

218B.035 Criminal prosecution and disciplinary actions not precluded -- Driving under the influence.

- (1) This chapter does not authorize any person to engage in, and shall not prevent the imposition of any civil, criminal, or other penalties, including but not limited to criminal prosecution or disciplinary action by the cabinet or an occupational or professional licensing board, for engaging in the following conduct:
 - (a) Operating, navigating, or being in actual physical control of any aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property while under the influence of medicinal cannabis;
 - (b) Consuming medicinal cannabis while operating, navigating, or being in actual physical control of an aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property;
 - (c) Possessing medicinal cannabis that is within the operator's arm's reach or requires less than a two (2) step process to access while operating, navigating, or being in actual physical control of an aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property;
 - (d) Undertaking any task under the influence of medicinal cannabis, when doing so would constitute negligence or professional malpractice;
 - (e) Possessing medicinal cannabis, or otherwise engaging in the use of medicinal cannabis:
 1. On the grounds of any preschool or primary or secondary school, except as permitted in accordance with policies enacted pursuant to KRS 218B.045(4);
 2. In any correctional facility; or
 3. On any property of the federal government;
 - (f) Using marijuana, if that person is not a registered qualified patient or visiting qualified patient;
 - (g) Using or consuming marijuana by smoking;
 - (h) Using or consuming marijuana by vaping while on any form of public transportation, in any public place as defined in KRS 525.010, or in any place of public accommodation, resort, or amusement as defined in KRS 344.130; or
 - (i) Cultivating marijuana unless that person is licensed by the cabinet as a cannabis cultivator or cannabis producer pursuant to KRS 218B.080, 218B.085, and 218B.090 or is a cultivator or producer agent.
- (2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the same as those established for operating a motor vehicle under the influence of alcohol or any other substance in KRS 189A.010.
- (3) (a) An individual who violates subsection (1)(g) or (h) of this section shall not be considered to be in possession of medicinal cannabis or engaged in the use of

medicinal cannabis and shall not benefit from the legal protections afforded by this chapter.

- (b) The odor or smell of uncombusted raw plant material shall not constitute evidence of use or consumption of cannabis by smoking.
- (c) If an individual uses or consumes marijuana by smoking or vaping while on any form of public transportation, in any public place as defined in KRS 525.010, or in any place of public accommodation, resort, or amusement as defined in KRS 344.130:
 - 1. The cabinet may revoke the individual's registry identification card; and
 - 2. The individual may be subject to prosecution under KRS 218A.1421 and 218A.1422.
- (4) Nothing in this chapter supersedes statutory laws relating to driving while under the influence of intoxicants. This chapter shall not prevent the enforcement of current laws pertaining to driving while intoxicated, including KRS 183.061, 189.520, 189A.010, and 235.240.
- (5) As used in this section:
 - (a) "Aircraft" has the same meaning as in KRS 183.011;
 - (b) "Vehicle" has the same meaning as in KRS 189.010; and
 - (c) "Vessel" has the same meaning as in KRS 235.010.

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