

CHAPTER 45

(SB 218)

AN ACT relating to industrial hemp, making an appropriation therefor and declaring an emergency.

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

➔SECTION 1. KRS 260.850 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act:

- (1) *"Commissioner" means the Commissioner of the Kentucky Department of Agriculture;*
- (2) *"Cultivating" means planting, growing, and harvesting a plant or crop;*
- (3) *"Department" means the Kentucky Department of Agriculture;*
- (4) *"Handling" means possessing or storing industrial hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process industrial hemp. "Handling" also includes possessing or storing industrial hemp in a vehicle for any period of time other than during its actual transport from the premise of a licensed person to cultivate or process industrial hemp to the premise of another licensed person;*
- (5) *"Industrial hemp" has the same meaning as in 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended;*
- (6) *"Industrial hemp products" means products derived from, or made by, processing industrial hemp plants or plant parts;*
- (7) *"Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market industrial hemp or industrial hemp products;*
- (8) *"Marketing" means promoting or selling a product within the Commonwealth, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;*
- (9) *"Processing" means converting an agricultural commodity into a marketable form;*
- (10) *"Research pilot program" means a pilot program conducted by the department in collaboration with one (1) or more licensee or university to study methods of cultivating, processing, or marketing industrial hemp under the authority of 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended; and*
- (11) *"University" means an accredited institution of higher education located in the Commonwealth.*

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

It is the declared policy of the Commonwealth that industrial hemp is a viable agricultural crop in the Commonwealth. The purposes of Sections 1 to 13 of this Act are to:

- (1) *Promote the research and study methods of cultivating, processing, and marketing industrial hemp;*
- (2) *Promote the expansion of the Commonwealth's industrial hemp industry to the maximum extent permitted by federal law, in anticipation of a change in federal law allowing citizens of the Commonwealth to cultivate, handle, or process industrial hemp and industrial hemp products for commercial purposes without participating in research pilot programs; and*
- (3) *Move the Commonwealth and its citizens to the forefront of the industrial hemp industry.*

➔SECTION 3. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *The purpose of the research pilot program authorized by this chapter is to enable the department, and its licensees and affiliated universities, to study methods of cultivating, processing, or marketing industrial hemp.*
- (2) *Notwithstanding any other provision of law to the contrary, it is lawful for a licensee, or his or her agent, to cultivate, handle, or process industrial hemp or industrial hemp products in the Commonwealth.*

- (3) *It is unlawful for a person who does not hold a license issued by the department, or who is not an agent of a licensee, to cultivate, handle, process, or market living industrial hemp plants or viable seeds, leaf materials, or floral materials derived from industrial hemp. Penalties for persons who cultivate, handle, process, or market living industrial hemp plants or viable seeds, leaf materials, or floral materials derived from industrial hemp without a license are the same as those penalties that are applicable to persons who violate KRS Chapter 218A, relating to marijuana.*

- (4) *Nothing in this chapter authorizes any person to violate any federal or state law or regulation.*

➔SECTION 4. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *In addition to any other powers vested in it by law, the department shall have the authority and power to promulgate administrative regulations to:*

- (a) *Prescribe rules for any industrial hemp pilot program;*
- (b) *Conduct one (1) or more industrial hemp research pilot programs;*
- (c) *License persons who wish to participate in an industrial hemp research pilot program by cultivating, handling, processing, or marketing industrial hemp;*
- (d) *Prescribe rules for a university's participation in, or affiliation with, any industrial hemp research pilot program;*
- (e) *Prescribe sampling and testing procedures to ensure that industrial hemp and industrial hemp products cultivated, handled, processed, or marketed under the authority of this section do not exceed the concentration levels defined in 7 U.S.C. sec. 5940 as it currently exists or as it may be subsequently amended;*
- (f) *Define classes or categories of industrial hemp products that are eligible for sale, transfer, or distribution to members of the public; and*
- (g) *Establish a schedule of nonrefundable fees for administering any industrial hemp research pilot program.*

- (2) (a) *No person shall cultivate, handle, process, or market industrial hemp in the Commonwealth unless the person holds an industrial hemp license issued by the department.*
- (b) *Any person seeking to cultivate industrial hemp shall provide to the department the legal description and global positioning coordinates sufficient for locating the fields or greenhouses to be used to grow industrial hemp.*
- (c) *Any person seeking to cultivate or process industrial hemp shall provide to the department prior written consent allowing representatives of the department, the Department of Kentucky State Police, and other state and local law enforcement agencies to enter onto all premises where industrial hemp is cultivated, processed, or stored for the purpose of conducting physical inspections or ensuring compliance with the requirements of Sections 1 to 13 of this Act and administrative regulations promulgated by the department.*
- (d) *An applicant for a license issued by the department shall submit to and pay for an annual criminal background check conducted by the Department of Kentucky State Police or another state or federal law enforcement agency selected by the department.*
- (e) *No person who has been convicted of any felony or any drug-related misdemeanor or violation in the previous ten (10) years from the date of application shall be eligible to obtain a license.*

➔SECTION 5. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *The Industrial Hemp Advisory Board is created for the purpose of providing advice and expertise as may be needed by a university or the department with respect to plans, policies, and procedures applicable to the administration of its respective industrial hemp research pilot programs.*
- (2) *The Industrial Hemp Advisory Board shall be attached to the department for administrative purposes.*
- (3) *The Industrial Hemp Advisory Board shall be composed of the following members:*
- (a) *The Commissioner of the department or the Commissioner's designee;*

- (b) *The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;*
 - (c) *The dean of the University of Kentucky's College of Agriculture, Food and Environment or the dean's designee;*
 - (d) *The commissioner of the Department of Kentucky State Police or the commissioner's designee;*
 - (e) *The president of the Kentucky Sheriff's Association or the president's designee;*
 - (f) *The president of the Kentucky Association of Chiefs of Police or the president's designee; and*
 - (g) *Ten (10) at-large members designated by the Commissioner.*
- (4) *The Commissioner or the Commissioner's designee shall serve as chair.*
 - (5) *A majority of the members of the board shall constitute a quorum.*
 - (6) *The board shall meet at least one (1) time annually at the call of the chair.*
 - (7) *In making the initial appointments of the board, the Commissioner shall stagger the terms of the board members. Thereafter, members shall be appointed to a term of four (4) years and shall serve until their successors are duly appointed and qualified.*
 - (8) *Board members shall receive no compensation but shall be reimbursed, payable from the industrial hemp research pilot program fund, for any actual travel expense incurred while attending meetings of the board.*

➔Section 6. KRS 260.868 is amended to read as follows:

A person holding a license issued by the department~~Industrial hemp growers licensed under KRS 260.850 to 260.869~~ 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 7. KRS 260.869 is amended to read as follows:

- (1) There is established in the State Treasury a trust and agency fund entitled the industrial hemp program fund, to be administered by the commission for the purpose of covering the costs of the commission and the industrial hemp research program, as approved by the 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.
- (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.
- (4) *The industrial hemp program fund shall be closed on July 1, 2017. All moneys remaining in the fund shall be deposited in the industrial hemp research pilot program fund created under Section 8 of this Act and shall be used for the purposes established under that section.*

➔SECTION 8. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *The industrial hemp research pilot program fund is hereby created as a separate trust fund in the State Treasury. The fund shall consist of amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, application fees, or license fees provided by Section 4 of this Act, civil penalties as provided by Section 9 of this Act, and any other funds, both public and private, made available for purposes of Sections 1 to 13 of this Act.*
- (2) *The industrial hemp research pilot program fund shall be administered by the department.*
- (3) *Amounts deposited in the industrial hemp research pilot program fund shall be used for the costs of personnel, program administration, testing, actual travel expenses of the advisory board established under Section 6 of this Act, and any other costs incurred while conducting the industrial hemp research pilot programs under Sections 1 to 13 of this Act.*
- (4) *Notwithstanding KRS 45.229, the industrial hemp research pilot program fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.*

- (5) *Any interest earnings of the industrial hemp research pilot program fund shall become part of the fund and shall not lapse.*
- (6) *Moneys in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes unless the industrial hemp research pilot program is discontinued by the Commissioner as provided by Section 10 of this Act. If the program is discontinued, moneys remaining in the fund shall lapse to the General Fund no later than one (1) year after notice of the program discontinuation, and the fund shall be closed.*

➔SECTION 9. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *The department may temporarily suspend a license up to sixty (60) days if the licensee is alleged to have:*
- (a) *Violated any provision of Sections 1 to 13 of this Act or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act;*
 - (b) *Made any false statement to the department or its representatives;*
 - (c) *Pled guilty to, or been convicted of, any felony or drug-related misdemeanor or violation;*
 - (d) *Failed to comply with only those instructions agreed upon in the contract signed by the licensee at the time the industrial hemp license was issued; or*
 - (e) *Failed to comply with an order from a representative of the department, representative of the Department of Kentucky State Police, or any law enforcement officer.*
- (2) *The department may temporarily suspend a license up to sixty (60) days without giving the licensee advance notice of the charge against him or her or an opportunity to be heard.*
- (3) *The department shall not permanently revoke a license until the department has notified the licensee of the charge against him or her and given the licensee an opportunity for a hearing before a three (3) person panel whose members have been designated by the Commissioner. The three (3) person panel shall include:*
- (a) *Two (2) members who are employees of the department; and*
 - (b) *One (1) member who is not an employee of the department.*
- (4) *The department may permanently revoke a license if the licensee admits, or is found in a hearing, to have:*
- (a) *Violated any provision of Sections 1 to 13 of this Act or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act;*
 - (b) *Made any false statement to the department or its representative;*
 - (c) *Pled guilty to, or been convicted of, any felony or drug-related misdemeanor or violation; or*
 - (d) *Failed to comply with any instruction or order from the department, a representative of the Department of Kentucky State Police, or any law enforcement officer.*
- (5) *The department may impose a monetary civil penalty, not to exceed two thousand five hundred dollars (\$2,500) per violation, on any person who violates Sections 1 to 13 of this Act or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act.*
- (6) *The department shall not impose a monetary civil penalty against a person alleged to have violated Sections 1 to 13 of this Act, or an administrative regulation promulgated under the authority of Sections 1 to 13 of this Act, until the department has notified the person of the charge against him or her and given the person the opportunity for a hearing before the three (3) person panel.*

➔SECTION 10. A NEW SECTION OF KRS 260.850 TO 260.859 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of law to the contrary, the department may discontinue the industrial hemp research pilot program if the Commissioner finds that:*
- (a) *A change in federal law makes continuation of the industrial hemp research pilot program impractical or impossible; or*
 - (b) *A change in federal law allows citizens of the Commonwealth to cultivate, handle, or process industrial hemp and industrial hemp products without participating in a research pilot program conducted by the department.*

- (2) *The Commissioner shall notify, in writing, the Governor, the Speaker of the House of Representatives, and the President of the Senate, that the industrial hemp research pilot program has been discontinued.*

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 250 IS CREATED TO READ AS FOLLOWS:

The director, or the director's designee, shall receive samples and test industrial hemp plants, plant parts, and materials grown or located within the Commonwealth in order to determine whether the industrial hemp plants, plant parts, and materials are in compliance with the provisions of Sections 1 to 13 of this Act and the administrative regulations promulgated thereunder.

➔Section 12. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (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 anticosteroids;
- (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) "Hydrocodone combination product" means a drug with:
- (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
 - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (18) "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;
- (19) ***"Industrial hemp" has the same meaning as in Section 1 of this Act;***
- (20) ***"Industrial hemp products" has the same meaning as in Section 1 of this Act;***
- ~~(21)~~(19) "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;

- (22)~~(20)~~ "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;
- (23)~~(21)~~ "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;
- (24)~~(22)~~ "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:
- (a) Industrial hemp *that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp; or*~~as defined in KRS 260.850;~~
 - (b) *Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;*
 - (c)~~(b)~~ The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or
 - (d)~~(c)~~ For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;
- (25)~~(23)~~ "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;
- (26)~~(24)~~ "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;
- (27)~~(25)~~ "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;
- (28)~~(26)~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (29)~~(27)~~ "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;
- (30)~~(28)~~ "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;
- (31)~~(29)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (32)~~(30)~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (33)~~(31)~~ "Physical injury" has the same meaning it has in KRS 500.080;
- (34)~~(32)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (35)~~(33)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (36)~~(34)~~ "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;
- (37)~~(35)~~ "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;
- (38)~~(36)~~ "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;
- (39)~~(37)~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (40)~~(38)~~ "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;
- (41)~~(39)~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (42)~~(40)~~ "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;
- (43)~~(41)~~ "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*;

- ~~(44)~~~~(42)~~ "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;
- ~~(45)~~~~(43)~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- ~~(46)~~~~(44)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;
- ~~(47)~~~~(45)~~ "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:
- 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;
 - 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;
 - 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;
 - 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);
 - 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;
 - Naphthoylpyrroles: 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) Naphthylmethylenes: 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;
 - (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, 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 further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
 - (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)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 adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or
 - (j) 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;
- ~~(48)~~~~(46)~~ "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 α -Pyrrolidinopropiophenone (α -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;
- ~~(49)~~~~(47)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- ~~(50)~~~~(48)~~ "Telehealth" has the same meaning it has in KRS 311.550;
- ~~(51)~~~~(49)~~ "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;
- ~~(52)~~~~(50)~~ "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;
- ~~(53)~~~~(51)~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- ~~(54)~~~~(52)~~ "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 13. The following KRS sections are repealed:

- 260.8505 Purpose of KRS 260.850 to 260.869 declared to be the support of industrial hemp production, development, and commercialization -- Accomplishment of purpose achieved through auspices of Industrial Hemp Commission, research, and pursuit of federal permits or waivers -- General Assembly finds that development of industrial hemp is proper governmental purpose and important to Commonwealth's well-being.
- 260.851 Administrative regulations to license research on industrial hemp and hemp products and establish testing criteria and protocols.
- 260.853 Promotion of research and development of markets for Kentucky industrial hemp and hemp products -- Responsibilities of the commission -- Establishment of five year research program -- Demonstration plots overseen by University of Kentucky Agricultural Experiment Station -- Research into new energy technologies -- Coordination with universities and the Cabinet for Economic Development -- Exemption from criminal liability -- Annual report.
- 260.854 Conditions and procedures for issuing industrial hemp research program grower license and industrial hemp grower licenses -- Content and processing of applications for licenses -- Criminal background checks -- Commissioner's discretion in approving licenses -- License fees set by administrative regulations -- Monitoring requirements.
- 260.855 Rights and duties of industrial hemp grower licensee -- Operational procedures for licensed growers -- Standards for transporting industrial hemp off premises of licensed grower -- Seizure and disposal of hemp deemed contraband.
- 260.856 Forfeiture of right to grow hemp following revocation of industrial hemp grower license -- Failure to comply with administrative regulations -- Plea to or conviction of felony -- Administrative hearings and appeals.
- 260.857 Kentucky Industrial Hemp Commission -- Membership.
- 260.859 Quorum for commission -- Chair and vice chair.
- 260.861 Meetings -- Compensation of members -- Staff services by Department of Agriculture and University of Kentucky Agricultural Experiment Station.
- 260.863 Recommendations and annual report of commission.
- 260.865 Mandatory adoption of federal rules and regulations regarding industrial hemp -- KRS 260.850 to 260.869 not to conflict with federal law.

➔Section 14. Whereas industrial hemp production has experienced dramatic growth since the research pilot program's inception in 2014, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Signed by Governor March 20, 2017.