

COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 234, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- 1 Replace the effective dates in SECTIONS 1 through 2 with
2 "[EFFECTIVE UPON PASSAGE]".
3 Page 1, between the enacting clause and line 1, begin a new
4 paragraph and insert:
5 "SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011,
6 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking
8 action resulting in any of the following rules:
9 (1) An order adopted by the commissioner of the Indiana
10 department of transportation under IC 9-20-1-3(d) or
11 IC 9-21-4-7(a) and designated by the commissioner as an
12 emergency rule.
13 (2) An action taken by the director of the department of natural
14 resources under IC 14-22-2-6(d) or IC 14-22-6-13.
15 (3) An emergency temporary standard adopted by the
16 occupational safety standards commission under
17 IC 22-8-1.1-16.1.
18 (4) An emergency rule adopted by the solid waste management
19 board under IC 13-22-2-3 and classifying a waste as hazardous.
20 (5) A rule, other than a rule described in subdivision (6), adopted
21 by the department of financial institutions under IC 24-4.5-6-107

- 1 and declared necessary to meet an emergency.
- 2 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
3 department of financial institutions and declared necessary to
4 meet an emergency under IC 24-4.5-6-107.
- 5 (7) A rule adopted by the Indiana utility regulatory commission to
6 address an emergency under IC 8-1-2-113.
- 7 (8) An emergency rule adopted by the state lottery commission
8 under IC 4-30-3-9.
- 9 (9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the
10 executive board of the state department of health declares is
11 necessary to meet an emergency.
- 12 (10) An emergency rule adopted by the Indiana finance authority
13 under IC 8-21-12.
- 14 (11) An emergency rule adopted by the insurance commissioner
15 under IC 27-1-23-7 or IC 27-1-12.1.
- 16 (12) An emergency rule adopted by the Indiana horse racing
17 commission under IC 4-31-3-9.
- 18 (13) An emergency rule adopted by the air pollution control
19 board, the solid waste management board, or the water pollution
20 control board under IC 13-15-4-10(4) or to comply with a
21 deadline required by or other date provided by federal law,
22 provided:
- 23 (A) the variance procedures are included in the rules; and
24 (B) permits or licenses granted during the period the
25 emergency rule is in effect are reviewed after the emergency
26 rule expires.
- 27 (14) An emergency rule adopted by the Indiana election
28 commission under IC 3-6-4.1-14.
- 29 (15) An emergency rule adopted by the department of natural
30 resources under IC 14-10-2-5.
- 31 (16) An emergency rule adopted by the Indiana gaming
32 commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3,
33 IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.
- 34 (17) An emergency rule adopted by the alcohol and tobacco
35 commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
36 IC 7.1-3-20-24.4.
- 37 (18) An emergency rule adopted by the department of financial
38 institutions under IC 28-15-11.
- 39 (19) An emergency rule adopted by the office of the secretary of
40 family and social services under IC 12-8-1-12.
- 41 (20) An emergency rule adopted by the office of the children's
42 health insurance program under IC 12-17.6-2-11.

- 1 (21) An emergency rule adopted by the office of Medicaid policy
2 and planning under IC 12-15-41-15.
- 3 (22) An emergency rule adopted by the Indiana state board of
4 animal health under IC 15-17-10-9.
- 5 (23) An emergency rule adopted by the board of directors of the
6 Indiana education savings authority under IC 21-9-4-7.
- 7 (24) An emergency rule adopted by the Indiana board of tax
8 review under IC 6-1.1-4-34 (repealed).
- 9 (25) An emergency rule adopted by the department of local
10 government finance under IC 6-1.1-4-33 (repealed).
- 11 (26) An emergency rule adopted by the boiler and pressure vessel
12 rules board under IC 22-13-2-8(c).
- 13 (27) An emergency rule adopted by the Indiana board of tax
14 review under IC 6-1.1-4-37(l) (repealed) or an emergency rule
15 adopted by the department of local government finance under
16 IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
- 17 (28) An emergency rule adopted by the board of the Indiana
18 economic development corporation under IC 5-28-5-8.
- 19 (29) A rule adopted by the department of financial institutions
20 under IC 34-55-10-2.5.
- 21 (30) A rule adopted by the Indiana finance authority:
22 (A) under IC 8-15.5-7 approving user fees (as defined in
23 IC 8-15.5-2-10) provided for in a public-private agreement
24 under IC 8-15.5;
25 (B) under IC 8-15-2-17.2(a)(10):
26 (i) establishing enforcement procedures; and
27 (ii) making assessments for failure to pay required tolls;
28 (C) under IC 8-15-2-14(a)(3) authorizing the use of and
29 establishing procedures for the implementation of the
30 collection of user fees by electronic or other nonmanual
31 means; or
32 (D) to make other changes to existing rules related to a toll
33 road project to accommodate the provisions of a public-private
34 agreement under IC 8-15.5.
- 35 (31) An emergency rule adopted by the board of the Indiana
36 health informatics corporation under IC 5-31-5-8.
- 37 (32) An emergency rule adopted by the department of child
38 services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or
39 IC 31-27-4-3.
- 40 (33) An emergency rule adopted by the Indiana real estate
41 commission under IC 25-34.1-2-5(15).
- 42 (34) A rule adopted by the department of financial institutions

- 1 under IC 24-4.4-1-101 and determined necessary to meet an
2 emergency.
- 3 (35) An emergency rule adopted by the state board of pharmacy
4 regarding returning unused medication under IC 25-26-23.
- 5 (36) An emergency rule adopted by the department of local
6 government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.
- 7 (37) An emergency rule adopted by the office of the secretary of
8 family and social services or the office of Medicaid policy and
9 planning concerning the following:
- 10 (A) Federal Medicaid waiver program provisions.
- 11 (B) Federal programs administered by the office of the
12 secretary.
- 13 **(38) An emergency rule adopted by the Indiana board of**
14 **pharmacy declaring a substance to be a synthetic drug under**
15 **IC 25-26-13-4.1.**
- 16 (b) The following do not apply to rules described in subsection (a):
- 17 (1) Sections 24 through 36 of this chapter.
- 18 (2) IC 13-14-9.
- 19 (c) After a rule described in subsection (a) has been adopted by the
20 agency, the agency shall submit the rule to the publisher for the
21 assignment of a document control number. The agency shall submit the
22 rule in the form required by section 20 of this chapter and with the
23 documents required by section 21 of this chapter. The publisher shall
24 determine the format of the rule and other documents to be submitted
25 under this subsection.
- 26 (d) After the document control number has been assigned, the
27 agency shall submit the rule to the publisher for filing. The agency
28 shall submit the rule in the form required by section 20 of this chapter
29 and with the documents required by section 21 of this chapter. The
30 publisher shall determine the format of the rule and other documents
31 to be submitted under this subsection.
- 32 (e) Subject to section 39 of this chapter, the publisher shall:
- 33 (1) accept the rule for filing; and
- 34 (2) electronically record the date and time that the rule is
35 accepted.
- 36 (f) A rule described in subsection (a) takes effect on the latest of the
37 following dates:
- 38 (1) The effective date of the statute delegating authority to the
39 agency to adopt the rule.
- 40 (2) The date and time that the rule is accepted for filing under
41 subsection (e).
- 42 (3) The effective date stated by the adopting agency in the rule.

1 (4) The date of compliance with every requirement established by
2 law as a prerequisite to the adoption or effectiveness of the rule.

3 **(5) The statutory effective date for an emergency rule set**
4 **forth in the statute authorizing the agency to adopt emergency**
5 **rules.**

6 (g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6,
7 IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in
8 subsections (j), (k), ~~and (l)~~, **and (n)**, a rule adopted under this section
9 expires not later than ninety (90) days after the rule is accepted for
10 filing under subsection (e). Except for a rule adopted under subsection
11 (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by
12 adopting another rule under this section, but only for one (1) extension
13 period. The extension period for a rule adopted under subsection
14 (a)(28) may not exceed the period for which the original rule was in
15 effect. A rule adopted under subsection (a)(13) may be extended for
16 two (2) extension periods. Subject to subsection (j), a rule adopted
17 under subsection (a)(24), (a)(25), or (a)(27) may be extended for an
18 unlimited number of extension periods. Except for a rule adopted under
19 subsection (a)(13), for a rule adopted under this section to be effective
20 after one (1) extension period, the rule must be adopted under:

21 (1) sections 24 through 36 of this chapter; or
22 (2) IC 13-14-9;
23 as applicable.

24 (h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20),
25 (a)(21), (a)(29), or (a)(37) expires on the earlier of the following dates:

26 (1) The expiration date stated by the adopting agency in the rule.
27 (2) The date that the rule is amended or repealed by a later rule
28 adopted under sections 24 through 36 of this chapter or this
29 section.

30 (i) This section may not be used to readopt a rule under IC 4-22-2.5.

31 (j) A rule described in subsection (a)(24) or (a)(25) expires not later
32 than January 1, 2006.

33 (k) A rule described in subsection (a)(28) expires on the expiration
34 date stated by the board of the Indiana economic development
35 corporation in the rule.

36 (l) A rule described in subsection (a)(30) expires on the expiration
37 date stated by the Indiana finance authority in the rule.

38 (m) A rule described in subsection (a)(5) or (a)(6) expires on the
39 date the department is next required to issue a rule under the statute
40 authorizing or requiring the rule.

41 **(n) A rule described in subsection (a)(38) expires on June 30 of**
42 **the year following the year in which it is filed with the publisher**

1 **under this section.**

2 SECTION 3. IC 16-31-3-14, AS AMENDED BY P.L.182-2011,
 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 UPON PASSAGE]: Sec. 14. (a) A person holding a certificate issued
 5 under this article must comply with the applicable standards and rules
 6 established under this article. A certificate holder is subject to
 7 disciplinary sanctions under subsection (b) if the department of
 8 homeland security determines that the certificate holder:

- 9 (1) engaged in or knowingly cooperated in fraud or material
 10 deception in order to obtain a certificate, including cheating on a
 11 certification examination;
- 12 (2) engaged in fraud or material deception in the course of
 13 professional services or activities;
- 14 (3) advertised services or goods in a false or misleading manner;
- 15 (4) falsified or knowingly allowed another person to falsify
 16 attendance records or certificates of completion of continuing
 17 education courses required under this article or rules adopted
 18 under this article;
- 19 (5) is convicted of a crime, if the act that resulted in the
 20 conviction has a direct bearing on determining if the certificate
 21 holder should be entrusted to provide emergency medical
 22 services;
- 23 (6) is convicted of violating IC 9-19-14.5;
- 24 (7) fails to comply and maintain compliance with or violates any
 25 applicable provision, standard, or other requirement of this article
 26 or rules adopted under this article;
- 27 (8) continues to practice if the certificate holder becomes unfit to
 28 practice due to:
- 29 (A) professional incompetence that includes the undertaking
 30 of professional activities that the certificate holder is not
 31 qualified by training or experience to undertake;
- 32 (B) failure to keep abreast of current professional theory or
 33 practice;
- 34 (C) physical or mental disability; or
- 35 (D) addiction to, abuse of, or dependency on alcohol or other
 36 drugs that endanger the public by impairing the certificate
 37 holder's ability to practice safely;
- 38 (9) engages in a course of lewd or immoral conduct in connection
 39 with the delivery of services to the public;
- 40 (10) allows the certificate holder's name or a certificate issued
 41 under this article to be used in connection with a person who
 42 renders services beyond the scope of that person's training,

- 1 experience, or competence;
- 2 (11) is subjected to disciplinary action in another state or
- 3 jurisdiction on grounds similar to those contained in this chapter.
- 4 For purposes of this subdivision, a certified copy of a record of
- 5 disciplinary action constitutes prima facie evidence of a
- 6 disciplinary action in another jurisdiction;
- 7 (12) assists another person in committing an act that would
- 8 constitute a ground for disciplinary sanction under this chapter;
- 9 or
- 10 (13) allows a certificate issued by the commission to be:
- 11 (A) used by another person; or
- 12 (B) displayed to the public when the certificate is expired,
- 13 inactive, invalid, revoked, or suspended.
- 14 (b) The department of homeland security may issue an order under
- 15 IC 4-21.5-3-6 to impose one (1) or more of the following sanctions if
- 16 the department of homeland security determines that a certificate
- 17 holder is subject to disciplinary sanctions under subsection (a):
- 18 (1) Revocation of a certificate holder's certificate for a period not
- 19 to exceed seven (7) years.
- 20 (2) Suspension of a certificate holder's certificate for a period not
- 21 to exceed seven (7) years.
- 22 (3) Censure of a certificate holder.
- 23 (4) Issuance of a letter of reprimand.
- 24 (5) Assessment of a civil penalty against the certificate holder in
- 25 accordance with the following:
- 26 (A) The civil penalty may not exceed five hundred dollars
- 27 (\$500) per day per violation.
- 28 (B) If the certificate holder fails to pay the civil penalty within
- 29 the time specified by the department of homeland security, the
- 30 department of homeland security may suspend the certificate
- 31 holder's certificate without additional proceedings.
- 32 (6) Placement of a certificate holder on probation status and
- 33 requirement of the certificate holder to:
- 34 (A) report regularly to the department of homeland security
- 35 upon the matters that are the basis of probation;
- 36 (B) limit practice to those areas prescribed by the department
- 37 of homeland security;
- 38 (C) continue or renew professional education approved by the
- 39 department of homeland security until a satisfactory degree of
- 40 skill has been attained in those areas that are the basis of the
- 41 probation; or
- 42 (D) perform or refrain from performing any acts, including

1 community restitution or service without compensation, that
2 the department of homeland security considers appropriate to
3 the public interest or to the rehabilitation or treatment of the
4 certificate holder.

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

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

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

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

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

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

- 1 (1) Possession of cocaine or a narcotic drug under IC 35-48-4-6.
- 2 (2) Possession of methamphetamine under IC 35-48-4-6.1.
- 3 (3) Possession of a controlled substance under IC 35-48-4-7(a).
- 4 (4) Fraudulently obtaining a controlled substance under
- 5 IC 35-48-4-7(b).
- 6 (5) Manufacture of paraphernalia as a Class D felony under
- 7 IC 35-48-4-8.1(b).
- 8 (6) Dealing in paraphernalia as a Class D felony under
- 9 IC 35-48-4-8.5(b).
- 10 (7) Possession of paraphernalia as a Class D felony under
- 11 IC 35-48-4-8.3(b).
- 12 (8) Possession of marijuana, hash oil, hashish, salvia, or a
- 13 synthetic ~~cannabinoid~~ **drug** as a Class D felony under
- 14 IC 35-48-4-11.
- 15 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 16 (10) An offense relating to registration, labeling, and prescription
- 17 forms under IC 35-48-4-14.
- 18 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 19 in subdivisions (1) through (10).
- 20 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
- 21 subdivisions (1) through (10).
- 22 (13) An offense in any other jurisdiction in which the elements of
- 23 the offense for which the conviction was entered are substantially
- 24 similar to the elements of an offense described by subdivisions (1)
- 25 through (12).
- 26 (h) A decision of the department of homeland security under
- 27 subsections (b) through (g) may be appealed to the commission under
- 28 IC 4-21.5-3-7.
- 29 (i) The department of homeland security may temporarily suspend
- 30 a certificate holder's certificate under IC 4-21.5-4 before a final
- 31 adjudication or during the appeals process if the department of
- 32 homeland security finds that a certificate holder would represent a clear
- 33 and immediate danger to the public's health, safety, or property if the
- 34 certificate holder were allowed to continue to practice.
- 35 (j) On receipt of a complaint or information alleging that a person
- 36 certified under this chapter or IC 16-31-3.5 has engaged in or is
- 37 engaging in a practice that is subject to disciplinary sanctions under
- 38 this chapter, the department of homeland security must initiate an
- 39 investigation against the person.
- 40 (k) The department of homeland security shall conduct a factfinding
- 41 investigation as the department of homeland security considers proper
- 42 in relation to the complaint.

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

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

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

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

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

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

23 SECTION 4. IC 16-31-3-14.5, AS AMENDED BY P.L.182-2011,
 24 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 14.5. The department of homeland security
 26 may issue an order under IC 4-21.5-3-6 to deny an applicant's request
 27 for certification or permanently revoke a certificate under procedures
 28 provided by section 14 of this chapter if the individual who holds the
 29 certificate issued under this title is convicted of any of the following:

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

- 1 or distribute a substance represented to be a controlled substance
 2 under IC 35-48-4-4.6.
- 3 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 4 (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 5 **cannabinoid drug** under IC 35-48-4-10(b).
- 6 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
 7 in subdivisions (1) through (9).
- 8 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
 9 subdivisions (1) through (9).
- 10 (12) A crime of violence (as defined in IC 35-50-1-2(a)).
- 11 (13) An offense in any other jurisdiction in which the elements of
 12 the offense for which the conviction was entered are substantially
 13 similar to the elements of an offense described under subdivisions
 14 (1) through (12).

15 SECTION 5. IC 20-28-5-8, AS AMENDED BY P.L.155-2011,
 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 8. (a) This section applies when a prosecuting
 18 attorney knows that a licensed employee of a public school or a
 19 nonpublic school has been convicted of an offense listed in subsection
 20 (c). The prosecuting attorney shall immediately give written notice of
 21 the conviction to the following:

- 22 (1) The state superintendent.
- 23 (2) Except as provided in subdivision (3), the superintendent of
 24 the school corporation that employs the licensed employee or the
 25 equivalent authority if a nonpublic school employs the licensed
 26 employee.
- 27 (3) The presiding officer of the governing body of the school
 28 corporation that employs the licensed employee, if the convicted
 29 licensed employee is the superintendent of the school corporation.
- 30 (b) The superintendent of a school corporation, presiding officer of
 31 the governing body, or equivalent authority for a nonpublic school shall
 32 immediately notify the state superintendent when the individual knows
 33 that a current or former licensed employee of the public school or
 34 nonpublic school has been convicted of an offense listed in subsection
 35 (c), or when the governing body or equivalent authority for a nonpublic
 36 school takes any final action in relation to an employee who engaged
 37 in any offense listed in subsection (c).
- 38 (c) The department, after holding a hearing on the matter, shall
 39 permanently revoke the license of a person who is known by the
 40 department to have been convicted of any of the following felonies:
- 41 (1) Kidnapping (IC 35-42-3-2).
- 42 (2) Criminal confinement (IC 35-42-3-3).

- 1 (3) Rape (IC 35-42-4-1).
- 2 (4) Criminal deviate conduct (IC 35-42-4-2).
- 3 (5) Child molesting (IC 35-42-4-3).
- 4 (6) Child exploitation (IC 35-42-4-4(b)).
- 5 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 6 (8) Child solicitation (IC 35-42-4-6).
- 7 (9) Child seduction (IC 35-42-4-7).
- 8 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 9 (11) Incest (IC 35-46-1-3).
- 10 (12) Dealing in or manufacturing cocaine or a narcotic drug (IC
- 11 35-48-4-1).
- 12 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 13 (14) Dealing in a schedule I, II, or III controlled substance (IC
- 14 35-48-4-2).
- 15 (15) Dealing in a schedule IV controlled substance (IC
- 16 35-48-4-3).
- 17 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 18 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 19 (18) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
- 20 **cannabinoid drug** (IC 35-48-4-10(b)).
- 21 (19) Possession of child pornography (IC 35-42-4-4(c)).
- 22 (20) Homicide (IC 35-42-1).
- 23 (21) Voluntary manslaughter (IC 35-42-1-3).
- 24 (22) Reckless homicide (IC 35-42-1-5).
- 25 (23) Battery as any of the following:
- 26 (A) A Class A felony (IC 35-42-2-1(a)(5)).
- 27 (B) A Class B felony (IC 35-42-2-1(a)(4)).
- 28 (C) A Class C felony (IC 35-42-2-1(a)(3)).
- 29 (24) Aggravated battery (IC 35-42-2-1.5).
- 30 (25) Robbery (IC 35-42-5-1).
- 31 (26) Carjacking (IC 35-42-5-2).
- 32 (27) Arson as a Class A felony or a Class B felony (IC
- 33 35-43-1-1(a)).
- 34 (28) Burglary as a Class A felony or a Class B felony (IC
- 35 35-43-2-1).
- 36 (29) Attempt under IC 35-41-5-1 to commit an offense listed in
- 37 subdivisions (1) through (28).
- 38 (30) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 39 in subdivisions (1) through (28).
- 40 (d) The department, after holding a hearing on the matter, shall
- 41 permanently revoke the license of a person who is known by the
- 42 department to have been convicted of a federal offense or an offense in

1 another state that is comparable to a felony listed in subsection (c).

2 (e) A license may be suspended by the state superintendent as
3 specified in IC 20-28-7.5.

4 (f) The department shall develop a data base of information on
5 school corporation employees who have been reported to the
6 department under this section.

7 SECTION 6. IC 22-15-5-16, AS AMENDED BY P.L.182-2011,
8 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 UPON PASSAGE]: Sec. 16. (a) A practitioner shall comply with the
10 standards established under this licensing program. A practitioner is
11 subject to the exercise of the disciplinary sanctions under subsection
12 (b) if the department finds that a practitioner has:

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

- 1 practitioner's license to practice in another state or jurisdiction on
 2 grounds similar to those under this chapter;
 3 (11) assisted another person in committing an act that would
 4 constitute a ground for disciplinary sanction under this chapter;
 5 or
 6 (12) allowed a license issued by the department to be:
 7 (A) used by another person; or
 8 (B) displayed to the public when the license has expired, is
 9 inactive, is invalid, or has been revoked or suspended.

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

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

- 16 (1) Permanent revocation of a practitioner's license.
 17 (2) Suspension of a practitioner's license.
 18 (3) Censure of a practitioner.
 19 (4) Issuance of a letter of reprimand.
 20 (5) Assess a civil penalty against the practitioner in accordance
 21 with the following:
 22 (A) The civil penalty may not be more than one thousand
 23 dollars (\$1,000) for each violation listed in subsection (a),
 24 except for a finding of incompetency due to a physical or
 25 mental disability.
 26 (B) When imposing a civil penalty, the department shall
 27 consider a practitioner's ability to pay the amount assessed. If
 28 the practitioner fails to pay the civil penalty within the time
 29 specified by the department, the department may suspend the
 30 practitioner's license without additional proceedings. However,
 31 a suspension may not be imposed if the sole basis for the
 32 suspension is the practitioner's inability to pay a civil penalty.
 33 (6) Place a practitioner on probation status and require the
 34 practitioner to:
 35 (A) report regularly to the department upon the matters that
 36 are the basis of probation;
 37 (B) limit practice to those areas prescribed by the department;
 38 (C) continue or renew professional education approved by the
 39 department until a satisfactory degree of skill has been attained
 40 in those areas that are the basis of the probation; or
 41 (D) perform or refrain from performing any acts, including
 42 community restitution or service without compensation, that

1 the department considers appropriate to the public interest or
2 to the rehabilitation or treatment of the practitioner.

3 The department may withdraw or modify this probation if the
4 department finds after a hearing that the deficiency that required
5 disciplinary action has been remedied or that changed
6 circumstances warrant a modification of the order.

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

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

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

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

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

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

- 1 IC 35-48-4-8.5(b).
- 2 (7) Possession of paraphernalia as a Class D felony under
3 IC 35-48-4-8.3(b).
- 4 (8) Possession of marijuana, hash oil, hashish, salvia, or a
5 synthetic **cannabinoid drug** as a Class D felony under
6 IC 35-48-4-11.
- 7 (9) Maintaining a common nuisance under IC 35-48-4-13.
- 8 (10) An offense relating to registration, labeling, and prescription
9 forms under IC 35-48-4-14.
- 10 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
11 in subdivisions (1) through (10).
- 12 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
13 subdivisions (1) through (10).
- 14 (13) An offense in any other jurisdiction in which the elements of
15 the offense for which the conviction was entered are substantially
16 similar to the elements of an offense described in subdivisions (1)
17 through (12).
- 18 (h) The department shall deny, revoke, or suspend a license issued
19 under this chapter if the individual who holds the license is convicted
20 of any of the following:
- 21 (1) Dealing in cocaine or a narcotic drug under IC 35-48-4-1.
- 22 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
- 23 (3) Dealing in a schedule I, II, or III controlled substance under
24 IC 35-48-4-2.
- 25 (4) Dealing in a schedule IV controlled substance under
26 IC 35-48-4-3.
- 27 (5) Dealing in a schedule V controlled substance under
28 IC 35-48-4-4.
- 29 (6) Dealing in a substance represented to be a controlled
30 substance under IC 35-48-4-4.5.
- 31 (7) Knowingly or intentionally manufacturing, advertising,
32 distributing, or possessing with intent to manufacture, advertise,
33 or distribute a substance represented to be a controlled substance
34 under IC 35-48-4-4.6.
- 35 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
- 36 (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
37 **cannabinoid drug** under IC 35-48-4-10(b).
- 38 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
39 in subdivisions (1) through (9).
- 40 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
41 subdivisions (1) through (9).
- 42 (12) An offense in any other jurisdiction in which the elements of

1 the offense for which the conviction was entered are substantially
2 similar to the elements of an offense described in subdivisions (1)
3 through (11).

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

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

8 (j) The department may temporarily suspend a practitioner's license
9 under IC 4-21.5-4 before a final adjudication or during the appeals
10 process if the department finds that a practitioner represents a clear and
11 immediate danger to the public's health, safety, or property if the
12 practitioner is allowed to continue to practice.

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

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

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

23 (n) The department may reinstate a license that has been suspended
24 under this section if, after a hearing, the department is satisfied that the
25 applicant is able to practice with reasonable skill, safety, and
26 competency to the public. As a condition of reinstatement, the
27 department may impose disciplinary or corrective measures authorized
28 under this chapter.

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

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

37 (q) A practitioner may petition the department to accept the
38 surrender of the practitioner's license instead of having a hearing before
39 the commission. The practitioner may not surrender the practitioner's
40 license without the written approval of the department, and the
41 department may impose any conditions appropriate to the surrender or
42 reinstatement of a surrendered license.

1 (r) A practitioner who has been subjected to disciplinary sanctions
 2 may be required by the commission to pay the costs of the proceeding.
 3 The practitioner's ability to pay shall be considered when costs are
 4 assessed. If the practitioner fails to pay the costs, a suspension may not
 5 be imposed solely upon the practitioner's inability to pay the amount
 6 assessed. The costs are limited to costs for the following:

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

16 SECTION 7. IC 24-26-13-4.1 IS ADDED TO THE INDIANA
 17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE UPON PASSAGE]: **Sec. 4.1. (a) The board may adopt**
 19 **an emergency rule to declare that a substance is a synthetic drug.**

20 **(b) The board may adopt an emergency rule declaring a**
 21 **substance to be a synthetic drug if the board finds that the**
 22 **substance:**

- 23 **(1) has been scheduled or emergency scheduled by the United**
 24 **States Drug Enforcement Administration; or**
- 25 **(2) has been scheduled, emergency scheduled, or criminalized**
 26 **by another state.**

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

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

32 **(e) The board may readopt under this section an emergency rule**
 33 **that has expired.**

34 SECTION 7. IC 25-1-1.1-2, AS AMENDED BY P.L.138-2011,
 35 SECTION 6, AND P.L.182-2011, SECTION 6, AND AS AMENDED
 36 BY P.L.155-2011, SECTION 6, IS CORRECTED AND AMENDED
 37 TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.
 38 *Notwithstanding IC 25-1-7*, a board, a commission, or a committee may
 39 suspend, *deny*, or revoke a license or certificate issued under this title
 40 by the board, the commission, or the committee *without an*
 41 *investigation by the office of the attorney general* if the individual who
 42 holds the license or certificate is convicted of any of the following *and*

1 *the board, commission, or committee determines, after the individual*
 2 *has appeared in person, that the offense affects the individual's ability*
 3 *to perform the duties of the profession:*

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

5 (2) Possession of methamphetamine under IC 35-48-4-6.1.

6 (3) Possession of a controlled substance under IC 35-48-4-7(a).

7 (4) Fraudulently obtaining a controlled substance under
 8 IC 35-48-4-7(b).

9 (5) Manufacture of paraphernalia as a Class D felony under
 10 IC 35-48-4-8.1(b).

11 (6) Dealing in paraphernalia as a Class D felony under
 12 IC 35-48-4-8.5(b).

13 (7) Possession of paraphernalia as a Class D felony under
 14 IC 35-48-4-8.3(b).

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

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

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

21 (11) Conspiracy under IC 35-41-5-2 to commit an offense listed
 22 in subdivisions (1) through (10).

23 (12) Attempt under IC 35-41-5-1 to commit an offense listed in
 24 subdivisions (1) through (10).

25 ~~(13) An offense in any other jurisdiction in which the elements of~~
 26 ~~the offense for which the conviction was entered are substantially~~
 27 ~~similar to the elements of an offense described under subdivisions~~
 28 ~~(1) through (12).~~

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

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

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

35 SECTION 8. IC 25-1-1.1-3, AS AMENDED BY P.L.182-2011,
 36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 3. A board, a commission, or a committee
 38 shall revoke or suspend a license or certificate issued under this title by
 39 the board, the commission, or the committee if the individual who
 40 holds the license or certificate is convicted of any of the following:

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

- 1 (2) Dealing in methamphetamine under IC 35-48-4-1.1.
 2 (3) Dealing in a schedule I, II, or III controlled substance under
 3 IC 35-48-4-2.
 4 (4) Dealing in a schedule IV controlled substance under
 5 IC 35-48-4-3.
 6 (5) Dealing in a schedule V controlled substance under
 7 IC 35-48-4-4.
 8 (6) Dealing in a substance represented to be a controlled
 9 substance under IC 35-48-4-4.5.
 10 (7) Knowingly or intentionally manufacturing, advertising,
 11 distributing, or possessing with intent to manufacture, advertise,
 12 or distribute a substance represented to be a controlled substance
 13 under IC 35-48-4-4.6.
 14 (8) Dealing in a counterfeit substance under IC 35-48-4-5.
 15 (9) Dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 16 **cannabinoid drug** under IC 35-48-4-10(b).
 17 (10) Conspiracy under IC 35-41-5-2 to commit an offense listed
 18 in subdivisions (1) through (9).
 19 (11) Attempt under IC 35-41-5-1 to commit an offense listed in
 20 subdivisions (1) through (9).
 21 (12) An offense in any other jurisdiction in which the elements of
 22 the offense for which the conviction was entered are substantially
 23 similar to the elements of an offense described under subdivisions
 24 (1) through (11).
 25 (13) A violation of any federal or state drug law or rule related to
 26 wholesale legend drug distributors licensed under IC 25-26-14.
- 27 SECTION 9. IC 35-41-1-3.5 IS ADDED TO THE INDIANA CODE
 28 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 29 **UPON PASSAGE]: Sec. 3.5. "Analog", for purposes of section 26.3**
 30 **of this chapter, means a new or novel chemical entity, independent**
 31 **of synthetic route or natural origin, having substantially the same:**
 32 **(1) carbon backbone structure; and**
 33 **(2) pharmacological mechanism of action;**
 34 **as a compound specifically defined as a synthetic drug in section**
 35 **26.3 of this chapter."**
- 36 Page 1, line 3, strike "cannabinoid" and insert "**drug**".
 37 Page 1, line 5, delete "analogue or homologue" and insert "**analog:**".
 38 Page 1, delete line 6.
 39 Page 2, line 3, delete "**naphthalen-1-ylmethanone).**" and insert
 40 "**naphthalen-1-yl-methanone).**".
 41 Page 3, between lines 22 and 23, begin a new line double block
 42 indented and insert the following:

- 1 "(JJ) 6-APB [6-(2-aminopropyl)benzofuran].
 2 (LL) 7-hydroxymitragynine.
 3 (MM) α -PPP [α -pyrrolidinopropiophenone].
 4 (NN) α -PVP (desmethylpyrovalerone).
 5 (OO) AM-251.
 6 (PP) AM-1241.
 7 (QQ) AM-2201.
 8 (RR) AM-2233.
 9 (SS) Buphedrone.
 10 (TT) Butylone.
 11 (UU) CP-47,497-C7.
 12 (VV) CP-47,497-C8.
 13 (WW) Desoxypipradol.
 14 (XX) Ethylone.
 15 (YY) Eutylone.
 16 (ZZ) Flephedrone.
 17 (AAA) JWH-011.
 18 (BBB) JWH-020.
 19 (CCC) JWH-022.
 20 (DDD) JWH-030.
 21 (EEE) JWH-182.
 22 (FFF) JWH-302.
 23 (GGG) MDAI [5,6-methylenedioxy-2-aminoindane].
 24 (HHH) Mitragynine.
 25 (III) Naphyrone.
 26 (JJJ) Pentedrone.
 27 (LLL) Pentylone.
 28 (M M M) M e t h o x e t a m i n e
 29 [2-(3-methoxyphenyl)-2-(ethylamino)- cyclohexanone.]".
 30 Page 3, line 27, delete "cycloalkylethy" and insert
 31 "cyaloalkylethyl".
 32 Page 3, line 33, delete "3-(1-naphthoyl)173" and insert
 33 "3-(1-naphthoyl)".
 34 Page 4, between lines 27 and 28, begin a new line block indented
 35 and insert:
 36 "**(8) Any compound, except bupropion or a compound listed**
 37 **under a different schedule, structurally derived from**
 38 **2-aminopropan-1-one by substitution at the 1-position with**
 39 **either phenyl, naphthyl, or thiophene ring systems, whether**
 40 **or not the compound is further modified:**
 41 **(A) by substitution in the ring system to any extent with**
 42 **alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide**

- 1 **substituents, whether or not further substituted in the ring**
 2 **system by one (1) or more other univalent substituents;**
 3 **(B) by substitution at the 3-position with an acyclic alkyl**
 4 **substituent;**
 5 **(C) by substitution at the 2-amino nitrogen atom with**
 6 **alkyl, dialkyl, benzyl, or methoxybenzyl groups; or**
 7 **(D) by inclusion of the 2-amino nitrogen atom in a cyclic**
 8 **structure.**
 9 **(9) Any compound determined to be synthetic drug by rule**
 10 **adopted under IC 25-26-13-4.1."**

11 Page 9, line 27, strike "cannabinoids" and insert "**drugs**".

12 Page 11, after line 32, begin a new paragraph and insert:

13 "SECTION 11. IC 35-48-4-8.5, AS AMENDED BY P.L.182-2011,
 14 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 UPON PASSAGE]: Sec. 8.5. (a) A person who keeps for sale, offers
 16 for sale, delivers, or finances the delivery of a raw material, an
 17 instrument, a device, or other object that is intended to be or that is
 18 designed or marketed to be used primarily for:

- 19 (1) ingesting, inhaling, or otherwise introducing into the human
 20 body marijuana, hash oil, hashish, salvia, a synthetic ~~cannabinoid~~,
 21 **drug**, or a controlled substance;
 22 (2) testing the strength, effectiveness, or purity of marijuana, hash
 23 oil, hashish, salvia, a synthetic ~~cannabinoid~~, **drug**, or a controlled
 24 substance;
 25 (3) enhancing the effect of a controlled substance;
 26 (4) manufacturing, compounding, converting, producing,
 27 processing, or preparing marijuana, hash oil, hashish, salvia, a
 28 synthetic ~~cannabinoid~~, **drug**, or a controlled substance;
 29 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 30 synthetic ~~cannabinoid~~, **drug**, or a controlled substance by
 31 individuals; or
 32 (6) any purpose announced or described by the seller that is in
 33 violation of this chapter;

34 commits a Class A infraction for dealing in paraphernalia.

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

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

- 42 (1) ingesting, inhaling, or otherwise introducing into the human

- 1 body marijuana, hash oil, hashish, salvia, a synthetic ~~cannabinoid~~,
 2 **drug**, or a controlled substance;
 3 (2) testing the strength, effectiveness, or purity of marijuana, hash
 4 oil, hashish, salvia, a synthetic ~~cannabinoid~~, **drug**, or a controlled
 5 substance;
 6 (3) enhancing the effect of a controlled substance;
 7 (4) manufacturing, compounding, converting, producing,
 8 processing, or preparing marijuana, hash oil, hashish, salvia, a
 9 synthetic ~~cannabinoid~~, **drug**, or a controlled substance;
 10 (5) diluting or adulterating marijuana, hash oil, hashish, salvia, a
 11 synthetic ~~cannabinoid~~, **drug**, or a controlled substance by
 12 individuals; or
 13 (6) any purpose announced or described by the seller that is in
 14 violation of this chapter;
 15 commits reckless dealing in paraphernalia, a Class B misdemeanor.
 16 However, the offense is a Class D felony if the person has a previous
 17 judgment or conviction under this section.

- 18 (d) This section does not apply to the following:
 19 (1) Items marketed for use in the preparation, compounding,
 20 packaging, labeling, or other use of marijuana, hash oil, hashish,
 21 salvia, a synthetic ~~cannabinoid~~, **drug**, or a controlled substance as
 22 an incident to lawful research, teaching, or chemical analysis and
 23 not for sale.
 24 (2) Items marketed for or historically and customarily used in
 25 connection with the planting, propagating, cultivating, growing,
 26 harvesting, manufacturing, compounding, converting, producing,
 27 processing, preparing, testing, analyzing, packaging, repackaging,
 28 storing, containing, concealing, injecting, ingesting, or inhaling
 29 of tobacco or any other lawful substance.

30 SECTION 12. IC 35-48-4-10, AS AMENDED BY P.L.182-2011,
 31 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 UPON PASSAGE]: Sec. 10. (a) A person who:

- 33 (1) knowingly or intentionally:
 34 (A) manufactures;
 35 (B) finances the manufacture of;
 36 (C) delivers; or
 37 (D) finances the delivery of;
 38 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~,
 39 **drug**, pure or adulterated; or
 40 (2) possesses, with intent to:
 41 (A) manufacture;
 42 (B) finance the manufacture of;

1 (C) deliver; or
 2 (D) finance the delivery of;
 3 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~;
 4 **drug**, pure or adulterated;
 5 commits dealing in marijuana, hash oil, hashish, salvia, or a synthetic
 6 ~~cannabinoid~~; **drug**, a Class A misdemeanor, except as provided in
 7 subsection (b).

8 (b) The offense is:
 9 (1) a Class D felony if:
 10 (A) the recipient or intended recipient is under eighteen (18)
 11 years of age;
 12 (B) the amount involved is:
 13 (i) more than thirty (30) grams but less than ten (10) pounds
 14 of marijuana or more than two (2) grams but less than three
 15 hundred (300) grams of hash oil, hashish, **or** salvia; ~~or a~~
 16 ~~synthetic cannabinoid~~; or
 17 **(ii) more than two (2) grams of a synthetic drug; or**
 18 (C) the person has a prior conviction of an offense involving
 19 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~;
 20 **drug**; and
 21 (2) a Class C felony if:
 22 (A) the amount involved is ten (10) pounds or more of
 23 marijuana or three hundred (300) or more grams of hash oil,
 24 hashish, **or** salvia, ~~or a synthetic cannabinoid~~; or the person
 25 delivered or financed the delivery of marijuana, hash oil,
 26 hashish, **or** salvia: ~~or a synthetic cannabinoid~~:
 27 ~~(A)~~ (i) on a school bus; or
 28 ~~(B)~~ (ii) in, on, or within one thousand (1,000) feet of
 29 (i) school property,
 30 (ii) a public park,
 31 (iii) a family housing complex, or
 32 (iv) a youth program center; **or**
 33 **(B) the amount involved is more than two (2) grams of a**
 34 **synthetic drug and the person delivered or financed the**
 35 **delivery of the synthetic drug:**
 36 **(i) on a school bus; or**
 37 **(ii) in, on, or within one thousand (1,000) feet of school**
 38 **property, a public park, a family housing complex, or a**
 39 **youth program center.**

40 SECTION 13. IC 35-48-4-11, AS AMENDED BY P.L.138-2011,
 41 SECTION 17, AND AS AMENDED BY P.L.182-2011, SECTION 17,
 42 IS CORRECTED AND AMENDED TO READ AS FOLLOWS

1 [EFFECTIVE UPON PASSAGE]: Sec. 11. A person who:
 2 (1) knowingly or intentionally possesses (pure or adulterated)
 3 marijuana, hash oil, hashish, salvia, or a synthetic ~~cannabinoid~~;
 4 **drug**;
 5 (2) knowingly or intentionally grows or cultivates marijuana; or
 6 (3) knowing that marijuana is growing on the person's premises,
 7 fails to destroy the marijuana plants;
 8 commits possession of marijuana, hash oil, hashish, salvia, or a
 9 synthetic ~~cannabinoid~~, **drug**, a Class A misdemeanor. However, the
 10 offense is a Class D felony ~~(#)~~ if the amount involved is more than
 11 thirty (30) grams of marijuana or two (2) grams of hash oil, hashish,
 12 salvia, or a synthetic ~~cannabinoid~~, **drug**, or ~~(#)~~ if the person has a prior
 13 conviction of an offense involving marijuana, hash oil, or hashish,
 14 salvia, or a synthetic ~~cannabinoid~~. **drug**.

15 SECTION 14. IC 35-48-4-12, AS AMENDED BY P.L.182-2011,
 16 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 12. If a person who has no prior conviction of
 18 an offense under this article or under a law of another jurisdiction
 19 relating to controlled substances pleads guilty to possession of
 20 marijuana, hashish, salvia, or a synthetic ~~cannabinoid~~ **drug** as a Class
 21 A misdemeanor, the court, without entering a judgment of conviction
 22 and with the consent of the person, may defer further proceedings and
 23 place the person in the custody of the court under such conditions as
 24 the court determines. Upon violation of a condition of the custody, the
 25 court may enter a judgment of conviction. However, if the person
 26 fulfills the conditions of the custody, the court shall dismiss the charges
 27 against the person. There may be only one (1) dismissal under this
 28 section with respect to a person.

29 SECTION 15. **An emergency is declared for this act."**

30 Renumber all SECTIONS consecutively.

(Reference is to SB 234 as introduced.)

and when so amended that said bill do pass .

Committee Vote: Yeas 10, Nays 0.

Senator Steele, Chairperson