability.**
 34 **(8) The behavior demonstrated by the defendant, if the
 35 defendant is known to have consumed the substance, or by the
 36 end user of the substance that is alleged to have been
 37 delivered or otherwise transferred by the defendant.**
 38 **(9) Whether the substance was diverted from legitimate
 39 channels or clandestinely imported, manufactured, or
 40 distributed.**
 41 **(10) Whether the substance is an immediate precursor of a
 42 substance controlled under this article.**



1 (11) A comparison of the accepted methods of marketing,
 2 distribution, and sales of the substance with the methods of
 3 marketing, distribution, and sales of the substance that the
 4 substance is purported to be, including:

5 (A) the packaging of the substance and its appearance in
 6 overall finished dosage form;

7 (B) oral or written statements or representations
 8 concerning the substance;

9 (C) the methods by which the substance is distributed; and

10 (D) the manner in which the substance is sold to the public.

11 (12) Any other relevant factor.

12 (b) For purposes of this chapter, a controlled substance analog
 13 that has a narcotic, stimulant, depressant, or hallucinogenic effect
 14 shall be treated as the highest scheduled controlled substance
 15 under IC 35-48-2 to which it is a controlled substance analog.

16 (c) It is not a defense to a prosecution for an offense involving a
 17 controlled substance analog that the substance's packaging
 18 declares that the substance is not for human consumption.

19 SECTION 23. IC 35-48-4-2, AS AMENDED BY P.L.44-2016,
 20 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2019]: Sec. 2. (a) A person who:

22 (1) knowingly or intentionally:

23 (A) manufactures;

24 (B) finances the manufacture of;

25 (C) delivers; or

26 (D) finances the delivery of;

27 a controlled substance **or controlled substance analog**, pure or
 28 adulterated, classified in schedule I, II, or III, except marijuana,
 29 hash oil, hashish, **or salvia**; ~~or a synthetic drug~~; or

30 (2) possesses, with intent to:

31 (A) manufacture;

32 (B) finance the manufacture of;

33 (C) deliver; or

34 (D) finance the delivery of;

35 a controlled substance **or controlled substance analog**, pure or
 36 adulterated, classified in schedule I, II, or III, except marijuana,
 37 hash oil, hashish, **or salvia**; ~~or a synthetic drug~~;

38 commits dealing in a schedule I, II, or III controlled substance, a Level
 39 6 felony, except as provided in subsections (b) through (f).

40 (b) A person may be convicted of an offense under subsection (a)(2)
 41 only if:

42 (1) there is evidence in addition to the weight of the drug that the



- 1 person intended to manufacture, finance the manufacture of,
 2 deliver, or finance the delivery of the drug; or
 3 (2) the amount of the drug involved is at least twenty-eight (28)
 4 grams.
- 5 (c) The offense is a Level 5 felony if:
 6 (1) the amount of the drug involved is at least one (1) gram but
 7 less than five (5) grams; or
 8 (2) the amount of the drug involved is less than one (1) gram and
 9 an enhancing circumstance applies.
- 10 (d) The offense is a Level 4 felony if:
 11 (1) the amount of the drug involved is at least five (5) grams but
 12 less than ten (10) grams; or
 13 (2) the amount of the drug involved is at least one (1) gram but
 14 less than five (5) grams and an enhancing circumstance applies.
- 15 (e) The offense is a Level 3 felony if:
 16 (1) the amount of the drug involved is at least ten (10) grams but
 17 less than twenty-eight (28) grams; or
 18 (2) the amount of the drug involved is at least five (5) grams but
 19 less than ten (10) grams and an enhancing circumstance applies.
- 20 (f) The offense is a Level 2 felony if:
 21 (1) the amount of the drug involved is at least twenty-eight (28)
 22 grams; or
 23 (2) the amount of the drug involved is at least ten (10) grams but
 24 less than twenty-eight (28) grams and an enhancing circumstance
 25 applies.
- 26 SECTION 24. IC 35-48-4-3, AS AMENDED BY P.L.44-2016,
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2019]: Sec. 3. (a) 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 controlled substance **or controlled substance analog**, pure or
 35 adulterated, classified in schedule IV; or
 36 (2) possesses, with intent to manufacture or deliver, a controlled
 37 substance **or controlled substance analog**, pure or adulterated,
 38 classified in schedule IV;
 39 commits dealing in a schedule IV controlled substance, a Class A
 40 misdemeanor, except as provided in subsections (b) through (f).
 41 (b) A person may be convicted of an offense under subsection (a)(2)
 42 only if:



- 1 (1) there is evidence in addition to the weight of the drug that the
 2 person intended to manufacture or deliver the controlled
 3 substance **or controlled substance analog**; or
 4 (2) the amount of the drug involved is at least twenty-eight (28)
 5 grams.
- 6 (c) The offense is a Level 6 felony if:
 7 (1) the amount of the drug involved is at least one (1) gram but
 8 less than five (5) grams; or
 9 (2) the amount of the drug involved is less than one (1) gram and
 10 an enhancing circumstance applies.
- 11 (d) The offense is a Level 5 felony if:
 12 (1) the amount of the drug involved is at least five (5) grams but
 13 less than ten (10) grams; or
 14 (2) the amount of the drug involved is at least one (1) gram but
 15 less than five (5) grams and an enhancing circumstance applies.
- 16 (e) The offense is a Level 4 felony if:
 17 (1) the amount of the drug involved is at least ten (10) grams but
 18 less than twenty-eight (28) grams; or
 19 (2) the amount of the drug involved is at least five (5) grams but
 20 less than ten (10) grams and an enhancing circumstance applies.
- 21 (f) The offense is a Level 3 felony if:
 22 (1) the amount of the drug involved is at least twenty-eight (28)
 23 grams; or
 24 (2) the amount of the drug involved is at least ten (10) grams but
 25 less than twenty-eight (28) grams and an enhancing circumstance
 26 applies.
- 27 SECTION 25. IC 35-48-4-4, AS AMENDED BY P.L.44-2016,
 28 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2019]: Sec. 4. (a) A person who:
 30 (1) knowingly or intentionally:
 31 (A) manufactures;
 32 (B) finances the manufacture of;
 33 (C) delivers; or
 34 (D) finances the delivery of;
 35 a controlled substance **or controlled substance analog**, pure or
 36 adulterated, classified in schedule V; or
 37 (2) possesses, with intent to:
 38 (A) manufacture;
 39 (B) finance the manufacture of;
 40 (C) deliver; or
 41 (D) finance the delivery of;
 42 a controlled substance **or controlled substance analog**, pure or



1 adulterated, classified in schedule V;
 2 commits dealing in a schedule V controlled substance, a Class B
 3 misdemeanor, except as provided in subsections (b) through (f).

4 (b) A person may be convicted of an offense under subsection (a)(2)
 5 only if:

6 (1) there is evidence in addition to the weight of the drug that the
 7 person intended to manufacture, finance the manufacture of,
 8 deliver, or finance the delivery of the drug; or

9 (2) the amount of the drug involved is at least twenty-eight (28)
 10 grams.

11 (c) The offense is a Class A misdemeanor if:

12 (1) the amount of the drug involved is at least one (1) gram but
 13 less than five (5) grams; or

14 (2) the amount of the drug involved is less than one (1) gram and
 15 an enhancing circumstance applies.

16 (d) The offense is a Level 6 felony if:

17 (1) the amount of the drug involved is at least five (5) grams but
 18 less than ten (10) grams; or

19 (2) the amount of the drug involved is at least one (1) gram but
 20 less than five (5) grams and an enhancing circumstance applies.

21 (e) The offense is a Level 5 felony if:

22 (1) the amount of the drug involved is at least ten (10) grams but
 23 less than twenty-eight (28) grams; or

24 (2) the amount of the drug involved is at least five (5) grams but
 25 less than ten (10) grams and an enhancing circumstance applies.

26 (f) The offense is a Level 4 felony if:

27 (1) the amount of the drug involved is at least twenty-eight (28)
 28 grams; or

29 (2) the amount of the drug involved is at least ten (10) grams but
 30 less than twenty-eight (28) grams and an enhancing circumstance
 31 applies.

32 SECTION 26. IC 35-48-4-4.5 IS REPEALED [EFFECTIVE JULY
 33 1, 2019]. Sec. 4.5: (a) A person who knowingly or intentionally delivers
 34 or finances the delivery of any substance, other than a controlled
 35 substance or a drug for which a prescription is required under federal
 36 or state law, that:

37 (1) is expressly or impliedly represented to be a controlled
 38 substance;

39 (2) is distributed under circumstances that would lead a
 40 reasonable person to believe that the substance is a controlled
 41 substance; or

42 (3) by overall dosage unit appearance, including shape, color;



1 size, markings, or lack of markings, taste, consistency, or any
 2 other identifying physical characteristic of the substance, would
 3 lead a reasonable person to believe the substance is a controlled
 4 substance;

5 commits dealing in a substance represented to be a controlled
 6 substance; a Level 6 felony.

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

11 (1) Statements made by the owner or other person in control of
 12 the substance, concerning the substance's nature, use, or effect.

13 (2) Statements made by any person, to the buyer or recipient of
 14 the substance, that the substance may be resold for profit.

15 (3) Whether the substance is packaged in a manner uniquely used
 16 for the illegal distribution of controlled substances.

17 (4) Whether:

18 (A) the distribution included an exchange of, or demand for,
 19 money or other property as consideration; and

20 (B) the amount of the consideration was substantially greater
 21 than the reasonable retail market value of the substance.

22 SECTION 27. IC 35-48-4-4.6, AS AMENDED BY P.L.44-2016,
 23 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 4.6. (a) A person who knowingly or intentionally:

25 (1) **delivers;**

26 (2) **finances the delivery of;**

27 (1) (3) manufactures;

28 (2) (4) finances the manufacture of;

29 (3) (5) advertises;

30 (4) (6) distributes; or

31 (5) (7) possesses with intent to **deliver, finance the delivery of,**
 32 manufacture, finance the manufacture of, advertise, or distribute;

33 a substance described in section 4.5 of this chapter **represented to be**
 34 **a controlled substance** commits a ~~Level 5~~ **Level 6** felony. **However,**
 35 **the offense is a Level 5 felony if the person has a prior unrelated**
 36 **conviction under this chapter.**

37 (b) A person may be convicted of an offense under subsection (a)(5)
 38 subsection (a)(7) only if:

39 (1) there is evidence in addition to the weight of the substance
 40 that the person intended to **deliver, finance the delivery of,**
 41 manufacture, finance the manufacture of, advertise, or distribute
 42 the substance; or



- 1 (2) the amount of the substance involved is at least twenty-eight
2 (28) grams.
- 3 (c) A person who knowingly or intentionally possesses a substance
4 ~~described in section 4.5 of this chapter~~ **represented to be a controlled**
5 **substance** commits a Class C misdemeanor. However, the offense is
6 a Class A misdemeanor if the person has a previous conviction under
7 ~~this section: this chapter.~~
- 8 (d) In any prosecution brought under this section it is not a defense
9 that the person believed the substance actually was a controlled
10 substance.
- 11 (e) This section does not apply to the following:
- 12 (1) The manufacture, financing the manufacture of, processing,
13 packaging, distribution, or sale of noncontrolled substances to
14 licensed medical practitioners for use as placebos in professional
15 practice or research.
- 16 (2) Persons acting in the course and legitimate scope of their
17 employment as law enforcement officers.
- 18 (3) The retention of production samples of noncontrolled
19 substances produced before September 1, 1986, where such
20 samples are required by federal law.
- 21 **(f) For purposes of this section, a substance represented to be a**
22 **controlled substance includes any substance, other than a**
23 **controlled substance or a drug for which a prescription is required**
24 **under federal or state law, that:**
- 25 **(1) is expressly or impliedly represented to be a controlled**
26 **substance;**
- 27 **(2) is distributed under circumstances that would lead a**
28 **reasonable person to believe that the substance is a controlled**
29 **substance; or**
- 30 **(3) by overall dosage unit appearance, including shape, color,**
31 **size, markings or lack of markings, taste, consistency, or any**
32 **other identifying physical characteristic of the substance,**
33 **would lead a reasonable person to believe the substance is a**
34 **controlled substance.**
- 35 **(g) In determining whether the representations described in**
36 **subsection (f)(1) have been made, or whether the circumstances of**
37 **distribution exist as described in subsection (f)(2), the trier of fact**
38 **may consider the following:**
- 39 **(1) The overall appearance of a dosage unit of the substance,**
40 **including its shape, color, size, markings or lack of markings,**
41 **taste, consistency, and any other identifying physical**
42 **characteristics.**



- 1 **(2) How the substance is packaged for sale or distribution,**
- 2 **including the shape, color, size, markings or lack of markings,**
- 3 **and any other identifying physical characteristics of the**
- 4 **packaging.**
- 5 **(3) Any statement made by the owner or person in control of**
- 6 **the substance concerning the substance's nature, use, or**
- 7 **effect.**
- 8 **(4) Any statement made to the buyer or recipient of the**
- 9 **substance suggesting or implying that the substance is a**
- 10 **controlled substance.**
- 11 **(5) Any statement made to the buyer or recipient of the**
- 12 **substance suggesting or implying that the substance may be**
- 13 **resold for profit.**
- 14 **(6) The overall circumstances under which the substance is**
- 15 **distributed, including whether:**
- 16 **(A) the distribution included an exchange of, or demand**
- 17 **for, money or other property as consideration; and**
- 18 **(B) the amount of the consideration was substantially**
- 19 **greater than the reasonable retail market value of the**
- 20 **substance.**
- 21 **(7) Any other relevant factors.**
- 22 SECTION 28. IC 35-48-4-7, AS AMENDED BY P.L.158-2013,
- 23 SECTION 633, IS AMENDED TO READ AS FOLLOWS
- 24 [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) A person who, without a valid
- 25 prescription or order of a practitioner acting in the course of the
- 26 practitioner's professional practice, knowingly or intentionally
- 27 possesses a:
- 28 **(1) controlled substance (pure or adulterated); or**
- 29 **(2) controlled substance analog (pure or adulterated);**
- 30 classified in schedule I, II, III, or IV, except marijuana, hashish, or
- 31 salvia, ~~or a synthetic cannabinoid~~; commits possession of a controlled
- 32 substance, a Class A misdemeanor, except as provided in subsection
- 33 (b).
- 34 (b) The offense is a Level 6 felony if the person commits the offense
- 35 and an enhancing circumstance applies.
- 36 (c) A person who, without a valid prescription or order of a
- 37 practitioner acting in the course of the practitioner's professional
- 38 practice, knowingly or intentionally obtains:
- 39 (1) more than four (4) ounces of schedule V controlled substances
- 40 containing codeine in any given forty-eight (48) hour period
- 41 unless pursuant to a prescription;
- 42 (2) a schedule V controlled substance pursuant to written or



1 verbal misrepresentation; or
 2 (3) possession of a schedule V controlled substance other than by
 3 means of a prescription or by means of signing an exempt
 4 narcotic register maintained by a pharmacy licensed by the
 5 Indiana state board of pharmacy;
 6 commits a Class A misdemeanor.

7 SECTION 29. IC 35-48-4-10.5 IS REPEALED [EFFECTIVE JULY
 8 1, 2019]. Sec. 10.5: (a) A person who:

9 (1) manufactures;
 10 (2) finances the manufacture of;
 11 (3) delivers;
 12 (4) finances the delivery of;
 13 (5) possesses, with intent to deliver; or
 14 (6) possesses, with intent to finance the delivery of;
 15 a synthetic drug or a synthetic drug lookalike substance commits
 16 dealing in a synthetic drug or synthetic drug lookalike substance; a
 17 Class A infraction. However, the offense is a Level 6 felony if the
 18 offense is committed knowingly or intentionally and the person has a
 19 prior unrelated judgment or conviction under this subsection.

20 (b) A person may be adjudicated or convicted of an infraction or
 21 offense under subsection (a)(5) or (a)(6) only if there is evidence in
 22 addition to the weight of the synthetic drug or synthetic drug lookalike
 23 substance that the person intended to deliver or finance the delivery of
 24 the synthetic drug or synthetic drug lookalike substance.

25 (c) A person who:

26 (1) knowingly or intentionally:
 27 (A) manufactures;
 28 (B) finances the manufacture of;
 29 (C) delivers; or
 30 (D) finances the delivery of;
 31 a synthetic drug or synthetic drug lookalike substance; or
 32 (2) possesses, with intent to:
 33 (A) manufacture;
 34 (B) finance the manufacture of;
 35 (C) deliver; or
 36 (D) finance the delivery of;
 37 a synthetic drug or synthetic drug lookalike substance;
 38 commits dealing in a synthetic drug or synthetic drug lookalike
 39 substance; a Class A misdemeanor; except as provided in subsections
 40 (d) through (e).

41 (d) A person may be convicted of an offense under subsection (c)(2)
 42 only if there is evidence in addition to the weight of the synthetic drug



1 or synthetic drug lookalike substance that the person intended to
 2 manufacture, finance the manufacture of, deliver, or finance the
 3 delivery of the synthetic drug or synthetic drug lookalike substance.

4 (e) The offense in subsection (c) is:

5 (1) a Level 6 felony if:

6 (A) the recipient or intended recipient is less than eighteen
 7 (18) years of age;

8 (B) the amount involved is more than five (5) grams; or

9 (C) the person has a prior conviction of an offense involving
 10 a synthetic drug or synthetic drug lookalike substance; and

11 (2) a Level 5 felony if the amount involved is more than five (5)
 12 grams and the person delivered or financed the delivery of the
 13 synthetic drug or synthetic drug lookalike substance:

14 (A) on a school bus; or

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

16 (i) school property; or

17 (ii) a public park;

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

20 (f) In addition to a criminal or civil penalty imposed for a violation
 21 of this section, if the court finds that a person has violated this section
 22 and the violation involved the sale of or offer to sell, in the normal
 23 course of business, a synthetic drug or a synthetic drug lookalike
 24 substance by a retail merchant in a place of business for which the
 25 retail merchant has been issued a registered retail merchant certificate;
 26 the court:

27 (1) shall recommend the suspension of the registered retail
 28 merchant certificate for the place of business for one (1) year if
 29 the person's violation of this section resulted in a criminal
 30 conviction; and

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

35 (g) The department of state revenue shall suspend the registered
 36 retail merchant certificate of a retail merchant in accordance with the
 37 recommendation of the court. Whenever the department of state
 38 revenue is required to suspend a retail merchant's registered retail
 39 merchant certificate under this section, the department shall
 40 immediately mail a notice to the retail merchant's address that must
 41 state that the retail merchant's registered retail merchant certificate will
 42 be suspended for the period recommended by the court, commencing



1 five (5) days after the date of the notice:

2 SECTION 30. IC 35-48-4-11.5 IS REPEALED [EFFECTIVE JULY
3 1, 2019]. Sec. 11.5: (a) As used in this section, "synthetic drug
4 lookalike substance" has the meaning set forth in
5 IC 35-31.5-2-321.5(a)(2):

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

9 (c) A person who knowingly or intentionally possesses a synthetic
10 drug or synthetic drug lookalike substance commits possession of a
11 synthetic drug or synthetic drug lookalike substance, a Class A
12 misdemeanor. However, the offense is a Level 6 felony if the person
13 has a prior unrelated conviction under this section or under section 10-5
14 of this chapter:

15 SECTION 31. IC 35-48-4-12, AS AMENDED BY P.L.168-2014,
16 SECTION 104, IS AMENDED TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2019]: Sec. 12. If a person who has no prior
18 conviction of an offense under this article or under a law of another
19 jurisdiction relating to controlled substances pleads guilty to possession
20 of marijuana, hashish, or salvia or a synthetic drug or a synthetic drug
21 lookalike substance as a misdemeanor, the court, without entering a
22 judgment of conviction and with the consent of the person, may defer
23 further proceedings and place the person in the custody of the court
24 under conditions determined by the court. Upon violation of a
25 condition of the custody, the court may enter a judgment of conviction.
26 However, if the person fulfills the conditions of the custody, the court
27 shall dismiss the charges against the person. There may be only one (1)
28 dismissal under this section with respect to a person.

29 SECTION 32. IC 35-50-10-1, AS AMENDED BY P.L.185-2017,
30 SECTION 9, AND AS AMENDED BY P.L.252-2017, SECTION 29,
31 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2019]: Sec. 1. (a) *As used in this section,*
33 *"offense requiring license revocation" means an offense listed in*
34 *IC 20-28-5-8(c).*

35 ~~(a)~~ (b) If an individual is or was a teacher in a *primary or secondary*
36 *school, school corporation, charter school, or nonpublic school*
37 *including a public or nonpublic school*, and is convicted of

38 *(1) kidnapping (IC 35-42-3-2);*

39 *(2) criminal confinement (IC 35-42-3-3);*

40 *(3) rape (IC 35-42-4-1);*

41 *(4) criminal deviate conduct (IC 35-42-4-2) (before its repeal);*

42 *(5) child molesting (IC 35-42-4-3);*



- 1 (6) *child exploitation (IC 35-42-4-4(b));*
 2 (7) *vicarious sexual gratification (IC 35-42-4-5);*
 3 (8) *child solicitation (IC 35-42-4-6);*
 4 (9) *child seduction (IC 35-42-4-7);*
 5 (10) *sexual misconduct with a minor (IC 35-42-4-9);*
 6 (11) *incest (IC 35-46-1-3);*
 7 (12) *dealing in or manufacturing cocaine or a narcotic drug*
 8 *(IC 35-48-4-1);*
 9 (13) *dealing in methamphetamine (IC 35-48-4-1.1);*
 10 (14) *manufacturing methamphetamine (IC 35-48-4-1.2);*
 11 (15) *dealing in a schedule I, II, or III controlled substance*
 12 *(IC 35-48-4-2);*
 13 (16) *dealing in a schedule IV controlled substance*
 14 *(IC 35-48-4-3);*
 15 (17) *dealing in a schedule V controlled substance (IC 35-48-4-4);*
 16 (18) *dealing in a counterfeit substance (IC 35-48-4-5);*
 17 (19) *dealing in marijuana, hash oil, hashish, or salvia as a felony*
 18 *(IC 35-48-4-10);*
 19 (20) *dealing in a synthetic drug or synthetic drug lookalike*
 20 *substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its*
 21 *amendment in 2013);*
 22 (21) *possession of child pornography (IC 35-42-4-4(c));*
 23 (22) *homicide (IC 35-42-1);*
 24 (23) *voluntary manslaughter (IC 35-42-1-3);*
 25 (24) *reckless homicide (IC 35-42-1-5);*
 26 (25) *battery (IC 35-42-2-1) as:*
 27 (A) *a Class A felony (for a crime committed before July 1,*
 28 *2014) or a Level 2 felony (for a crime committed after June*
 29 *30, 2014);*
 30 (B) *a Class B felony (for a crime committed before July 1,*
 31 *2014) or a Level 3 felony (for a crime committed after June*
 32 *30, 2014); or*
 33 (C) *a Class C felony (for a crime committed before July 1,*
 34 *2014) or a Level 5 felony (for a crime committed after June*
 35 *30, 2014);*
 36 (26) *aggravated battery (IC 35-42-2-1.5);*
 37 (27) *robbery (IC 35-42-5-1);*
 38 (28) *carjacking (IC 35-42-5-2) (before its repeal);*
 39 (29) *arson as a Class A felony or Class B felony (for a crime*
 40 *committed before July 1, 2014) or as a Level 2, Level 3, or Level*
 41 *4 felony (for a crime committed after June 30, 2014)*
 42 *(IC 35-43-1-1(a));*



1 ~~(30) burglary as a Class A felony or Class B felony (for a crime~~
 2 ~~committed before July 1, 2014) or as a Level 1, Level 2, Level 3,~~
 3 ~~or Level 4 felony (for a crime committed after June 30, 2014)~~
 4 ~~(IC 35-43-2-1);~~

5 ~~(31) attempt under IC 35-41-5-1 to commit an offense listed in~~
 6 ~~this subsection; or~~

7 ~~(32) conspiracy under IC 35-41-5-2 to commit an offense listed~~
 8 ~~in this subsection;~~

9 ~~an offense requiring license revocation, the judge who presided over~~
 10 ~~the trial or accepted a plea agreement shall give written notice of the~~
 11 ~~conviction to the state superintendent of public instruction and the~~
 12 ~~chief administrative officer of the *primary or secondary school,*~~
 13 ~~*including a public school corporation, charter school, or nonpublic*~~
 14 ~~school, or, if the individual is employed in a public school, the~~
 15 ~~superintendent of the school district in which the individual is~~
 16 ~~employed.~~

17 ~~(b) (c)~~ Notice under subsection ~~(a) (b)~~ must occur not later than
 18 seven (7) days after the date the judgment is entered.

19 ~~(c) (d)~~ The notification sent to a school or school district under
 20 subsection ~~(a) (b)~~ must include only the felony for which the individual
 21 was convicted.

22 ~~(d) (e)~~ If a judge later modifies the individual's sentence after giving
 23 notice under this section, the judge shall notify the school or the school
 24 district of the modification.

25 ~~(e) (f)~~ After receiving a notification under subsection ~~(a); (b)~~, the
 26 state superintendent of public instruction shall initiate procedures to
 27 revoke the individual's license to teach.

