

SENATE BILL No. 627

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5-8-7; IC 24-4; IC 34-30-2-152.3; IC 35-48.

Synopsis: Sale of low THC hemp extract products. Repeals laws concerning: (1) the distribution of low tetrahydrocannabinol (THC) hemp extract; and (2) low THC hemp extract sales. Provides that only a pharmacy or National Precursor Log Exchange (NPLEx) retailer may sell low THC hemp extract. Specifies that a person who is denied the sale of a nonprescription product containing low THC hemp extract is not prohibited from obtaining low THC hemp extract pursuant to a prescription. Provides that a pharmacist or pharmacy technician may determine that the purchaser has a relationship on record with the pharmacy, in compliance with rules adopted by the board. Allows a pharmacist to deny the sale of low THC hemp extract on the basis of the pharmacist's professional judgment, and provides the pharmacist with civil immunity for making such a denial. Provides that a purchaser who has a relationship on record with the pharmacy may purchase low THC hemp extract. Allows the pharmacist to provide certain low THC hemp extract products to a purchaser who does not have a relationship on record with the pharmacy or for whom the pharmacist has made a professional judgment that there is not a medical or pharmaceutical need. Requires the Indiana scheduled prescription electronic collection and tracking (INSPECT) program to track low THC hemp extract dispensed pursuant to a prescription. Makes conforming changes.

Effective: July 1, 2019.

Brown L

January 15, 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. 627

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 6-2.5-8-7, AS AMENDED BY P.L.153-2018,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 7. (a) The department may, for good cause, revoke
4 a certificate issued under section 1, 3, or 4 of this chapter. However,
5 the department must give the certificate holder at least five (5) days
6 notice before it revokes the certificate under this subsection. Good
7 cause for revocation may include the following:
8 (1) Failure to:
9 (A) file a return required under this chapter or for any tax
10 collected for the state in trust; or
11 (B) remit any tax collected for the state in trust.
12 (2) Being charged with a violation of any provision under IC 35.
13 (3) Being subject to a court order under IC 7.1-2-6-7,
14 IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.
15 (4) Being charged with a violation of IC 23-15-12.
16 The department may revoke a certificate before a criminal adjudication
17 or without a criminal charge being filed. If the department gives notice



1 of an intent to revoke based on an alleged violation of subdivision (2),
 2 the department shall hold a public hearing to determine whether good
 3 cause exists. If the department finds in a public hearing by a
 4 preponderance of the evidence that a person has committed a violation
 5 described in subdivision (2), the department shall proceed in
 6 accordance with subsection (i) (if the violation resulted in a criminal
 7 conviction) or subsection (j) (if the violation resulted in a judgment for
 8 an infraction).

9 (b) The department shall revoke a certificate issued under section
 10 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
 11 holder fails to:

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

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

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

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

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

- 25 (1) information obtained by the board, bureau, or commission
 26 under IC 6-8.1-7-1 indicates that the certificate holder has not
 27 complied with IC 6-9; and
- 28 (2) the board, bureau, or commission has determined that
 29 significant harm will result to the county from the certificate
 30 holder's failure to comply with IC 6-9.

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

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

39 (f) The department shall reinstate a certificate suspended under
 40 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
 41 or the county treasurer requests the department to reinstate the
 42 certificate because an agreement for the payment of taxes and any



1 penalties due under IC 6-1.1 has been reached to the satisfaction of the
2 county treasurer.

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

8 (h) If a person makes a payment for the certificate under section 1
9 or 3 of this chapter with a check, credit card, debit card, or electronic
10 funds transfer, and the department is unable to obtain payment of the
11 check, credit card, debit card, or electronic funds transfer for its full
12 face amount when the check, credit card, debit card, or electronic funds
13 transfer is presented for payment through normal banking channels, the
14 department shall notify the person by mail that the check, credit card,
15 debit card, or electronic funds transfer was not honored and that the
16 person has five (5) days after the notice is mailed to pay the fee in cash,
17 by certified check, or other guaranteed payment. If the person fails to
18 make the payment within the five (5) day period, the department shall
19 revoke the certificate.

20 (i) If the department finds in a public hearing by a preponderance of
21 the evidence that a person has a conviction for a violation of
22 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
23 sell, in the normal course of business, a synthetic drug or a synthetic
24 drug lookalike substance by a retail merchant in a place of business for
25 which the retail merchant has been issued a registered retail merchant
26 certificate under section 1 of this chapter, the department:

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

29 (2) may not issue another retail merchant certificate under section
30 1 of this chapter for one (1) year to any person:

31 (A) that:

32 (i) applied for; or

33 (ii) made a retail transaction under;

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

36 (B) that:

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

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

39 the retail merchant that was issued the retail merchant
40 certificate suspended under subdivision (1).

41 (j) If the department finds in a public hearing by a preponderance of
42 the evidence that a person has a judgment for a violation of



1 IC 35-48-4-10.5 as an infraction and the violation involved the sale of
 2 or the offer to sell, in the normal course of business, a synthetic drug
 3 or a synthetic drug lookalike substance by a retail merchant in a place
 4 of business for which the retail merchant has been issued a registered
 5 retail merchant certificate under section 1 of this chapter, the
 6 department:

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

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

11 (A) that:

12 (i) applied for; or

13 (ii) made a retail transaction under;

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

16 (B) that:

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

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

19 the retail merchant that was issued the retail merchant
 20 certificate suspended under subdivision (1).

21 ~~(k) If the department finds in a public hearing by a preponderance~~
 22 ~~of the evidence that a person has a conviction for a violation of~~
 23 ~~IC 35-48-4-10(d)(3) and the conviction involved an offense committed~~
 24 ~~by a retail merchant in a place of business for which the retail merchant~~
 25 ~~has been issued a registered retail merchant certificate under section 1~~
 26 ~~of this chapter, the department:~~

27 ~~(1) shall suspend the registered retail merchant certificate for the~~
 28 ~~place of business for one (1) year; and~~

29 ~~(2) may not issue another retail merchant certificate under section~~
 30 ~~1 of this chapter for one (1) year to any person:~~

31 ~~(A) that:~~

32 ~~(i) applied for; or~~

33 ~~(ii) made a retail transaction under;~~

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

36 ~~(B) that:~~

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

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

39 ~~the retail merchant that was issued the retail merchant~~
 40 ~~certificate suspended under subdivision (1).~~

41 SECTION 2. IC 24-4-21 IS REPEALED [EFFECTIVE JULY 1,
 42 2019]. (Distribution of Low THC Hemp Extract).



1 SECTION 3. IC 24-4-22 IS REPEALED [EFFECTIVE JULY 1,
2 2019]. (Low THC Hemp Extract Sales).

3 SECTION 4. IC 34-30-2-152.3, AS AMENDED BY P.L.5-2016,
4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2019]: Sec. 152.3. (a) IC 35-48-4-14.7(d) and
6 IC 35-48-4-14.7(k) (Concerning a pharmacy or NPLeX retailer that
7 discloses information concerning the sale of a product containing
8 ephedrine, ~~or~~ pseudoephedrine, **or low THC hemp extract**).

9 (b) IC 35-48-4-14.7(d)(3) (Concerning a pharmacist's professional
10 judgment not to sell ephedrine, ~~or~~ pseudoephedrine, **or low THC**
11 **hemp extract** to an individual).

12 SECTION 5. IC 35-48-4-10, AS AMENDED BY P.L.153-2018,
13 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2019]: Sec. 10. (a) A person who:

15 (1) knowingly or intentionally:

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

20 marijuana, hash oil, hashish, or salvia, pure or adulterated; or

21 (2) possesses, with intent to:

- 22 (A) manufacture;
- 23 (B) finance the manufacture of;
- 24 (C) deliver; or
- 25 (D) finance the delivery of;

26 marijuana, hash oil, hashish, or salvia, pure or adulterated;
27 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
28 misdemeanor, except as provided in subsections (b) through (d).

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

31 (1) there is evidence in addition to the weight of the drug that the
32 person intended to manufacture, finance the manufacture of,
33 deliver, or finance the delivery of the drug; or

34 (2) the amount of the drug involved is at least:

- 35 (A) ten (10) pounds, if the drug is marijuana; or
- 36 (B) three hundred (300) grams, if the drug is hash oil, hashish,
37 or salvia.

38 (c) The offense is a Level 6 felony if:

39 (1) the person has a prior conviction for a drug offense and the
40 amount of the drug involved is:

- 41 (A) less than thirty (30) grams of marijuana; or
- 42 (B) less than five (5) grams of hash oil, hashish, or salvia; or



- 1 (2) the amount of the drug involved is:
 2 (A) at least thirty (30) grams but less than ten (10) pounds of
 3 marijuana; or
 4 (B) at least five (5) grams but less than three hundred (300)
 5 grams of hash oil, hashish, or salvia.
 6 (d) The offense is a Level 5 felony if:
 7 (1) the person has a prior conviction for a drug dealing offense
 8 and the amount of the drug involved is:
 9 (A) at least thirty (30) grams but less than ten (10) pounds of
 10 marijuana; or
 11 (B) at least five (5) grams but less than three hundred (300)
 12 grams of hash oil, hashish, or salvia;
 13 (2) the:
 14 (A) amount of the drug involved is:
 15 (i) at least ten (10) pounds of marijuana; or
 16 (ii) at least three hundred (300) grams of hash oil, hashish,
 17 or salvia; or
 18 (B) offense involved a sale to a minor; or
 19 (3) the:
 20 (A) person is a **pharmacy or NPLEx retailer (as defined in**
 21 **section 14.7(b) of this chapter;**
 22 (B) marijuana, hash oil, hashish, or salvia is packaged in a
 23 manner that appears to be low THC hemp extract; and
 24 (C) person knew or reasonably should have known that the
 25 product was marijuana, hash oil, hashish, or salvia.
 26 SECTION 6. IC 35-48-4-14.7, AS AMENDED BY P.L.252-2017,
 27 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2019]: Sec. 14.7. (a) This section does not apply to the
 29 following:
 30 (1) Ephedrine, ~~or~~ pseudoephedrine, **or low THC hemp extract**
 31 dispensed pursuant to a prescription. Nothing in this section
 32 prohibits a person who is denied the sale of a nonprescription
 33 product containing pseudoephedrine, ~~or~~ ephedrine, **or low THC**
 34 **hemp extract** from obtaining pseudoephedrine, ~~or~~ ephedrine, **or**
 35 **low THC hemp extract** pursuant to a prescription.
 36 (2) The sale of a drug containing ephedrine, ~~or~~ pseudoephedrine,
 37 **or low THC hemp extract** to a licensed health care provider,
 38 pharmacist, retail distributor, wholesaler, manufacturer, or an
 39 agent of any of these persons if the sale occurs in the regular
 40 course of lawful business activities. However, a retail distributor,
 41 wholesaler, or manufacturer is required to report a suspicious
 42 order to the state police department in accordance with subsection



- 1 (g).
 2 (3) The sale of a drug containing ephedrine, ~~or~~ pseudoephedrine,
 3 **or low THC hemp extract** by a person who does not sell
 4 exclusively to walk-in customers for the personal use of the
 5 walk-in customers. However, if the person described in this
 6 subdivision is a retail distributor, wholesaler, or manufacturer, the
 7 person is required to report a suspicious order to the state police
 8 department in accordance with subsection (g).
 9 (b) The following definitions apply throughout this section:
 10 (1) "Constant video monitoring" means the surveillance by an
 11 automated camera that:
 12 (A) records at least one (1) photograph or digital image every
 13 ten (10) seconds;
 14 (B) retains a photograph or digital image for at least
 15 seventy-two (72) hours;
 16 (C) has sufficient resolution and magnification to permit the
 17 identification of a person in the area under surveillance; and
 18 (D) stores a recorded photograph or digital image at a location
 19 that is immediately accessible to a law enforcement officer.
 20 (2) "Convenience package" means a package that contains a drug
 21 having as an active ingredient not more than sixty (60) milligrams
 22 of ephedrine or pseudoephedrine, or both.
 23 (3) "Ephedrine" means pure or adulterated ephedrine.
 24 (4) **"Low THC hemp extract" has the meaning set forth in**
 25 **IC 35-48-1-17.5.**
 26 ~~(5)~~ (5) "Pharmacy or NPLeX retailer" means:
 27 (A) a pharmacy, as defined in IC 25-26-13-2;
 28 (B) a retailer containing a pharmacy, as defined in
 29 IC 25-26-13-2; or
 30 (C) a retailer that electronically submits the required
 31 information to the National Precursor Log Exchange (NPLeX).
 32 ~~(6)~~ (6) "Pseudoephedrine" means pure or adulterated
 33 pseudoephedrine.
 34 ~~(7)~~ (7) "Retailer" means a grocery store, general merchandise
 35 store, or other similar establishment. The term does not include a
 36 pharmacy or NPLeX retailer.
 37 ~~(8)~~ (8) "Suspicious order" means a sale or transfer of a drug
 38 containing ephedrine or pseudoephedrine if the sale or transfer:
 39 (A) is a sale or transfer that the retail distributor, wholesaler,
 40 or manufacturer is required to report to the United States Drug
 41 Enforcement Administration;
 42 (B) appears suspicious to the retail distributor, wholesaler, or



- 1 manufacturer in light of the recommendations contained in
 2 Appendix A of the report to the United States attorney general
 3 by the suspicious orders task force under the federal
 4 Comprehensive Methamphetamine Control Act of 1996; or
 5 (C) is for cash or a money order in a total amount of at least
 6 two hundred dollars (\$200).
- 7 ~~(8)~~ (9) "Unusual theft" means the theft or unexplained
 8 disappearance from a particular pharmacy or NPLeX retailer of
 9 drugs containing ten (10) grams or more of ephedrine,
 10 pseudoephedrine, or both in a twenty-four (24) hour period.
- 11 (c) A drug containing ephedrine, ~~or~~ pseudoephedrine, **or low THC**
 12 **hemp extract** may be sold only by a pharmacy or NPLeX retailer.
- 13 (d) A pharmacy or NPLeX retailer may sell a drug that contains the
 14 active ingredient of ephedrine, pseudoephedrine, **low THC hemp**
 15 **extract**, or **both any combination of the ingredients** only if the
 16 pharmacy or NPLeX retailer complies with the following conditions:
- 17 (1) The pharmacy or NPLeX retailer does not sell the drug to a
 18 person less than eighteen (18) years of age.
- 19 (2) The pharmacy or NPLeX retailer does not sell drugs
 20 containing more than:
- 21 (A) three and six-tenths (3.6) grams of ephedrine or
 22 pseudoephedrine, or both, to one (1) individual on one (1) day;
 23 (B) seven and two-tenths (7.2) grams of ephedrine or
 24 pseudoephedrine, or both, to one (1) individual in a thirty (30)
 25 day period; or
 26 (C) sixty-one and two-tenths (61.2) grams of ephedrine or
 27 pseudoephedrine, or both, to one (1) individual in a three
 28 hundred sixty-five (365) day period.
- 29 (3) Except as provided in subsection (f), before the sale occurs the
 30 pharmacist or the pharmacy technician (as defined by
 31 IC 25-26-19-2) has determined that the purchaser has a
 32 relationship on record with the pharmacy, in compliance with
 33 rules adopted by the board under IC 25-26-13-4. If it has been
 34 determined that the purchaser does not have a relationship on
 35 record with the pharmacy, the pharmacist shall make a
 36 professional determination as to whether there is a legitimate
 37 medical or pharmaceutical need for ephedrine, ~~or~~
 38 pseudoephedrine, **or low THC hemp extract** before selling
 39 ephedrine, ~~or~~ pseudoephedrine, **or low THC hemp extract** to an
 40 individual. The pharmacist's professional determination must
 41 comply with the rules adopted under IC 25-26-13-4 and may
 42 include the following:



- 1 (A) Prior medication filling history of the individual.
 2 (B) Consulting with the individual.
 3 (C) Other tools that provide professional reassurance to the
 4 pharmacist that a legitimate medical or pharmaceutical need
 5 for ephedrine, **or** pseudoephedrine, **or low THC hemp extract**
 6 exists.
- 7 A pharmacist who in good faith does not sell ephedrine, **or**
 8 pseudoephedrine, **or low THC hemp extract** to an individual
 9 under this subdivision is immune from civil liability unless the
 10 refusal to sell constitutes gross negligence or intentional, wanton,
 11 or willful misconduct.
- 12 (4) The pharmacy or NPLEx retailer requires:
 13 (A) the purchaser to produce a valid government issued photo
 14 identification card showing the date of birth of the person;
 15 (B) the purchaser to sign a written or electronic log attesting
 16 to the validity of the information; and
 17 (C) the clerk who is conducting the transaction to initial or
 18 electronically record the clerk's identification on the log.
- 19 Records from the completion of a log must be retained for at least
 20 two (2) years. A law enforcement officer has the right to inspect
 21 and copy a log or the records from the completion of a log in
 22 accordance with state and federal law. A pharmacy or NPLEx
 23 retailer may not sell or release a log or the records from the
 24 completion of a log for a commercial purpose. The Indiana
 25 criminal justice institute may obtain information concerning a log
 26 or the records from the completion of a log from a law
 27 enforcement officer if the information may not be used to identify
 28 a specific individual and is used only for statistical purposes. A
 29 pharmacy or NPLEx retailer that in good faith releases
 30 information maintained under this subsection is immune from
 31 civil liability unless the release constitutes gross negligence or
 32 intentional, wanton, or willful misconduct.
- 33 (5) The pharmacy or NPLEx retailer maintains a record of
 34 information for each sale of a nonprescription product containing
 35 pseudoephedrine, **or** ephedrine, **or low THC hemp extract**.
 36 Required information includes:
 37 (A) the name and address of each purchaser;
 38 (B) the type of identification presented;
 39 (C) the governmental entity that issued the identification;
 40 (D) the identification number; and
 41 (E) the ephedrine, **or** pseudoephedrine, **or low THC hemp**
 42 **extract** product purchased, including the number of grams the



1 product contains and the date and time of the transaction.
2 (6) A pharmacy or NPLEx retailer shall, except as provided in
3 subdivision (7), before completing a sale of an over-the-counter
4 product containing pseudoephedrine, ~~or~~ ephedrine, **or low THC**
5 **hemp extract**, electronically submit the required information to
6 the National Precursor Log Exchange (NPLEx), if the NPLEx
7 system is available to pharmacies or NPLEx retailers in the state
8 without a charge for accessing the system. The pharmacy or
9 NPLEx retailer may not complete the sale if the system generates
10 a stop sale alert, including a stop sale alert for a person convicted
11 of a drug related felony reported under IC 33-24-6-3.
12 (7) If a pharmacy or NPLEx retailer selling an over-the-counter
13 product containing ephedrine, ~~or~~ pseudoephedrine, **or low THC**
14 **hemp extract** experiences mechanical or electronic failure of the
15 electronic sales tracking system and is unable to comply with the
16 electronic sales tracking requirement, the pharmacy or NPLEx
17 retailer shall maintain a written log or an alternative electronic
18 record keeping mechanism until the pharmacy or NPLEx retailer
19 is able to comply with the electronic sales tracking requirement.
20 (8) The pharmacy or NPLEx retailer stores the drug behind a
21 counter in an area inaccessible to a customer or in a locked
22 display case that makes the drug unavailable to a customer
23 without the assistance of an employee.
24 (e) A person may not purchase drugs containing more than:
25 (1) three and six-tenths (3.6) grams of ephedrine or
26 pseudoephedrine, or both, on one (1) day;
27 (2) seven and two-tenths (7.2) grams of ephedrine or
28 pseudoephedrine, or both, in a thirty (30) day period; or
29 (3) sixty-one and two-tenths (61.2) grams of ephedrine or
30 pseudoephedrine, or both, in a three hundred sixty-five (365) day
31 period.
32 These limits apply to the total amount of base ephedrine and
33 pseudoephedrine contained in the products and not to the overall
34 weight of the products.
35 (f) If a purchaser does not have a relationship on record with the
36 pharmacy, as determined by rules adopted by the board under
37 IC 25-26-13-4, or the pharmacist has made a professional
38 determination that there is not a legitimate medical or pharmaceutical
39 need for ephedrine, ~~or~~ pseudoephedrine, **or low THC hemp extract**
40 under subsection (d), the purchaser may, at the pharmacist's discretion,
41 purchase only the following:
42 (1) A product that has been determined under section 14.3 of this



1 chapter to be an extraction resistant or a conversion resistant form
2 of ephedrine or pseudoephedrine.

3 (2) A product that contains not more than:

4 (A) a total of seven hundred twenty (720) milligrams of
5 ephedrine or pseudoephedrine per package; and

6 (B) thirty (30) milligrams of ephedrine or pseudoephedrine per
7 tablet.

8 **(3) A product that contains not more than:**

9 **(A) sixty (60) milligrams of cannabidiol per milliliter; and**

10 **(B) thirty (30) milliliters per container.**

11 The pharmacist may not sell more than one (1) package of ephedrine
12 or pseudoephedrine **or one (1) container of low THC hemp extract**
13 to a purchaser under this ~~subdivision~~ **subsection** per day. However, if
14 the pharmacist believes that the ephedrine or pseudoephedrine
15 purchase will be used to manufacture methamphetamine, the
16 pharmacist may refuse to sell ephedrine or pseudoephedrine to the
17 purchaser.

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

20 (h) Not later than three (3) days after the discovery of an unusual
21 theft at a particular retail store, the pharmacy or NPLeX retailer shall
22 report the unusual theft to the state police department in writing. If
23 three (3) unusual thefts occur in a thirty (30) day period at a particular
24 pharmacy or NPLeX retailer, the pharmacy or NPLeX retailer shall, for
25 at least one hundred eighty (180) days after the date of the last unusual
26 theft, locate all drugs containing ephedrine, ~~or pseudoephedrine,~~ **or low**
27 **THC hemp extract** at that particular pharmacy or NPLeX retailer
28 behind a counter in an area inaccessible to a customer or in a locked
29 display case that makes the drug unavailable to customers without the
30 assistance of an employee.

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

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

37 (k) A pharmacy or NPLeX retailer that uses the electronic sales
38 tracking system in accordance with this section is immune from civil
39 liability for any act or omission committed in carrying out the duties
40 required by this section, unless the act or omission was due to
41 recklessness or deliberate or wanton misconduct. A pharmacy or
42 NPLeX retailer is immune from liability to a third party unless the



1 pharmacy or NPLEEx retailer has violated a provision of this section and
 2 the third party brings an action based on the pharmacy's or NPLEEx
 3 retailer's violation of this section.

4 (l) The following requirements apply to the NPLEEx:

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

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

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

11 (4) At least one (1) time per day, Indiana data contained in the
 12 NPLEEx for the previous calendar day shall be forwarded to the
 13 state police department.

14 (m) A person or corporate entity may not mandate a protocol or
 15 procedure that interferes with the pharmacist's ability to exercise the
 16 pharmacist's independent professional judgment under this section,
 17 including whether to deny the sale of ephedrine, ~~or~~ pseudoephedrine,
 18 **or low THC hemp extract** under subsection (f).

19 SECTION 7. IC 35-48-7-8.1, AS AMENDED BY P.L.194-2018,
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2019]: Sec. 8.1. (a) The board shall provide for an ephedrine,
 22 pseudoephedrine, **low THC hemp extract**, and controlled substance
 23 prescription monitoring program that includes the following
 24 components:

25 (1) Each time ephedrine, pseudoephedrine, **low THC hemp**
 26 **extract**, or a controlled substance designated by the board under
 27 IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser
 28 shall transmit to the INSPECT program the following
 29 information:

30 (A) The ephedrine, pseudoephedrine, **low THC hemp extract**,
 31 or controlled substance recipient's name.

32 (B) The ephedrine, pseudoephedrine, **low THC hemp extract**,
 33 or controlled substance recipient's or the recipient
 34 representative's identification number or the identification
 35 number or phrase designated by the INSPECT program.

36 (C) The ephedrine, pseudoephedrine, **low THC hemp extract**,
 37 or controlled substance recipient's date of birth.

38 (D) The national drug code number of the ephedrine,
 39 pseudoephedrine, **low THC hemp extract**, or controlled
 40 substance dispensed.

41 (E) The date the ephedrine, pseudoephedrine, **low THC hemp**
 42 **extract**, or controlled substance is dispensed.



- 1 (F) The quantity of the ephedrine, pseudoephedrine, **low THC**
 2 **hemp extract**, or controlled substance dispensed.
 3 (G) The number of days of supply dispensed.
 4 (H) The dispenser's United States Drug Enforcement Agency
 5 registration number.
 6 (I) The prescriber's United States Drug Enforcement Agency
 7 registration number.
 8 (J) An indication as to whether the prescription was
 9 transmitted to the pharmacist orally or in writing.
 10 (K) Other data required by the board.
- 11 (2) The information required to be transmitted under this section
 12 must be transmitted not more than twenty-four (24) hours after the
 13 date on which ephedrine, pseudoephedrine, **low THC hemp**
 14 **extract**, or a controlled substance is dispensed. However, if the
 15 dispenser's pharmacy is closed the day following the dispensing,
 16 the information must be transmitted by the end of the next
 17 business day.
- 18 (3) A dispenser shall transmit the information required under this
 19 section by:
 20 (A) uploading to the INSPECT web site; or
 21 (B) another electronic method that meets specifications
 22 prescribed by the board.
- 23 (4) The board may require that prescriptions for ephedrine,
 24 pseudoephedrine, **low THC hemp extract**, or controlled
 25 substances be written on a one (1) part form that cannot be
 26 duplicated. However, the board may not apply such a requirement
 27 to prescriptions filled at a pharmacy with a Category II permit (as
 28 described in IC 25-26-13-17) and operated by a hospital licensed
 29 under IC 16-21, or prescriptions ordered for and dispensed to
 30 bona fide enrolled patients in facilities licensed under IC 16-28.
 31 The board may not require multiple copy prescription forms for
 32 any prescriptions written. The board may not require different
 33 prescription forms for any individual drug or group of drugs.
 34 Prescription forms required under this subdivision must be
 35 approved by the Indiana board of pharmacy established by
 36 IC 25-26-13-3.
- 37 (5) The costs of the program.
 38 (6) As part of the information to be completed in the data base
 39 and if available, an entry where a dispenser indicates that a
 40 patient is participating in a pain management contract with a
 41 designated practitioner.
- 42 (b) The board shall consider the recommendations of the committee



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concerning the INSPECT program.

(c) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance may not dispense ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the ephedrine, pseudoephedrine, **low THC hemp extract**, or controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance.

SECTION 8. IC 35-48-7-10.1, AS AMENDED BY P.L.194-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10.1. (a) The INSPECT program must do the following:

- (1) Create a data base for information required to be transmitted under section 8.1 of this chapter in the form required under rules adopted by the board, including search capability for the following:
 - (A) An ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance recipient's name.
 - (B) An ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance recipient's or recipient representative's identification number.
 - (C) An ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance recipient's date of birth.
 - (D) The national drug code number of ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance dispensed.
 - (E) The dates ephedrine, pseudoephedrine, **low THC hemp extract**, or a controlled substance are dispensed.
 - (F) The quantities of ephedrine, pseudoephedrine, **low THC hemp extract**, or controlled substance dispensed.
 - (G) The number of days of supply dispensed.
 - (H) A dispenser's United States Drug Enforcement Agency registration number.
 - (I) A prescriber's United States Drug Enforcement Agency registration number.
 - (J) Whether a prescription was transmitted to the pharmacist orally or in writing.



- 1 (K) An ephedrine, pseudoephedrine, **low THC hemp extract**,
 2 or a controlled substance recipient's method of payment for the
 3 ephedrine, pseudoephedrine, **low THC hemp extract**, or
 4 controlled substance dispensed.
- 5 To the extent considered appropriate by the board, the data base
 6 must be interoperable with other similar registries operated by
 7 federal and state governments.
- 8 (2) Provide the board with continuing twenty-four (24) hour a day
 9 online access to the data base.
- 10 (3) Secure the information collected and the data base maintained
 11 against access by unauthorized persons.
- 12 (b) The board may not execute a contract with a vendor designated
 13 by the board to perform any function associated with the administration
 14 of the INSPECT program, unless the contract has been approved by the
 15 committee.
- 16 (c) The INSPECT program may gather prescription data from the
 17 Medicaid retrospective drug utilization review (DUR) program
 18 established under IC 12-15-35.
- 19 (d) The board may accept and designate grants, public and private
 20 financial assistance, and licensure fees to provide funding for the
 21 INSPECT program.
- 22 SECTION 9. IC 35-48-7-11.1, AS AMENDED BY P.L.194-2018,
 23 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 11.1. (a) Information received by the INSPECT
 25 program under section 8.1 of this chapter is confidential.
- 26 (b) The board shall carry out a program to protect the confidentiality
 27 of the information described in subsection (a). The board may disclose
 28 the information to another person only under subsection (c), (d), or (g).
- 29 (c) The board may disclose confidential information described in
 30 subsection (a) to any person who is authorized to engage in receiving,
 31 processing, or storing the information.
- 32 (d) Except as provided in subsections (e) and (f), the board may
 33 release confidential information described in subsection (a) to the
 34 following persons:
- 35 (1) A member of the board or another governing body that
 36 licenses practitioners and is engaged in an investigation, an
 37 adjudication, or a prosecution of a violation under any state or
 38 federal law that involves ephedrine, pseudoephedrine, **low THC**
 39 **hemp extract**, or a controlled substance.
- 40 (2) An investigator for the consumer protection division of the
 41 office of the attorney general, a prosecuting attorney, the attorney
 42 general, a deputy attorney general, or an investigator from the



1 office of the attorney general, who is engaged in:

- 2 (A) an investigation;
 3 (B) an adjudication; or
 4 (C) a prosecution;

5 of a violation under any state or federal law that involves
 6 ephedrine, pseudoephedrine, **low THC hemp extract**, or a
 7 controlled substance.

8 (3) A law enforcement officer who is an employee of:

- 9 (A) a local, state, or federal law enforcement agency; or
 10 (B) an entity that regulates ephedrine, pseudoephedrine, **low**
 11 **THC hemp extract**, or controlled substances or enforces
 12 ephedrine, pseudoephedrine, **low THC hemp extract**, or
 13 controlled substances rules or laws in another state;

14 that is certified to receive ephedrine, pseudoephedrine, **low THC**
 15 **hemp extract**, or controlled substance prescription drug
 16 information from the INSPECT program.

17 (4) A practitioner or practitioner's agent certified to receive
 18 information from the INSPECT program.

19 (5) An ephedrine, pseudoephedrine, **low THC hemp extract**, or
 20 controlled substance monitoring program in another state with
 21 which Indiana has established an interoperability agreement.

22 (6) The state toxicologist.

23 (7) A certified representative of the Medicaid retrospective and
 24 prospective drug utilization review program.

25 (8) A substance abuse assistance program for a licensed health
 26 care provider who:

- 27 (A) has prescriptive authority under IC 25; and
 28 (B) is participating in the assistance program.

29 (9) An individual who holds a valid temporary medical permit
 30 issued under IC 25-22.5-5-4 or a temporary fellowship permit
 31 issued under IC 25-22.5-5-4.6.

32 (10) A county coroner conducting a medical investigation of the
 33 cause of death.

34 (11) The management performance hub established by Indiana
 35 Executive Order 14-06 and continued by Executive Order 17-09.

36 (12) The state epidemiologist under the state department of
 37 health.

38 (e) Information provided to a person under:

39 (1) subsection (d)(3) is limited to information:

- 40 (A) concerning an individual or proceeding involving the
 41 unlawful diversion or misuse of a schedule II, III, IV, or V
 42 controlled substance; and



- 1 (B) that will assist in an investigation or proceeding;
 2 (2) subsection (d)(4) may be released only for the purpose of:
 3 (A) providing medical or pharmaceutical treatment; or
 4 (B) evaluating the need for providing medical or
 5 pharmaceutical treatment to a patient; and
 6 (3) subsection (d)(11) must be released to the extent disclosure of
 7 the information is not prohibited by applicable federal law.
 8 (f) Before the board releases confidential information under
 9 subsection (d), the applicant must be approved by the INSPECT
 10 program in a manner prescribed by the board.
 11 (g) The board may release to:
 12 (1) a member of the board or another governing body that licenses
 13 practitioners;
 14 (2) an investigator for the consumer protection division of the
 15 office of the attorney general, a prosecuting attorney, the attorney
 16 general, a deputy attorney general, or an investigator from the
 17 office of the attorney general; or
 18 (3) a law enforcement officer who is:
 19 (A) authorized by the state police department to receive
 20 ephedrine, pseudoephedrine, **low THC hemp extract**, or
 21 controlled substance prescription drug information; and
 22 (B) approved by the board to receive the type of information
 23 released;
 24 confidential information generated from computer records that
 25 identifies practitioners who are prescribing or dispensing large
 26 quantities of a controlled substance.
 27 (h) The information described in subsection (g) may not be released
 28 until it has been reviewed by:
 29 (1) a member of the board who is licensed in the same profession
 30 as the prescribing or dispensing practitioner identified by the data;
 31 or
 32 (2) the board's designee;
 33 and until that member or the designee has certified that further
 34 investigation is warranted. However, failure to comply with this
 35 subsection does not invalidate the use of any evidence that is otherwise
 36 admissible in a proceeding described in subsection (i).
 37 (i) An investigator or a law enforcement officer receiving
 38 confidential information under subsection (c), (d), or (g) may disclose
 39 the information to a law enforcement officer or an attorney for the
 40 office of the attorney general for use as evidence in the following:
 41 (1) A proceeding under IC 16-42-20.
 42 (2) A proceeding under any state or federal law that involves



- 1 ephedrine, pseudoephedrine, **low THC hemp extract**, or a
 2 controlled substance.
- 3 (3) A criminal proceeding or a proceeding in juvenile court that
 4 involves ephedrine, pseudoephedrine, **low THC hemp extract**,
 5 or a controlled substance.
- 6 (j) The board may compile statistical reports from the information
 7 described in subsection (a). The reports must not include information
 8 that identifies any practitioner, ultimate user, or other person
 9 administering ephedrine, pseudoephedrine, **low THC hemp extract**,
 10 or a controlled substance. Statistical reports compiled under this
 11 subsection are public records.
- 12 (k) Except as provided in subsection (q) and in addition to any
 13 requirements provided in IC 25-22.5-13, the following practitioners
 14 shall obtain information about a patient from the data base before
 15 prescribing an opioid or benzodiazepine to the patient:
- 16 (1) A practitioner who has had the information from the data base
 17 integrated into the patient's electronic health records.
- 18 (2) Beginning January 1, 2019, a practitioner who provides
 19 services to the patient in:
- 20 (A) the emergency department of a hospital licensed under
 21 IC 16-21; or
- 22 (B) a pain management clinic.
- 23 (3) Beginning January 1, 2020, a practitioner who provides
 24 services to the patient in a hospital licensed under IC 16-21.
- 25 (4) Beginning January 1, 2021, all practitioners.
- 26 However, a practitioner is not required to obtain information about a
 27 patient who is subject to a pain management contract from the data
 28 base more than once every ninety (90) days.
- 29 (l) A practitioner who checks the INSPECT program for the
 30 available data on a patient is immune from civil liability for an injury,
 31 death, or loss to a person solely due to a practitioner:
- 32 (1) seeking information from the INSPECT program; and
 33 (2) in good faith using the information for the treatment of the
 34 patient.
- 35 The civil immunity described in this subsection does not extend to a
 36 practitioner if the practitioner receives information directly from the
 37 INSPECT program and then negligently misuses this information. This
 38 subsection does not apply to an act or omission that is a result of gross
 39 negligence or intentional misconduct.
- 40 (m) The board may review the records of the INSPECT program. If
 41 the board determines that a violation of the law may have occurred, the
 42 board shall notify the appropriate law enforcement agency or the



1 relevant government body responsible for the licensure, regulation, or
 2 discipline of practitioners authorized by law to prescribe controlled
 3 substances.

4 (n) A practitioner who in good faith discloses information based on
 5 a report from the INSPECT program to a law enforcement agency is
 6 immune from criminal or civil liability. A practitioner that discloses
 7 information to a law enforcement agency under this subsection is
 8 presumed to have acted in good faith.

9 (o) A practitioner's agent may act as a delegate and check INSPECT
 10 program reports on behalf of the practitioner.

11 (p) A patient may access a report from the INSPECT program that
 12 has been included in the patient's medical file by a practitioner.

13 (q) A practitioner is not required under subsection (k) to obtain
 14 information about a patient from the data base before prescribing an
 15 opioid or benzodiazepine if the practitioner has obtained a waiver from
 16 the board because the practitioner does not have access to the Internet
 17 at the practitioner's place of business.

18 SECTION 10. IC 35-48-7-12.1, AS AMENDED BY P.L.194-2018,
 19 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2019]: Sec. 12.1. (a) The board shall adopt rules under
 21 IC 4-22-2 to implement this chapter, including the following:

22 (1) Information collection and retrieval procedures for the
 23 INSPECT program, including the controlled substances to be
 24 included in the program required under section 8.1 of this chapter.

25 (2) Design for the creation of the data base required under section
 26 10.1 of this chapter.

27 (3) Requirements for the development and installation of online
 28 electronic access by the board to information collected by the
 29 INSPECT program.

30 (4) Identification of emergency situations or other circumstances
 31 in which a practitioner may prescribe, dispense, and administer a
 32 prescription drug specified in section 8.1 of this chapter without
 33 a written prescription or on a form other than a form specified in
 34 section 8.1(a)(4) of this chapter.

35 (5) Requirements for a practitioner providing treatment for a
 36 patient at an opioid treatment program operating under
 37 IC 12-23-18 to check the INSPECT program:

38 (A) before initially prescribing ephedrine, pseudoephedrine,
 39 **low THC hemp extract**, or a controlled substance to a patient;
 40 and

41 (B) periodically during the course of treatment that uses
 42 ephedrine, pseudoephedrine, **low THC hemp extract**, or a



- 1 controlled substance.
- 2 (b) The board may:
- 3 (1) set standards for education courses for individuals authorized
- 4 to use the INSPECT program;
- 5 (2) identify treatment programs for individuals addicted to
- 6 controlled substances monitored by the INSPECT program; and
- 7 (3) work with impaired practitioner associations to provide
- 8 intervention and treatment.
- 9 (c) The executive director of the Indiana professional licensing
- 10 agency may hire a person to serve as the director of the INSPECT
- 11 program, with the approval of the chairperson of the board.
- 12 (d) The board shall do the following:
- 13 (1) Establish a procedure for a practitioner to request a waiver
- 14 from the requirements of section 11.1(k) of this chapter if the
- 15 practitioner does not have access to the Internet at the
- 16 practitioner's place of business.
- 17 (2) Review a practitioner's written request for a waiver from the
- 18 requirements of section 11.1(k) of this chapter and determine
- 19 whether the practitioner should be granted a waiver.
- 20 (3) Upon determination by the board under subdivision (2) that a
- 21 practitioner should be granted a waiver under this subsection,
- 22 issue the practitioner a waiver.

