

HOUSE BILL No. 1248

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-48.

Synopsis: Methamphetamine. Makes materials, compounds, mixtures, and preparations that contain ephedrine or pseudoephedrine schedule III controlled substances subject to being dispensed only by a prescription. Makes: (1) dealing in methamphetamine a Level 4 felony instead of a Level 5 felony; and (2) possession of methamphetamine a Level 5 felony instead of a Level 6 felony; if the person who committed the felony has a prior conviction for dealing in certain controlled substances, the person committed the felony while in possession of a firearm, the person committed the felony in, on, or within 1,000 feet of school property or a public park while a person under 18 years of age was present, the person who committed the felony delivered or financed the delivery of the drug to a person under 18 years of age and at least three years junior to the person, or the person who committed the felony manufactured or financed the manufacture of the drug. Makes possessing paraphernalia a Level 6 felony instead of a Class A misdemeanor if the person who committed the offense was in possession of methamphetamine or a chemical reagent or precursor while committing the offense. Makes possessing more than 10 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, a Level 5 felony instead of a Level 6 felony if the person who committed the felony possessed more than 10 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, in, on, or within 500 feet of: (1) school property; or (2) a public park; while a person under 18 years of age was present. Makes possessing anhydrous ammonia or ammonia solution with the intent to manufacture methamphetamine or amphetamine, schedule II controlled substances,
(Continued next page)

Effective: July 1, 2014.

Smaltz, Ober

January 14, 2014, read first time and referred to Committee on Courts and Criminal Code.



Digest Continued

a Level 5 felony instead of a Level 6 felony if the person who committed the felony possessed anhydrous ammonia or ammonia solution with intent to manufacture methamphetamine or amphetamine, schedule II controlled substances, in, on, or within 500 feet of: (1) school property; or (2) a public park; while a person under 18 years of age was present. Makes possession of two or more chemical reagents or precursors with the intent to manufacture a controlled substance a Level 5 felony instead of a Level 6 felony if the person who committed the felony possessed two or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within 500 feet of: (1) school property; or (2) a public park; while a person under 18 years of age was present.



Introduced

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1248

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 35-48-1-16.5, AS ADDED BY P.L.158-2013,
2 SECTION 619, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 16.5. "Enhancing circumstance"
4 means one (1) or more of the following:
5 (1) The person has a prior conviction for dealing in a controlled
6 substance that is not marijuana, hashish, hash oil, salvia
7 divinorum, or a synthetic drug.
8 (2) The person committed the offense while in possession of a
9 firearm.
10 (3) The person committed the offense:
11 (A) on a school bus; or
12 (B) in, on, or within five hundred (500) feet of:
13 (i) school property while a person under eighteen (18) years
14 of age was reasonably expected to be present; or



- 1 (ii) a public park while a person under eighteen (18) years
 2 of age was reasonably expected to be present;
 3 **and the drug involved was not methamphetamine.**
 4 **(4) The person committed the offense in, on, or within one**
 5 **thousand (1,000) feet of:**
 6 **(A) school property while a person under eighteen (18)**
 7 **years of age was present; or**
 8 **(B) a public park while a person under eighteen (18) years**
 9 **of age was present;**
 10 **and the drug involved was methamphetamine.**
 11 ~~(4)~~ **(5)** The person delivered or financed the delivery of the drug
 12 to a person under eighteen (18) years of age at least three (3)
 13 years junior to the person.
 14 ~~(5)~~ **(6)** The person manufactured or financed the manufacture of
 15 the drug.
- 16 SECTION 2. IC 35-48-2-8, AS AMENDED BY P.L.22-2008,
 17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2014]: Sec. 8. (a) The controlled substances listed in this
 19 section are included in schedule III.
- 20 (b) Stimulants. Unless specifically excepted or unless listed in
 21 another schedule, any material, compound, mixture, or preparation
 22 which contains any quantity of the following substances having a
 23 stimulant effect on the central nervous system, including its salts,
 24 isomers (whether optical, position, or geometric), and salts of such
 25 isomers whenever the existence of such salts, isomers, and salts of
 26 isomers is possible within the specific chemical designation:
- 27 (1) Those compounds, mixtures, or preparations in dosage unit
 28 form containing any stimulant substances listed in schedule II
 29 which compounds, mixtures, or preparations were listed on April
 30 1, 1986, as excepted compounds under 21 CFR 1308.32, and any
 31 other drug of the quantitative composition shown in that list for
 32 those drugs or that is the same except that it contains a lesser
 33 quantity of controlled substances (1405).
 34 (2) Benzphetamine (1228).
 35 (3) Chlorphentermine (1645).
 36 (4) Clortermine (1647).
 37 (5) Phendimetrazine (1615).
- 38 (c) Depressants. Unless specifically excepted or unless listed in
 39 another schedule, any material, compound, mixture, or preparation
 40 which contains any quantity of the following substances having a
 41 depressant effect on the central nervous system:
 42 (1) Any compound, mixture, or preparation containing:



- 1 (A) amobarbital (2126);
 2 (B) secobarbital (2316);
 3 (C) pentobarbital (2271); or
 4 (D) any of their salts;
 5 and one (1) or more other active medicinal ingredients which are
 6 not listed in any schedule.
- 7 (2) Any suppository dosage form containing:
 8 (A) amobarbital (2126);
 9 (B) secobarbital (2316);
 10 (C) pentobarbital (2271); or
 11 (D) any of their salts;
 12 and approved by the Food and Drug Administration for marketing
 13 only as a suppository.
- 14 (3) Any substance which contains any quantity of a derivative of
 15 barbituric acid, or any salt thereof (2100).
- 16 (4) Chlorhexadol (2510).
 17 (5) Embutramide (2020).
 18 (6) Lysergic acid (7300).
 19 (7) Lysergic acid amide (7310).
 20 (8) Methyprylon (2575).
 21 (9) Sulfondiethylmethane (2600).
 22 (10) Sulfonethylmethane (2605).
 23 (11) Sulfonmethane (2610).
 24 (12) A combination product containing Tiletamine and
 25 Zolazepam or any salt thereof (Telazol) (7295).
- 26 (13) Any drug product containing gamma-hydroxybutyric acid,
 27 including its salts, isomers, and salts of isomers, for which an
 28 application is approved under section 505 of the federal Food,
 29 Drug and Cosmetic Act, 21 U.S.C. 301 et seq. (2012).
- 30 (d) Nalorphine (a narcotic drug) (9400).
 31 (e) Narcotic Drugs. Unless specifically excepted or unless listed in
 32 another schedule, any material, compound, mixture, or preparation
 33 containing any of the following narcotic drugs, or their salts calculated
 34 as the free anhydrous base or alkaloid, in the following limited
 35 quantities:
 36 (1) Not more than 1.8 grams of codeine, per 100 milliliters or not
 37 more than 90 milligrams per dosage unit, with an equal or greater
 38 quantity of an isoquinoline alkaloid of opium (9803).
 39 (2) Not more than 1.8 grams of codeine, per 100 milliliters or not
 40 more than 90 milligrams per dosage unit, with one (1) or more
 41 active, nonnarcotic ingredients in recognized therapeutic amounts
 42 (9804).



- 1 (3) Not more than 300 milligrams of dihydrocodeinone, per 100
 2 milliliters or not more than 15 milligrams per dosage unit, with a
 3 fourfold or greater quantity of an isoquinoline alkaloid of opium
 4 (9805).
- 5 (4) Not more than 300 milligrams of dihydrocodeinone, per 100
 6 milliliters or not more than 15 milligrams per dosage unit, with
 7 one (1) or more active nonnarcotic ingredients in recognized
 8 therapeutic amounts (9806).
- 9 (5) Not more than 1.8 grams of dihydrocodeine, per 100 milliliters
 10 or not more than 90 milligrams per dosage unit, with one (1) or
 11 more active, nonnarcotic ingredients in recognized therapeutic
 12 amounts (9807).
- 13 (6) Not more than 300 milligrams of ethylmorphine, per 100
 14 milliliters or not more than 15 milligrams per dosage unit, with
 15 one (1) or more active, nonnarcotic ingredients in recognized
 16 therapeutic amounts (9808).
- 17 (7) Not more than 500 milligrams of opium per 100 milliliters or
 18 per 100 grams or not more than 25 milligrams per dosage unit,
 19 with one (1) or more active, nonnarcotic ingredients in recognized
 20 therapeutic amounts (9809).
- 21 (8) Not more than 50 milligrams of morphine, per 100 milliliters
 22 or per 100 grams with one (1) or more active nonnarcotic
 23 ingredients in recognized therapeutic amounts (9810).
- 24 (9) Buprenorphine (9064).
- 25 (f) Anabolic steroid (as defined in 21 U.S.C. 802(41)(A) and 21
 26 U.S.C. 802(41)(B)).
- 27 (g) The board shall except by rule any compound, mixture, or
 28 preparation containing any stimulant or depressant substance listed in
 29 subsections (b) through (e) from the application of any part of this
 30 article if the compound, mixture, or preparation contains one (1) or
 31 more active medicinal ingredients not having a stimulant or depressant
 32 effect on the central nervous system, and if the admixtures are included
 33 therein in combinations, quantity, proportion, or concentration that
 34 vitiate the potential for abuse of the substances which have a stimulant
 35 or depressant effect on the central nervous system.
- 36 (h) Any material, compound, mixture, or preparation which contains
 37 any quantity of Ketamine (7285).
- 38 (i) Hallucinogenic substances:
 39 Dronabinol (synthetic) in sesame oil and encapsulated in a soft
 40 gelatin capsule in a United States Food and Drug Administration
 41 approved drug product (7369).
- 42 **(j) A material, compound, mixture, or preparation that contains**



1 **a quantity of any of the following substances, pure or adulterated:**

2 **(1) Ephedrine.**

3 **(2) Pseudoephedrine.**

4 SECTION 3. IC 35-48-4-1.1, AS AMENDED BY P.L.158-2013,
5 SECTION 623, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2014]: Sec. 1.1. (a) A person who:

7 (1) knowingly or intentionally:

8 (A) manufactures;

9 (B) finances the manufacture of;

10 (C) delivers; or

11 (D) finances the delivery of;

12 methamphetamine, pure or adulterated; or

13 (2) possesses, with intent to:

14 (A) manufacture;

15 (B) finance the manufacture of;

16 (C) deliver; or

17 (D) finance the delivery of;

18 methamphetamine, pure or adulterated;

19 commits dealing in methamphetamine, a Level 5 felony, except as
20 provided in subsections (b) through (d).

21 (b) The offense is a Level 4 felony if:

22 (1) the amount of the drug involved is at least three (3) but less
23 than ten (10) grams; or

24 (2) ~~the amount of the drug involved is less than three (3) grams~~
25 ~~and~~ an enhancing circumstance applies.

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

27 (1) the amount of the drug involved is at least ten (10) but less
28 than twenty-eight (28) grams; or

29 (2) the amount of the drug involved is at least three (3) but less
30 than ten (10) grams and an enhancing circumstance applies.

31 (d) The offense is a Level 2 felony if:

32 (1) the amount of the drug involved is at least twenty-eight (28)
33 grams;

34 (2) the amount of the drug involved is at least ten (10) but less
35 than twenty-eight (28) grams and an enhancing circumstance
36 applies; or

37 (3) the person is manufacturing the drug and the manufacture
38 results in an explosion causing serious bodily injury to a person
39 other than the manufacturer.

40 SECTION 4. IC 35-48-4-6.1, AS AMENDED BY P.L.158-2013,
41 SECTION 632, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2014]: Sec. 6.1. (a) A person who, without a



1 valid prescription or order of a practitioner acting in the course of the
 2 practitioner's professional practice, knowingly or intentionally
 3 possesses methamphetamine (pure or adulterated) commits possession
 4 of methamphetamine, a Level 6 felony, except as provided in
 5 subsections (b) through (d).

6 (b) The offense is a Level 5 felony if:

7 (1) the amount of the drug involved is at least three (3) but less
 8 than ten (10) grams; or

9 (2) ~~the amount of the drug involved is less than three (3) grams~~
 10 ~~and~~ an enhancing circumstance applies.

11 (c) The offense is a Level 4 felony if:

12 (1) the amount of the drug involved is at least ten (10) but less
 13 than twenty-eight (28) grams; or

14 (2) the amount of the drug involved is at least three (3) but less
 15 than ten (10) grams and an enhancing circumstance applies.

16 (d) The offense is a Level 3 felony if:

17 (1) the amount of the drug involved is more than twenty-eight
 18 (28) grams; or

19 (2) the amount of the drug involved is at least ten (10) but less
 20 than twenty-eight (28) grams and an enhancing circumstance
 21 applies.

22 SECTION 5. IC 35-48-4-8.3, AS AMENDED BY P.L.158-2013,
 23 SECTION 635, IS AMENDED TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2014]: Sec. 8.3. (a) A person who possesses a
 25 raw material, an instrument, a device, or other object that the person
 26 intends to use for:

27 (1) introducing into the person's body a controlled substance;

28 (2) testing the strength, effectiveness, or purity of a controlled
 29 substance; or

30 (3) enhancing the effect of a controlled substance;

31 in violation of this chapter commits a Class A infraction for possessing
 32 paraphernalia.

33 (b) A person who knowingly or intentionally violates subsection (a)
 34 commits a Class A misdemeanor. However, the offense is a Level 6
 35 felony if:

36 **(1) the person committed the offense while in possession of:**

37 **(A) methamphetamine; or**

38 **(B) a chemical reagent or precursor (as defined in section**
 39 **14.5(a) of this chapter); or**

40 **(2) the person has a prior unrelated judgment or conviction under**
 41 **this section.**

42 SECTION 6. IC 35-48-4-14.5, AS AMENDED BY P.L.193-2013,



1 SECTION 7, AND AS AMENDED BY P.L.158-2013, SECTION 643,
2 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2014]: Sec. 14.5. (a) As used in this section,
4 "chemical reagents or precursors" refers to one (1) or more of the
5 following:

- 6 (1) Ephedrine.
- 7 (2) Pseudoephedrine.
- 8 (3) Phenylpropanolamine.
- 9 (4) The salts, isomers, and salts of isomers of a substance
10 identified in subdivisions (1) through (3).
- 11 (5) Anhydrous ammonia or ammonia solution (as defined in
12 IC 22-11-20-1).
- 13 (6) Organic solvents.
- 14 (7) Hydrochloric acid.
- 15 (8) Lithium metal.
- 16 (9) Sodium metal.
- 17 (10) Ether.
- 18 (11) Sulfuric acid.
- 19 (12) Red phosphorous.
- 20 (13) Iodine.
- 21 (14) Sodium hydroxide (lye).
- 22 (15) Potassium dichromate.
- 23 (16) Sodium dichromate.
- 24 (17) Potassium permanganate.
- 25 (18) Chromium trioxide.
- 26 (19) Benzyl cyanide.
- 27 (20) Phenylacetic acid and its esters or salts.
- 28 (21) Piperidine and its salts.
- 29 (22) Methylamine and its salts.
- 30 (23) Isosafrole.
- 31 (24) Safrole.
- 32 (25) Piperonal.
- 33 (26) Hydriodic acid.
- 34 (27) Benzaldehyde.
- 35 (28) Nitroethane.
- 36 (29) Gamma-butyrolactone.
- 37 (30) White phosphorus.
- 38 (31) Hypophosphorous acid and its salts.
- 39 (32) Acetic anhydride.
- 40 (33) Benzyl chloride.
- 41 (34) Ammonium nitrate.
- 42 (35) Ammonium sulfate.



- 1 (36) Hydrogen peroxide.
 2 (37) Thionyl chloride.
 3 (38) Ethyl acetate.
 4 (39) Pseudoephedrine hydrochloride.
- 5 (b) A person who possesses more than ten (10) grams of ephedrine,
 6 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
 7 commits a ~~Class D Level 6~~ felony. However, the offense is a ~~Class E~~
 8 ~~Level 5~~ felony if the person possessed:
- 9 (1) a firearm while possessing more than ten (10) grams of
 10 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
 11 adulterated; or
 12 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
 13 phenylpropanolamine, pure or adulterated, in, on, or within ~~one~~
 14 ~~thousand (1,000)~~ five hundred (500) feet of:
- 15 (A) school property while a person under eighteen (18) years
 16 of age was *reasonably expected to be present*; or
 17 (B) a public park while a person under eighteen (18) years of
 18 age was *reasonably expected to be present*.
 19 ~~(C) a family housing complex; or~~
 20 ~~(D) a youth program center.~~
- 21 (c) A person who possesses anhydrous ammonia or ammonia
 22 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 23 methamphetamine or amphetamine, schedule II controlled substances
 24 under IC 35-48-2-6, commits a ~~Class D Level 6~~ felony. However, the
 25 offense is a ~~Class E Level 5~~ felony if the person possessed:
- 26 (1) a firearm while possessing anhydrous ammonia or ammonia
 27 solution (as defined in IC 22-11-20-1) with intent to manufacture
 28 methamphetamine or amphetamine, schedule II controlled
 29 substances under IC 35-48-2-6; or
 30 (2) anhydrous ammonia or ammonia solution (as defined in
 31 IC 22-11-20-1) with intent to manufacture methamphetamine or
 32 amphetamine, schedule II controlled substances under
 33 IC 35-48-2-6, in, on, or within ~~one thousand (1,000)~~ five hundred
 34 (500) feet of:
- 35 (A) school property while a person under eighteen (18) years
 36 of age was *reasonably expected to be present*; or
 37 (B) a public park while a person under eighteen (18) years of
 38 age was *reasonably expected to be present*.
 39 ~~(C) a family housing complex; or~~
 40 ~~(D) a youth program center.~~
- 41 (d) Subsection (b) does not apply to a:
 42 (1) licensed health care provider, pharmacist, retail distributor,



1 wholesaler, manufacturer, warehouseman, or common carrier or
 2 an agent of any of these persons if the possession is in the regular
 3 course of lawful business activities; or

4 (2) person who possesses more than ten (10) grams of a substance
 5 described in subsection (b) if the substance is possessed under
 6 circumstances consistent with typical medicinal or household use,
 7 including:

8 (A) the location in which the substance is stored;

9 (B) the possession of the substance in a variety of:

10 (i) strengths;

11 (ii) brands; or

12 (iii) types; or

13 (C) the possession of the substance:

14 (i) with different expiration dates; or

15 (ii) in forms used for different purposes.

16 (e) A person who possesses two (2) or more chemical reagents or
 17 precursors with the intent to manufacture a controlled substance
 18 commits a ~~Class D~~ Level 6 felony.

19 (f) An offense under subsection (e) is a ~~Class E~~ Level 5 felony if the
 20 person possessed:

21 (1) a firearm while possessing two (2) or more chemical reagents
 22 or precursors with intent to manufacture a controlled substance;
 23 or

24 (2) two (2) or more chemical reagents or precursors with intent to
 25 manufacture a controlled substance in, on, or within ~~one thousand~~
 26 ~~(1,000)~~ five hundred (500) feet of:

27 (A) school property while a person under eighteen (18) years
 28 of age was *reasonably expected to be present*; or

29 (B) a public park while a person under eighteen (18) years of
 30 age was *reasonably expected to be present*.

31 ~~(C) a family housing complex; or~~

32 ~~(D) a youth program center.~~

33 (g) A person who sells, transfers, distributes, or furnishes a chemical
 34 reagent or precursor to another person with knowledge or the intent that
 35 the recipient will use the chemical reagent or precursors to manufacture
 36 a controlled substance commits unlawful sale of a precursor, a ~~Class D~~
 37 Level 6 felony. However, the offense is a ~~Class E~~ Level 5 felony if the
 38 person sells, transfers, distributes, or furnishes more than ten (10)
 39 grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

40 (h) This subsection does not apply to a drug containing ephedrine,
 41 pseudoephedrine, or phenylpropanolamine that is dispensed under a
 42 prescription. A person who:



- 1 (1) *has been convicted of:*
 2 (A) *dealing in methamphetamine (IC 35-48-4-1.1);*
 3 (B) *possession of more than ten (10) grams of ephedrine,*
 4 *pseudoephedrine, or phenylpropanolamine (subsection (b));*
 5 (C) *possession of anhydrous ammonia or ammonia solution*
 6 *(as defined in IC 22-11-20-1) with intent to manufacture*
 7 *methamphetamine or amphetamine (subsection (c));*
 8 (D) *possession of two (2) or more chemical reagents or*
 9 *precursors with the intent to manufacture a controlled*
 10 *substance (subsection (e)); or*
 11 (E) *unlawful sale of a precursor (subsection (g)); and or*
 12 **(F) possessing paraphernalia as a Level 6 felony under**
 13 **section 8.3(b)(1) of this chapter; and**
 14 (2) *not later than seven (7) years from the date the person was*
 15 *sentenced for the offense;*
 16 *knowingly or intentionally possesses ephedrine, pseudoephedrine, or*
 17 *phenylpropanolamine, pure or adulterated, commits possession of a*
 18 *precursor by a methamphetamine offender, a Class D Level 6 felony.*

