

**218A.020 Cabinet for Health and Family Services to administer chapter -- Control of substances rescheduled under federal law -- Office of Drug Control Policy may request scheduling of substances meeting criteria.**

- (1) The Cabinet for Health and Family Services shall administer this chapter and may by administrative regulation add substances to or delete or reschedule all substances enumerated in the schedules authorized under this chapter. In making a determination regarding a substance, the Cabinet for Health and Family Services may consider the following:
  - (a) The actual or relative potential for abuse;
  - (b) The scientific evidence of its pharmacological effect, if known;
  - (c) The state of current scientific knowledge regarding the substance;
  - (d) The history and current pattern of abuse;
  - (e) The scope, duration, and significance of abuse;
  - (f) The risk to the public health;
  - (g) The potential of the substance to produce psychic or physiological dependence liability; and
  - (h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.
- (2) After considering the factors enumerated in subsection (1) of this section, the Cabinet for Health and Family Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.
- (3)
  - (a) If any substance is designated or rescheduled as a controlled substance under the federal Controlled Substances Act, the drug shall be considered to be controlled at the state level in the same numerical schedule corresponding to the federal schedule.
  - (b) Notwithstanding paragraph (a) of this subsection, the Cabinet for Health and Family Services may file an amendment to the administrative regulations promulgated pursuant to this section to control the substance in a more restrictive numerical schedule than the federal schedule as permitted by subsection (1) of this section.
- (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).
- (5) The Office of Drug Control Policy may request that the Cabinet for Health and Family Services schedule any substance that would meet the criteria to be scheduled pursuant to this chapter. The cabinet shall consider the request utilizing the criteria established by this section and shall issue a written response within sixty (60) days of the scheduling request delineating the cabinet's decision to schedule or not schedule the substance and the basis for the cabinet's decision. The cabinet's response shall be provided to the Legislative Research Commission and shall be a public record.

**Effective:** June 29, 2017

**History:** Amended 2017 Ky. Acts ch. 61, sec. 2, effective June 29, 2017; and ch. 168, sec. 2, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 135, sec. 2, effective April 27, 2016. -- Amended 2013 Ky. Acts ch. 26, sec. 6, effective March 19, 2013. -- Amended 2012 Ky. Acts ch. 108, sec. 4, effective April 11, 2012. -- Amended 2005 Ky. Acts ch. 99, sec. 528, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 471, effective July 15, 1998. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(3). -- Created 1972 Ky. Acts ch. 226, sec. 3.

**Legislative Research Commission Note** (6/29/2017). This statute was amended by 2017 Ky. Acts chs. 61 and 168, which do not appear to be in conflict and have been codified together.