

IC 35-48**ARTICLE 48. CONTROLLED SUBSTANCES**

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IC 35-48-1-0.1**Application of certain amendments to chapter**

Sec. 0.1. The addition of section 9.3 of this chapter by P.L.225-2003 applies only to a controlled substance offense under IC 35-48-4 that occurs after June 30, 2003.

As added by P.L.220-2011, SEC.627. Amended by P.L.63-2012, SEC.81.

IC 35-48-1-1 Repealed

As added by Acts 1976, P.L.148, SEC.7. Amended by Acts 1977, P.L.340, SEC.95; Acts 1979, P.L.303, SEC.1; P.L.200-1987, SEC.3. Repealed by P.L.5-1988, SEC.208.

IC 35-48-1-2 Definitions; application

Sec. 2. The definitions in this chapter apply throughout this article.

As added by P.L.5-1988, SEC.182.

IC 35-48-1-3 "Administer"

Sec. 3. "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

- (1) a practitioner or by his authorized agent; or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

As added by P.L.5-1988, SEC.183.

IC 35-48-1-4 Repealed

As added by P.L.5-1988, SEC.184. Repealed by P.L.84-2010, SEC.102.

IC 35-48-1-5 "Agent"

Sec. 5. "Agent" means an authorized person who acts on behalf of, or at the direction of, a manufacturer, distributor, or dispenser, but it does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

As added by P.L.5-1988, SEC.185.

IC 35-48-1-6 "Board"

Sec. 6. "Board" refers to the Indiana state board of pharmacy.

As added by P.L.5-1988, SEC.186.

IC 35-48-1-6.5 Repealed

As added by P.L.188-2017, SEC.10. Repealed by P.L.153-2018, SEC.16.

IC 35-48-1-7 "Cocaine"

Sec. 7. "Cocaine" includes coca leaves and any salt, compound, or derivative of coca leaves, and any salt, compound, isomer, derivative, or preparation which is chemically equivalent or identical to any of these substances. However, decocainized coca leaves or extraction of coca leaves that do not contain cocaine or ecgonine are not included.

As added by P.L.5-1988, SEC.187.

IC 35-48-1-8 Repealed

As added by P.L.5-1988, SEC.188. Repealed by P.L.3-1989, SEC.224.

IC 35-48-1-9 "Controlled substance"

Sec. 9. "Controlled substance" means a drug, substance, or immediate precursor in schedule I, II, III, IV, or V under:

- (1) IC 35-48-2-4, IC 35-48-2-6, IC 35-48-2-8, IC 35-48-2-10, or IC 35-48-2-12, if IC 35-48-2-14 does not apply; or
- (2) a rule adopted by the board, if IC 35-48-2-14 applies.

The term does not include low THC hemp extract.

As added by P.L.5-1988, SEC.189. Amended by P.L.153-2018, SEC.17.

IC 35-48-1-9.3 "Controlled substance analog"

Sec. 9.3. (a) "Controlled substance analog" means a substance that, due to its chemical structure and potential for abuse or misuse, meets the following criteria:

- (1) The substance is substantially similar to a controlled substance classified under IC 35-48-2.
- (2) The substance has a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a narcotic, stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance classified under IC 35-48-2.
- (b) The definition set forth in subsection (a) does not include:
 - (1) a controlled substance;
 - (2) a legend drug;
 - (3) a substance for which there is an approved new drug application;
 - (4) any compound, mixture, or preparation that contains any controlled substance, that is not for administration to a human being or an animal, and that is packaged in a form or concentration, or with adulterants or denaturants, such that as packaged it does not present any significant potential for abuse; or
 - (5) a substance to which an investigational exemption applies under Section 505 of the federal Food, Drug and Cosmetic Act (chapter 675, 52 Stat. 1052 (21 U.S.C. 355)), but only to the extent that conduct with respect to the substance is pursuant to the exemption; or
 - (6) low THC hemp extract.

(c) For purposes of subsection (a), "substantially similar", as it applies to the chemical structure of a substance, means that the chemical structure of the substance, when compared to the structure of a controlled substance, has a single difference in the structural formula that substitutes one (1) atom or functional group for another, including:

- (1) one (1) halogen for another halogen;
- (2) one (1) hydrogen for a halogen;
- (3) one (1) halogen for a hydrogen; or
- (4) an alkyl group added or deleted:
 - (A) as a side chain to or from a molecule; or
 - (B) from a side chain of a molecule.

As added by P.L.225-2003, SEC.1. Amended by P.L.153-2018, SEC.18; P.L.80-2019, SEC.18.

IC 35-48-1-10 "Counterfeit substance"

Sec. 10. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

As added by P.L.5-1988, SEC.190.

IC 35-48-1-11 "Delivery"

Sec. 11. "Delivery" means:

- (1) an actual or constructive transfer from one (1) person to another of a controlled substance, whether or not there is an agency relationship; or
- (2) the organizing or supervising of an activity described in subdivision (1).

As added by P.L.5-1988, SEC.191. Amended by P.L.165-1990, SEC.1.

IC 35-48-1-12 "Dispense"

Sec. 12. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner and includes the

prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

As added by P.L.5-1988, SEC.192.

IC 35-48-1-13 "Dispenser"

Sec. 13. "Dispenser" means a practitioner who dispenses.

As added by P.L.5-1988, SEC.193.

IC 35-48-1-14 "Distribute"

Sec. 14. "Distribute" means to deliver other than by administering or dispensing a controlled substance.

As added by P.L.5-1988, SEC.194.

IC 35-48-1-15 "Distributor"

Sec. 15. "Distributor" means a person who distributes.

As added by P.L.5-1988, SEC.195.

IC 35-48-1-16 "Drug"

Sec. 16. (a) Except as provided in subsection (b), "drug" has the meaning set forth in IC 16-42-19-2. It does not include devices or their components, parts, or accessories, nor does it include food.

(b) For purposes of IC 35-48-4, "drug":

- (1) has the meaning set forth in subsection (a); and
- (2) includes a controlled substance (as defined in section 9 of this chapter) and a controlled substance analog (as defined in section 9.3 of this chapter).

As added by P.L.5-1988, SEC.196. Amended by P.L.2-1993, SEC.190; P.L.80-2019, SEC.19.

IC 35-48-1-16.3 "Drug related felony"

Sec. 16.3. "Drug related felony" means a felony conviction for an offense described in:

- (1) IC 35-48-4-1 through IC 35-48-4-11.5 (repealed); or
- (2) IC 35-48-4-13 (repealed) through IC 35-48-4-14.7.

As added by P.L.252-2017, SEC.20. Amended by P.L.80-2019, SEC.20.

IC 35-48-1-16.4 "Drug offense"

Sec. 16.4. "Drug offense" means a felony or misdemeanor involving the production, delivery, sale, or possession of a controlled substance.

As added by P.L.158-2013, SEC.618.

IC 35-48-1-16.5 "Enhancing circumstance"

Sec. 16.5. "Enhancing circumstance" means one (1) or more of the following:

- (1) The person has a prior conviction for dealing in a controlled substance that is not marijuana, hashish, hash oil, or salvia divinorum.
- (2) The person committed the offense while in possession of a firearm.
- (3) The person committed the offense:
 - (A) on a school bus; or
 - (B) in, on, or within five hundred (500) feet of:
 - (i) school property while a person under eighteen (18) years of age was reasonably expected to be present; or
 - (ii) a public park while a person under eighteen (18) years of age was reasonably expected to be present.
- (4) The person delivered or financed the delivery of the drug to a person under eighteen (18) years of age at least three (3) years junior to the person.
- (5) The person manufactured or financed the manufacture of the drug.

(6) The person committed the offense in the physical presence of a child less than eighteen (18) years of age, knowing that the child was present and might be able to see or hear the offense.

(7) The person committed the offense on the property of a:

(A) penal facility; or

(B) juvenile facility (as defined in IC 35-44.1-3-5).

(8) The person knowingly committed the offense in, on, or within one hundred (100) feet of a facility. For purposes of this subdivision, "facility" means a place that is:

(A) created and funded under IC 12-23-14 or IC 33-23-16;

(B) certified under IC 12-23-1-6; or

(C) used for the purpose of conducting a recovery or support group meeting; and at which a drug abuser (as defined in IC 12-7-2-73) may be provided with treatment, care, or rehabilitation.

As added by P.L.158-2013, SEC.619. Amended by P.L.168-2014, SEC.90; P.L.5-2019, SEC.2; P.L.80-2019, SEC.21; P.L.182-2019, SEC.2; P.L.142-2020, SEC.80.

IC 35-48-1-16.6 "Fentanyl related substance"

Sec. 16.6. "Fentanyl related substance" means any substance not listed in schedule I through V of IC 35-48-2 that is structurally related to fentanyl by one (1) or more of the following modifications:

(1) Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle.

(2) Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups.

(3) Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups.

(4) Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle.

(5) Replacement of the N-propionyl group by another acyl group.

As added by P.L.119-2019, SEC.3.

IC 35-48-1-16.7 "Fentanyl containing substance"

Sec. 16.7. "Fentanyl containing substance" means one (1) or more of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers:

(1) 4-fluoroisobutyryl fentanyl.

(2) Acetyl fentanyl (Other names include: N-(1-phenethylpiperidin-4-yl)- N-phenylacetamide).

(3) Cyclopentyl fentanyl. Other name: N-(1-phenethylpiperidin- 4-yl)-N-phenylcyclopentanecarboxamide.

(4) Fentanyl related substances.

(5) Furanyl fentanyl.

(6) Isobutyryl fentanyl. Other name: N-(1-phenethylpiperidin- 4-yl)-N-phenylisobutyramide.

(7) Methoxyacetyl fentanyl. Other name: 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide.

(8) 3-Methylfentanyl [N-[3-methyl-1-(2-phenylethyl)-4- piperidyl] - N-phenyl-propanimide] (9813).

(9) 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide) (9833).

(10) N-(4-chlorophenyl)- N-(1-phenethylpiperidin-4-yl) isobutyramide (para-chloroisobutyryl fentanyl).

(11) N-(2-fluorophenyl)-2-methoxy- N-(1-phenethylpiperidin-4-yl) acetamide

(ocfentani).

(12) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl) butyramide (para-fluorobutyryl fentanyl).

(13) N-(1-phenethylpiperidin-4-yl)-N-phenylbutyramide, also known as N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide, (butyryl fentanyl).

(14) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (valeryl fentanyl).

(15) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl) butyramide (para-methoxybutyryl fentanyl).

(16) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), including any isomers, salts, or salts of isomers (9834).

(17) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (isobutyryl fentanyl).

(18) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (cyclopentyl fentanyl).

(19) Para-chloroisobutyryl fentanyl. Other name: N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl) isobutyramide.

(20) Para-fluorobutyryl fentanyl. Other name: N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.

(21) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide (9812).

(22) Para-methoxybutyryl fentanyl. Other name: N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide.

(23) Tetrahydrofuranyl fentanyl. Other name: N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide.

(24) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl] propanamide) (9835).

(25) Valeryl fentanyl. Other name: N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide.

(26) Fentanyl.

(27) An immediate precursor to fentanyl: 4-Anilino-N-Phenethyl-4-Piperidine (ANPP).

(28) Carfentanil.

As added by P.L.48-2023, SEC.3.

IC 35-48-1-16.8 "Hashish"

Sec. 16.8. "Hashish" does not include low THC hemp extract.

As added by P.L.153-2018, SEC.19.

IC 35-48-1-16.9 "Hash oil"

Sec. 16.9. "Hash oil" does not include low THC hemp extract.

As added by P.L.153-2018, SEC.20.

IC 35-48-1-17 "Immediate precursor"

Sec. 17. "Immediate precursor" means a substance which the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediate used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

As added by P.L.5-1988, SEC.197.

IC 35-48-1-17.2 "Hemp bud"

Sec. 17.2. (a) "Hemp bud" means the harvested immature reproductive organ of the female hemp plant.

(b) The term does not include agricultural hemp seed.

As added by P.L.190-2019, SEC.26.

IC 35-48-1-17.3 "Hemp flower"

Sec. 17.3. (a) "Hemp flower" means the harvested reproductive organ, whether immature or mature, of the female hemp plant.

(b) The term does not include agricultural hemp seed.

As added by P.L.190-2019, SEC.27.

IC 35-48-1-17.4 "Isomer"

Sec. 17.4. (a) Except as provided in subsections (b) and (c), "isomer" means an optical isomer.

(b) "Isomer", as used in IC 35-48-2-4(d), means an optical, positional, or geometric isomer.

(c) "Isomer", as used in section 7 of this chapter, means an optical or geometric isomer.

As added by P.L.61-2020, SEC.3.

IC 35-48-1-17.5 "Low THC hemp extract"

Sec. 17.5. (a) "Low THC hemp extract" means a substance or compound that:

(1) is derived from or contains any part of the plant *Cannabis sativa* L. that meets the definition of hemp under IC 15-15-13-6;

(2) contains not more than three-tenths percent (0.3%) total delta-9-tetrahydrocannabinol (THC), including precursors, by weight; and

(3) contains no other controlled substances.

(b) The term does not include:

(1) the harvested reproductive organ, whether immature or mature, of the female hemp plant; or

(2) smokable hemp.

As added by P.L.153-2018, SEC.21. Amended by P.L.190-2019, SEC.28.

IC 35-48-1-18 "Manufacture"

Sec. 18. "Manufacture" means the following:

(1) For offenses not involving marijuana, hashish, or hash oil:

(A) the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. It does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(i) by a practitioner as an incident to administering or dispensing of a controlled substance in the course of a professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(B) the organizing or supervising of an activity described in clause (A).

(2) For offenses involving marijuana, hashish, or hash oil:

(A) the preparation, compounding, conversion, or processing of marijuana, hashish, or hash oil, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the marijuana, hashish, or hash oil, or labeling or relabeling of its container. It does not include planting, growing, cultivating, or harvesting a plant, or the preparation, compounding, packaging, or labeling of marijuana, hashish, or hash oil:

(i) by a practitioner as an incident to lawfully administering or dispensing of marijuana, hashish, or hash oil in the course of a professional practice; or

(ii) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(B) the organizing or supervising of an activity described in clause (A).

As added by P.L.5-1988, SEC.198. Amended by P.L.165-1990, SEC.2; P.L.17-2001, SEC.18; P.L.158-2013, SEC.620.

IC 35-48-1-19 "Marijuana"

Sec. 19. (a) "Marijuana" means any part of the plant genus *Cannabis* whether growing or not; the seeds thereof; the resin extracted from any part of the plant, including hashish and hash oil; any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

(b) The term does not include:

- (1) the mature stalks of the plant;
- (2) fiber produced from the stalks;
- (3) oil or cake made from the seeds of the plant;
- (4) any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom);
- (5) the sterilized seed of the plant which is incapable of germination;
- (6) hemp (as defined by IC 15-15-13-6);
- (7) low THC hemp extract; or
- (8) smokable hemp.

As added by P.L.5-1988, SEC.199. Amended by P.L.165-2014, SEC.3; P.L.153-2018, SEC.22; P.L.190-2019, SEC.29.

IC 35-48-1-20 "Narcotic drug"

Sec. 20. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.
- (2) Opium poppy and poppy straw.
- (3) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to this section.

As added by P.L.5-1988, SEC.200. Amended by P.L.61-2020, SEC.4.

IC 35-48-1-21 "Opiate" or "opioid"

Sec. 21. "Opiate" or "opioid" means a drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under IC 35-48-2, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

As added by P.L.5-1988, SEC.201. Amended by P.L.61-2020, SEC.5.

IC 35-48-1-22 "Opium poppy"

Sec. 22. "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

As added by P.L.5-1988, SEC.202.

IC 35-48-1-23 "Poppy straw"

Sec. 23. "Poppy straw" means any part, except the seeds, of the opium poppy, after mowing.

As added by P.L.5-1988, SEC.203.

IC 35-48-1-24 "Practitioner"

Sec. 24. "Practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other institution or individual licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in Indiana.

As added by P.L.5-1988, SEC.204.

IC 35-48-1-25 "Prescription drug"

Sec. 25. "Prescription drug" means a controlled substance or a legend drug (as defined in IC 16-18-2-199).

As added by P.L.5-1988, SEC.205. Amended by P.L.2-1993, SEC.191.

IC 35-48-1-26 "Production"

Sec. 26. "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

As added by P.L.5-1988, SEC.206.

IC 35-48-1-26.5 "Sale to minor"

Sec. 26.5. "Sale to a minor" means delivery or financing the delivery of a drug to a person less than eighteen (18) years of age and at least three (3) years junior to the person making the delivery or financing.

As added by P.L.158-2013, SEC.621.

IC 35-48-1-26.6 "Smokable hemp"

Sec. 26.6. (a) Except as provided in subsection (b), "smokable hemp" means a product containing not more than three-tenths percent (0.3%) delta-9-tetrahydrocannabinol (THC), including precursors and derivatives of THC, in a form that allows THC to be introduced into the human body by inhalation of smoke. The term includes:

- (1) hemp bud; and
- (2) hemp flower.

(b) The term does not include:

- (1) a hemp plant that is; or
- (2) parts of a hemp plant that are;

grown or handled by a licensee for processing or manufacturing into a legal hemp product.

As added by P.L.190-2019, SEC.30.

IC 35-48-1-26.7 Repealed

As added by P.L.188-2017, SEC.11. Repealed by P.L.153-2018, SEC.23.

IC 35-48-1-27 "Ultimate user"

Sec. 27. "Ultimate user" means a person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administering to an animal owned by the person or by a member of the person's household.

As added by P.L.5-1988, SEC.207.