

HOUSE BILL No. 1303

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-7-4; IC 16-19-3-32; IC 20-20-43-3; IC 35-48.

Synopsis: Medical marijuana. Establishes the medicinal marijuana excise tax, and requires a medicinal marijuana dispensary to transfer the tax to the department of state revenue for deposit in the system for teacher and student advancement grant fund and the local infrastructure revolving fund. Requires the executive board of the state department of health to adopt rules to regulate registered medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees. Requires that medicinal marijuana sold in a medicinal marijuana dispensary must be harvested and processed in Indiana. Provides that certain crimes involving marijuana, hash oil, hashish, and paraphernalia do not apply in certain circumstances to medicinal marijuana cardholders, medicinal marijuana dispensaries, and registered medicinal marijuana dispensary employees.

Effective: July 1, 2017.

Candelaria Reardon

January 10, 2017, read first time and referred to Committee on Public Policy.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1303

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-7-4 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2017]:

4 **Chapter 4. Medicinal Marijuana Excise Tax**

5 **Sec. 1. The following definitions apply throughout this chapter:**

6 (1) "Department" means the department of state revenue.

7 (2) "Medicinal marijuana dispensary" means a medicinal
8 marijuana dispensary described in IC 35-48-8 and regulated
9 and approved by the state department of health.

10 **Sec. 2. The medicinal marijuana excise tax is imposed on**
11 **medicinal marijuana sold in Indiana.**

12 **Sec. 3. The medicinal marijuana excise tax is three dollars and**
13 **fifty cents (\$3.50) for each gram dispensed and a proportionate**
14 **amount for each fraction of a gram dispensed.**

15 **Sec. 4. A medicinal marijuana dispensary shall collect the**
16 **medicinal marijuana excise tax at the time the medicinal**
17 **marijuana is dispensed.**



1 **Sec. 5. Before the fifteenth day of each month, each medicinal**
 2 **marijuana dispensary liable for the tax imposed by this chapter**
 3 **shall:**

4 **(1) file a return with the department that includes all**
 5 **information required by the department, including the:**

6 **(A) name of the medicinal marijuana dispensary;**

7 **(B) address of medicinal marijuana dispensary;**

8 **(C) invoice date;**

9 **(D) invoice number; and**

10 **(E) weight of the medicinal marijuana dispensed during**
 11 **the preceding month; and**

12 **(2) pay the tax for which it is liable under this chapter for the**
 13 **preceding month, minus the amount specified in section 6 of**
 14 **this chapter.**

15 **All returns required to be filed and taxes required to be paid under**
 16 **this chapter must be made in an electronic format prescribed by**
 17 **the department.**

18 **Sec. 6. A medicinal marijuana dispensary that files a complete**
 19 **return and pays the tax due within the time specified in section 5**
 20 **of this chapter is entitled to deduct and retain from the tax a**
 21 **collection allowance of seven-thousandths (0.007) of the amount**
 22 **due. If a medicinal marijuana dispensary files an incomplete**
 23 **report, the department may reduce the collection allowance by an**
 24 **amount that does not exceed the lesser of:**

25 **(1) ten percent (10%) of the collection allowance; or**

26 **(2) fifty dollars (\$50).**

27 **Sec. 7. The department shall deposit fifty percent (50%) of the**
 28 **taxes collected under this chapter in the system for teacher and**
 29 **student advancement grant fund established by IC 20-20-43-3, and**
 30 **the remaining fifty percent (50%) of the taxes collected under this**
 31 **chapter in the local infrastructure revolving fund established by**
 32 **IC 4-10-19-3.**

33 SECTION 2. IC 16-19-3-32 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2017]: **Sec. 32. (a) The state department shall:**

36 **(1) process applications for medicinal marijuana cardholders**
 37 **under IC 35-48-8-2;**

38 **(2) issue cards for approved medicinal marijuana cardholders**
 39 **under IC 35-48-8-2; and**

40 **(3) regulate medicinal marijuana dispensaries under**
 41 **IC 35-48-8-4.**

42 **(b) The executive board shall adopt rules under IC 4-22-2 to**



1 regulate:

2 (1) registered medicinal marijuana cardholders under
3 IC 35-48-8-2;

4 (2) medical marijuana dispensaries under IC 35-48-8-4; and

5 (3) registered medicinal marijuana dispensary employees
6 under IC 35-48-8-4.

7 (c) The rules adopted by the executive board under subsection
8 (b) must require that a medical marijuana dispensary only
9 dispense marijuana that has been harvested and processed in
10 Indiana.

11 (d) The state department shall prescribe forms to carry out the
12 state department's duties under this section.

13 SECTION 3. IC 20-20-43-3, AS ADDED BY P.L.106-2016,
14 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2017]: Sec. 3. (a) The system for teacher and student
16 advancement grant fund is established for the purpose of providing
17 grants to school corporations to implement programs described in
18 section 4 of this chapter.

19 (b) The fund consists of the following:

20 (1) Appropriations made by the general assembly.

21 (2) Gifts, grants, devises, or bequests made to the commission for
22 higher education to achieve the purposes of the fund.

23 (3) **Transfers from the department of state revenue from the
24 medicinal marijuana excise tax.**

25 (c) The state board, in consultation with the department, shall
26 administer the fund.

27 (d) The expenses of administering the fund shall be paid from
28 money in the fund.

29 (e) The treasurer of state shall invest the money in the fund not
30 currently needed to meet the obligations of the fund in the same
31 manner as other public funds may be invested. Interest that accrues
32 from these investments shall be deposited in the fund.

33 (f) Money in the fund at the end of a state fiscal year does not revert
34 to the state general fund.

35 SECTION 4. IC 35-48-4-8.1, AS AMENDED BY P.L.158-2013,
36 SECTION 634, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2017]: Sec. 8.1. (a) A person who
38 manufactures, finances the manufacture of, or designs an instrument,
39 a device, or other object that is intended to be used primarily for:

40 (1) introducing into the human body a controlled substance;

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



1 (3) enhancing the effect of a controlled substance;
 2 in violation of this chapter commits a Class A infraction for
 3 manufacturing paraphernalia.

4 (b) A person who:

5 (1) knowingly or intentionally violates this section; and

6 (2) has a previous judgment for violation of this section;
 7 commits manufacture of paraphernalia, a Level 6 felony.

8 **(c) This section does not apply to a medicinal marijuana**
 9 **dispensary under IC 35-48-8 or a registered medicinal marijuana**
 10 **dispensary employee acting in the capacity of a medicinal**
 11 **marijuana dispensary employee.**

12 SECTION 5. IC 35-48-4-8.3, AS AMENDED BY P.L.187-2015,
 13 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2017]: Sec. 8.3. (a) This section does not apply to a rolling
 15 paper.

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

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

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

22 (3) enhancing the effect of a controlled substance;

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

26 **(c) It is a defense to a prosecution under this section that the**
 27 **person is a medicinal marijuana dispensary under IC 35-48-8 or a**
 28 **registered medicinal marijuana dispensary employee acting in the**
 29 **capacity as a medicinal marijuana dispensary employee.**

30 SECTION 6. IC 35-48-4-8.5, AS AMENDED BY P.L.208-2015,
 31 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2017]: Sec. 8.5. (a) A person who keeps for sale, offers for
 33 sale, delivers, or finances the delivery of a raw material, an instrument,
 34 a device, or other object that is intended to be or that is designed or
 35 marketed to be used primarily for:

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

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

41 (3) enhancing the effect of a controlled substance;

42 (4) manufacturing, compounding, converting, producing,



1 processing, or preparing marijuana, hash oil, hashish, salvia, a
 2 synthetic drug, or a controlled substance;

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

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

7 commits a Class A infraction for dealing in paraphernalia.

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

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

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

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

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

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

28 **(5) A medicinal marijuana dispensary under IC 35-48-8 or a**
 29 **registered medicinal marijuana dispensary employee acting**
 30 **in the capacity of a medicinal marijuana dispensary employee.**

31 SECTION 7. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
 32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2017]: Sec. 10. (a) A person who:

34 (1) knowingly or intentionally:

35 (A) manufactures;

36 (B) finances the manufacture of;

37 (C) delivers; or

38 (D) finances the delivery of;

39 marijuana, hash oil, hashish, or salvia, 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, or salvia, pure or adulterated;
 4 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
 5 misdemeanor, except as provided in subsections (b) through (d).
 6 (b) A person may be convicted of an offense under subsection (a)(2)
 7 only if:
 8 (1) there is evidence in addition to the weight of the drug that the
 9 person intended to manufacture, finance the manufacture of,
 10 deliver, or finance the delivery of the drug; or
 11 (2) the amount of the drug involved is at least:
 12 (A) ten (10) pounds, if the drug is marijuana; or
 13 (B) three hundred (300) grams, if the drug is hash oil, hashish,
 14 or salvia.
 15 (c) The offense is a Level 6 felony if:
 16 (1) the person has a prior conviction for a drug offense and the
 17 amount of the drug involved is:
 18 (A) less than thirty (30) grams of marijuana; or
 19 (B) less than five (5) grams of hash oil, hashish, or salvia; or
 20 (2) the amount of the drug involved is:
 21 (A) at least thirty (30) grams but less than ten (10) pounds of
 22 marijuana; or
 23 (B) at least five (5) grams but less than three hundred (300)
 24 grams of hash oil, hashish, or salvia.
 25 (d) The offense is a Level 5 felony if:
 26 (1) the person has a prior conviction for a drug dealing offense
 27 and the amount of the drug involved is:
 28 (A) at least thirty (30) grams but less than ten (10) pounds of
 29 marijuana; or
 30 (B) at least five (5) grams but less than three hundred (300)
 31 grams of hash oil, hashish, or salvia; or
 32 (2) the:
 33 (A) amount of the drug involved is:
 34 (i) at least ten (10) pounds of marijuana; or
 35 (ii) at least three hundred (300) grams of hash oil, hashish,
 36 or salvia; or
 37 (B) offense involved a sale to a minor.
 38 **(e) It is a defense to a prosecution under this section involving**
 39 **marijuana, hash oil, or hashish that the person is a medicinal**
 40 **marijuana dispensary under IC 35-48-8 or a registered medicinal**
 41 **marijuana dispensary employee acting in the capacity of a**
 42 **medicinal marijuana dispensary employee.**



1 SECTION 8. IC 35-48-4-11, AS AMENDED BY P.L.226-2014(ts),
 2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 11. (a) A person who:

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

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

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

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

- 14 (1) the person has a prior conviction for a drug offense; and
 15 (2) the person possesses:

16 (A) at least thirty (30) grams of marijuana; or

17 (B) at least five (5) grams of hash oil, hashish, or salvia.

18 **(d) It is a defense to a prosecution under this section involving**
 19 **marijuana, hash oil, or hashish that the person is a:**

20 **(1) person who is a registered medicinal marijuana**
 21 **cardholder under IC 35-48-8;**

22 **(2) medicinal marijuana dispensary under IC 35-48-8; or**

23 **(3) registered medicinal marijuana dispensary employee**
 24 **acting in the capacity of a medicinal marijuana dispensary**
 25 **employee.**

26 SECTION 9. IC 35-48-8 IS ADDED TO THE INDIANA CODE AS
 27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2017]:

29 **Chapter 8. Medicinal Marijuana**

30 **Sec. 1. As used in this chapter, "debilitating medical condition"**
 31 **means:**

32 **(1) cancer;**

33 **(2) glaucoma;**

34 **(3) positive status for human immunodeficiency virus;**

35 **(4) acquired immune deficiency syndrome;**

36 **(5) hepatitis C;**

37 **(6) amyotrophic lateral sclerosis;**

38 **(7) Crohn's disease;**

39 **(8) Alzheimer's disease;**

40 **(9) nail patella;**

41 **(10) multiple sclerosis;**

42 **(11) injury or disease to the spinal cord, spinal column, or**



1 vertebra;
 2 (12) myelomalacia;
 3 (13) celiac disease;
 4 (14) sickle cell anemia;
 5 (15) a chronic or debilitating disease or medical condition or
 6 the treatment for a chronic or debilitating disease or medical
 7 condition that produces:
 8 (A) cachexia or wasting syndrome;
 9 (B) severe or chronic pain;
 10 (C) severe or chronic nausea;
 11 (D) seizures, including seizures that are characteristic of
 12 epilepsy; or
 13 (E) severe or persistent muscle spasms; or
 14 (16) any other disease, condition, or symptom that the state
 15 department of health has determined by its rulemaking
 16 authority under IC 4-22-2 to be a debilitating medical
 17 condition.

18 **Sec. 2. (a)** A person may apply to the state department of health
 19 to be a registered medicinal marijuana cardholder if the person
 20 has a debilitating medical condition.

21 **(b)** To be approved as a registered medicinal marijuana
 22 cardholder, a person must submit to the state department of health
 23 a letter from a physician licensed to practice medicine under
 24 IC 25-22.5 stating that the person has a debilitating medical
 25 condition.

26 **(c)** The state department of health shall issue a person a card
 27 indicating the person is a registered medicinal marijuana
 28 cardholder after receiving an application under subsection (a) and
 29 a letter under subsection (b).

30 **Sec. 3.** A registered medicinal marijuana cardholder may not be
 31 prosecuted for possession of marijuana, hash oil, or hashish that
 32 the cardholder purchases at a medicinal marijuana dispensary
 33 licensed under section 4 of this chapter.

34 **Sec. 4.** The state department of health shall license and regulate
 35 medicinal marijuana dispensaries and medicinal marijuana
 36 dispensary employees under rules adopted by the executive board
 37 under IC 4-22-2.

