

**CHAPTER 130****( HB 470 )**

AN ACT relating to controlled substances.

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

➔Section 1. KRS 217.186 is amended to read as follows:

- (1) A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a person or agency who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute. As used in this subsection, "licensed health-care provider" includes a pharmacist as defined in KRS 315.010 who holds a separate certification issued by the Kentucky Board of Pharmacy authorizing the initiation of the dispensing of naloxone under subsection (5) of this section.
- (2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.
- (3) A person or agency, including a peace officer, jailer, firefighter, paramedic, or emergency medical technician or a school employee authorized to administer medication under KRS 156.502, may:
  - (a) Receive a prescription for the drug naloxone;
  - (b) Possess naloxone pursuant to this subsection and any equipment needed for its administration; and
  - (c) Administer naloxone to an individual suffering from an apparent opiate-related overdose.
- (4) A person acting in good faith who administers naloxone received under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.
- (5)
  - (a) The Board of Pharmacy, in consultation with the Kentucky Board of Medical Licensure, shall promulgate administrative regulations to establish certification, educational, operational, and protocol requirements to implement this section.
  - (b) Administrative regulations promulgated under this subsection shall:
    1. Require that any dispensing under this section be done only in accordance with a physician-approved protocol and specify the minimum required components of any such protocol;
    2. Include a required mandatory education requirement as to the mechanism and circumstances for the administration of naloxone for the person to whom the naloxone is dispensed; and
    3. Require that a record of the dispensing be made available to a physician signing a protocol under this subsection, if desired by the physician.
  - (c) Administrative regulations promulgated under this subsection may include:
    1. A supplemental educational or training component for a pharmacist seeking certification under this subsection; and
    2. A limitation on the forms of naloxone and means of its administration that may be dispensed pursuant to this subsection.
- (6)
  - (a) The board of each local public school district and the governing body of each private and parochial school or school district may permit a school to keep naloxone on the premises and regulate the administration of naloxone to any individual suffering from an apparent opiate-related overdose.
  - (b) In collaboration with local health departments, local health providers, and local schools and school districts, the Kentucky Department for Public Health shall develop clinical protocols to address supplies of naloxone kept by schools under this section and to advise on the clinical administration of naloxone.

- (7) *Notwithstanding any provision of law to the contrary, a pharmacist may utilize the protocol established by this section to dispense naloxone to any person or agency who provides training on the mechanism and circumstances for the administration of naloxone to the public as part of a harm reduction program, regardless of whom the ultimate user of the naloxone may be. The documentation of the dispensing of naloxone to any person or agency operating a harm reduction program shall satisfy any general documentation or recording requirements found in administrative regulations regarding legend drugs promulgated pursuant to this chapter.*

➔Section 2. KRS 218A.1412 is amended to read as follows:

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
- (a) Four (4) grams or more of cocaine;
  - (b) Two (2) grams or more of methamphetamine;
  - (c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;
  - (d) Any quantity of heroin, fentanyl, carfentanil, or fentanyl derivatives; lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or
  - (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.
- (2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.
- (3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.
- (b) Any person who violates the provisions of subsection (1)(e) of this section~~;~~
- ~~1. — } shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense~~;~~ and~~
  - ~~2. — a. — Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the time of arrest, or weapons, which given the totality of the circumstances indicate the trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.~~
  - ~~b. — This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.~~
- (c) Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin, fentanyl, carfentanil, or fentanyl derivatives.

➔Section 3. KRS 507.040 is amended to read as follows:

- (1) A person is guilty of manslaughter in the second degree when he wantonly causes the death of another person, including, but not limited to, situations where the death results from the person's:
- (a) Operation of a motor vehicle;~~;~~~~or~~

- (b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which create a grave risk of death to the child, thereby causing the death of the child; *or*
  - (c) *Unlawful distribution for remuneration of a Schedule I or II controlled substance when the controlled substance is the proximate cause of death.*
- (2) Manslaughter in the second degree is a Class C felony.

**Signed by Governor March 26, 2019.**