

IC 35-48-4

Chapter 4. Offenses Relating to Controlled Substances

IC 35-48-4-0.1

Application of certain amendments to chapter

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

(1) The amendments made to section 13 of this chapter by P.L.31-1998 apply only to offenses committed after June 30, 1998. An offense committed under section 13 of this chapter before July 1, 1998, may be prosecuted and remains punishable as provided in section 13 of this chapter, as effective before July 1, 1998.

(2) The addition of section 0.5 of this chapter by P.L.225-2003 applies only to a controlled substance offense under this chapter that occurs after June 30, 2003.

As added by P.L.220-2011, SEC.630. Amended by P.L.63-2012, SEC.83.

IC 35-48-4-0.5

Controlled substance analog; schedule I controlled substance

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

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

IC 35-48-4-1

Dealing in cocaine or narcotic drug

Sec. 1. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II;

commits dealing in cocaine or a narcotic drug, a Level 5 felony, except as provided in subsections (b) through (e).

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of,

deliver, or finance the delivery of the drug.

(c) The offense is a Level 4 felony if:

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

(d) The offense is a Level 3 felony if:

- (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
- (2) the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies.

(e) The offense is a Level 2 felony if:

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

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.96; Acts 1979, P.L.303, SEC.8; P.L.296-1987, SEC.5; P.L.165-1990, SEC.3; P.L.296-1995, SEC.3; P.L.65-1996, SEC.11; P.L.17-2001, SEC.19; P.L.151-2006, SEC.22; P.L.158-2013, SEC.622; P.L.168-2014, SEC.91; P.L.226-2014(ts), SEC.6.

IC 35-48-4-1.1

Dealing in methamphetamine

Sec. 1.1. (a) A person who:

(1) knowingly or intentionally:

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

methamphetamine, pure or adulterated; or

(2) possesses, with intent to:

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

methamphetamine, pure or adulterated;

commits dealing in methamphetamine, a Level 5 felony, except as provided in subsections (b) through (e).

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

(c) The offense is a Level 4 felony if:

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

(d) The offense is a Level 3 felony if:

- (1) the amount of the drug involved is at least five (5) but less

- than ten (10) grams; or
- (2) the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies.
- (e) The offense is a Level 2 felony if:
 - (1) the amount of the drug involved is at least ten (10) grams;
 - (2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies; or
 - (3) the person is manufacturing the drug and the manufacture results in an explosion causing serious bodily injury to a person other than the manufacturer.

As added by P.L.151-2006, SEC.23. Amended by P.L.158-2013, SEC.623; P.L.168-2014, SEC.92; P.L.226-2014(ts), SEC.7.

IC 35-48-4-2

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

Sec. 2. (a) A person who:

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

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

- (2) possesses, with intent to:
 - (A) manufacture;
 - (B) finance the manufacture of;
 - (C) deliver; or
 - (D) finance the delivery of;

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

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

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

- (c) The offense is a Level 5 felony if:
 - (1) the amount of the drug involved is at least one (1) gram but less than five (5) grams; or
 - (2) the amount of the drug involved is less than one (1) gram and an enhancing circumstance applies.
- (d) The offense is a Level 4 felony if:
 - (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
 - (2) the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies.
- (e) The offense is a Level 3 felony if:

- (1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or
 - (2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies.
- (f) The offense is a Level 2 felony if:
- (1) the amount of the drug involved is at least twenty-eight (28) grams; or
 - (2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.97; Acts 1979, P.L.303, SEC.9; P.L.296-1987, SEC.6; P.L.165-1990, SEC.4; P.L.296-1995, SEC.4; P.L.65-1996, SEC.12; P.L.17-2001, SEC.20; P.L.138-2011, SEC.13; P.L.182-2011, SEC.13; P.L.158-2013, SEC.624; P.L.168-2014, SEC.93; P.L.226-2014(ts), SEC.8.

IC 35-48-4-3

Dealing in a schedule IV controlled substance

Sec. 3. (a) A person who:

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

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

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

commits dealing in a schedule IV controlled substance, a Class A misdemeanor, except as provided in subsections (b) through (f).

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture or deliver the controlled substance.

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

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

(d) The offense is a Level 5 felony if:

- (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
- (2) the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies.

(e) The offense is a Level 4 felony if:

- (1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or
- (2) the amount of the drug involved is at least five (5) but less

- than ten (10) grams and an enhancing circumstance applies.
- (f) The offense is a Level 3 felony if:
- (1) the amount of the drug involved is at least twenty-eight (28) grams; or
 - (2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.98; P.L.296-1987, SEC.7; P.L.165-1990, SEC.5; P.L.296-1995, SEC.5; P.L.65-1996, SEC.13; P.L.17-2001, SEC.21; P.L.158-2013, SEC.625; P.L.168-2014, SEC.94; P.L.226-2014(ts), SEC.9.

IC 35-48-4-4

Dealing in a schedule V controlled substance

Sec. 4. (a) A person who:

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

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

- (2) possesses, with intent to:
 - (A) manufacture;
 - (B) finance the manufacture of;
 - (C) deliver; or
 - (D) finance the delivery of;

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

commits dealing in a schedule V controlled substance, a Class B misdemeanor, except as provided in subsections (b) through (f).

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

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

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

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

- (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
- (2) the amount of the drug involved is at least one (1) gram but less than five (5) grams and an enhancing circumstance applies.

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

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

- (2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies.
- (f) The offense is a Level 4 felony if:
 - (1) the amount of the drug involved is at least twenty-eight (28) grams; or
 - (2) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams and an enhancing circumstance applies.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.99; P.L.296-1987, SEC.8; P.L.165-1990, SEC.6; P.L.296-1995, SEC.6; P.L.65-1996, SEC.14; P.L.17-2001, SEC.22; P.L.158-2013, SEC.626; P.L.168-2014, SEC.95; P.L.226-2014(ts), SEC.10.

IC 35-48-4-4.1

Dumping controlled substance waste

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

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

commits dumping controlled substance waste, a Level 6 felony.

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

As added by P.L.17-2001, SEC.23. Amended by P.L.158-2013, SEC.627.

IC 35-48-4-4.5

Dealing in a substance represented to be a controlled substance

Sec. 4.5. (a) A person who knowingly or intentionally delivers or finances the delivery of any substance, other than a controlled substance or a drug for which a prescription is required under federal or state law, that:

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

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

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

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

As added by Acts 1981, P.L.305, SEC.1. Amended by P.L.210-1986, SEC.1; P.L.165-1990, SEC.7; P.L.158-2013, SEC.628.

IC 35-48-4-4.6

Unlawful manufacture, distribution, or possession of counterfeit substance

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

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

a substance described in section 4.5 of this chapter commits a Level 5 felony.

(b) A person may be convicted of an offense under subsection (a)(5) only if there is evidence in addition to the weight of the substance that the person intended to manufacture, finance the manufacture of, advertise, or distribute the substance.

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

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

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

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

substances produced before September 1, 1986, where such samples are required by federal law.
As added by P.L.210-1986, SEC.2. Amended by P.L.165-1990, SEC.8; P.L.150-1999, SEC.1; P.L.225-2003, SEC.3; P.L.158-2013, SEC.629; P.L.168-2014, SEC.96.

IC 35-48-4-5

Dealing in a counterfeit substance

Sec. 5. A person who:

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

commits dealing in a counterfeit substance, a Level 6 felony. However, a person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the counterfeit substance that the person intended to deliver or finance the delivery of the counterfeit substance.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.100; P.L.165-1990, SEC.9; P.L.158-2013, SEC.630; P.L.168-2014, SEC.97.

IC 35-48-4-6

Possession of cocaine or narcotic drug

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

- (b) The offense is a Level 5 felony if:
 - (1) the amount of the drug involved is at least five (5) but less than ten (10) grams; or
 - (2) the amount of the drug involved is less than five (5) grams and an enhancing circumstance applies.
- (c) The offense is a Level 4 felony if:
 - (1) the amount of the drug involved is at least ten (10) but less than twenty-eight (28) grams; or
 - (2) the amount of the drug involved is at least five (5) but less than ten (10) grams and an enhancing circumstance applies.
- (d) The offense is a Level 3 felony if:
 - (1) the amount of the drug involved is at least twenty-eight (28) grams; or
 - (2) the amount of the drug involved is at least ten (10) but less

than twenty-eight (28) grams and an enhancing circumstance applies.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.101; Acts 1979, P.L.303, SEC.10; P.L.138-1983, SEC.3; P.L.296-1987, SEC.9; P.L.296-1995, SEC.7; P.L.65-1996, SEC.15; P.L.188-1999, SEC.7; P.L.17-2001, SEC.24; P.L.151-2006, SEC.24; P.L.158-2013, SEC.631; P.L.168-2014, SEC.98.

IC 35-48-4-6.1

Possession of methamphetamine

Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Level 6 felony, except as provided in subsections (b) through (d).

(b) The offense is a Level 5 felony if:

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

(2) the amount of the drug involved is less than five (5) grams and an enhancing circumstance applies.

(c) The offense is a Level 4 felony if:

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

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

(d) The offense is a Level 3 felony if:

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

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

As added by P.L.151-2006, SEC.25. Amended by P.L.158-2013, SEC.632; P.L.168-2014, SEC.99; P.L.226-2014(ts), SEC.11.

IC 35-48-4-7

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

Sec. 7. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, except marijuana, hashish, salvia, or a synthetic cannabinoid, commits possession of a controlled substance, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is a Level 6 felony if the person commits the offense and an enhancing circumstance applies.

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

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

commits a Class A misdemeanor.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.102; P.L.138-1983, SEC.4; P.L.327-1985, SEC.4; P.L.296-1987, SEC.10; P.L.296-1995, SEC.8; P.L.65-1996, SEC.16; P.L.17-2001, SEC.25; P.L.138-2011, SEC.14; P.L.182-2011, SEC.14; P.L.158-2013, SEC.633.

IC 35-48-4-8

Repealed

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

IC 35-48-4-8.1

Manufacture of paraphernalia

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

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

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

(b) A person who:

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

commits manufacture of paraphernalia, a Level 6 felony.

As added by Acts 1980, P.L.115, SEC.2. Amended by P.L.202-1989, SEC.3; P.L.165-1990, SEC.10; P.L.158-2013, SEC.634.

IC 35-48-4-8.2

Repealed

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

IC 35-48-4-8.3

Possession of paraphernalia

Sec. 8.3. (a) This section does not apply to a rolling paper.

(b) A person who knowingly or intentionally possesses an instrument, a device, or another object that the person intends to use for:

- (1) introducing into the person's body a controlled substance;

(2) testing the strength, effectiveness, or purity of a controlled substance; or

(3) enhancing the effect of a controlled substance;

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

As added by Acts 1980, P.L. 115, SEC.4. Amended by P.L.202-1989, SEC.5; P.L.166-1990, SEC.2; P.L.58-2003, SEC.1; P.L.158-2013, SEC.635; P.L.187-2015, SEC.49.

IC 35-48-4-8.5

Dealing in paraphernalia

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

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

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

(3) enhancing the effect of a controlled substance;

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

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

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

commits a Class A infraction for dealing in paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated judgment or conviction under this section.

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

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

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

(3) A qualified entity (as defined in IC 16-41-7.5-3) that provides a syringe or needle as part of a program under

IC 16-41-7.5.

(4) Any entity or person that provides funding to a qualified entity (as defined in IC 16-41-7.5-3) to operate a program described in IC 16-41-7.5.

As added by P.L.1-1991, SEC.206. Amended by P.L.58-2003, SEC.2; P.L.138-2011, SEC.15; P.L.182-2011, SEC.15; P.L.78-2012, SEC.13; P.L.158-2013, SEC.636; P.L.208-2015, SEC.18.

IC 35-48-4-9

Repealed

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

IC 35-48-4-10

Dealing in marijuana, hash oil, hashish, or salvia

Sec. 10. (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

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

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

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

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

(b) A person may be convicted of an offense under subsection (a)(2) only if there is evidence in addition to the weight of the drug that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the drug.

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

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

(A) less than thirty (30) grams of marijuana; or

(B) less than five (5) grams of hash oil, hashish, or salvia; or

(2) the amount of the drug involved is:

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least five (5) grams but less than three hundred (300) grams of hash oil, hashish, or salvia.

(d) The offense is a Level 5 felony if:

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

(A) at least thirty (30) grams but less than ten (10) pounds of marijuana; or

(B) at least five (5) grams but less than three hundred (300)

- grams of hash oil, hashish, or salvia; or
- (2) the:
 - (A) amount of the drug involved is:
 - (i) at least ten (10) pounds of marijuana; or
 - (ii) at least three hundred (300) grams of hash oil, hashish, or salvia; or
 - (B) offense involved a sale to a minor.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.105; Acts 1979, P.L.303, SEC.11; Acts 1982, P.L.204, SEC.38; P.L.296-1987, SEC.11; P.L.165-1990, SEC.12; P.L.296-1995, SEC.9; P.L.65-1996, SEC.17; P.L.17-2001, SEC.26; P.L.138-2011, SEC.16; P.L.182-2011, SEC.16; P.L.78-2012, SEC.14; P.L.196-2013, SEC.21; P.L.158-2013, SEC.637; P.L.168-2014, SEC.100.

IC 35-48-4-10.5

Dealing in a synthetic drug or synthetic drug lookalike substance

Sec. 10.5. (a) A person who:

- (1) manufactures;
- (2) finances the manufacture of;
- (3) delivers;
- (4) finances the delivery of;
- (5) possesses, with intent to deliver; or
- (6) possesses, with intent to finance the delivery of;

a synthetic drug or a synthetic drug lookalike substance commits dealing in a synthetic drug or synthetic drug lookalike substance, a Class A infraction. However, the offense is a Level 6 felony if the offense is committed knowingly or intentionally and the person has a prior unrelated judgment or conviction under this subsection.

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

(c) A person who:

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

a synthetic drug or synthetic drug lookalike substance; or

- (2) possesses, with intent to:
 - (A) manufacture;
 - (B) finance the manufacture of;
 - (C) deliver; or
 - (D) finance the delivery of;

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

(d) through (e).

(d) A person may be convicted of an offense under subsection (c)(2) only if there is evidence in addition to the weight of the synthetic drug or synthetic drug lookalike substance that the person intended to manufacture, finance the manufacture of, deliver, or finance the delivery of the synthetic drug or synthetic drug lookalike substance.

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

(1) a Level 6 felony if:

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

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

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

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

(A) on a school bus; or

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

(i) school property; or

(ii) a public park;

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

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

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

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

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

As added by P.L.196-2013, SEC.22. Amended by P.L.168-2014, SEC.101.

IC 35-48-4-11

Possession of marijuana, hash oil, hashish, or salvia

Sec. 11. (a) A person who:

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

commits possession of marijuana, hash oil, hashish, or salvia, a Class B misdemeanor, except as provided in subsections (b) through (c).

(b) The offense described in subsection (a) is a Class A misdemeanor if the person has a prior conviction for a drug offense.

(c) The offense described in subsection (a) is a Level 6 felony if:

- (1) the person has a prior conviction for a drug offense; and
- (2) the person possesses:
 - (A) at least thirty (30) grams of marijuana; or
 - (B) at least five (5) grams of hash oil, hashish, or salvia.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.106; Acts 1979, P.L.303, SEC.12; P.L.138-1983, SEC.5; P.L.138-2011, SEC.17; P.L.182-2011, SEC.17; P.L.6-2012, SEC.234; P.L.78-2012, SEC.15; P.L.196-2013, SEC.23; P.L.158-2013, SEC.638; P.L.168-2014, SEC.102; P.L.226-2014(ts), SEC.12.

IC 35-48-4-11.5

Synthetic drug or synthetic drug lookalike substance; penalties

Sec. 11.5. (a) As used in this section, "synthetic drug lookalike substance" has the meaning set forth in IC 35-31.5-2-321.5(a)(2).

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

(c) A person who knowingly or intentionally possesses a synthetic drug or synthetic drug lookalike substance commits possession of a synthetic drug or synthetic drug lookalike substance, a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section or under section 10.5 of this chapter.

As added by P.L.196-2013, SEC.24. Amended by P.L.185-2013, SEC.7; P.L.168-2014, SEC.103.

IC 35-48-4-12

Conditional discharge for possession as first offense

Sec. 12. If a person who has no prior conviction of an offense under this article or under a law of another jurisdiction relating to controlled substances pleads guilty to possession of marijuana, hashish, salvia, or a synthetic drug or a synthetic drug lookalike substance as a misdemeanor, the court, without entering a judgment of conviction and with the consent of the person, may defer further proceedings and place the person in the custody of the court under

conditions determined by the court. Upon violation of a condition of the custody, the court may enter a judgment of conviction. However, if the person fulfills the conditions of the custody, the court shall dismiss the charges against the person. There may be only one (1) dismissal under this section with respect to a person.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.107; P.L.138-2011, SEC.18; P.L.182-2011, SEC.18; P.L.78-2012, SEC.16; P.L.196-2013, SEC.25; P.L.158-2013, SEC.639; P.L.168-2014, SEC.104.

IC 35-48-4-13

Visiting or maintaining a common nuisance

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

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

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

(2) for unlawfully:

(A) manufacturing;

(B) keeping;

(C) offering for sale;

(D) selling;

(E) delivering; or

(F) financing the delivery of;

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

commits maintaining a common nuisance, a Level 6 felony.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.108; P.L.210-1986, SEC.4; P.L.165-1990, SEC.13; P.L.1-1991, SEC.207; P.L.31-1998, SEC.11; P.L.17-2001, SEC.27; P.L.158-2013, SEC.640.

IC 35-48-4-13.3

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

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

(1) unlawfully possess drugs or controlled substances; or

(2) unlawfully:

(A) manufacture;

(B) keep;

(C) offer for sale;

(D) sell;

(E) deliver; or

(F) finance the delivery of;

drugs or controlled substances;
commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under this section.

As added by P.L.225-2003, SEC.4. Amended by P.L.158-2013, SEC.641.

IC 35-48-4-14

Offenses relating to registration labeling and prescription forms

Sec. 14. (a) A person who:

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

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

(A) manufactures; or

(B) finances the manufacture of;

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

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

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

commits a Level 6 felony.

(b) A person who knowingly or intentionally:

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

(2) uses in the course of the:

(A) manufacture of;

(B) the financing of the manufacture of; or

(C) distribution of;

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

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

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

commits a Level 6 felony.

(c) A person who knowingly or intentionally acquires possession of a controlled substance by misrepresentation, fraud, forgery,

deception, subterfuge, alteration of a prescription order, concealment of a material fact, or use of a false name or false address commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction of an offense under this subsection.

(d) A person who knowingly or intentionally affixes any false or forged label to a package or receptacle containing a controlled substance commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction of an offense under this subsection. This subsection does not apply to law enforcement agencies or their representatives while engaged in enforcing IC 16-42-19 or this chapter (or IC 16-6-8 before its repeal).

(e) A person who duplicates, reproduces, or prints any prescription pads or forms without the prior written consent of a practitioner commits a Level 6 felony. However, the offense is a Level 5 felony if the person has a prior conviction of an offense under this subsection. This subsection does not apply to the printing of prescription pads or forms upon a written, signed order placed by a practitioner or pharmacist, by legitimate printing companies.

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.109; P.L.131-1986, SEC.3; P.L.165-1990, SEC.14; P.L.2-1993, SEC.193; P.L.158-2013, SEC.642.

IC 35-48-4-14.5

Possession or sale of drug precursors

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

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

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

(b) A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits a Level 6 felony. However, the offense is a Level 5 felony if the person possessed:

- (1) a firearm while possessing more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated; or
- (2) more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within five hundred (500) feet of:
 - (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

(c) A person who possesses anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, commits a Level 6 felony. However, the offense is a Level 5 felony if the person possessed:

- (1) a firearm while possessing anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6; or
- (2) anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances under IC 35-48-2-6, in, on, or within five hundred (500) feet of:
 - (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

- (d) Subsection (b) does not apply to a:
- (1) licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier or an agent of any of these persons if the possession is in the regular course of lawful business activities; or
 - (2) person who possesses more than ten (10) grams of a substance described in subsection (b) if the substance is possessed under circumstances consistent with typical medicinal or household use, including:
 - (A) the location in which the substance is stored;
 - (B) the possession of the substance in a variety of:
 - (i) strengths;
 - (ii) brands; or
 - (iii) types; or
 - (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.
- (e) A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance commits a Level 6 felony.
- (f) An offense under subsection (e) is a Level 5 felony if the person possessed:
- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or
 - (2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within five hundred (500) feet of:
 - (A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.
- (g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a Level 6 felony. However, the offense is a Level 5 felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.
- (h) This subsection does not apply to a drug containing ephedrine, pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:
- (1) has been convicted of:
 - (A) dealing in methamphetamine (IC 35-48-4-1.1);
 - (B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));
 - (C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture

- methamphetamine or amphetamine (subsection (c));
 - (D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); or
 - (E) unlawful sale of a precursor (subsection (g)); and
- (2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Level 6 felony.

As added by P.L.150-1999, SEC.2. Amended by P.L.17-2001, SEC.28; P.L.225-2003, SEC.5; P.L.192-2005, SEC.8; P.L.151-2006, SEC.26; P.L.193-2013, SEC.7; P.L.158-2013, SEC.643; P.L.168-2014, SEC.105.

IC 35-48-4-14.7

Pharmacy or NPLeX retailer; sale of ephedrine or pseudoephedrine; maximum purchase amounts; record keeping and electronic transmission of sales to NPLeX; suspicious orders and thefts; liability

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

- (1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.
- (2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (g).
- (3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (g).

(b) The following definitions apply throughout this section:

- (1) "Constant video monitoring" means the surveillance by an automated camera that:
 - (A) records at least one (1) photograph or digital image every ten (10) seconds;
 - (B) retains a photograph or digital image for at least seventy-two (72) hours;
 - (C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and
 - (D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

- (2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.
- (3) "Ephedrine" means pure or adulterated ephedrine.
- (4) "Pharmacy or NPLeX retailer" means:
- (A) a pharmacy, as defined in IC 25-26-13-2;
 - (B) a retailer containing a pharmacy, as defined in IC 25-26-13-2; or
 - (C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLeX) administered by the National Association of Drug Diversion Investigators (NADDI).
- (5) "Pseudoephedrine" means pure or adulterated pseudoephedrine.
- (6) "Retailer" means a grocery store, general merchandise store, or other similar establishment. The term does not include a pharmacy or NPLeX retailer.
- (7) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:
- (A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;
 - (B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or
 - (C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).
- (8) "Unusual theft" means the theft or unexplained disappearance from a particular pharmacy or NPLeX retailer of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.
- (c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy or NPLeX retailer. Except as provided in subsection (f), a retailer may not sell a drug containing ephedrine or pseudoephedrine.
- (d) A pharmacy or NPLeX retailer may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the pharmacy or NPLeX retailer complies with the following conditions:
- (1) The pharmacy or NPLeX retailer does not sell the drug to a person less than eighteen (18) years of age.
 - (2) The pharmacy or NPLeX retailer does not sell drugs containing more than:
 - (A) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day;
 - (B) seven and two-tenths (7.2) grams of ephedrine or

pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; or

(C) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) The pharmacy or NPLeX retailer requires:

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

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

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

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

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

(A) the name and address of each purchaser;

(B) the type of identification presented;

(C) the governmental entity that issued the identification;

(D) the identification number; and

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

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

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

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

(e) A person may not purchase drugs containing more than:

(1) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day;

(2) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period; or

(3) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period.

These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

(f) This subsection only applies to convenience packages. A retailer may sell convenience packages under this section without complying with the conditions listed in subsection (d):

(1) after June 30, 2013; and

(2) before January 1, 2014.

A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction. A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee. A retailer may not sell a drug containing ephedrine or pseudoephedrine after December 31, 2013.

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

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

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

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

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

(l) The following requirements apply to the NPLeX:

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

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

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

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

As added by P.L.192-2005, SEC.9. Amended by P.L.151-2006, SEC.27; P.L.186-2007, SEC.9; P.L.97-2010, SEC.1; P.L.221-2011, SEC.1; P.L.193-2013, SEC.8.

IC 35-48-4-15

Driving privileges suspension

Sec. 15. If a person is convicted of an offense under section 1, 1.1, 2, 3, 4, or 10 of this chapter, and the court finds that a motor vehicle was used in the commission of the offense, the court may, in addition to any other order the court enters, order that the person's driving privileges be suspended by the bureau of motor vehicles for a period specified by the court of not more than two (2) years.

As added by P.L.67-1990, SEC.13. Amended by P.L.107-1991, SEC.3; P.L.129-1993, SEC.2; P.L.64-1994, SEC.6; P.L.76-2004, SEC.23; P.L.125-2012, SEC.415; P.L.217-2014, SEC.194.

IC 35-48-4-16

Defenses to charge of selling narcotics near school or park

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

(1) delivery of cocaine, a narcotic drug, methamphetamine, or a controlled substance;

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

(3) possession of cocaine, a narcotic drug, methamphetamine, or a controlled substance;

within five hundred (500) feet of school property or a public park while a person less than eighteen (18) years of age was reasonably expected to be present, the person charged may assert the defense in subsection (b) or (c).

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

(1) a person was briefly in, on, or within five hundred (500) feet of school property or a public park while a person less than eighteen (18) years of age was reasonably expected to be present; and

(2) no person under eighteen (18) years of age at least three (3) years junior to the person was in, on, or within five hundred (500) feet of the school property or public park at the time of the offense.

(c) It is a defense for a person charged under this chapter with an offense that contains an element listed in subsection (a) that a person was in, on, or within five hundred (500) feet of school property or a public park:

(1) at the request or suggestion of a law enforcement officer or an agent of a law enforcement officer; and

(2) while a person less than eighteen (18) years of age was reasonably expected to be present.

(d) The defense under this section applies only to the element of the offense that requires proof that the delivery, financing of the delivery, or possession of cocaine, a narcotic drug, methamphetamine, or a controlled substance occurred in, on, or within five hundred (500) feet of school property or a public park while a person less than eighteen (18) years of age was reasonably expected to be present.

As added by P.L.17-2001, SEC.29. Amended by P.L.158-2013, SEC.644.

IC 35-48-4-17

Restitution for environmental cleanup

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

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

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