

1 AN ACT relating to trafficking in heroin.

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

3 ➔Section 1. KRS 218A.1412 is amended to read as follows:

- 4 (1) A person is guilty of trafficking in a controlled substance in the first degree when he
5 or she knowingly and unlawfully traffics in:
- 6 (a) Four (4) grams or more of cocaine;
- 7 (b) Two (2) grams or more of ~~heroin, fentanyl, or~~ methamphetamine;
- 8 (c) Ten (10) or more dosage units of a controlled substance that is classified in
9 Schedules I or II and is a narcotic drug, or a controlled substance analogue;
- 10 (d) Any quantity of ***heroin; fentanyl;*** lysergic acid diethylamide; phencyclidine;
11 gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of
12 isomers, and analogues; or flunitrazepam, including its salts, isomers, and
13 salts of isomers; or
- 14 (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of
15 this subsection in an amount less than the amounts specified in those
16 paragraphs.
- 17 (2) The amounts specified in subsection (1) of this section may occur in a single
18 transaction or may occur in a series of transactions over a period of time not to
19 exceed ninety (90) days that cumulatively result in the quantities specified in this
20 section.
- 21 (3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of
22 this section shall be guilty of a Class C felony for the first offense and a Class
23 B felony for a second or subsequent offense.
- 24 (b) Any person who violates the provisions of subsection (1)(e) of this section~~;~~
25 ~~1.—} shall be guilty of a Class D felony for the first offense and a Class C~~
26 ~~felony for a second or subsequent offense~~;~~ and~~
27 ~~2.—a.—Except as provided in subdivision b. of this subparagraph, where~~

1 ~~the trafficked substance was heroin and the defendant committed~~
2 ~~the offense while possessing more than one (1) items of~~
3 ~~paraphernalia, including but not limited to scales, ledgers,~~
4 ~~instruments and material to cut, package, or mix the final product,~~
5 ~~excess cash, multiple subscriber identity modules in excess of the~~
6 ~~number of communication devices possessed by the person at the~~
7 ~~time of arrest, or weapons, which given the totality of the~~
8 ~~circumstances indicate the trafficking to have been a commercial~~
9 ~~activity, shall not be released on parole until he or she has served~~
10 ~~at least fifty percent (50%) of the sentence imposed.~~

11 ~~b. This subparagraph shall not apply to a person who has been~~
12 ~~determined by a court to have had a substance use disorder relating~~
13 ~~to a controlled substance at the time of the offense. "Substance use~~
14 ~~disorder" shall have the same meaning as in the current edition of~~
15 ~~the American Psychiatric Association's Diagnostic and Statistical~~
16 ~~Manual of Mental Disorders].~~

17 (c) 1. Except as provided in subparagraph 2. of this paragraph, any person
18 convicted of a Class C felony offense or higher under this section shall
19 not be released on probation, shock probation, parole, conditional
20 discharge, or other form of early release until he or she has served at
21 least fifty percent (50%) of the sentence imposed in cases where the
22 trafficked substance was heroin.

23 2. If a person is convicted of a Class C felony offense or higher under
24 this section for trafficking less than two (2) grams of heroin, the
25 person may be released on probation, shock probation, parole,
26 conditional discharge, or other form of early release once he or she
27 has served at least twenty percent (20%) of the sentence imposed.