

# HOUSE BILL No. 1284

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-19; IC 34-30-2-64.5; IC 35-48-4.

**Synopsis:** Medical cannabis. Defines "qualifying patient", and permits a qualifying patient to use medical cannabis under certain circumstances. Requires the state department of health to adopt rules before July 1, 2017, concerning the use, distribution, cultivation, production, and testing of medical cannabis. Provides limited reciprocity for holders of nonresident medical cannabis cards. Provides immunity for physicians who recommend the medical use of cannabis. Makes conforming amendments.

**Effective:** July 1, 2016.

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## Errington

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January 12, 2016, read first time and referred to Committee on Public Health.

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Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

# HOUSE BILL No. 1284

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 16-19-3-32 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2016]: **Sec. 32. (a) The following definitions apply throughout**  
4 **this section:**  
5 (1) **"Bona fide medical physician-patient relationship"** means  
6 **a relationship between a physician and a patient that includes:**  
7 (A) **an annual physical examination and review of medical**  
8 **history or a referral from a primary care practitioner;**  
9 (B) **an explanation of the benefits and risks of medical use**  
10 **of cannabis; and**  
11 (C) **an expectation of ongoing care.**  
12 (2) **"Cannabis"** means any part of the plant genus *cannabis*,  
13 **including the seeds, the resin extracted from any part of the**  
14 **plant, and any compound, manufacture, salt, derivative,**  
15 **mixture, or preparation of the plant, its seeds, or its resin.**  
16 (3) **"Cannabis derived product"** means a product other than  
17 **whole plant cannabis that is manufactured from cannabis and**



- 1 is intended for use or consumption by humans through means  
 2 including food stuffs, extracts, oils, tinctures, topicals, and  
 3 suppositories.
- 4 **(4) "Dispensing facility" means a person or organization that:**  
 5 **(A) holds a valid medical cannabis production license; and**  
 6 **(B) acquires and possesses cannabis and cannabis derived**  
 7 **products for the purpose of sales, delivery, transport,**  
 8 **transfer, and distribution to:**  
 9 **(i) cardholding qualifying patients;**  
 10 **(ii) cardholding personal caregivers;**  
 11 **(iii) other dispensing facilities; and**  
 12 **(iv) independent testing laboratories.**
- 13 **(5) "Independent testing laboratory" means a private and**  
 14 **independent testing facility that:**  
 15 **(A) holds a valid medical cannabis production license; and**  
 16 **(B) tests cannabis or cannabis derived products to be sold**  
 17 **by a medical cannabis establishment to identify the content**  
 18 **of the cannabis or cannabis derived products, including**  
 19 **constitutive elements such as cannabinoids, to detect the**  
 20 **presence of any pesticides, bacteria, or other contaminants,**  
 21 **and for other purposes determined by the state**  
 22 **department.**
- 23 **(6) "Manufacturing facility" means a person or organization**  
 24 **that:**  
 25 **(A) holds a valid medical cannabis production license; and**  
 26 **(B) acquires, possesses, manufactures, and packages**  
 27 **cannabis derived products for the purpose of delivery,**  
 28 **transfer, transport, supply, or sale to:**  
 29 **(i) dispensing facilities;**  
 30 **(ii) other manufacturing facilities;**  
 31 **(iii) processing facilities; or**  
 32 **(iv) independent testing laboratories.**
- 33 **(7) "Medical cannabis agent" means an employee, staff**  
 34 **volunteer, officer, or board member of a medical cannabis**  
 35 **establishment.**
- 36 **(8) "Medical cannabis establishment" means a person,**  
 37 **organization, or company in possession of a valid medical**  
 38 **cannabis production license for the dispensing of medical**  
 39 **cannabis.**
- 40 **(9) "Medical cannabis production license" means a license**  
 41 **issued by the state department:**  
 42 **(A) authorizing the commercial cultivation of medical**



- 1                   cannabis by a person, organization, or company that  
 2                   operates a medical cannabis establishment; and  
 3                   **(B) allowing the person, organization, or company to:**  
 4                    (i) cultivate;  
 5                    (ii) process;  
 6                    (iii) manufacture; or  
 7                    (iv) test;  
 8                   medical cannabis.
- 9                   **(10) "Medical cannabis program license"** means a license  
 10                  issued by the state department authorizing a qualifying  
 11                  patient or a personal caregiver to acquire, possess, use, and  
 12                  deliver cannabis for the medical benefit of a qualifying  
 13                  patient.
- 14                  **(11) "Medical use of cannabis"** means the acquisition,  
 15                  cultivation, possession, processing, manufacturing, transfer,  
 16                  transportation, sale, distribution, dispensing, or  
 17                  administration of cannabis or cannabis derived products for  
 18                  the benefit of qualifying patients.
- 19                  **(12) "Nonresident card"** means a card or other identification  
 20                  that:  
 21                    **(A) is issued by another jurisdiction; and**  
 22                    **(B) is substantially similar to a medical cannabis program**  
 23                    **license.**
- 24                  **(13) "Patient cardholder"** means a person holding a valid  
 25                  medical cannabis program license.
- 26                  **(14) "Personal caregiver"** means an individual who has  
 27                  agreed to assist with the medical use of cannabis a qualifying  
 28                  patient holding an unexpired medical cannabis program  
 29                  license.
- 30                  **(15) "Physician"** means an individual holding an unlimited  
 31                  license to practice medicine under IC 25-22.5.
- 32                  **(16) "Processing facility"** means a business that:  
 33                    **(A) holds a medical cannabis production license; and**  
 34                    **(B) acquires, possesses, trims, inspects, or grades cannabis,**  
 35                    **or places cannabis in bulk storage or retail containers for**  
 36                    **the purpose of delivery, transfer, transport, supply, or**  
 37                    **sales to:**  
 38                    (i) a dispensing facility;  
 39                    (ii) a manufacturing facility;  
 40                    (iii) another processing facility; or  
 41                    (iv) an independent testing laboratory.
- 42                  **(17) "Producer cardholder"** means a person holding a valid



- 1           **medical cannabis production license.**  
2           **(18) "Qualifying medical condition" means:**  
3               **(A) cancer;**  
4               **(B) glaucoma;**  
5               **(C) positive status for human immunodeficiency virus;**  
6               **(D) acquired immune deficiency syndrome;**  
7               **(E) hepatitis C;**  
8               **(F) amyotrophic lateral sclerosis;**  
9               **(G) Crohn's disease;**  
10              **(H) Alzheimer's disease;**  
11              **(I) nail-patella;**  
12              **(J) multiple sclerosis;**  
13              **(K) injury or disease to the spinal cord, spinal column, or**  
14              **vertebra;**  
15              **(L) myelomalacia;**  
16              **(M) celiac disease;**  
17              **(N) sickle cell anemia;**  
18              **(O) a chronic or debilitating disease or medical condition**  
19              **or the treatment of a chronic or debilitating disease or**  
20              **medical condition that produces:**  
21                    **(i) cachexia or wasting syndrome;**  
22                    **(ii) severe or chronic pain;**  
23                    **(iii) severe or chronic nausea;**  
24                    **(iv) seizures, including seizures that are characteristic of**  
25                    **epilepsy; or**  
26                    **(v) severe or persistent muscle spasms;**  
27              **(P) posttraumatic stress disorder; or**  
28              **(Q) any other disease, condition, or symptom that the state**  
29              **department determines by its rulemaking authority under**  
30              **IC 4-22-2 to be a debilitating medical condition.**  
31           **(19) "Qualifying patient" means an individual who:**  
32                **(A) has a written recommendation from a physician for**  
33                **the medical use of cannabis; and**  
34                **(B) holds an unexpired medical cannabis program license.**  
35           **(20) "Restricted access area" means a location, not visible**  
36           **from a public right-of-way, where cannabis is cultivated or**  
37           **stored. The term includes an open field, a greenhouse, in row**  
38           **cover, or a structure that secures the cannabis from access by**  
39           **unauthorized persons. The term includes a personal garden if**  
40           **measures are taken to prohibit access by unauthorized**  
41           **persons.**  
42           **(21) "Visiting qualifying patient" means the holder of a valid**



- 1 nonresident card.
- 2 (22) "Written recommendation" means a document
- 3 authorizing a qualifying patient's medical use of cannabis
- 4 that:
- 5 (A) is written on tamper resistant paper;
- 6 (B) is signed by a physician;
- 7 (C) is made only in the course of a bona fide medical
- 8 physician-patient relationship; and
- 9 (D) includes the qualifying medical condition.
- 10 (b) Before July 1, 2017, the state department shall adopt rules
- 11 under IC 4-22-2 to do the following:
- 12 (1) Determine who may serve as a personal caregiver for a
- 13 qualifying patient. A personal caregiver may include:
- 14 (A) a health care provider; and
- 15 (B) an individual who is providing care to a qualifying
- 16 patient.
- 17 (2) Provide for the issuance of a:
- 18 (A) medical cannabis program license to a qualifying
- 19 patient or a personal caregiver; and
- 20 (B) medical cannabis production license to a medical
- 21 cannabis agent and a medical cannabis establishment.
- 22 (c) Before July 1, 2017, the state department shall adopt rules
- 23 under IC 4-22-2 to establish an application process and a
- 24 procedure for the issuance of a medical cannabis production
- 25 license to an independent testing laboratory. The state department
- 26 may issue a license under this subsection only if the independent
- 27 testing laboratory is capable of accurately determining the
- 28 following:
- 29 (1) The concentration of tetrahydrocannabinol (THC) in a
- 30 sample.
- 31 (2) The presence and identification of mold or fungus in a
- 32 sample.
- 33 (3) The presence and concentration of pesticide and fertilizer
- 34 in a sample.
- 35 (d) Before July 1, 2017, the state department shall adopt rules
- 36 under IC 4-22-2 to establish an application process and procedure
- 37 for the issuance of a medical cannabis production license to a
- 38 qualifying patient or a personal caregiver for the cultivation of
- 39 cannabis for personal use. Rules adopted under this subsection
- 40 must:
- 41 (1) permit not more than two (2) qualifying patients and
- 42 personal caregivers to jointly cultivate cannabis for the



- 1           personal use of one (1) or more qualifying patients;  
 2           (2) limit the amount of cannabis that may be cultivated to not  
 3           more than a ninety (90) day supply for each qualifying  
 4           patient; and  
 5           (3) require that cultivation and storage of cannabis be  
 6           conducted in a restricted access area.

7           (e) Before July 1, 2017, the state department shall adopt rules  
 8           under IC 4-22-2 to establish an application process and procedure  
 9           for the issuance of a medical cannabis production license to a  
 10          medical cannabis agent. Rules adopted under this subsection must  
 11          require that a medical cannabis establishment notify the state  
 12          department not later than one (1) business day after a medical  
 13          cannabis agent ceases to be associated with the medical cannabis  
 14          establishment.

15          (f) Before July 1, 2017, the state department shall adopt rules  
 16          under IC 4-22-2 to establish an application process and procedure  
 17          for the issuance of a medical cannabis production license to a  
 18          medical cannabis establishment. Rules adopted under this  
 19          subsection:

- 20               (1) may require a medical cannabis establishment to pay a  
 21               reasonable application and licensing fee;  
 22               (2) must require that the state department oversee and inspect  
 23               a medical cannabis establishment at regular intervals;  
 24               (3) must prohibit an individual who serves or served as a  
 25               principal officer or board member of a medical cannabis  
 26               establishment from concurrently serving as a principal officer  
 27               or board member of another medical cannabis establishment;  
 28               and  
 29               (4) may limit the total number of medical cannabis  
 30               establishments in:  
 31                       (A) Indiana; and  
 32                       (B) any one (1) county.

33          (g) Before July 1, 2017, the state department shall adopt rules  
 34          under IC 4-22-2 to establish a procedure to revoke, for good cause  
 35          shown, a license issued under this section. Rules adopted under this  
 36          subsection:

- 37               (1) must provide a patient cardholder and a producer  
 38               cardholder with notice and an opportunity to be heard before  
 39               the state board before permanent license revocation;  
 40               (2) may provide for license suspension for a limited time on an  
 41               emergency ex parte basis; and  
 42               (3) may authorize the use of sanctions short of revocation



- 1 (including temporary suspension or a probationary period)  
 2 for a minor or technical violation of this chapter or the rules  
 3 adopted under this chapter.
- 4 (h) Before July 1, 2017, the state department shall adopt rules  
 5 under IC 4-22-2 concerning:
- 6 (1) product safety standards for the:
- 7 (A) cultivation;  
 8 (B) processing;  
 9 (C) manufacturing;  
 10 (D) labeling;  
 11 (E) testing; and  
 12 (F) distribution;  
 13 of cannabis; and
- 14 (2) oversight and enforcement of product safety standards  
 15 adopted under this subsection.
- 16 Rules adopted under this subsection may be based on the cannabis  
 17 standards adopted by the American Herbal Products Association.
- 18 (i) A visiting qualifying patient shall receive limited reciprocity  
 19 while in Indiana. In order to receive the benefit of limited  
 20 reciprocity, the visiting qualifying patient must:
- 21 (1) not be a resident of Indiana or have resided in Indiana for  
 22 a period greater than thirty (30) days;  
 23 (2) be diagnosed with a medical condition listed under  
 24 subsection (a)(18); and  
 25 (3) possess a valid and unexpired nonresident card.
- 26 A valid and unexpired nonresident card has the same force and  
 27 effect as a medical cannabis program license issued in Indiana,  
 28 except that the visiting qualifying patient may not purchase  
 29 medical cannabis in Indiana.
- 30 (j) Before July 1, 2017, the state department shall adopt rules  
 31 under IC 4-22-2 concerning the issuance of a medical cannabis  
 32 program license to the holder of a valid nonresident card.
- 33 (k) The state department may establish and collect reasonable  
 34 fees for the application and issuance of a license under this section.  
 35 The state department may establish a fee for each type of license.  
 36 A fee may not exceed the cost of services provided, including the  
 37 costs of oversight, inspection, and enforcement.
- 38 (l) Identifying information relating to a qualifying patient or a  
 39 personal caregiver (including an individual who seeks to be  
 40 recognized as a qualifying patient or a personal caregiver) is  
 41 confidential.
- 42 (m) A physician is immune from civil and criminal liability for:





1 (1) advising a qualifying patient about the risks and benefits  
2 of the medical use of cannabis; and

3 (2) providing a qualifying patient with a written  
4 recommendation based upon a full assessment of the  
5 qualifying patient's medical history and condition.

6 However, the immunity described in this subsection does not apply  
7 to a physician who commits gross negligence or engages in willful  
8 or wanton misconduct.

9 (n) The medical licensing board may not take any action against  
10 a physician who is immune under subsection (m) for performing an  
11 act described in subsection (m)(1) or (m)(2).

12 (o) Unless required by federal law or to obtain federal funding,  
13 a person may not discriminate in employment or housing based  
14 solely on an individual's:

15 (1) status as a patient cardholder; or

16 (2) positive test for use of cannabis if the individual is a  
17 patient cardholder.

18 However, this subsection does not prevent an employer from  
19 taking an adverse employment action against an employee who is  
20 impaired by the use of cannabis while on the employer's premises  
21 or while carrying out the employee's duties.

22 SECTION 2. IC 16-19-5-1 IS AMENDED TO READ AS  
23 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) In addition to  
24 other fees provided by this title, the state department may establish and  
25 collect reasonable fees for specific services described under subsection  
26 (b) provided by the state department. The fees may not exceed the cost  
27 of services provided.

28 (b) Fees may be charged for the following services:

29 (1) Plan reviews conducted under rules adopted under  
30 IC 16-19-3-4(b)(13).

31 (2) Licensing of agricultural labor camps under IC 16-41-26.

32 (3) Services provided to persons other than governmental entities  
33 under rules adopted under IC 16-19-3-5.

34 (4) Services provided by the state health laboratory under  
35 IC 16-19-8.

36 (5) Services provided under IC 16-19-11-3.

37 (6) Services provided under IC 24-6 by the state metrology  
38 laboratory.

39 (7) Licensing under IC 16-19-3-32.

40 SECTION 3. IC 34-30-2-64.5 IS ADDED TO THE INDIANA  
41 CODE AS A NEW SECTION TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 2016]: **Sec. 64.5. IC 16-19-3-32 (Concerning**



1 **a physician and medical cannabis).**

2 SECTION 4. IC 35-48-4-8.3, AS AMENDED BY P.L.187-2015,  
3 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2016]: Sec. 8.3. (a) This section does not apply to a rolling  
5 paper.

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

- 9 (1) introducing into the person's body a controlled substance;  
10 (2) testing the strength, effectiveness, or purity of a controlled  
11 substance; or  
12 (3) enhancing the effect of a controlled substance;

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

16 **(c) It is a defense to an action or prosecution under this section**  
17 **that:**

- 18 **(1) the person who possesses the raw material, instrument,**  
19 **device, or other object is a patient cardholder (as defined in**  
20 **IC 16-19-3-32); and**  
21 **(2) the raw material, instrument, device, or other object is for**  
22 **a purpose authorized by the person's license issued under**  
23 **IC 16-19-3-32.**

24 SECTION 5. IC 35-48-4-10, AS AMENDED BY P.L.168-2014,  
25 SECTION 100, IS AMENDED TO READ AS FOLLOWS  
26 [EFFECTIVE JULY 1, 2016]: Sec. 10. (a) A person who:

27 (1) knowingly or intentionally:

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

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

33 (2) possesses, with intent to:

- 34 (A) manufacture;  
35 (B) finance the manufacture of;  
36 (C) deliver; or  
37 (D) finance the delivery of;

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

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

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



1 person intended to manufacture, finance the manufacture of, deliver,  
2 or finance the delivery of the drug.

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

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

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

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

8 (2) the amount of the drug involved is:

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

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

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

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

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

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

20 (2) the:

21 (A) amount of the drug involved is:

22 (i) at least ten (10) pounds of marijuana; or

23 (ii) at least three hundred (300) grams of hash oil, hashish,  
24 or salvia; or

25 (B) offense involved a sale to a minor.

26 **(e) It is a defense to a prosecution under this section for an**  
27 **offense involving marijuana, hash oil, or hashish that:**

28 **(1) the person is a patient cardholder (as defined in**  
29 **IC 16-19-3-32); and**

30 **(2) the conduct involving the marijuana, hash oil, or hashish**  
31 **is authorized by the person's license issued under**  
32 **IC 16-19-3-32.**

33 SECTION 6. IC 35-48-4-11, AS AMENDED BY P.L.226-2014(ts),  
34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2016]: Sec. 11. (a) A person who:

36 (1) knowingly or intentionally possesses (pure or adulterated)  
37 marijuana, hash oil, hashish, or salvia;

38 (2) knowingly or intentionally grows or cultivates marijuana; or

39 (3) knowing that marijuana is growing on the person's premises,  
40 fails to destroy the marijuana plants;

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



- 1 (b) The offense described in subsection (a) is a Class A
- 2 misdemeanor if the person has a prior conviction for a drug offense.
- 3 (c) The offense described in subsection (a) is a Level 6 felony if:
- 4 (1) the person has a prior conviction for a drug offense; and
- 5 (2) the person possesses:
- 6 (A) at least thirty (30) grams of marijuana; or
- 7 (B) at least five (5) grams of hash oil, hashish, or salvia.
- 8 **(d) It is a defense to a prosecution under this section for an**
- 9 **offense involving marijuana, hash oil, or hashish that:**
- 10 **(1) the person is a patient cardholder (as defined in**
- 11 **IC 16-19-3-32); and**
- 12 **(2) the conduct involving the marijuana, hash oil, or hashish**
- 13 **is authorized by the person's license issued under**
- 14 **IC 16-19-3-32.**

