

## CHAPTER 134

( SB 50 )

AN ACT relating to industrial hemp.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔Section 1. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869~~[, unless the context requires otherwise]:~~

- (1) *"Agribusiness" has the same meaning as in Section 16 of this Act;*
- (2) *"Certified seed" means industrial hemp seed, including but not limited to Kentucky heritage hemp seed, that has been certified as having no more tetrahydrocannabinol concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;*
- (3) "Commission" means the Industrial Hemp Commission created by KRS 260.857;
- ~~(4)(2)~~ *"Grower" means any person licensed to grow industrial hemp by the commission pursuant to Section 11 of this Act*~~["Commissioner" means the Commissioner of the Department of Agriculture, or the Commissioner's designee];~~
- ~~(5)(3)~~~~"Department" means the Kentucky Department of Agriculture;~~
- ~~(4)~~ "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;
- (6) (a)~~(5)~~ *"Industrial hemp" means all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.*  
 (b) *"Industrial hemp" as defined and applied in Sections 1 to 14 of this Act is excluded from the definition of marijuana in KRS 218A.010*~~[all parts and varieties of the plant cannabis sativa, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of KRS 260.850 to 260.869, shall be excluded from the definition of marijuana, as defined in KRS 218A.010];~~
- (7) *"Kentucky heritage hemp seed" means industrial hemp seed that possesses characteristics of the unique and specialized industrial hemp seed variety that originated in the Commonwealth and has been recognized historically as a signature export of this state;*
- ~~(8)(6)~~ "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed *three-tenths of one percent (0.3%)*~~three percent (3%)~~; and
- ~~(9)(7)~~ "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

➔SECTION 2. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *The purpose of Sections 1 to 14 of this Act is to assist the Commonwealth in moving to the forefront of industrial hemp production, development, and commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, both nationally and globally and to the greatest extent possible. These purposes shall be accomplished, in part, through:*
  - (a) *The auspices of the Industrial Hemp Commission created by Section 5 of this Act;*

- (b) *The industrial hemp research program overseen by the commission, working in conjunction with the staff of the University of Kentucky Agricultural Experiment Station, along with the University of Louisville, the various comprehensive universities as defined in KRS 164.001, and other research partners. This research program shall include the planting, cultivation, and analysis of industrial hemp demonstration plots by selected growers that are licensed by the commission pursuant to Section 11 of this Act; and*
  - (c) *The pursuit of any federal permits or waivers necessary to allow industrial hemp to be grown in the Commonwealth.*
- (2) *The General Assembly hereby finds and declares that the authority granted in Sections 1 to 14 of this Act and the purposes accomplished hereby are proper governmental and public purposes, and that the development of industrial hemp production and commercial markets for hemp products within the Commonwealth is important to its economic well-being.*

➔Section 3. KRS 260.851 is amended to read as follows:

The *commission*~~[department]~~ shall promulgate administrative regulations, in accordance with~~[the provisions of]~~ KRS Chapter 13A, *as necessary to administer the industrial hemp research program, and to license persons to grow industrial hemp, pursuant to Sections 1 to 14 of this Act*~~[research on industrial hemp and hemp products]. The commission shall include as part of its administrative regulations, at a minimum, the establishment of industrial hemp testing criteria and protocols.~~

➔Section 4. KRS 260.853 is amended to read as follows:

- (1) The *commission*~~[Department of Agriculture]~~ shall promote the research and development of *industrial hemp, and commercial* markets for Kentucky industrial hemp and hemp products,~~[after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, and]~~ *as provided in this section, to the extent*~~[provided]~~ that adequate funds are available *and are approved by the commission* for these purposes from the industrial hemp program fund. The *commission*~~[department]~~ shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.
- (2) ~~[The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky.]~~
- ~~(3)~~ *In addition to its other pursuits, the commission*~~[selected institutions' industrial hemp research program]~~ shall undertake research of industrial hemp production *through the establishment and oversight of a five (5) year industrial hemp research program, to be directly managed by the University of Kentucky Agricultural Experiment Station, to the extent that adequate funds are available for the program from the industrial hemp program fund. This research program shall consist primarily of demonstration plots planted and cultivated in this*~~[the]~~ *state by selected growers, which shall be required to be licensed by the commission pursuant to Section 11 of this Act prior to planting any industrial hemp.*
- (3) The *commission*~~[department]~~ shall *pursue any*~~[assist the industrial hemp research program in obtaining the necessary federal]~~ *permits or waivers* from the United States Drug Enforcement Agency or appropriate federal agency *that are necessary for the advancement of the industrial hemp research program.*
- (4) *As part of*~~[In undertaking]~~ the industrial hemp research program~~[,]~~ *the commission shall, through the University of Kentucky Agricultural Experiment Station and in collaboration with the University of Louisville, the various comprehensive universities as defined in KRS 164.001, to the greatest extent possible according to the particular area of research expertise of each university, and other research partners*~~[university or universities are authorized to:]~~
  - (a) *Oversee and analyze the growth of*~~[grow]~~ industrial hemp *by selected and licensed growers, for*~~[to conduct]~~ agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of *various varieties of* industrial hemp *that may be suitable* for various commercial *hemp* products~~[, including but not limited to hemp seed, paper, clothing, and oils];~~
  - (b) Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production, *and establish a program to recognize certain industrial hemp seed as being Kentucky heritage hemp seed;*

- (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
  - (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
  - (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
  - (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
  - (g) Study the feasibility of attracting *federal and* private funding for the Kentucky industrial hemp research program.
- (5) ***In addition to the research and analysis outlined in subsection (4) of this section, the commission shall:***
- (a) ***Coordinate with the University of Kentucky Center for Applied Energy Research to study the use of industrial hemp in new energy technologies. This research shall include but not be limited to:***
    - 1. ***Evaluation of the use of industrial hemp to generate electricity, and to produce biofuels and other forms of energy resources;***
    - 2. ***Growth of industrial hemp on reclaimed mine sites;***
    - 3. ***Use of hemp seed oil in the production of fuels; and***
    - 4. ***An assessment of the production costs, environmental issues, and costs and benefits involved with the use of industrial hemp for energy; and***
  - (b) ***Coordinate with the Cabinet for Economic Development to promote awareness of the financial incentives that may be available to agribusiness and manufacturing companies that manufacture industrial hemp into hemp products, as provided through the Kentucky Business Investment program pursuant to Subchapter 32 of KRS Chapter 154, in order to diversify the agricultural economy of the Commonwealth, attract new businesses to the state, create new job opportunities for Kentucky residents, and create a commercial market for industrial hemp.***
- (6){(4)} The ***research activities outlined***~~[authorization granted]~~ in ***subsections***~~[subsection]~~ (4) and (5){(3)} of this section shall not:
- (a) Subject the industrial hemp research program~~[or the selected university or universities where it is located]~~ to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program~~[or the selected university or universities]~~ that are not expressly permitted in the authorization; ***or***~~[ ]~~
  - (b) {(5)} ~~The authorization granted in subsection (3) of this section shall not~~ Alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.
- (7){(6)} The ***commission***~~[selected university or universities of the industrial hemp research program]~~ shall notify the ***Department of Kentucky State Police***~~[headquarters of the Department of Kentucky State Police, the local barracks of the Department of Kentucky State Police,]~~ and all~~[other]~~ local law enforcement agencies of the duration, size, and location of all industrial hemp ***demonstration*** plots.
- (8){(7)} The ***commission***~~[Commissioner and the university or universities]~~ may cooperatively seek funds from both public and private sources to implement ***the industrial hemp research program***~~[this section]~~. The funds shall be deposited into the industrial hemp program fund.
- (9){(8)} By ***December 31, 2013***~~[October 1, 2001,]~~ and annually thereafter, the ***commission***~~[university or universities]~~ shall report on the status and progress of the industrial hemp research program~~[authorized by this section]~~ to the ***Governor and to the Legislative Research Commission***~~[Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture, and the Interim Joint Committee on Natural Resources and Environment]~~.

➔Section 5. KRS 260.857 is amended to read as follows:

- (1) The Kentucky Industrial Hemp Commission is created and is attached to the *University of Kentucky Agricultural Experiment Station* ~~Department of Agriculture~~ for administrative purposes.
- (2) The membership of the commission shall consist of at least *the following* ~~seventeen (17)~~ members ~~as follows~~:
- (a) ~~(1)~~ The Speaker of the House of Representatives or the Speaker's designee;
  - (b) ~~(2)~~ The President of the Senate or the President's designee;
  - (c) ~~(3)~~ The chair of the Senate Agriculture Committee;
  - (d) ~~(4)~~ The chair of the House Agriculture and Small Business Committee;
  - (e) ~~(5)~~ The Commissioner of the Department of Agriculture or the Commissioner's designee;
  - (f) ~~(6)~~ The commissioner of the Department of Kentucky State Police or the commissioner's designee;
  - (g) ~~(7)~~ The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;
  - (h) ~~(8)~~ *The dean of the University of Kentucky College of Agriculture or the dean's designee* ~~The chairs of the agriculture departments at the Kentucky university or universities where the industrial hemp research program is to be established~~;
  - (i) ~~(9)~~ *One (1) member representing each of the following institutions choosing to participate in the commission:*
    - 1. *Eastern Kentucky University;*
    - 2. *Kentucky State University;*
    - 3. *Morehead State University;*
    - 4. *Murray State University;*
    - 5. *Northern Kentucky University;*
    - 6. *University of Louisville; and*
    - 7. *Western Kentucky University;*
  - (j) The president of the Kentucky Hemp Growers Cooperative Association;
  - (k) ~~(10)~~ The president of the Kentucky Sheriffs' Association *or the association president's designee*;
  - (l) ~~(11)~~ The president of the Kentucky Association of Chiefs of Police *or the association president's designee*; ~~and~~
  - (m) ~~(12)~~ Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate, representing the following interests:
    - 1. ~~(a)~~ Kentucky farmers with an interest in growing industrial hemp;
    - 2. ~~(b)~~ Retailers of industrial hemp products;
    - 3. ~~(c)~~ Wholesalers of industrial hemp products; and
    - 4. ~~(d)~~ Manufacturers of industrial hemp products; *and*
  - (n) *Two (2) at-large members on a recommendation of the chair and approved by a majority of the members of the commission.*
- (3) (a) *Except as provided in paragraph (b) of this subsection, members appointed pursuant to subsections (2)(m) and (2)(n) of this section shall serve a term of four (4) years, and may be reappointed.*
- (b) *The term of office of each member appointed pursuant to subsections (2)(m) and (2)(n) of this section, whom is serving on the commission on the effective date of this Act, shall expire on December 31, 2013. Upon the expiration of a member's term of office pursuant to this paragraph, that position shall be filled by appointment as provided in this section.*

➔Section 6. KRS 260.859 is amended to read as follows:

- (1) A majority of the members of the commission shall constitute a quorum.

- (2) *The Commissioner of the Department of Agriculture shall serve as vice chair, and the commission* ~~[The members]~~ shall elect *annually* one (1) member *from among the remaining members* to serve as chair.

➔Section 7. KRS 260.861 is amended to read as follows:

- (1) The commission shall meet quarterly and may meet more often upon the call of the chair or by a majority of the members.
- (2) The commission shall be appointed and conduct the first meeting by July 1, 2001.
- (3) Except as provided in KRS 18A.200, members of the commission shall receive actual traveling expenses while attending meetings of the commission.
- (4) *Research and development related* ~~[Staff]~~ services for the commission shall be provided by the *University of Kentucky Agricultural Experiment Station. Administrative support services shall be provided to the commission by the* Department of Agriculture *at the request of the commission, including but not limited to services relating to:*
  - (a) *Testing of industrial hemp;*
  - (b) *The processing of documents relating to the program of licensure;*
  - (c) *Financial accounting and recordkeeping, and other budgetary functions; and*
  - (d) *Meeting coordination and staffing.*
- (5) *Administrative expenses of the commission, including but not limited to expenses for the services outlined in subsection (4) of this section, shall be paid from the industrial hemp program fund established in Section 10 of this Act as approved by the commission.*

➔Section 8. KRS 260.863 is amended to read as follows:

~~{(1) —}~~ *In addition to the report required in Section 4 of this Act, the commission shall* ~~develop recommendations on industrial hemp legislation by December 15, 2001, and annually thereafter shall] report [on the recommendations] to the Governor, [the Interim Joint Committee on Agriculture, the Interim Joint Committee on Natural Resources and Environment,] and to the Legislative Research Commission with respect to industrial hemp policies and practices that will result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry. These policies and practices shall, at a minimum, address the following:~~

- ~~(1){(a)}~~ Federal laws and regulatory constraints;
- ~~(2){(b)}~~ The economic and financial feasibility of an industrial hemp market in Kentucky;
- ~~(3){(c)}~~ Kentucky businesses that utilize industrial hemp;
- ~~(4){(d)}~~ Examination of research on industrial hemp production and utilization;
- ~~(5){(e)}~~ The potential for globally marketing Kentucky industrial hemp;
- ~~(6){(f)}~~ Feasibility study of private funding for the Kentucky industrial hemp research program;
- ~~(7){(g)}~~ Law enforcement concerns;
- ~~(8){(h)}~~ Statutory and regulatory schemes for growing of industrial hemp by private producers; and
- ~~(9){(i)}~~ Technical support and education about industrial hemp.

~~{(2) —} The commission shall also continue to monitor the research and development of industrial hemp in the United States and the Kentucky industrial hemp research program.~~

➔Section 9. KRS 260.865 is amended to read as follows:

- (1) Kentucky shall adopt the federal rules and regulations that are currently enacted regarding industrial hemp and any subsequent changes thereto.
- (2) *Nothing in Sections 1 to 14 of this Act shall be construed to authorize any person to violate any federal rules or regulations.*
- (3) *If any part of Sections 1 to 14 of this Act conflicts with a provision of federal law relating to industrial hemp that has been adopted in Kentucky under this section, the federal provision shall control to the extent of the conflict.*

➔Section 10. KRS 260.869 is amended to read as follows:

- (1) There is established~~[and created]~~ in the State Treasury a ***trust and agency*** fund entitled the ***industrial hemp program fund***,~~["Industrial Hemp Program Fund"]~~ to ***be administered by the commission for the purpose of covering***~~[provide funds to offset]~~ the costs of the ***commission and the industrial hemp research*** program, ***as approved by the***~~[and the Kentucky Industrial Hemp]~~ commission.
- (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private, ***and shall receive all license application fees and license renewal fees collected by the commission.*** Money deposited in the fund is ***hereby appropriated for purposes set out in this section***~~[shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative].~~
- (3) ***Notwithstanding KRS 45.229,*** any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any ***interest or other*** income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse ***but shall be carried forward for purposes of the fund***~~[, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the industrial hemp program].~~

➔SECTION 11. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) ***The commission shall establish a program of licensure to allow persons to grow industrial hemp in the Commonwealth, as provided in this section. The program shall include the following two (2) separate forms of licensure:***
  - (a) ***An industrial hemp research program grower license, to allow a person to grow industrial hemp in this state in a controlled fashion solely and exclusively as part of the industrial hemp research program overseen by the commission. This form of licensure shall only be allowed subject to a grant of necessary permissions, waivers, or other form of valid legal status by the United States Drug Enforcement Agency or other appropriate federal agency pursuant to applicable federal laws relating to industrial hemp; and***
  - (b) ***An industrial hemp grower license, to allow a person to grow industrial hemp in this state for any purpose. This form of licensure shall only be allowed subject to the authorization of legal industrial hemp growth and production in the United States under applicable federal laws relating to industrial hemp.***
- (2) ***Any person seeking to grow industrial hemp, whether as part of the industrial hemp research program or otherwise, shall apply to the commission for the appropriate license on a form provided by the commission. At a minimum, the application shall include:***
  - (a) ***The name and mailing address of the applicant;***
  - (b) ***The legal description and global positioning coordinates sufficient for locating the production fields to be used to grow industrial hemp. A license shall authorize industrial hemp propagation only on the land areas specified in the license;***
  - (c) ***A signed statement indicating whether the applicant has ever been convicted of a felony or misdemeanor. A person with a prior felony drug conviction within ten (10) years of applying for a license under this section shall not be eligible for the license;***
  - (d) ***Written consent allowing the Department of Kentucky State Police, if a license is ultimately issued to the applicant, to enter onto the premises on which the industrial hemp is grown to conduct physical inspections of industrial hemp planted and grown by the applicant, and to ensure compliance with the requirements of Sections 1 to 14 of this Act. No more than two (2) physical inspections shall be conducted under this paragraph per year, unless a valid search warrant for an inspection has been issued by a court of competent jurisdiction. All testing for THC levels shall be performed as provided in subsection (11) of this section;***
  - (e) ***Any other information required by the commission; and***
  - (f) ***The payment of a nonrefundable application fee, in an amount set by the commission and used to offset the cost of administering the licensure program.***

- (3) *The commission shall require a state or national criminal history background check by the Department of Kentucky State Police on all persons applying for licensure. The Department of Kentucky State Police may charge a fee, as established by the commission, to be paid by the applicant for the actual cost of processing the background check. A copy of the results of the background check shall be sent to the commission.*
- (4) *All license applications shall be processed as follows:*
  - (a) *Upon receipt of a license application, the commission shall forward a copy of the application to the Department of Kentucky State Police which shall initiate its review thereof;*
  - (b) *The Department of Kentucky State Police shall:*
    1. *Perform the required state or national criminal history background check of the applicant;*
    2. *Approve the application, if it is determined that the requirements relating to prior criminal convictions have been met; and*
    3. *Return all applications to the commission together with its findings and a copy of the state or national criminal history background check; and*
  - (c) *The commission shall review all license applications returned from the Department of Kentucky State Police. If the commission determines that all requirements have been met and that a license should be granted to the applicant, taking into consideration any prior convictions of the applicant, the commission shall approve the application for issuance of a license.*
- (5) *In the case of industrial hemp research program grower licenses, the provisions of subsection (4) of this section shall apply, except that the commission may approve licenses for only those selected growers whose demonstration plots will, in the discretion of the commission, advance the goals of the industrial hemp research program to the furthest extent possible based on location, soil type, growing conditions, various varieties of industrial hemp that may be suitable for various hemp products, and other relevant factors. The location, and the total number and acreage, of all demonstration plots to be grown by license holders shall be determined at the discretion of the commission.*
- (6) *The number of acres to be planted under each license shall be established by the commission.*
- (7) *Each license shall be valid for a period of one (1) year from the date of issuance, and may be renewed in successive years. Each annual renewal shall require the payment of a license renewal fee.*
- (8) *The commission shall, by administrative regulation, establish the fee amounts required for license applications and license renewals allowed under this section. All application and license renewal fees collected by the commission shall be deposited in the industrial hemp program fund established in Section 10 of this Act.*
- (9) *A copy of, or appropriate electronic record of, each license issued by the commission under this section shall be forwarded immediately to the sheriff of each county where the industrial hemp is licensed to be planted, grown, and harvested.*
- (10) *All records, data, and information filed in support of a license application shall be considered proprietary and subject to inspection only upon the order of a court of competent jurisdiction.*
- (11) *The commission shall be responsible for monitoring the industrial hemp grown by any license holder, and shall provide for random testing of the industrial hemp for compliance with THC levels and for other appropriate purposes at the cost of the license holder. The commission shall establish necessary testing criteria and protocols through promulgation of administrative regulations pursuant to Section 3 of this Act and in accordance with KRS Chapter 13A.*

➔SECTION 12. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *A person shall obtain an industrial hemp grower license pursuant to Section 11 of this Act prior to planting or growing any industrial hemp in this state. An industrial hemp grower license holder who has planted and grown industrial hemp pursuant to a valid grower license may sell industrial hemp produced by the grower to any person engaged in agribusiness or other manufacturing for the purpose of processing or manufacturing that industrial hemp into hemp products.*
- (2) *A person granted an industrial hemp grower license shall:*

- (a) *Maintain records that reflect compliance with Sections 1 to 14 of this Act, and with all other state laws regulating the planting and cultivation of industrial hemp;*
  - (b) *Retain all industrial hemp production records for at least three (3) years;*
  - (c) *Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the commission or its designees, and the Department of Kentucky State Police and other law enforcement officers;*
  - (d) *File with the commission documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;*
  - (e) *Notify the commission of the sale of any industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold; and*
  - (f) *Provide the commission with copies of any contracts between the licensee and any person to whom industrial hemp was sold.*
- (3) *The commission shall assist the grower with his or her compliance with the requirements of this section.*
- (4) *Any person licensed to grow industrial hemp under Sections 1 to 14 of this Act may import and resell industrial hemp seed that has been certified as having no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.*
- (5) (a) *Only industrial hemp grower licensees or their designees or agents shall be permitted to transport industrial hemp off the premises of the licensee.*
- (b) *When transporting industrial hemp off the premises of an industrial hemp grower licensee, the licensee or their designee or agent shall carry with them the licensing documents from the commission, evidencing that the industrial hemp was grown by a licensee and is from certified seed.*
- (c) *Any industrial hemp that is found in this state at any location off the premises of an industrial hemp grower licensee is deemed to be contraband and subject to seizure by the commission, the Department of Kentucky State Police, or any law enforcement officer, if the person in possession of the industrial hemp does not have in his or her possession either:*
- 1. *The proper licensing documents, as required by paragraph (b) of this subsection; or*
  - 2. *A bill of lading, or other proper documentation, demonstrating that the industrial hemp was legally imported or is otherwise legally present in this state under applicable state and federal laws relating to industrial hemp.*
- (d) *Any industrial hemp seized pursuant to paragraph (c) of this subsection shall be disposed of in accordance with KRS 500.090.*

➔SECTION 13. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *An industrial hemp grower licensee who does not comply with the requirements of Sections 1 to 14 of this Act, or the administrative regulations promulgated thereunder, shall have his or her license revoked and shall forfeit the right to grow industrial hemp in this state for a period of up to five (5) years as provided in this section.*
- (2) *A license revocation or forfeiture shall occur pursuant to this section only after the licensee has had an opportunity, upon due notice, for an informal hearing before the chair of the commission, to show cause why the license should not be revoked and the licensee's right to grow forfeited.*
- (3) *The chair of the commission may revoke any license of a person who has pled guilty to, or been convicted of, a felony.*
- (4) *If a license is revoked and a licensee's right to grow is forfeited as the result of an informal hearing, the decision may be appealed, and upon appeal an administrative hearing shall be conducted before the commission in accordance with KRS Chapter 13B.*
- (5) *The licensee may appeal the final order of the commission by filing a petition in the Fayette Circuit Court, or the Circuit Court in which the licensee resides, in accordance with KRS Chapter 13B.*



➔SECTION 14. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

***Industrial hemp growers licensed under Sections 1 to 14 of this Act may be eligible to receive funds received by the state under the Master Settlement Agreement and placed in the rural development fund established in KRS 248.655.***

➔Section 15. KRS 218A.010 is amended to read as follows:

- (1) "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:
  - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
  - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and antisteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
  1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
  2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
  3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.(b) Such term does not include:
  1. Any substance for which there is an approved new drug application;
  2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
  3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "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;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;

- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
  - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
  - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
  - (d) Substances intended for use as a component of any article specified in this subsection.
- It does not include devices or their components, parts, or accessories;
- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
  - (b) Poses a fire hazard; or
  - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (18) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (20) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or 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 except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
  - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
  - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (21) "Marijuana" means all parts of the plant *Cannabis sp.*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any

quantity of these substances. *The term "marijuana" does not include industrial hemp as defined in Section 1 of this Act;*

- (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (25) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (26) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
  - (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
  - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
  - (c) Opium poppy and poppy straw;
  - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
  - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (27) "Opiate" means any 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 KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (28) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (29) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (30) "Physical injury" has the same meaning it has in KRS 500.080;
- (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (32) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

- (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (36) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (37) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (39) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (41) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (42) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:
- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
  - (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
  - (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
  - (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
  - (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176; or
  - (h) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- (45) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
  - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
  - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP); or
  - (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (47) "Telehealth" has the same meaning it has in KRS 311.550;
- (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
  - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
  - (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (50) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (51) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 16. KRS 154.32-010 is amended to read as follows:

- (1) "Activation date" means the date established in the tax incentive agreement that is within two (2) years of final approval;
- (2) "Advance disbursement" means the disbursement of incentives prior to the activation date;
- (3) "Affiliate" has the same meaning as in KRS 154.48-010 and, in addition, shall include two (2) or more limited liability companies if the same persons own more than fifty percent (50%) of the capital interest or are entitled to more than fifty percent (50%) of the capital profits in the limited liability companies;
- (4) "Agribusiness" means the processing of raw agricultural products, including *but not limited to* timber *and industrial hemp*, or the performance of value-added functions with regard to raw agricultural products;
- (5) "Approved company" means an eligible company that has received final approval to receive incentives under this subchapter;
- (6) "Approved costs" means the amount of eligible costs approved by the authority at final approval;
- (7) "Authority" means the Kentucky Economic Development Finance Authority established by KRS 154.20-010;
- (8) "Capital lease" means a lease classified as a capital lease by the Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976, as amended;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) "Confirmed approved costs" means:
  - (a) For owned economic development projects, the documented eligible costs incurred on or before the activation date; or
  - (b) For leased economic development projects:
    - 1. The documented eligible costs incurred on or before the activation date; and
    - 2. Estimated rent to be incurred by the approved company throughout the term of the tax incentive agreement.

For both owned and leased economic development projects, "confirmed approved costs" may be less than approved costs, but shall not be more than approved costs;

- (11) "Department" means the Department of Revenue;
- (12) "Economic development project" means:
  - (a)
    - 1. The acquisition, leasing, or construction of a new facility; or
    - 2. The acquisition, leasing, rehabilitation, or expansion of an existing facility; and
  - (b) The installation and equipping of the facility;

by an eligible company. "Economic development project" does not include any economic development project that will result in the replacement of facilities existing in the Commonwealth, except as provided in KRS 154.32-060;

- (13) (a) "Eligible company" means any corporation, limited liability company, partnership, limited partnership, sole proprietorship, business trust, or any other entity with a proposed economic development project that is engaged in or is planning to be engaged in one (1) or more of the following activities within the Commonwealth:
1. Manufacturing;
  2. Agribusiness;
  3. Nonretail service or technology; or
  4. National or regional headquarters operations, regardless of the underlying business activity of the company.
- (b) "Eligible company" does not include companies where the primary activity to be conducted within the Commonwealth is forestry, fishing, mining, coal or mineral processing, the provision of utilities, construction, wholesale trade, retail trade, real estate, rental and leasing, educational services, accommodation and food services, or public administration services;

(14) "Eligible costs" means:

- (a) For owned economic development projects:
1. Start-up costs;
  2. Obligations incurred for labor and amounts paid to contractors, subcontractors, builders, and materialmen in connection with the economic development project;
  3. The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
  4. The cost of contract bonds and of insurance of all kinds that may be required or necessary for completion of an economic development project which is not paid by a contractor or otherwise provided for;
  5. All costs of architectural and engineering services, including test borings, surveys, estimated plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required for construction of the economic development project;
  6. All costs which are required to be paid under the terms of any contract for the economic development project;
  7. All costs incurred for construction activities, including site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation of railroad spurs as needed to connect the economic development project to existing railways; or similar activities as the authority may determine necessary for construction of the economic development project; and
  8. All other costs of a nature comparable to those described above; and
- (b) For leased economic development projects:
1. Start-up costs; and
  2. Fifty percent (50%) of the estimated annual rent for each year of the tax incentive agreement.

Notwithstanding any other provision of this subsection, for economic development projects that are not in enhanced incentive counties, the cost of equipment eligible for recovery as an eligible cost shall not exceed twenty thousand dollars (\$20,000) for each new full-time job created as of the activation date;

- (15) "Employee benefits" means nonmandated payments by an approved company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
- (16) "Enhanced incentive counties" means counties certified by the authority pursuant to KRS 154.32-050;

- (17) "Final approval" means the action taken by the authority authorizing the eligible company to receive incentives under this subchapter;
- (18) "Full-time job" means a job held by a person who:
- (a) Is a Kentucky resident subject to the Kentucky individual income tax imposed by KRS 141.020; and
  - (b) Is required to work a minimum of thirty-five (35) hours per week;
- (19) "Incentives" means the incentives available under this subchapter, as listed in KRS 154.32-020(3);
- (20) "Job target" means the annual average number of new full-time jobs that the approved company commits to create and maintain at the economic development project, which shall not be less than ten (10) new full-time jobs;
- (21) "Kentucky gross receipts" has the same meaning as in KRS 141.0401;
- (22) "Kentucky gross profits" has the same meaning as in KRS 141.0401;
- (23) "Lease agreement" means an agreement between an approved company and an unrelated entity conveying the right to use property, plant, or equipment, the terms of which reflect an arms' length transaction. "Lease agreement" does not include a capital lease;
- (24) "Leased project" means an economic development project site occupied by an approved company pursuant to a lease agreement;
- (25) "Loan agreement" means the agreement between the authority and a preliminarily approved company establishing the terms and conditions of an advance disbursement;
- (26) "Manufacturing" means any activity involving the processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to the processing, assembling, or production of property. "Manufacturing" also includes storage, warehousing, distribution, and office activities related to the manufacturing activity;
- (27) "Minimum wage target" means the average minimum wage amount that the approved company commits to meet for all new full-time jobs created and maintained as a result of the economic development project, which shall not be less than:
- (a) One hundred twenty-five percent (125%) of the federal minimum wage in enhanced incentive counties; or
  - (b) One hundred fifty percent (150%) of the federal minimum wage in all other counties;
- (28) (a) "Nonretail service or technology" means any activity where:
- 1. Service or technology is:
    - a. Provided predominantly outside the Commonwealth; and
    - b. Designed to serve a multistate, national, or international market; or
  - 2. Service or technology is provided by a national or regional headquarters as a support to other business activities conducted by the eligible company.
- (b) "Nonretail service or technology" includes but is not limited to call centers, centralized administrative or processing centers, telephone or Internet sales order or processing centers, distribution or fulfillment centers, data processing centers, research and development facilities, and other similar activities;
- (29) "Owned project" means an economic development project owned in fee simple by the approved company or an affiliate, or possessed by the approved company or an affiliate pursuant to a capital lease;
- (30) "Preliminary approval" means the action taken by the authority preliminarily approving an eligible company for incentives under this subchapter;
- (31) "Rent" means the actual annual rent or fee paid by an approved company under a lease agreement;
- (32) "Start-up costs" means costs incurred to furnish and equip a facility for an economic development project, including costs incurred for:
- (a) Computers, furnishings, office equipment, manufacturing equipment, and fixtures;
  - (b) The relocation of out-of-state equipment; and



- (c) Nonrecurring costs of fixed telecommunications equipment;  
as certified to the authority in accordance with KRS 154.32-030;
- (33) "Tax incentive agreement" means the agreement entered into pursuant to KRS 154.32-040 between the authority and an approved company; and
- (34) "Term" means the period of time for which a tax incentive agreement may be in effect, which shall not exceed fifteen (15) years for an economic development project located in an enhanced incentive county, or ten (10) years for an economic development project not located in any other county.

➔Section 17. The Cabinet for Economic Development shall work in conjunction with the Industrial Hemp Commission to promote the development of industrial hemp production in the Commonwealth, and the commercialization of hemp products in agribusiness, alternative fuel production, and other business sectors, to the greatest extent possible. The Cabinet shall promote the availability of financial incentives offered by state government for the processing and manufacture of industrial hemp into hemp products in the Commonwealth, including but not limited to incentives offered through the Kentucky Business Investment program, to any interested parties both within and without this state.

**Became law without Governor's signature.**