



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1214 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 6-2.5-8-7, AS AMENDED BY P.L.97-2017,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: Sec. 7. (a) The department may, for good cause,
6 revoke a certificate issued under section 1, 3, or 4 of this chapter.
7 However, the department must give the certificate holder at least five
8 (5) days notice before it revokes the certificate under this subsection.
9 Good cause for revocation may include the following:
10 (1) Failure to:
11 (A) file a return required under this chapter or for any tax
12 collected for the state in trust; or
13 (B) remit any tax collected for the state in trust.
14 (2) Being charged with a violation of any provision under IC 35.
15 (3) Being subject to a court order under IC 7.1-2-6-7,
16 IC 32-30-6-8, IC 32-30-7, or IC 32-30-8.
17 (4) Being charged with a violation of IC 23-15-12.
18 **(5) Selling low THC hemp extract (as defined in**
19 **IC 35-48-1-17.5) if the retailer knew or reasonably should**
20 **have known that the product is not derived from industrial**
21 **hemp (as defined in IC 15-15-13-6).**
22 The department may revoke a certificate before a criminal adjudication
23 or without a criminal charge being filed. If the department gives notice
24 of an intent to revoke based on an alleged violation of subdivision (2),
25 the department shall hold a public hearing to determine whether good
26 cause exists. If the department finds in a public hearing by a
27 preponderance of the evidence that a person has committed a violation

1 described in subdivision (2), the department shall proceed in
2 accordance with subsection (i) (if the violation resulted in a criminal
3 conviction) or subsection (j) (if the violation resulted in a judgment for
4 an infraction).

5 (b) The department shall revoke a certificate issued under section
6 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate
7 holder fails to:

- 8 (1) file the returns required by IC 6-2.5-6-1; or
- 9 (2) report the collection of any state gross retail or use tax on the
10 returns filed under IC 6-2.5-6-1.

11 However, the department must give the certificate holder at least five
12 (5) days notice before it revokes the certificate.

13 (c) The department may, for good cause, revoke a certificate issued
14 under section 1 of this chapter after at least five (5) days notice to the
15 certificate holder if:

- 16 (1) the certificate holder is subject to an innkeeper's tax under
17 IC 6-9; and
- 18 (2) a board, bureau, or commission established under IC 6-9 files
19 a written statement with the department.

20 (d) The statement filed under subsection (c) must state that:

- 21 (1) information obtained by the board, bureau, or commission
22 under IC 6-8.1-7-1 indicates that the certificate holder has not
23 complied with IC 6-9; and
- 24 (2) the board, bureau, or commission has determined that
25 significant harm will result to the county from the certificate
26 holder's failure to comply with IC 6-9.

27 (e) The department shall revoke or suspend a certificate issued
28 under section 1 of this chapter after at least five (5) days notice to the
29 certificate holder if:

- 30 (1) the certificate holder owes taxes, penalties, fines, interest, or
31 costs due under IC 6-1.1 that remain unpaid at least sixty (60)
32 days after the due date under IC 6-1.1; and
- 33 (2) the treasurer of the county to which the taxes are due requests
34 the department to revoke or suspend the certificate.

35 (f) The department shall reinstate a certificate suspended under
36 subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid
37 or the county treasurer requests the department to reinstate the
38 certificate because an agreement for the payment of taxes and any
39 penalties due under IC 6-1.1 has been reached to the satisfaction of the
40 county treasurer.

41 (g) The department shall revoke a certificate issued under section
42 1 of this chapter after at least five (5) days notice to the certificate
43 holder if the department finds in a public hearing by a preponderance
44 of the evidence that the certificate holder has violated IC 35-45-5-3,
45 IC 35-45-5-3.5, or IC 35-45-5-4.

46 (h) If a person makes a payment for the certificate under section 1

1 or 3 of this chapter with a check, credit card, debit card, or electronic
 2 funds transfer, and the department is unable to obtain payment of the
 3 check, credit card, debit card, or electronic funds transfer for its full
 4 face amount when the check, credit card, debit card, or electronic funds
 5 transfer is presented for payment through normal banking channels, the
 6 department shall notify the person by mail that the check, credit card,
 7 debit card, or electronic funds transfer was not honored and that the
 8 person has five (5) days after the notice is mailed to pay the fee in cash,
 9 by certified check, or other guaranteed payment. If the person fails to
 10 make the payment within the five (5) day period, the department shall
 11 revoke the certificate.

12 (i) If the department finds in a public hearing by a preponderance of
 13 the evidence that a person has a conviction for a violation of
 14 IC 35-48-4-10.5 and the conviction involved the sale of or the offer to
 15 sell, in the normal course of business, a synthetic drug or a synthetic
 16 drug lookalike substance by a retail merchant in a place of business for
 17 which the retail merchant has been issued a registered retail merchant
 18 certificate under section 1 of this chapter, the department:

19 (1) shall suspend the registered retail merchant certificate for the
 20 place of business for one (1) year; and

21 (2) may not issue another retail merchant certificate under section
 22 1 of this chapter for one (1) year to any person:

23 (A) that:

24 (i) applied for; or

25 (ii) made a retail transaction under;

26 the retail merchant certificate suspended under subdivision
 27 (1); or

28 (B) that:

29 (i) owned or co-owned, directly or indirectly; or

30 (ii) was an officer, a director, a manager, or a partner of;

31 the retail merchant that was issued the retail merchant
 32 certificate suspended under subdivision (1).

33 (j) If the department finds in a public hearing by a preponderance of
 34 the evidence that a person has a judgment for a violation of
 35 IC 35-48-4-10.5 as an infraction and the violation involved the sale of
 36 or the offer to sell, in the normal course of business, a synthetic drug
 37 or a synthetic drug lookalike substance by a retail merchant in a place
 38 of business for which the retail merchant has been issued a registered
 39 retail merchant certificate under section 1 of this chapter, the
 40 department:

41 (1) may suspend the registered retail merchant certificate for the
 42 place of business for six (6) months; and

43 (2) may withhold issuance of another retail merchant certificate
 44 under section 1 of this chapter for six (6) months to any person:

45 (A) that:

46 (i) applied for; or

- 1 (ii) made a retail transaction under;
- 2 the retail merchant certificate suspended under subdivision
- 3 (1); or
- 4 (B) that:
- 5 (i) owned or co-owned, directly or indirectly; or
- 6 (ii) was an officer, a director, a manager, or a partner of;
- 7 the retail merchant that was issued the retail merchant
- 8 certificate suspended under subdivision (1)."

9 Page 3, between lines 14 and 15, begin a new line block indented
10 and insert:

11 **"(4) "Manufacturer" means a person who manufactures low**
12 **THC hemp extract for distribution in Indiana."**

13 Page 3, line 16, after "extract" insert **"derived from industrial**
14 **hemp (as defined in IC 15-15-13-6)".**

15 Page 3, line 18, after "extract" insert **"derived from industrial**
16 **hemp (as defined in IC 15-15-13-6)".**

17 Page 3, line 29, delete "(THC)" and insert **"(THC), including**
18 **precursors and derivatives,".**

19 Page 3, line 32, delete "(THC)" and insert **"(THC), including**
20 **precursors and derivatives,".**

21 Page 3, line 42, delete "(THC)" and insert **"(THC), including**
22 **precursors and derivatives,".**

23 Page 4, line 30, delete "(THC)" and insert **"(THC), including**
24 **precursors and derivatives,".**

25 Page 4, delete lines 31 through 34, begin a new paragraph and
26 insert:

27 **"Sec. 6. (a) A manufacturer shall:**

28 **(1) register with the state department of health in a manner**
29 **approved by the state department of health; and**

30 **(2) provide the state department of health with the name,**
31 **address, and other contact information requested by the state**
32 **department of health of:**

33 **(A) the manufacturer; and**

34 **(B) every person who holds, directly or indirectly, an**
35 **ownership interest in the manufacturer.**

36 **(b) The:**

37 **(1) state department of health; and**

38 **(2) federal Food and Drug Administration;**

39 **may inspect the manufacturing facility at any time to determine**
40 **compliance with the manufacturing requirements of this chapter."**

41 Page 5, line 2, delete "if" and insert **"if:**

42 **(1)".**

43 Page 5, line 3, delete "IC 24-4-21-5." and insert **"IC 24-4-21-5;**

44 **(2) the retailer registers with the state department of health in**

45 **a manner approved by the state department of health; and**

46 **(3) the retailer provides the state department of health with**

- 1 **the name, address, and other contact information requested**
- 2 **by the state department of health of:**
- 3 **(A) the retailer; and**
- 4 **(B) every person who holds, directly or indirectly, an**
- 5 **ownership interest in the retailer."**
- 6 Page 5, delete lines 4 through 9.
- 7 Page 6, line 36, delete "(THC)" and insert "**(THC), including**
- 8 **precursors and derivatives,"**.
- 9 Page 7, delete lines 17 through 42.
- 10 Page 8, delete lines 1 through 5.
- 11 Page 9, between lines 5 and 6, begin a new paragraph and insert:
- 12 "SECTION 26. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
- 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: Sec. 10. (a) A person who:
- 15 (1) knowingly or intentionally:
- 16 (A) manufactures;
- 17 (B) finances the manufacture of;
- 18 (C) delivers; or
- 19 (D) finances the delivery of;
- 20 marijuana, hash oil, hashish, or salvia, pure or adulterated; or
- 21 (2) possesses, with intent to:
- 22 (A) manufacture;
- 23 (B) finance the manufacture of;
- 24 (C) deliver; or
- 25 (D) finance the delivery of;
- 26 marijuana, hash oil, hashish, or salvia, pure or adulterated;
- 27 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
- 28 misdemeanor, except as provided in subsections (b) through (d).
- 29 (b) A person may be convicted of an offense under subsection (a)(2)
- 30 only if:
- 31 (1) there is evidence in addition to the weight of the drug that the
- 32 person intended to manufacture, finance the manufacture of,
- 33 deliver, or finance the delivery of the drug; or
- 34 (2) the amount of the drug involved is at least:
- 35 (A) ten (10) pounds, if the drug is marijuana; or
- 36 (B) three hundred (300) grams, if the drug is hash oil, hashish,
- 37 or salvia.
- 38 (c) The offense is a Level 6 felony if:
- 39 (1) the person has a prior conviction for a drug offense and the
- 40 amount of the drug involved is:
- 41 (A) less than thirty (30) grams of marijuana; or
- 42 (B) less than five (5) grams of hash oil, hashish, or salvia; or
- 43 (2) the amount of the drug involved is:
- 44 (A) at least thirty (30) grams but less than ten (10) pounds of
- 45 marijuana; or
- 46 (B) at least five (5) grams but less than three hundred (300)

- 1 grams of hash oil, hashish, or salvia.
 2 (d) The offense is a Level 5 felony if:
 3 (1) the person has a prior conviction for a drug dealing offense
 4 and the amount of the drug involved is:
 5 (A) at least thirty (30) grams but less than ten (10) pounds of
 6 marijuana; or
 7 (B) at least five (5) grams but less than three hundred (300)
 8 grams of hash oil, hashish, or salvia; ~~or~~
 9 (2) the:
 10 (A) amount of the drug involved is:
 11 (i) at least ten (10) pounds of marijuana; or
 12 (ii) at least three hundred (300) grams of hash oil, hashish,
 13 or salvia; or
 14 (B) offense involved a sale to a minor; **or**
 15 **(3) the:**
 16 **(A) person is a retailer;**
 17 **(B) marijuana, hash oil, hashish, or salvia is packaged in a**
 18 **manner that appears to be low THC hemp extract; and**
 19 **(C) person knew or reasonably should have known that the**
 20 **product was marijuana, hash oil, hashish, or salvia."**
 21 Page 9, between lines 22 and 23, begin a new paragraph and insert:
 22 **"(d) The offense described in subsection (a) is a Level 6 felony if**
 23 **the:**
 24 **(1) marijuana, hash oil, hashish, or salvia is packaged in a**
 25 **manner that appears to be low THC hemp extract; and**
 26 **(2) person knew or reasonably should have known that the**
 27 **product was marijuana, hash oil, hashish, or salvia."**
 28 Re-number all SECTIONS consecutively.
 (Reference is to EHB 1214 as printed February 28, 2018.)

Senator FREEMAN