



# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 174 be amended to read as follows:

- 1 Page 2, after line 10, begin a new paragraph and insert:
- 2 "SECTION 3. IC 35-48-4-8.1, AS AMENDED BY P.L.158-2013,
- 3 SECTION 634, IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2016]: Sec. 8.1. (a) A person who
- 5 manufactures, finances the manufacture of, or designs an instrument,
- 6 a device, or other object that is intended to be used primarily for:
- 7 (1) introducing into the human body a controlled substance;
- 8 (2) testing the strength, effectiveness, or purity of a controlled
- 9 substance; or
- 10 (3) enhancing the effect of a controlled substance;
- 11 in violation of this chapter commits a Class A infraction for
- 12 manufacturing paraphernalia.
- 13 (b) A person who:
- 14 (1) knowingly or intentionally violates this section; and
- 15 (2) has a previous judgment for violation of this section;
- 16 commits manufacture of paraphernalia, a Level 6 felony.
- 17 **(c) It is a defense to an action or prosecution under this section**
- 18 **that:**
- 19 **(1) the instrument, device, or other object is intended to be**
- 20 **used for:**
- 21 **(A) introducing into the person's body;**
- 22 **(B) testing the strength, effectiveness, or purity of; or**
- 23 **(C) enhancing the effect of;**
- 24 **marijuana, hash oil, or hashish; and**
- 25 **(2) the:**
- 26 **(A) manufacture;**
- 27 **(B) financing of the manufacture; or**

**(C) design;  
of the instrument, device, or other object is intended solely for  
use in a medical research project approved by the state  
department of health.**

SECTION 4. IC 35-48-4-8.3, AS AMENDED BY P.L.187-2015,  
SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2016]: 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.

**(c) It is a defense to a prosecution under this section that:**

**(1) the instrument, device, or other object is intended to be  
used for:**

- (A) introducing into the person's body;**
- (B) testing the strength, effectiveness, or purity of; or**
- (C) enhancing the effect of;**

**marijuana, hash oil, or hashish; and**

**(2) the use of the instrument, device, or other object is:**

- (A) within the scope of; and**
- (B) solely for use in;**

**a medical research project approved by the state department  
of health.**

SECTION 5. IC 35-48-4-8.5, AS AMENDED BY P.L.208-2015,  
SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2016]: 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  
**to the general public.**

(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.

**(5) Items designed or marketed for use in a medical research  
 project approved by the state department of health that  
 involves marijuana, hash oil, or hashish and not for sale to the  
 general public.**

SECTION 6. IC 35-48-4-10, AS AMENDED BY P.L.168-2014,  
 SECTION 100, IS AMENDED TO READ AS FOLLOWS  
 [EFFECTIVE JULY 1, 2016]: 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)~~ (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 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.

**(e) It is a defense to a prosecution under this section that:**

**(1) the offense involved marijuana, hash oil, or hashish; and**

**(2) the:**

**(A) manufacture;**

**(B) financing of the manufacture;**

**(C) delivery; or**

**(D) financing of the delivery;**

**of the drug is within the scope of and solely for use in a medical research project approved by the state department of health.**

SECTION 7. IC 35-48-4-11, AS AMENDED BY P.L.226-2014(ts), SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: 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

- 1 B misdemeanor, except as provided in subsections (b) through ~~(c)~~: **(d)**.  
 2 (b) The offense described in subsection (a) is a Class A  
 3 misdemeanor if the person has a prior conviction for a drug offense.  
 4 (c) The offense described in subsection (a) is a Level 6 felony if:  
 5 (1) the person has a prior conviction for a drug offense; and  
 6 (2) the person possesses:  
 7 (A) at least thirty (30) grams of marijuana; or  
 8 (B) at least five (5) grams of hash oil, hashish, or salvia.  
 9 **(d) It is a defense to a prosecution under this section that:**  
 10 **(1) the offense involved marijuana, hash oil, or hashish; and**  
 11 **(2) the:**  
 12 **(A) possession;**  
 13 **(B) growing; or**  
 14 **(C) cultivation;**  
 15 **of the drug is within the scope of and solely for use in a medical**  
 16 **research project approved by the state department of health."**  
 17 Renumber all SECTIONS consecutively.  
 (Reference is to SB 174 as printed January 14, 2016.)

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Senator TALLIAN