



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 low THC hemp extract.**
21 The department may revoke a certificate before a criminal adjudication
22 or without a criminal charge being filed. If the department gives notice
23 of an intent to revoke based on an alleged violation of subdivision (2),
24 the department shall hold a public hearing to determine whether good
25 cause exists. If the department finds in a public hearing by a
26 preponderance of the evidence that a person has committed a violation
27 described in subdivision (2), the department shall proceed in

1 accordance with subsection (i) (if the violation resulted in a criminal
2 conviction) or subsection (j) (if the violation resulted in a judgment for
3 an infraction).

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

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

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

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

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

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

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

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

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

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

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

45 (h) If a person makes a payment for the certificate under section 1
46 or 3 of this chapter with a check, credit card, debit card, or electronic

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

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

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

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

22 (A) that:

23 (i) applied for; or

24 (ii) made a retail transaction under;

25 the retail merchant certificate suspended under subdivision

26 (1); or

27 (B) that:

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

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

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

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

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

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

44 (A) that:

45 (i) applied for; or

46 (ii) made a retail transaction under;

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

8 Page 3, line 29, delete "(THC)" and insert "**(THC), including**
 9 **precursors,**".

10 Page 3, line 29, delete "dry".

11 Page 3, line 32, delete "(THC)" and insert "**(THC), including**
 12 **precursors,**".

13 Page 3, line 32, delete "dry".

14 Page 3, line 42, delete "(THC)" and insert "**(THC), including**
 15 **precursors,**".

16 Page 3, line 42, delete "dry".

17 Page 4, line 30, delete "(THC)" and insert "**(THC), including**
 18 **precursors,**".

19 Page 4, line 30, delete "dry".

20 Page 6, delete lines 33 through 34, begin a new line block indented
 21 and insert:

- 22 **"(1) is:**
 23 **(A) derived from or contains any part of the plant**
 24 **Cannabis sativa L.; and**
 25 **(B) derived from industrial hemp (as defined in**
 26 **IC 15-15-13-6);"**

27 Page 6, line 36, delete "(THC)" and insert "**(THC), including**
 28 **precursors,**".

29 Page 6, line 36, delete "dry".

30 Page 7, line 26, delete "(THC)" and insert "**(THC), including**
 31 **precursors,**".

32 Page 7, line 26, delete "dry".

33 Page 7, line 29, delete "(THC)" and insert "**(THC), including**
 34 **precursors,**".

35 Page 7, line 29, delete "dry".

36 Page 9, between lines 5 and 6, begin a new paragraph and insert:
 37 "SECTION 26. IC 35-48-4-10, AS AMENDED BY P.L.44-2016,
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 UPON PASSAGE]: Sec. 10. (a) A person who:

- 40 (1) knowingly or intentionally:
 41 (A) manufactures;
 42 (B) finances the manufacture of;
 43 (C) delivers; or
 44 (D) finances the delivery of;
 45 marijuana, hash oil, hashish, or salvia, pure or adulterated; or
 46 (2) possesses, with intent to:

- 1 (A) manufacture;
 2 (B) finance the manufacture of;
 3 (C) deliver; or
 4 (D) finance the delivery of;
 5 marijuana, hash oil, hashish, or salvia, pure or adulterated;
 6 commits dealing in marijuana, hash oil, hashish, or salvia, a Class A
 7 misdemeanor, except as provided in subsections (b) through (d).
 8 (b) A person may be convicted of an offense under subsection (a)(2)
 9 only if:
 10 (1) there is evidence in addition to the weight of the drug that the
 11 person intended to manufacture, finance the manufacture of,
 12 deliver, or finance the delivery of the drug; or
 13 (2) the amount of the drug involved is at least:
 14 (A) ten (10) pounds, if the drug is marijuana; or
 15 (B) three hundred (300) grams, if the drug is hash oil, hashish,
 16 or salvia.
 17 (c) The offense is a Level 6 felony if:
 18 (1) the person has a prior conviction for a drug offense and the
 19 amount of the drug involved is:
 20 (A) less than thirty (30) grams of marijuana; or
 21 (B) less than five (5) grams of hash oil, hashish, or salvia; or
 22 (2) the amount of the drug involved is:
 23 (A) at least thirty (30) grams but less than ten (10) pounds of
 24 marijuana; or
 25 (B) at least five (5) grams but less than three hundred (300)
 26 grams of hash oil, hashish, or salvia.
 27 (d) The offense is a Level 5 felony if:
 28 (1) the person has a prior conviction for a drug dealing offense
 29 and the amount of the drug involved is:
 30 (A) at least thirty (30) grams but less than ten (10) pounds of
 31 marijuana; or
 32 (B) at least five (5) grams but less than three hundred (300)
 33 grams of hash oil, hashish, or salvia; ~~or~~
 34 (2) the:
 35 (A) amount of the drug involved is:
 36 (i) at least ten (10) pounds of marijuana; or
 37 (ii) at least three hundred (300) grams of hash oil, hashish,
 38 or salvia; or
 39 (B) offense involved a sale to a minor; **or**
 40 **(3) the:**
 41 **(A) person is a retailer;**
 42 **(B) marijuana, hash oil, hashish, or salvia is packaged in a**
 43 **manner that appears to be low THC hemp extract; and**
 44 **(C) person knew or reasonably should have known that the**
 45 **product was marijuana, hash oil, hashish, or salvia."**
 46 Page 9, line 17, delete "if" and insert "if:

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(1)".
Page 9, line 17, delete "offense." and insert "offense; or
(2) the:
(A) marijuana, hash oil, hashish, or salvia is packaged in a manner that appears to be low THC hemp extract; and
(B) person knew or reasonably should have known that the product was marijuana, hash oil, hashish, or salvia."
Re-number all SECTIONS consecutively.
(Reference is to EHB 1214 as printed February 28, 2018.)

Senator YOUNG M