

1 AN ACT relating to medicinal marijuana and making an appropriation therefor.

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

3 ➔Section 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
4 READ AS FOLLOWS:

5 *For the purposes of Sections 1 to 30 of this Act, unless the context otherwise requires:*

6 *(1) "Area development district" means the geographic boundaries by county of the*
7 *fifteen (15) area development districts established in KRS 147A.050. The use of*
8 *the term "area development district" does not include or imply control by the*
9 *boards of directors for the area development districts of any aspect of the*
10 *medicinal marijuana program or the operation of any cannabis business*
11 *authorized in Sections 1 to 30 of this Act or control of any trust funds established*
12 *in Section 31 or 32 of this Act;*

13 *(2) "Bona fide practitioner-patient relationship" means a treatment or consulting*
14 *relationship, during the course of which the practitioner:*

15 *(a) Has completed an assessment of the patient's medical history and current*
16 *medical condition;*

17 *(b) Has consulted with the patient with respect to the possible therapeutic and*
18 *palliative properties of medicinal marijuana;*

19 *(c) Has advised the patient of the possible risks and side effects associated with*
20 *the use of medicinal marijuana; and*

21 *(d) Provides follow-up care and treatment to the patient;*

22 *The relationship may be established via telehealth as defined by KRS 304.17A-*
23 *005;*

24 *(3) "Cannabis business" means a cultivator, dispensary, processor, or a safety*
25 *compliance facility licensed under this chapter;*

26 *(4) "Cannabis business agent" means a principal officer, board member, employee,*
27 *volunteer, or agent of a cannabis business who is at least twenty-one (21) years of*

1 age and who has not been convicted of a disqualifying felony offense;

2 (5) "Cardholder" means:

3 (a) A registered qualified patient, designated caregiver, or visiting qualified
4 patient who has applied for, obtained, and possesses a valid registry
5 identification card issued by the department as required by this chapter; or

6 (b) A visiting qualified patient who has obtained and possesses a valid registry
7 identification card, or its equivalent, that was issued pursuant to the laws of
8 another state, district, territory, commonwealth, insular possession of the
9 United States, or country recognized by the United States that allows the
10 person to use marijuana for medicinal purposes in the jurisdiction of
11 issuance;

12 (6) "Cultivator" means an entity licensed under this chapter that cultivates, harvests,
13 and delivers raw plant material to another cultivator, dispensary, processor, or
14 safety compliance facility;

15 (7) "Cultivator agent" means a principal officer, board member, employee,
16 volunteer, or agent of a cultivator who is at least twenty-one (21) years of age and
17 who has not been convicted of a disqualifying felony offense;

18 (8) "Department" means the Department of Alcoholic Beverage and Cannabis
19 Control or its successor agency;

20 (9) "Designated caregiver" means a person who has been registered through the
21 department as required by this chapter and who:

22 (a) Is a resident of Kentucky;

23 (b) Is at least twenty-one (21) years of age;

24 (c) Has agreed to assist no more than three (3) registered qualified patients
25 with the use of medicinal marijuana; and

26 (d) Has not been convicted of a disqualifying felony offense;

27 (10) "Dispensary" means an entity licensed this chapter that acquires, possesses,

1 delivers, transfers, transports, sells, supplies, or dispenses medicinal marijuana to
2 cardholders;

3 (11) "Dispensary agent" means a principal officer, board member, employee,
4 volunteer, or agent of a dispensary who is at least twenty-one (21) years of age
5 and who has not been convicted of a disqualifying felony offense;

6 (12) "Disqualifying felony offense" means:

7 (a) A felony offense that would classify the person as a violent offender under
8 KRS 439.3401; or

9 (b) A violation of a state or federal controlled substance law that was classified
10 as a felony in the jurisdiction where the person was convicted, except:

11 1. An offense for which the sentence, including any term of probation,
12 incarceration, or supervised release, was completed five (5) or more
13 years earlier; or

14 2. An offense that consisted of conduct for which Sections 1 to 30 of this
15 Act would likely have prevented a conviction, but the conduct either
16 occurred prior to the enactment of Sections 1 to 30 of this Act or was
17 prosecuted by an authority other than the Commonwealth of
18 Kentucky;

19 (13) "Enclosed, locked facility" means:

20 (a) For licensed cultivators operating an indoor growing operation, a closet,
21 room, greenhouse, building, or other enclosed area that is equipped with
22 locks and other security devices that permit access only by cultivator agents
23 employed by the cultivator; or

24 (b) For licensed cultivators operating outdoor growing operations, a secured
25 and electronically monitored outdoor growing space that complies with
26 administrative regulations promulgated by the department;

27 (14) "Gross receipts" means all amounts received in money, credits, property, or other

- 1 money's worth in any form, by a cannabis business;
- 2 (15) "Growth area" means the same as an enclosed, locked facility;
- 3 (16) "Marijuana," means the same as defined in KRS 218A.010;
- 4 (17) "Medicinal marijuana" means marijuana as defined in KRS 2108A.010 when
5 utilized in pursuit of therapeutic or palliative relief in accordance with Sections 1
6 to 30 of this Act. The term "medicinal marijuana" includes raw plant material
7 and medicinal marijuana products;
- 8 (18) "Medicinal marijuana product" means any compound, manufacture, salt,
9 derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds,
10 its resin; or any compound, mixture, or preparation which contains any quantity
11 of these substance when utilized in pursuit of therapeutic or palliative relief in
12 accordance with Sections 1 to 30 of this Act. The term "medicinal marijuana
13 product" does not include raw plant material;
- 14 (19) "Minor" means a person less than eighteen (18) years of age;
- 15 (20) "Practitioner" means a physician, dentist, podiatrist, optometrist who is
16 authorized to prescribe controlled substances under KRS 320.240, or an
17 advanced practice registered nurse who is authorized to prescribe controlled
18 substances under KRS 314.042, who is authorized by a state licensing board to
19 provide written certifications pursuant to Section 5 of this Act;
- 20 (21) "Processor" means an entity licensed under this chapter that acquires raw plant
21 material from a licensed cultivator in order to prepare, trim, manipulate, blend,
22 or otherwise modify the raw plant material, and package products containing or
23 derived from the raw plant material for sale to a licensed dispensary;
- 24 (22) "Processor agent" means a principal officer, board member, employee,
25 volunteer, or agent of a processor who is at least twenty-one (21) years of age and
26 who has not been convicted of a disqualifying felony offense;
- 27 (23) "Qualified patient" means a person who:

1 (a) Is a resident of Kentucky;

2 (b) Has been diagnosed with a qualifying medical condition; and

3 (c) Has obtained a written certification from a practitioner with whom he or
4 she has a bona fide practitioner-patient relationship;

5 (24) "Qualifying medical condition" means:

6 (a) A terminal illness as defined in KRS 217.5401;

7 (b) Acquired immune deficiency syndrome;

8 (c) Chronic pain;

9 (d) Crohn's disease;

10 (e) Epilepsy or another seizure disorder;

11 (f) Inflammatory bowel disease;

12 (g) Intractable spasticity;

13 (h) Multiple sclerosis;

14 (i) Opioid use disorder;

15 (j) Parkinson's disease;

16 (k) Positive status for human immunodeficiency virus;

17 (l) Post-traumatic stress disorder; and

18 (m) Any chronic or debilitating disease, any medical condition, or the treatment
19 thereof that produces one (1) or more of the following:

20 1. Cachexia or wasting syndrome;

21 2. Severe, debilitating pain;

22 3. Severe nausea;

23 4. Seizures; or

24 5. Severe and persistent muscle spasms or muscle weakness;

25 (25) "Raw plant material" means the trichome-covered part of the female plant
26 Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the
27 Cannabis sp. plant;

- 1 (26) "Registry identification card" means a document issued by the department that
2 identifies a person as a qualified patient, visiting qualified patient, or designated
3 caregiver;
- 4 (27) "Registered qualified patient" means a qualified patient who has applied for,
5 obtained, and possesses a valid registry identification card or provisional
6 licensure receipt issued by the department;
- 7 (28) "Safety compliance facility" means an entity licensed under this chapter that
8 provides at least one (1) of the following services:
- 9 (a) Testing medicinal marijuana produced in Kentucky by a cannabis business
10 licensed under this chapter, including testing for potency and
11 contaminants; or
- 12 (b) Training cardholders and cannabis business agents. The training may
13 include but need not be limited to information related to the following:
- 14 1. The safe and efficient cultivation, harvesting, packaging, labeling, and
15 distribution of medicinal marijuana;
- 16 2. Security and inventory accountability procedures; or
- 17 3. Up-to-date scientific and medical research findings related to
18 palliative uses of marijuana;
- 19 (29) "Safety compliance facility agent" means a principal officer, board member,
20 employee, volunteer, or agent of a safety compliance facility who is at least
21 twenty-one (21) years of age and who has not been convicted of a disqualifying
22 felony offense;
- 23 (30) "Seedling" means a marijuana plant that has no flowers and is taller than eight
24 (8) inches;
- 25 (31) "Smoking" means the inhalation of smoke produced from the combustion of raw
26 plant material when ignited by a flame. The term "smoking" does not include
27 vaporizing;

- 1 (32) "State licensing board" means any of the following:
2 (a) The Kentucky Board of Dentistry;
3 (b) The Kentucky Board of Medical Licensure;
4 (c) The Kentucky Board of Nursing; or
5 (d) The State Board of Podiatry;
- 6 (33) "Use of medicinal marijuana" or "medicinal use of marijuana" includes the
7 acquisition, administration, possession, transfer, transportation, or consumption
8 of medicinal marijuana or supplies relating to the administration, use, or
9 consumption of medicinal marijuana by a cardholder. The terms "use of
10 medicinal marijuana" and "medicinal use of marijuana" do not include:
11 (a) Cultivation of marijuana by a cardholder; or
12 (b) Use or consumption of marijuana by smoking;
- 13 (34) "Vaporizing" means the inhalation of vapors produced from applying heat, at a
14 temperature lower than the point of combustion, to medicinal marijuana;
- 15 (35) "Verification system" means a telephone-based and Web-based system
16 established and maintained by the department that is available to law
17 enforcement personnel and dispensary agents on a twenty-four (24) hour basis
18 for verification of registry identification cards, which may cross-reference or
19 utilize the electronic system for monitoring controlled substances established in
20 KRS 218A.202 as necessary;
- 21 (36) "Visiting qualified patient" means a person who is not a resident of Kentucky or
22 who has been a resident of Kentucky for less than thirty (30) days and prefers to
23 have a visiting qualified patient distinction; and who possesses a valid registry
24 identification card, or an equivalent document, that was issued pursuant to the
25 laws of another state, district, territory, commonwealth, insular possession of the
26 United States, or country recognized by the United States that allows the person
27 to use medicinal marijuana in the jurisdiction of issuance; and

1 (37) "Written certification" means a document dated and signed by a practitioner,

2 that:

3 (a) States that in the practitioner's professional opinion the patient may receive
4 therapeutic or palliative benefit from the use of medicinal marijuana;

5 (b) Specifies the qualifying medical condition or conditions for which the
6 practitioner believes that the patient may receive therapeutic or palliative
7 benefit; and

8 (c) Affirms that the practitioner has a bona fide practitioner-patient
9 relationship with the patient.

10 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
11 READ AS FOLLOWS:

12 Notwithstanding any provisions to the contrary:

13 (1) The use of medicinal marijuana by a cardholder shall be considered lawful if
14 done in accordance with Sections 1 to 30 of this Act and any administrative
15 regulations promulgated thereunder.

16 (2) The acquisition, blending, cultivation, delivery, manufacturing, manipulation,
17 packaging for sale, preparation, possession, sale, testing, transportation, or
18 transfer of medicinal marijuana or supplies related to the use of medicinal
19 marijuana by a cannabis business or cannabis business agents shall be
20 considered lawful if done in accordance with Sections 1 to 30 of this Act and any
21 administrative regulations promulgated thereunder.

22 (3) The recommending of medicinal marijuana use by a practitioner shall be
23 considered lawful if the practitioner's recommendation is made in accordance
24 with Sections 1 to 30 of this Act and any administrative regulations promulgated
25 thereunder.

26 (4) A registered qualified patient or visiting qualified patient shall not be considered
27 to be under the influence of marijuana solely because of the presence of

1 metabolites or components of marijuana that appear in insufficient concentration
2 to cause impairment.

3 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The Department of Alcoholic Beverage and Cannabis Control is hereby charged
6 with the implementation, operation, oversight, and regulation of the medicinal
7 marijuana program established in Sections 1 to 4 and 11 to 30 of this Act, and
8 there is hereby created within the department a Division of Medicinal Marijuana.
9 The Division of Medicinal Marijuana shall consist of a director and the
10 necessary staff to fulfill its statewide regulatory responsibilities.

11 (2) No later than December 1 of each year beginning in 2020, the department, in
12 consultation with the University of Kentucky, College of Medicine, shall submit
13 an annual report to the Legislative Research Commission. The department shall
14 provide the University of Kentucky, College of Medicine with all information
15 necessary to allow collaboration with the department on the preparation of this
16 report. The University of Kentucky, College of Medicine may also produce its
17 own report regarding the medicinal marijuana program established in Sections 1
18 to 30 of this Act, and if produced this report shall be submitted to the Legislative
19 Research Commission upon completion. The annual report submitted by the
20 department shall, at a minimum, include:

21 (a) The number of applications and renewals filed for registry identification
22 cards including the number of registered qualified patients, the number of
23 visiting qualified patients, and the number of designated caregivers;

24 (b) The number of registry identification cards revoked for misconduct and the
25 nature of the misconduct;

26 (c) The number of practitioners authorized to provide written certifications;

27 (d) The nature of the qualifying medical conditions for which practitioners

1 have provided written certifications;

2 (e) The number of each type of cannabis business licensed and in operation
3 and the total number of cannabis business agents employed by each type of
4 cannabis business;

5 (f) An assessment of:

6 1. The ability of cardholders in all areas of the state to obtain timely
7 affordable access to medicinal marijuana;

8 2. The effectiveness of the cultivators licensed under this chapter,
9 individually and collectively, in serving the needs of processors,
10 dispensaries and cardholders, the reasonableness of their fees,
11 whether they are generating any complaints or security problems, and
12 the sufficiency of the number operating to serve processors,
13 dispensaries and cardholders in the Commonwealth;

14 3. The effectiveness of the processors licensed under this chapter,
15 individually and collectively, in serving the needs of dispensaries and
16 cardholders, the reasonableness of their fees, whether they are
17 generating any complaints or security problems, and the sufficiency of
18 the number operating to serve dispensaries and cardholders in the
19 Commonwealth;

20 4. The effectiveness of the dispensaries licensed under this chapter,
21 individually and collectively, in serving the needs of cardholders,
22 including the provision of educational and support services, the
23 reasonableness of their fees, whether they are generating any
24 complaints or security problems, and the sufficiency of the number
25 operating to serve cardholders in the Commonwealth; and

26 5. The effectiveness of the licensed safety compliance facilities licensed
27 under this chapter, individually and collectively, in serving the needs

- 1 of other cannabis businesses including the provision of testing and
2 training services, the reasonableness of their fees, whether they are
3 generating any complaints or security problems, and the sufficiency of
4 the number operating to serve other cannabis businesses and
5 cardholders in the Commonwealth;
- 6 (g) The profits and expenditures by cannabis businesses, individually and
7 collectively;
- 8 (h) The amount of medicinal marijuana sold per month in the Commonwealth;
- 9 (i) The amount of revenue generated from cannabis business licensure and
10 cardholder fees for each calendar year and aggregated by prior years;
- 11 (j) The total amount of revenue generated by the excise tax on medicinal
12 marijuana;
- 13 (k) The total cost of enforcement for the medicinal marijuana program at the
14 time of the report, by county and overall;
- 15 (l) The sufficiency of the regulatory and security safeguards contained in
16 Sections 1 to 30 of this Act and adopted by the department through
17 administrative regulations to ensure that access to and use of medicinal
18 marijuana cultivated and processed in this state is provided only to
19 cardholders;
- 20 (m) Recommendations regarding medical conditions or disorders that the
21 department considers appropriate for inclusion on the list of qualifying
22 medical conditions established in Section 1 of this Act;
- 23 (n) Any recommended additions or revisions to the department's administrative
24 regulations or Sections 1 to 30 of this Act including those relating to
25 security, safe handling, labeling, and nomenclature;
- 26 (o) The results of any scientific research studies regarding the health effects of
27 marijuana; and

1 (p) Any other data requested by the Legislative Research Commission relating
 2 to the medicinal marijuana program and Sections 1 to 30 of this Act.

3 (3) The information contained in the report described in subsection (2) of this section
 4 shall be presented in a manner that does not disclose any identifying information
 5 about cardholders or licensed cannabis businesses.

6 (4) Nothing in Sections 1 to 30 of this Act shall require the department to assume
 7 duties in relation to the medicinal marijuana program that are more than
 8 administrative in nature if federal law or a current and clear directive from the
 9 federal government indicates that duties assumed by the department that are
 10 more than administrative could result in federal prosecution or invalidation of
 11 the medicinal marijuana program established in Sections 1 to 30 of this Act.

12 (5) If the department makes a determination that it is required by Sections 1 to 30 of
 13 this Act to conduct duties that are more than administrative in nature, then it
 14 shall continue to conduct duties that are administrative in nature and designate
 15 or enter into a contract with a nongovernmental entity to conduct any duties
 16 required by Sections 1 to 30 of this Act that are more than administrative in
 17 nature. The department may reimburse the state for any costs involved in
 18 working with outside consultants to implement the program.

19 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 20 READ AS FOLLOWS:

21 (1) A registered qualified patient shall not be subject to arrest, prosecution, or denial
 22 of any right or privilege, including but not limited to a civil penalty or
 23 disciplinary action by a court or occupational or professional licensing board, for
 24 the use of medicinal marijuana, if the registered qualified patient does not
 25 possess more than:

26 (a) An amount of medicinal marijuana determined by the department to
 27 constitute an uninterrupted thirty (30) day supply at his or her residence; or

1 **(b) An amount of medicinal marijuana determined by the department to**
2 **constitute an uninterrupted ten (10) day supply on his or her person, except**
3 **that an amount greater than a ten (10) day supply, including up to a thirty**
4 **(30) day supply, may be transported by a registered qualified patient from a**
5 **dispensary to his or her residence if the medicinal marijuana is contained**
6 **in a sealed package that requires at least a two (2) step process for initial**
7 **opening.**

8 **(2) A visiting qualified patient shall not be subject to arrest, prosecution, or denial of**
9 **any right or privilege, including but not limited to civil penalty or disciplinary**
10 **action by a court or occupational or professional licensing board, for the use of**
11 **medicinal marijuana, if the visiting qualified patient:**

12 **(a) Has applied for, obtained, and possesses a valid registry identification card**
13 **issued by the department in accordance with Sections 11 to 13 of this Act, or**
14 **an equivalent document issued pursuant to the laws of another state,**
15 **district, territory, commonwealth, insular possession of the United States, or**
16 **country recognized by the United States that allows the person to use**
17 **medicinal marijuana in the jurisdiction of issuance; and**

18 **(b) Does not possess more than an amount of medicinal marijuana determined**
19 **by the department to constitute an uninterrupted ten (10) day supply on his**
20 **or her person.**

21 **(3) A designated caregiver shall not be subject to arrest, prosecution, or denial of any**
22 **right or privilege, including but not limited to civil penalty or disciplinary action**
23 **by a court or occupational or professional licensing board, for:**

24 **(a) Assisting a registered qualified patient to whom the designated caregiver is**
25 **connected through the department's registration process with the use of**
26 **medicinal marijuana if the designated caregiver:**

27 **1. Has applied for, obtained, and possesses a valid registry identification**

1 card issued by the department in accordance with Sections 11 to 13 of
2 this Act; and

3 2. Does not possess more than:

4 a. An amount of medicinal marijuana determined by the
5 department to constitute an uninterrupted thirty (30) day supply
6 at his or her residence for each registered qualified patient to
7 whom the caregiver is connected through the department's
8 registration process; or

9 b. An amount of medicinal marijuana determined by the
10 department to constitute an uninterrupted ten (10) day supply on
11 his or her person for each registered qualified patient to whom
12 the caregiver is connected through the department's registration
13 process, except that an amount greater than a ten (10) day
14 supply, including up to a thirty (30) day supply for each
15 registered qualified patient to whom the caregiver is connected
16 through the department's registration process, may be
17 transported by a designated caregiver from a dispensary to his or
18 her residence if the medicinal marijuana is contained in a sealed
19 package that requires at least a two (2) step process for initial
20 opening; or

21 (b) Receiving compensation for reasonable costs associated with assisting a
22 registered qualified patient in the use of medicinal marijuana if the
23 designated caregiver is connected to the registered qualified patient through
24 the department's registration process.

25 (4) Notwithstanding subsections (1) to (3) of this section:

26 (a) A registered qualified patient shall not be permitted to purchase more
27 medicinal marijuana than the amount determined by the department to

1 constitute an uninterrupted thirty (30) day supply of medicinal marijuana
2 during a given twenty-five (25) day period;

3 (b) A designated caregiver shall not be permitted to purchase more medicinal
4 marijuana than the amount determined by the department to constitute an
5 uninterrupted thirty (30) day supply of medicinal marijuana for each
6 registered qualified patient to whom the caregiver is connected through the
7 department's registration process during a given twenty-five (25) day
8 period; and

9 (c) A visiting qualified patient shall not be permitted to purchase more
10 medicinal marijuana than the amount determined by the department to
11 constitute an uninterrupted ten (10) day supply of medicinal marijuana
12 during a given eight (8) day period.

13 (5) A cardholder shall not be subject to arrest, prosecution, or denial of any right or
14 privilege, including but not limited to a civil penalty or disciplinary action by a
15 court or occupational or professional licensing board, for:

16 (a) Possession of marijuana that is incidental to the use of medicinal
17 marijuana;

18 (b) Possession of marijuana paraphernalia; or

19 (c) Transferring medicinal marijuana to a safety facility for testing.

20 (6) No person shall be subject to arrest, prosecution, or denial of any right or
21 privilege, including but not limited to a civil penalty or disciplinary action by a
22 court or occupational or professional licensing board, for:

23 (a) Selling marijuana paraphernalia to a cardholder upon presentation of a
24 valid registry identification card issued by the department in accordance
25 with Sections 11 to 13 of this Act, or its equivalent issued pursuant to the
26 laws of another state, district, territory, commonwealth, insular possession
27 of the United States, or country recognized by the United States that allows

- 1 the person to use medicinal marijuana in the jurisdiction of issuance;
 2 (b) Being in the presence or vicinity of the use of medicinal marijuana as
 3 allowed under Sections 1 to 30 of this Act; or
 4 (c) Assisting a registered qualified patient or visiting qualified patient with
 5 using or administering medicinal marijuana. For purposes of illustration
 6 and not limitation, this includes preparing a vaporizer or brewing tea for a
 7 registered qualified patient or visiting qualified patient. It does not include
 8 providing medicinal marijuana to a patient that the patient did not already
 9 possess.

10 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 11 READ AS FOLLOWS:

- 12 (1) Except as provided in subsection (4) of this section, a practitioner seeking to
 13 provide written certifications for the use of medicinal marijuana shall apply to
 14 the same state licensing board that issued his or her professional practice license,
 15 on a form prescribed by the state licensing board, for authorization to provide
 16 written certifications for the use of medicinal marijuana.
 17 (2) A state licensure board shall authorize a practitioner to provide written
 18 certifications for the use of medicinal marijuana if:
 19 (a) The application is complete and meets the requirements established in
 20 administrative regulations promulgated by the state licensing board; and
 21 (b) The applicant demonstrates that he or she does not have an ownership or
 22 investment interest in or compensation agreement with a cannabis business
 23 licensed under this chapter.
 24 (3) Authorization to provide written certifications for the use of medicinal marijuana
 25 granted under this section shall expire in accordance with administrative
 26 regulations promulgated by a state licensing board.
 27 (4) This section does not apply to a practitioner who recommends treatment with

1 marijuana or a drug derived from marijuana under any of the following that are
2 approved by an investigational review board or equivalent entity, the United
3 States Food and Drug Administration, or the National Institutes for Health or
4 any of its cooperative groups or centers under the United States Department of
5 Health and Human Services:

6 (a) A research protocol;

7 (b) A clinical trial;

8 (c) An investigational new drug application; or

9 (d) An expanded access submission.

10 (5) A practitioner authorized by a state licensing board to provide written
11 certifications for the use of medicinal marijuana may provide a patient with a
12 written certification only after:

13 (a) A bona fide practitioner-patient relationship has been established through:

14 1. An in-person examination or an examination conducted via
15 telehealth, as defined in KRS 304.17A-005, of the patient by the
16 practitioner;

17 2. A review of the patient's medical history and current medical
18 condition by the practitioner, including providing an initial diagnosis
19 for a qualifying medical condition or confirming a diagnosis for a
20 qualifying medical condition provided by another health care
21 provider; and

22 3. An expectation of providing care and receiving care on an ongoing
23 basis;

24 (b) The practitioner has reviewed a report of information from the electronic
25 system for monitoring controlled substances established in KRS 218A.202
26 related to the patient for a period of time that covers at least the twelve (12)
27 months immediately preceding the date of the report; and

1 (c) The practitioner has consulted with the patient with respect to the potential
2 benefits of medicinal marijuana as well as the possible risks and side
3 effects; and

4 (d) If the patient is a minor:

5 1. Consulting with the patient's custodial parent or legal guardian
6 responsible for providing consent to treatment with respect to the
7 potential benefits of medicinal marijuana as well as the possible risks
8 and side effects; and

9 2. Obtaining the consent of the patient's parent or other person
10 responsible for providing consent to treatment.

11 (6) (a) When issuing a written certification for the use of medicinal marijuana to a
12 patient, the practitioner shall use a form prescribed by the department.

13 (b) A written certification provided under this section shall be valid for a period
14 of not more than ninety (90) days. The practitioner may renew the
15 certification for not more than three (3) additional periods of not more than
16 ninety (90) days each. Thereafter, the practitioner may issue another
17 certification to the patient only after an in-person examination or an
18 examination conducted via telehealth, as defined in KRS 304.17A-005, of
19 the patient by the practitioner.

20 (7) A practitioner shall not:

21 (a) Dispense medicinal marijuana; or

22 (b) Provide a written certification for the use of medicinal marijuana to a
23 family member or for himself or herself.

24 (8) A practitioner shall not be subject to arrest, prosecution, or penalty in any
25 manner, or denied any right or privilege, including but not limited to a civil
26 penalty or disciplinary action by a state licensing board or by any other
27 occupational or professional licensing board, solely for providing written

1 certifications or for otherwise stating that, in the practitioner's professional
2 opinion, a patient may receive therapeutic or palliative benefit from the use of
3 medicinal marijuana, if done in accordance with this section.

4 (9) Nothing in Sections 1 to 30 of this Act shall prevent a practitioner from being
5 sanctioned for:

6 (a) Issuing a written certification without first obtaining authorization to
7 provide written certifications from a state licensing board;

8 (b) Issuing a written certification to a patient with whom the practitioner does
9 not have a bona fide practitioner-patient relationship;

10 (c) Failing to properly evaluate a patient's medical history and current medical
11 condition prior to issuing a written certification;

12 (d) Otherwise failing to use good faith in his or her treatment of the patient; or

13 (e) Any other violation of this section.

14 (10) A state licensing board may suspend or revoke a practitioner's license for
15 multiple violations or a serious violation of this section or administrative
16 regulations promulgated thereunder.

17 (11) The state licensing boards shall:

18 (a) Within one hundred twenty (120) days after the effective date of this Act
19 promulgate administrative regulations to carry out the provisions of this
20 section, including but not limited to:

21 1. The procedures for applying for authorization to provide written
22 certifications;

23 2. The conditions that must be met to be eligible for authorization to
24 provide written certifications;

25 3. The process and procedures for renewing authorization to provide
26 written certifications;

27 4. Continuing education requirements for practitioners who are

- 1 authorized to provide written certifications;
 2 4. The reasons for which authorization may be suspended or revoked;
 3 and
 4 5. The minimal standards of care when providing written certifications;
 5 (b) On a regular basis, provide the department with the names of all
 6 practitioners authorized by the state licensing board to provide written
 7 certifications; and
 8 (c) Immediately provide the department with the name of any practitioner
 9 whose authorization to provide written certifications is suspended or
 10 revoked.

11 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 12 READ AS FOLLOWS:

- 13 (1) An attorney shall not be subject to disciplinary action by the Kentucky Bar
 14 Association or other professional licensing association for providing legal
 15 assistance to any individual or cannabis business related to activity that is no
 16 longer subject to criminal penalties under state law pursuant to Sections 1 to 30
 17 of this Act.
 18 (2) No person shall be subject to arrest, prosecution, or penalty in any manner, or
 19 denied any right or privilege, including but not limited to a civil penalty or
 20 disciplinary action by an occupational or professional licensing board, for
 21 providing assistance or services, including but not limited to accounting services,
 22 security services, or business consulting services to any individual or cannabis
 23 business related to activity that is no longer subject to criminal penalties under
 24 state law pursuant to Sections 1 to 30 of this Act.

25 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 26 READ AS FOLLOWS:

- 27 (1) (a) Any medicinal marijuana, medicinal marijuana supplies, medicinal

1 marijuana related products, marijuana paraphernalia, lawful property, or
2 interest in lawful property that is possessed, owned, or used in connection
3 with the medicinal use of marijuana or acts incidental to that use, shall not
4 be seized or forfeited.

5 (b) Sections 1 to 30 of this Act shall not prevent the seizure or forfeiture of
6 marijuana exceeding the amounts allowed under Section 4 of this Act nor
7 shall it prevent seizure or forfeiture if the basis for that action is unrelated
8 to the medicinal use of marijuana in accordance to Sections 1 to 30 of this
9 Act and any administrative regulation promulgated thereunder.

10 (2) Possession of, or application for, a registry identification card or registration
11 certificate shall not constitute probable cause or reasonable suspicion, nor shall it
12 be used to support the search of the person, property, or home of the person
13 possessing or applying for the registry identification card or registration
14 certificate. The possession of, or application for, a registry identification card or
15 registration certificate shall not preclude the existence of probable cause if
16 probable cause exists on other grounds.

17 (3) (a) There shall be a presumption that a cardholder is engaged in the medicinal
18 use of marijuana, or in the case of a designated caregiver, assisting with the
19 medicinal use of marijuana, if the cardholder:

20 1. Possesses a valid registry identification card issued by the department
21 in accordance with Sections 11 to 13 of this Act or, in the case of a
22 visiting qualified patient, an equivalent document issued pursuant to
23 the laws of another state, district, territory, commonwealth, insular
24 possession of the United States, or country recognized by the United
25 States that allows the person to use medicinal marijuana in the
26 jurisdiction of issuance; and

27 2. Possesses an amount of medicinal marijuana that does not exceed the

1 amount allowed under Section 4 of this Act.

2 (b) The presumption may be rebutted by evidence that conduct was unrelated to
 3 the medicinal use of marijuana or was otherwise in violation of Sections 1
 4 to 30 of this Act.

5 (4) No law enforcement officer employed by an agency which receives state or local
 6 government funds shall expend any state or local resources, including the
 7 officer's time, to effect any arrest or seizure of medicinal marijuana, or conduct
 8 any investigation, on the sole basis of activity the officer believes to constitute a
 9 violation of the federal Controlled Substances Act, 21 U.S.C. secs. 801 et seq., if
 10 the officer should have reason to believe that such activity is in compliance with
 11 Sections 1 to 30 of this Act.

12 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
 13 READ AS FOLLOWS:

14 (1) Sections 1 to 30 of this Act do not authorize any person to engage in, and shall
 15 not prevent the imposition of any civil, criminal, or other penalties, including but
 16 not limited to criminal prosecution or disciplinary action by the department or an
 17 occupational or professional licensing board, for engaging in, the following
 18 conduct:

19 (a) Operating, navigating, or being in actual physical control of any aircraft,
 20 vehicle, vessel, or any other device known, or hereafter invented, that is
 21 powered by machinery and that is or may be used to transport persons or
 22 property while under the influence of medicinal marijuana;

23 (b) Consuming medicinal marijuana while operating, navigating, or being in
 24 actual physical control of an aircraft, vehicle, vessel, or any other device
 25 known, or hereafter invented, that is powered by machinery and that is or
 26 may be used to transport persons or property;

27 (c) Possessing medicinal marijuana that is within the operator's arm's reach or

- 1 requires less than a two (2) step process to access while operating,
2 navigating, or being in actual physical control of an aircraft, vehicle, vessel,
3 or any other device known, or hereafter invented, that is powered by
4 machinery and that is or may be used to transport persons or property;
- 5 (d) Undertaking any task under the influence of medicinal marijuana, when
6 doing so would constitute negligence or professional malpractice;
- 7 (e) Possessing medicinal marijuana, or otherwise engaging in the use of
8 medicinal marijuana:
- 9 1. On a school bus, except as permitted under Section 10 of this Act;
10 2. On the grounds of any preschool or primary or secondary school,
11 except as permitted under Section 10 of this Act;
12 3. In any correctional facility; or
13 4. On any property of the federal government;
- 14 (f) Using marijuana, if that person is not a register qualified patient or visiting
15 qualified patient;
- 16 (g) Smoking marijuana, including but not limited to:
- 17 1. On any form of public transportation;
18 2. In any public place as defined in KRS 525.010; or
19 3. In any place of public accommodation, resort, or amusement as
20 defined in KRS 344.130; or
- 21 (h) Cultivating marijuana unless that person is licensed by the department as a
22 cannabis cultivator pursuant to Sections 16 to 19 of this Act or is a
23 cultivator agent.
- 24 (2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the
25 same as those established for operating a motor vehicle under the influence of
26 alcohol or any other substance in KRS 189A.010.
- 27 (3) Nothing in Sections 1 to 30 of this Act supersedes statutory laws relating to

1 driving while under the influence of intoxicants. Sections 1 to 30 of this Act shall
2 not prevent the enforcement of current laws pertaining to driving while
3 intoxicated, including KRS 183.061, 189.520, 189A.010, and 235.240.

4 (4) As used in this section:

5 (a) "Aircraft" means the same as defined in KRS 183.011;

6 (b) "Vehicle" means the same as defined in KRS 189.010; and

7 (c) "Vessel" means the same as defined in KRS 235.010.

8 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO
9 READ AS FOLLOWS:

10 (1) Nothing in Sections 1 to 30 of this Act shall:

11 (a) Require an employer to permit or accommodate the use, consumption,
12 possession, transfer, display, transportation, distribution, sale, or growing
13 of medicinal marijuana in the workplace;

14 (b) Prohibit an employer from implementing policies promoting workplace
15 health and safety by restricting the use of medicinal marijuana by
16 employees;

17 (c) Prohibit an employer from including in any contract provisions that
18 prohibit the use of medicinal marijuana by employees;

19 (d) Permit a cause of action against an employer for wrongful discharge or
20 discrimination;

21 (e) Except as provided in Section 10 of this Act, prohibit a person, employer,
22 corporation, or any other entity who occupies, owns, or controls a property
23 from prohibiting or otherwise regulating the use, consumption, possession,
24 transfer, display, transportation, sale, or growing of medicinal marijuana
25 on or in that property; or

26 (f) Prohibit an employer from establishing and enforcing a drug testing policy,
27 drug-free workplace, or zero-tolerance drug policy.

1 (2) An employee who is discharged from employment for consuming medicinal
2 marijuana in the workplace, working while under the influence of medicinal
3 marijuana, or testing positive for a controlled substance shall not be eligible to
4 receive benefits under KRS Chapter 341, if such actions are in violation of an
5 employment contract or established personnel policy.

6 (3) No employer may be penalized or denied any benefit under state law for
7 employing a cardholder.

8 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
9 TO READ AS FOLLOWS:

10 (1) A registered qualified patient or visiting qualified patient who uses medicinal
11 marijuana shall be afforded all the same rights under state and local law,
12 including those guaranteed under KRS Chapter 344, as the individual would
13 have been afforded if he or she were solely prescribed pharmaceutical
14 medications, as they pertain to drug testing required by any state or local law.

15 (2) A cardholder otherwise entitled to custody of, visitation time, or parenting time
16 with minor shall not be denied that right, and there shall be no presumption of
17 neglect or child endangerment, for conduct permitted under Sections 1 to 30 of
18 this Act unless the person's actions in relation to medicinal marijuana created an
19 unreasonable danger to the safety of the minor as established by clear and
20 convincing evidence.

21 (3) (a) For the purposes of medical care, including organ transplants, a patient's
22 authorized use of medicinal marijuana is the equivalent of the authorized
23 use of any other medication used at the direction of a practitioner, and shall
24 not constitute the use of an illicit substance or otherwise disqualify a patient
25 from needed medical care.

26 (b) A health facility as defined in KRS 216B.015 may develop regulations to
27 allow a patient who is a registered qualified patient or visiting qualified

1 patient to use medicinal marijuana on the premises of the health facility.
2 However, any use allowed pursuant to this subsection shall not include
3 smoking.

4 (4) (a) No school may refuse to enroll, or otherwise penalize, a person solely for his
5 or her status as a cardholder, unless failing to do so would violate federal
6 law or regulations and cause the school to lose a monetary or licensing-
7 related benefit under federal law or regulations.

8 (b) No school may be penalized or denied any benefit under state law for
9 enrolling a cardholder.

10 (c) A local school board may develop regulations to permit a pupil who is a
11 cardholder to possess on a school bus and to possess and use medicinal
12 marijuana on the premises of a school. However, any use allowed pursuant
13 to this subsection shall not include smoking, vaping, or the use of vapor
14 products.

15 (5) (a) No landlord may refuse to lease to, or otherwise penalize, a person solely for
16 his or her status as a cardholder, unless failing to do so would violate
17 federal law or regulations and cause the landlord to lose a monetary or
18 licensing-related benefit under federal law or regulations.

19 (b) No landlord may be penalized or denied any benefit under state law for
20 leasing to a cardholder.

21 (c) A landlord shall not include in a rental agreement terms and conditions
22 that prohibit the use of medicinal marijuana by a cardholder, except that a
23 landlord may prohibit smoking.

24 ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
25 TO READ AS FOLLOWS:

26 (1) The department shall establish, implement, and operate a registry identification
27 card program for qualified patients, visiting qualified patients, and designated

1 caregivers.

2 (2) Registry identification cards shall contain the following:

3 (a) The name of the cardholder;

4 (b) A designation of whether the cardholder is a qualified patient, visiting
5 qualified patient, or designated caregiver;

6 (c) The date of issuance and expiration date of the registry identification card;

7 (d) A random alphanumeric identification number of at least ten (10)
8 characters, containing at least four (4) numbers and at least four (4) letters,
9 that is unique to the cardholder;

10 (e) A bar code or other marking that can be scanned electronically;

11 (f) If the cardholder is a designated caregiver, the random alphanumeric
12 identification number of at least ten (10) characters of the registered
13 qualified patient the designated caregiver is receiving the registry
14 identification card to assist;

15 (g) A photograph of the cardholder, if the department's administrative
16 regulations require one; and

17 (h) The telephone number and Web site address for the verification system.

18 (3) (a) Except as provided in this subsection, the expiration date for registry
19 identification cards shall be one (1) year after the date of issuance.

20 (b) If the practitioner states in the written certification that the qualified patient
21 would benefit from the use of medicinal marijuana until a specified earlier
22 date, then the registry identification card shall expire on that date.

23 (4) The department may, at its discretion, electronically store in the card all of the
24 information listed in subsection (2) of this section, along with the address and
25 date of birth of the cardholder, to allow it to be read electronically by law
26 enforcement agents and licensed cannabis businesses.

27 (5) The registry identification card application and renewal fees shall be as follows:

- 1 (a) A registry identification card for a qualified patient who is a Kentucky
2 resident shall be sixty dollars (\$60);
- 3 (b) A registry identification card for a visiting qualified patient shall be sixty
4 dollars (\$60); and
- 5 (c) A registry identification card for a designated caregiver shall be twenty
6 dollars (\$20) per registered qualified patient to whom the designated
7 caregiver is connected unless the designated caregiver is the spouse or adult
8 child of the qualified patient, in which case there shall be no fee for a
9 registry identification card.
- 10 (6) (a) The department shall operate a provisional licensure receipt system for
11 registered qualified patients, designated caregivers, and visiting qualified patients
12 that shall be valid for forty-five (45) days or until a permanent card can be issued
13 as if it is a registry identification card issued pursuant to this section and Sections
14 12 and 13 of this Act. This program shall be implemented and operational
15 simultaneously with the department's implementation of the registry
16 identification card program established in this section. A provisional licensure
17 receipt shall contain the following:
- 18 1. A temporary licensure number;
19 2. A barcode or other marking that can be scanned electronically;
20 3. The name of the applicant;
21 4. The effective date of the receipt;
22 5. The expiration date of the receipt;
23 6. An indication that the cardholder fee has been paid;
24 7. An indication that the application has been submitted and is
25 apparently complete; and
26 8. The name of the certifying practitioner.
- 27 (b) The licensure receipt system shall be designed so that this provisional

1 licensure receipt shall be produced by the application Web site upon
2 completion of an application that includes a practitioner recommendation
3 and payment of the cardholder fee. To reduce application errors and
4 processing time, a recommending practitioner or a dispensary may offer a
5 service that allows an applicant to use a computer and printer on the
6 premises of the practitioner's office or dispensary to complete an
7 application and receive a provisional licensure receipt pursuant to this
8 subsection.

9 (c) Notwithstanding any other provision of Sections 1 to 30 of this Act, a valid
10 provisional licensure receipt issued pursuant to this subsection shall convey
11 to the individual whose name appears on the provisional licensure receipt
12 all of the same rights and privileges as a registry identification card issued
13 pursuant to this section and Sections 12 and 13 of this Act and shall be
14 accepted by a cannabis business in place of a registry identification card.

15 (7) All registry identification card fees collected by the department pursuant to
16 subsection (5) of this section shall be forwarded to the medicinal marijuana trust
17 fund established in Section 31 of this Act.

18 ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
19 TO READ AS FOLLOWS:

20 (1) Except as provided in subsection (2) of this section, no qualified patient, visiting
21 qualified patient, or designated caregiver shall possess, purchase, acquire, or
22 otherwise engage, or assist, in the use of medicinal marijuana in Kentucky
23 without first applying for and receiving a registry identification card issued by the
24 department.

25 (2) A visiting qualified patient with a valid registry identification card, or its
26 equivalent, that was issued pursuant to the laws of another state, district,
27 territory, commonwealth, insular possession of the United States, or country

1 recognized by the United States that allows the person to use medicinal
2 marijuana in the jurisdiction of issuance may use that registry identification
3 card, or its equivalent, for all purposes established in Sections 1 to 30 of this Act
4 and shall not be required to apply for or receive a visiting qualified patient
5 registry identification card from the department.

6 (3) To apply for a registry identification card a qualified patient and his or her
7 designated caregivers, if any, shall submit the following, in accordance with
8 administrative regulations promulgated by the department:

9 (a) The name, address, and date of birth of the qualified patient, except that if
10 the applicant is homeless an address where the applicant may be reached
11 shall be provided to the department;

12 (b) A written certification issued by a practitioner within ninety (90) days
13 immediately preceding the date of an application;

14 (c) The name, address, and telephone number of the qualified patient's
15 practitioner;

16 (d) The application or renewal fee;

17 (e) The name, address, and date of birth of not more than two (2) designated
18 caregivers, if any, chosen by the qualified patient;

19 (f) A statement, signed by the qualified patient, pledging not to divert medicinal
20 marijuana to anyone who is not permitted to possess marijuana pursuant to
21 Sections 1 to 30 of this Act. The statement shall contain a listing of potential
22 penalties, including criminal prosecution, for diverting marijuana; and

23 (g) A signed statement from the designated caregivers, if any, agreeing to be
24 designated as the patient's designated caregiver and pledging not to divert
25 medicinal marijuana to anyone other than the registered qualified patient to
26 whom the caregiver is connected through the department's registration
27 process. The statement shall contain a listing of potential penalties,

1 including criminal prosecution, for diverting marijuana.

2 (4) To apply for a registry identification card a visiting qualified patient shall submit
 3 the following, in accordance with administrative regulations promulgated by the
 4 department:

5 (a) The name, address, and date of birth of the visiting qualified patient, except
 6 that if the applicant is homeless an address where the applicant may be
 7 reached shall be provided to the department;

8 (b) A copy of his or her valid registry identification card or its equivalent that
 9 was issued pursuant to the laws of the jurisdiction of the person's residence;

10 (c) The application or renewal fee; and

11 (d) A statement, signed by the visiting qualified patient, pledging not to divert
 12 medicinal marijuana to anyone who is not permitted to possess marijuana
 13 pursuant to Sections 1 to 30 of this Act. The statement shall contain a
 14 listing of potential penalties, including criminal prosecution, for diverting
 15 marijuana.

16 (5) The application for qualified patients' registry identification cards shall ask
 17 whether the patient would like the department to notify him or her of any clinical
 18 studies needing human subjects for research on the medicinal use of marijuana.
 19 The department shall notify interested patients if it is aware of studies that will be
 20 conducted in the United States.

21 (6) A registered qualified patient applying to renew a registry identification card
 22 issued by the department shall be required to submit to the department a written
 23 certification issued by a practitioner within ninety (90) days immediately
 24 preceding the date of a renewal application.

25 ➔SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 26 TO READ AS FOLLOWS:

27 (1) Except as provided in subsection (2) of this section, the department shall:

- 1 (a) Acknowledge receipt of an application within fifteen (15) days of receipt,
2 and approve or deny an application or renewal within thirty (30) days of
3 receiving a completed application or renewal application; and
- 4 (b) Issue registry identification cards to a qualified patient and his or her
5 designated caregiver, if any, or a visiting qualified patient within five (5)
6 days of approving the application or renewal. A designated caregiver shall
7 be issued a registry identification card for each registered qualified patient
8 to whom he or she is connected through the department's registration
9 process.
- 10 (2) The department shall not issue a registry identification card to a qualified patient
11 who is younger than eighteen (18) years of age unless the custodial parent or
12 legal guardian with responsibility for health care decisions for the qualified
13 patient consents in writing to:
- 14 (a) Allow the qualified patient's use of medicinal marijuana;
15 (b) Serve as the qualified patient's designated caregiver; and
16 (c) Control the acquisition of the medicinal marijuana, the dosage, and the
17 frequency of the use by the qualified patient.
- 18 (3) The department may deny an application or renewal of a qualified patient's or
19 visiting qualified patient's registry identification card for any reason that the
20 department, in the exercise of sound discretion, deems sufficient, including but
21 not limited to if the applicant:
- 22 (a) Did not provide the information or materials required by Section 12 of this
23 Act;
24 (b) Previously had a registry identification card revoked;
25 (c) Provided false or falsified information; or
26 (d) Was previously convicted of a disqualifying felony offense.
- 27 (4) The department may deny an application or renewal for a designated caregiver

- 1 chosen by a qualified patient whose registry identification card was granted for
2 any reason that the department, in the exercise of sound discretion, deems
3 sufficient, including but not limited to if the applicant:
- 4 (a) Does not meet the definitional requirements of a designated caregiver in
5 Section 1 of this Act;
- 6 (b) Did not provide the information or materials required by Section 12 of this
7 Act;
- 8 (c) Previously had a registry identification card revoked;
- 9 (d) Provided false or falsified information; or
- 10 (e) Was previously convicted of a disqualifying felony offense.
- 11 (5) The department may conduct a criminal background check of any applicant if the
12 criminal background check is conducted solely to determine whether the
13 applicant was previously convicted of a disqualifying felony offense.
- 14 (6) The department shall notify the registered qualified patient who has designated
15 someone to serve as his or her designated caregiver if the designated caregiver is
16 denied a registry identification card.
- 17 (7) The department shall notify the applicant in writing of the denial and reasons by
18 registered or certified mail at the address given in the application or supplement.
19 The applicant may, within thirty (30) days after the date of the mailing of the
20 department's notice, file a written request for an administrative hearing on the
21 application. The hearing shall be conducted on the application in compliance
22 with the requirements of KRS Chapter 13B.
- 23 (8) Final orders of the department after administrative hearings shall be subject to
24 judicial review. Jurisdiction and venue for judicial review are vested in the
25 Circuit Court of the county in which the appealing party resides.

26 ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
27 TO READ AS FOLLOWS:

- 1 (1) Cardholders shall be required to make the following notifications to the
2 department:
- 3 (a) A cardholder shall notify the department of any change in his or her name
4 or address;
- 5 (b) A registered qualified patient shall notify the department within thirty (30)
6 days if he or she ceases to suffer from the qualifying medical condition for
7 which a practitioner provided a written certification;
- 8 (c) A designated caregiver shall notify the department within thirty (30) days if
9 he or she becomes aware that a registered qualified to whom the caregiver is
10 connected through the department's registration process has died;
- 11 (d) Before a registered qualified patient changes his or her designated
12 caregiver, the registered qualified patient shall notify the department of the
13 change; and
- 14 (e) If a cardholder loses his or her registry identification card, he or she shall
15 notify the department within ten (10) days of becoming aware the card has
16 been lost.
- 17 (2) When a cardholder notifies the department of items listed in subsection (1) of this
18 section, but remains eligible under Sections 1 to 30 of this Act, the department
19 shall issue the cardholder a new registry identification card with a new random
20 ten (10) character alphanumeric identification number within ten (10) days of
21 receiving the updated information and a twenty dollar (\$20) fee. If the person
22 notifying the department is a registered qualified patient, the department shall
23 also issue his or her designated caregiver, if any, a new registry identification
24 card within ten (10) days of receiving the updated information and a twenty
25 dollar (\$20) fee.
- 26 (3) If a registered qualified patient ceases to be a registered qualified patient or
27 changes his or her designated caregiver, the department shall promptly notify the

1 designated caregiver in writing. The designated caregiver's protections under
 2 Sections 1 to 30 of this Act as to that registered qualified patient shall expire
 3 fifteen (15) days after notification by the department.

4 (4) A cardholder who fails to make a notification to the department that is required
 5 by this section is subject to a violation, punishable by a penalty of no more than
 6 one hundred fifty dollars (\$150).

7 (5) If a registered qualified patient's certifying practitioner notifies the department in
 8 writing either that the registered qualified patient has ceased to suffer from the
 9 qualifying medical condition for which a practitioner provided a written
 10 certification or that the practitioner no longer believes the patient might receive
 11 therapeutic or palliative benefit from the use of medicinal marijuana, the
 12 department shall promptly notify the registered qualified patient in writing. The
 13 registered qualified patient's protections under Sections 1 to 30 of this Act shall
 14 expire fifteen (15) days after notification by the department, and the registered
 15 qualified patient shall have fifteen (15) days to dispose of or donate his or her
 16 medicinal marijuana to a dispensary.

17 (6) All fees and penalties collected pursuant to this section shall be forwarded to the
 18 medicinal marijuana trust fund established in Section 31 of this Act.

19 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 20 TO READ AS FOLLOWS:

21 (1) Any cardholder who sells, distributes, or dispenses marijuana to a person who is
 22 not permitted to possess or use marijuana under Sections 1 to 30 of this Act shall
 23 have his or her registry identification card revoked and shall be subject to other
 24 penalties, including but not limited to criminal prosecution, for the unauthorized
 25 sale, distribution, or dispensing of marijuana.

26 (2) The department may revoke the registry identification card of any cardholder
 27 who knowingly commits multiple violations or a serious violation of Sections 1 to

1 30 of this Act.

2 (3) The department shall provide notice of revocation, fine, or other penalty by
 3 mailing, via certified mail, the same in writing to the cardholder. The cardholder
 4 may, within thirty (30) days after the date of the mailing of the department's
 5 notice, file a written request for an administrative hearing regarding the
 6 revocation, fine, or other penalty. The hearing shall be conducted in compliance
 7 with the requirements of KRS Chapter 13B.

8 (4) Final orders of the department after administrative hearings shall be subject to
 9 judicial review. Jurisdiction and venue for judicial review are vested in the
 10 Circuit Court of the county in which the appealing party resides.

11 ➔SECTION 16. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 12 TO READ AS FOLLOWS:

13 (1) No person shall cultivate, process, produce, possess, test, transfer, transport, or
 14 sell medicinal marijuana or otherwise operate a cannabis business in this state
 15 without first obtaining a license under this section.

16 (2) The department shall create separate licenses allowing persons to operate a
 17 cannabis business, pursuant to Sections 1 to 30 of this Act, as:

18 (a) A cannabis cultivator;

19 (b) A cannabis dispensary;

20 (c) A cannabis processor; or

21 (d) A cannabis safety compliance facility.

22 (3) A cannabis business shall be required to apply for and obtain from the
 23 department a separate license for each location it intends to operate.

24 (4) A cannabis business license issued under this section and Sections 17 to 19 of
 25 this Act shall be valid for one (1) year from the date of issuance. The department
 26 shall notify each licensee ninety (90) days prior to the date the license expires to
 27 allow the licensee to begin the renewal procedure promulgated by the department

1 pursuant to Section 28 of this Act.

2 (5) The department shall approve a license holder's sale of a license issued pursuant
3 to this section and Sections 17 to 19 of this Act if the purchaser and any new
4 facilities meet the requirements of Sections 1 to 30 of this Act.

5 (6) The cannabis business licensure categories established in subsection (2) of this
6 section shall be further tiered by business size pursuant to Section 17 of this Act.

7 ➔SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
8 TO READ AS FOLLOWS:

9 (1) The department shall establish three (3) licensure tiers for each of the licensure
10 categories established in Section 16 of this Act.

11 (2) (a) A first tier cannabis business license shall be issued to persons or entities
12 applying for an initial cannabis business license for the first time or to a
13 cannabis business who, upon applying for renewal of a cannabis business
14 license, had no more than two million dollars (\$2,000,000) of gross receipts
15 during the previous calendar year.

16 (b) The initial license fee for a first tier cannabis business license shall be five
17 thousand dollars (\$5,000).

18 (c) The licensure renewal fee for a first tier cannabis business license shall be
19 five hundred dollars (\$500) plus one percent (1%) of all gross receipts
20 during the previous calendar year.

21 (3) (a) A second tier cannabis business license shall be issued to a cannabis
22 business who, upon applying for renewal of a cannabis business license,
23 had more than two million dollars (\$2,000,000) but not more than eight
24 million dollars (\$8,000,000) of gross receipts during the previous calendar
25 year.

26 (b) The licensure renewal fee for a second tier cannabis business license shall
27 be two thousand dollars (\$2,000) plus one and one-half percent (1.5%) of

1 all gross receipts during the previous calendar year.

2 (4) (a) A third tier cannabis business license shall be issued to cannabis businesses
3 who, upon applying for renewal of a cannabis business license, had over
4 eight million dollars (\$8,000,000) of gross receipts during the previous
5 calendar year.

6 (b) The licensure renewal fee for a third tier cannabis business license shall be
7 four thousand dollars (\$4,000) plus two percent (2%) of all gross receipts
8 during the previous calendar year.

9 (5) All licensure fees collected pursuant to this section shall be forwarded to the
10 medicinal marijuana trust fund established in Section 31 of this Act.

11 ➔SECTION 18. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
12 TO READ AS FOLLOWS:

13 (1) The department shall create a uniform application form for the cannabis
14 business licenses established in Section 16 of this Act.

15 (2) When applying for a license, the applicant shall submit the following in
16 accordance with the department's administrative regulations:

17 (a) The proposed legal name of the cannabis business;

18 (b) The proposed physical address of the cannabis business, the proposed
19 physical address of any additional locations, if any, where medicinal
20 marijuana will be cultivated, processed, produced, packaged, labeled, or
21 prepared for distribution by the cannabis business, and the global
22 positioning system coordinates for any cultivation activities;

23 (c) The name, address, and date of birth of each principal officer and board
24 member of the cannabis business;

25 (d) Any instances in which a business or not-for-profit entity that any of the
26 prospective board members managed or served on the board of was
27 convicted, fined, censured, or had a registration or license suspended or

- 1 revoked in any administrative or judicial proceeding;
- 2 (e) Any information required by the department to evaluate the applicant
- 3 pursuant to the competitive bid process described in Section 19 of this Act;
- 4 and
- 5 (f) A nonrefundable licensure application fee of one hundred dollars (\$100).
- 6 (3) The application fee required under subsection (2) of this section shall be applied
- 7 to the licensing fee if the license is issued; otherwise it shall be retained by the
- 8 department for administrative purposes.
- 9 (4) After a cannabis business is approved, but before it begins operations, it shall
- 10 submit the initial license fee established in Section 17 of this Act, minus the one
- 11 hundred dollars (\$100) application fee, to the department and, if a physical
- 12 address had not been finalized when it applied, it shall submit its complete
- 13 physical address.
- 14 (5) If the license application is approved, the department shall issue a license to each
- 15 cannabis business location. Licenses shall include the business's identification
- 16 number. The department shall also provide each licensed dispensary with the
- 17 contact information for the cardholder verification system.

18 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

19 TO READ AS FOLLOWS:

- 20 (1) The department may deny an application for a cannabis business license for any
- 21 reason that the department, in the exercise of sound discretion, deems sufficient,
- 22 including but not limited to:
- 23 (a) The applicant failed to submit the materials required by this section and
- 24 Section 18 of this Act, including if the applicant's plans do not satisfy the
- 25 security, oversight, or recordkeeping administrative regulations
- 26 promulgated by the department;
- 27 (b) The applicant falsifies information on the licensure application;

- 1 (c) The applicant would not be in compliance with local cannabis business
2 prohibitions enacted pursuant to Section 26 of this Act;
- 3 (d) The applicant does not meet the requirements of Section 20 of this Act;
- 4 (e) One (1) or more of the prospective principal officers or board members:
- 5 1. Has been convicted of a disqualifying felony offense, the provisions of
6 KRS 335B.020 and 335B.030 notwithstanding;
- 7 2. Has served as a principal officer or board member for a cannabis
8 business that has had its license revoked;
- 9 3. Is younger than twenty-one (21) years of age; or
- 10 4. Is a practitioner who has been authorized by a state licensing board to
11 provide patients with a written certification; or
- 12 (f) 1. For a safety compliance facility, one (1) or more of the prospective
13 principal officers or board members is a principal officer or board
14 member of a cultivator, processor, or dispensary licensed to operate in
15 Kentucky; or
- 16 2. For a cultivator, processor, or dispensary, one (1) or more of the
17 prospective principal officers or board members is a principal officer
18 or board member of a safety compliance facility licensed to operate in
19 Kentucky.
- 20 (2) The department shall acknowledge receipt of an application for a cannabis
21 business license within fifteen (15) days of receipt, and approve or deny the
22 application within forty-five (45) days of receiving a completed application.
- 23 (3) The department shall notify the applicant in writing of a license denial and
24 reasons by registered or certified mail at the address given in the application or
25 supplement. Except for license denials based upon subsections (5) and (6) of this
26 section, the applicant may, within thirty (30) days after the mailing of the
27 department's notice, file a written request for an administrative hearing on the

1 application. The hearing shall be conducted on the application in compliance
2 with the requirements of KRS Chapter 13B.

3 (4) Final orders of the department after administrative hearings shall be subject to
4 judicial review as provided in KRS 13B.140. Jurisdiction and venue for judicial
5 review are vested in the Circuit Court of the county in which the applicant
6 business would be located.

7 (5) Notwithstanding subsection (1) of this section, the department shall not be
8 required to issue more cannabis business licenses than market pressures dictate,
9 except that the department shall not place a limit on the number of licenses
10 issued for safety compliance facilities.

11 (6) If the department receives a greater number of cannabis business license
12 applications in any cannabis business category than it deems necessary to meet
13 the demonstrated or anticipated needs for current or anticipated cardholders, the
14 department shall use an impartial and numerically scored competitive bid process
15 developed by the department to evaluate cannabis business license applications.
16 The competitive bid process shall consider the following criteria:

17 (a) The suitability of the proposed location or locations, including compliance
18 with any local zoning laws and the geographic convenience to patients
19 throughout the Commonwealth should the applicant be approved;

20 (b) The principal officers' and board members' relevant experience, including
21 any training or professional licensing related to medicine, pharmaceuticals,
22 natural treatments, botany, or medicinal marijuana cultivation and
23 preparation, and their experience running any other business or not-for-
24 profit entity;

25 (c) The proposed cannabis business's plan for operations and services,
26 including:

27 1. Staffing and training plans;

- 1 2. A plan to provide employees with a safe, healthy, and economically
2 sustainable working environment;
- 3 3. Whether it has sufficient capital to operate; and
- 4 4. The ability to assist with the provision of an adequate supply of
5 medicinal marijuana to the cardholders in its locality, area
6 development district, or the state;
- 7 (d) The sufficiency of the applicant's plans for recordkeeping;
- 8 (e) The sufficiency of the applicant's plans for safety, security, and the
9 prevention of diversion, including proposed locations and security devices
10 employed;
- 11 (f) The applicant's plan for making medicinal marijuana available on an
12 affordable basis to registered qualified patients who are veterans, or who
13 are enrolled in Medicaid or receiving Supplemental Security Income or
14 Social Security disability insurance;
- 15 (g) The applicant's plan for safe and accurate packaging and labeling of
16 medicinal marijuana, including the applicant's plan for ensuring that all
17 medicinal marijuana is free of contaminants; and
- 18 (h) The absence of violations by the applicant or one (1) or more of its principal
19 officers of any local, state, or federal tax, criminal, public safety, food
20 safety, discrimination, workplace safety, employment, or other laws relevant
21 to the operation of its business.
- 22 (7) Notwithstanding subsection (5) of this section:
- 23 (a) 1. No later than one (1) year after the effective date of this Act, if a
24 sufficient number of cannabis business license applications has been
25 submitted to the department, the department shall issue a cannabis
26 business license to at least the fifteen (15) highest-scoring applicants
27 within each cannabis business category, except that the need to ensure

1 an adequate geographic distribution of cannabis businesses may
 2 supersede the requirement that the department approve license
 3 applications based solely on the competitive bid process described in
 4 subsection (4) of this section, and the department may divide the state
 5 into geographical areas and grant a license to the highest-scoring
 6 applicant within each cannabis business category in each geographic
 7 area.

8 2. If the department decides to divide the state into geographic areas,
 9 pursuant to this subsection, the department is encouraged to use the
 10 area development district counties as they existed on the effective date
 11 of this Act;

12 (b) No later than two (2) years after the effective date of this Act, if a sufficient
 13 number of cannabis business license applications has been submitted to the
 14 department, the department shall issue a cannabis business license to at
 15 least one (1) cannabis business in each cannabis business category within
 16 each geographical area; and

17 (c) After reviewing a report issued pursuant to Section 3 of this Act, if the
 18 department determines that additional cannabis businesses are needed to
 19 meet the needs of cardholders either within an area development district or
 20 throughout the state, the department shall expand the number of cannabis
 21 business licenses issued within an area development district, city, or county
 22 and shall issue an appropriate number of cannabis business licenses to
 23 ensure that the needs of cardholders can be adequately met.

24 ➔SECTION 20. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 25 TO READ AS FOLLOWS:

26 (1) A cannabis business licensed under this chapter shall:

27 (a) Comply with Sections 1 to 30 of this Act and any administrative regulations

- 1 *promulgated thereunder by the department;*
- 2 *(b) Conduct a criminal background check into the criminal history of each*
- 3 *person seeking to become a principal officer, board member, agent,*
- 4 *volunteer, or employee before that person begins work. A cannabis business*
- 5 *shall not employ, accept as a volunteer, or have as a board member,*
- 6 *principal officer, or agent any person who:*
- 7 *1. Was convicted of a disqualifying felony offense; or*
- 8 *2. Is under twenty-one (21) years of age;*
- 9 *(c) Implement appropriate security measures to deter and prevent the theft of*
- 10 *medicinal marijuana and unauthorized entrance into areas containing*
- 11 *medicinal marijuana;*
- 12 *(d) Demonstrate sufficient capital such that it can establish its business and*
- 13 *meet the needs for its type of cannabis business;*
- 14 *(e) Display their license on the premises at all times; and*
- 15 *(f) Be subject to reasonable inspection by the department and the Department*
- 16 *for Public Health pursuant to the department's procedures or*
- 17 *administrative regulations. The department and the Department for Public*
- 18 *Health may inspect any licensed premises without having to first obtain a*
- 19 *search warrant.*
- 20 *(2) A practitioner who has been authorized by a state licensing board to provide*
- 21 *patients with a written certification shall not be permitted to be a board member*
- 22 *of any cannabis business or to own any portion of a cannabis business.*
- 23 *(3) The operating documents of a cannabis business shall include procedures for its*
- 24 *oversight and procedures to ensure accurate recordkeeping and inventory*
- 25 *control.*
- 26 *(4) A cannabis business shall not be located within one thousand (1,000) feet of an*
- 27 *existing elementary or secondary school or a day-care center.*

- 1 (5) When transporting medicinal marijuana on behalf of a cannabis business that is
2 permitted to transport medicinal marijuana, a cannabis business agent shall
3 have:
4 (a) A copy of the cannabis business license for the business that employs the
5 agent;
6 (b) Documentation that specifies the amount of medicinal marijuana being
7 transported and the date on which the medicinal marijuana is being
8 transported; and
9 (c) The business license number and telephone number of any other cannabis
10 business receiving or otherwise involved in the transportation of the
11 medicinal marijuana.
- 12 (6) A cannabis business shall only acquire, possess, cultivate, manufacture, deliver,
13 transfer, transport, supply, or dispense medicinal marijuana for the purposes of
14 distributing medicinal marijuana to registered qualified patients directly or
15 through their designated caregivers and visiting qualified patients who possess a
16 valid registry identification card issued by the department, or for visiting qualified
17 patients an equivalent document issued in another jurisdiction.
- 18 (7) A cannabis business is prohibited from acquiring, possessing, delivering,
19 transferring, transporting, supplying, dispensing, or selling any product that
20 contains or is derived from marijuana unless that product was manufactured or
21 otherwise produced by a cannabis business licensed under this chapter.
- 22 (8) All cultivation of medicinal marijuana for cannabis businesses in this state shall
23 be done by cultivators licensed under this chapter and shall take place in an
24 enclosed, locked facility which can only be accessed by cultivator agents working
25 on behalf of the cultivator at the physical address or addresses provided to the
26 department during the registration process.
- 27 (9) A cannabis business shall not acquire, possess, cultivate, process, manufacture,

1 deliver, transfer, transport, supply, dispense, or sell:

2 (a) Raw plant material with a delta-9 tetrahydrocannabinol content of more
 3 than thirty-five percent (35%);

4 (b) Medicinal marijuana products intended for oral consumption as an edible,
 5 oil, or tincture with more than ten (10) milligrams of delta-9
 6 tetrahydrocannabinol per serving, except that this paragraph shall not apply
 7 to oils intended for consumption by vaporization; or

8 (c) Oils intended for consumption by vaporization or any medicinal marijuana
 9 product not described in paragraph (b) of this subsection with a delta-9
 10 tetrahydrocannabinol content of more than seventy percent (70%).

11 ➔SECTION 21. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 12 TO READ AS FOLLOWS:

13 (1) A cultivator or cultivator agent acting on behalf of a cultivator shall not be
 14 subject to prosecution under state or local law, to search or inspection except by
 15 the department and the Department for Public Health pursuant to Sections 20
 16 and 25 of this Act, or to seizure or penalty in any manner, or be denied any right
 17 or privilege, including but not limited to civil penalty or disciplinary action by a
 18 court or business licensing board, for acting pursuant to Sections 1 to 30 of this
 19 Act and the department's administrative regulations for:

20 (a) Selling cannabis seeds or seedlings to similar entities that are licensed to
 21 cultivate cannabis in other jurisdictions; or

22 (b) Acquiring, possessing, cultivating, manufacturing, delivering, transferring,
 23 transporting, supplying, or selling raw plant material and related supplies to
 24 other licensed cannabis businesses in this state.

25 (2) Cultivators and cultivator agents acting on behalf of a cultivator shall:

26 (a) Only deliver raw plant material to a licensed cultivator, licensed processor,
 27 licensed safety compliance facility, or licensed dispensary for fair market

1 value;

2 (b) Not supply a dispensary with more than the amount of medicinal marijuana
3 reasonably required by a dispensary; and

4 (c) Only deliver raw plant material to a licensed dispensary or processor after it
5 has been checked by a safety compliance facility agent for cannabinoid
6 contents and contaminants.

7 (3) The following square footage limits shall apply to cultivators licensed within each
8 of the tier levels established in Section 17 of this Act:

9 (a) A cultivator operating within the first tier shall not exceed a growth area of
10 two thousand five hundred (2,500) square feet for an indoor growth area or
11 three (3) times that amount for an outdoor crop;

12 (b) A cultivator operating within the second tier shall not exceed a growth area
13 of ten thousand (10,000) square feet for an indoor growth area or three (3)
14 times that amount for an outdoor crop; and

15 (c) A cultivator operating within the third tier shall not exceed a growth area of
16 twenty-five thousand (25,000) square feet for an indoor growth area or
17 three (3) times that amount for an outdoor crop.

18 (4) If a need for additional marijuana cultivation in this state is demonstrated by
19 cannabis businesses or the department's own analysis, the department may
20 increase the cultivation area square footage limits for either indoor or outdoor
21 cultivation, or both, in any or all three (3) licensure tiers by up to three (3) times
22 the limits established in this section. Any increase in cultivation area square
23 footage limits authorized by the department, pursuant to this subsection, shall not
24 result in an increase in the licensure application and renewal fees established in
25 Sections 17 and 18 of this Act.

26 ➔SECTION 22. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
27 TO READ AS FOLLOWS:

- 1 (1) A dispensary or dispensary agent acting on behalf of a dispensary shall not be
2 subject to prosecution under state or local law, to search or inspection except by
3 the department and the Department for Public Health pursuant to Sections 20
4 and 25 of this Act, to seizure or penalty in any manner, or be denied any right or
5 privilege, including but not limited to a civil penalty or disciplinary action by a
6 court or business licensing board, for acting pursuant to Sections 1 to 30 of this
7 Act and the department's administrative regulations for:
- 8 (a) Selling cannabis seeds to similar entities that are licensed to cultivate
9 cannabis in other jurisdictions;
- 10 (b) Acquiring medicinal marijuana from a processor or cultivator; or
- 11 (c) Supplying, selling, or dispensing medicinal marijuana, marijuana-related
12 supplies, or educational materials to registered qualified patients, visiting
13 qualified patients, designated caregivers on behalf of a registered qualified
14 patient, or to other dispensaries.
- 15 (2) A dispensary or dispensary agent acting on behalf of a dispensary shall:
- 16 (a) Maintain records that include specific notations of the amount of medicinal
17 marijuana being dispensed to a cardholder and whether it was dispensed
18 directly to a registered qualified patient or visiting qualified patient, or to a
19 registered qualified patient's designated caregiver. Each entry shall include
20 the date and time the medicinal marijuana was dispensed;
- 21 (b) Only dispense or sell medicinal marijuana after it has been checked by a
22 safety compliance facility agent for cannabinoid contents and
23 contaminants;
- 24 (c) Only dispense or sell medicinal marijuana to a registered qualified patient,
25 visiting qualified patient, or designated caregiver after making a diligent
26 effort to verify:
- 27 1. That the registry identification card, or its equivalent for a visiting

1 qualified patient, presented to the dispensary is valid, including by
 2 checking the verification system, if it is operational, or other
 3 department-designated databases;

4 2. That the person presenting the registry identification card, or its
 5 equivalent for a visiting qualified patient, is the person identified on
 6 the registry identification card or its equivalent by examining at least
 7 one (1) other form of government-issued photo identification; and

8 3. The amount of medicinal marijuana the person is legally permitted to
 9 purchase at the time of verification pursuant to subsection (4) of
 10 Section 4 of this Act by checking the verification system, if it is
 11 operational, or other department-designated databases;

12 (d) Not acquire medicinal marijuana from any person other than cannabis
 13 businesses licensed under this chapter, or an agent thereof, a registered
 14 qualified patient, or a designated caregiver; and

15 (e) Not rent office space to a practitioner.

16 (3) If a dispensary fails to comply with subsection (2)(c) of this section, the
 17 department may issue the dispensary a civil fine of up to fifty thousand dollars
 18 (\$50,000), except that the fine shall be one hundred thousand dollars (\$100,000)
 19 if the person purchasing or attempting to purchase medicinal marijuana is a
 20 minor. All fines collected pursuant to this subsection shall be forwarded to the
 21 medicinal marijuana trust fund established in Section 31 of this Act.

22 ➔SECTION 23. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 23 TO READ AS FOLLOWS:

24 (1) A processor or processor agent acting on behalf of a processor shall not be
 25 subject to prosecution under state or local law, to search or inspection except by
 26 the department and the Department for Public Health pursuant to Sections 20
 27 and 25 of this Act, to seizure or penalty in any manner, or be denied any right or

1 privilege, including but not limited to civil penalty or disciplinary action by a
 2 court or business licensing board, for acting pursuant to Sections 1 to 30 of this
 3 Act and the department's administrative regulations for:

4 (a) Selling cannabis seeds or seedlings to similar entities that are licensed to
 5 cultivate cannabis in other jurisdictions; or

6 (b) Acquiring, purchasing, possessing, processing, manufacturing,
 7 manipulating, blending, preparing, packaging, delivering, transferring,
 8 transporting, supplying, or selling medicinal marijuana, and related
 9 supplies to other cannabis businesses licensed under this chapter.

10 (2) In no case shall a processed or produced medicinal marijuana product intended
 11 for oral consumption as an edible, oil, or tincture exceed ten (10) milligrams of
 12 delta-9 tetrahydrocannabinol per serving. For the purposes of this subsection, oil
 13 intended for consumption as a vaporizing product shall not be limited to ten (10)
 14 milligrams of delta-9 tetrahydrocannabinol per serving.

15 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 16 TO READ AS FOLLOWS:

17 A safety compliance facility or safety compliance facility agent acting on behalf of a
 18 safety compliance facility shall not be subject to prosecution, search except by the
 19 department and the Department for Public Health pursuant to Sections 20 and 25 of
 20 this Act, seizure, or penalty in any manner, or be denied any right or privilege,
 21 including but not limited to civil penalty or disciplinary action by a court or business
 22 licensing board, for acting in accordance with Sections 1 to 30 of this Act and the
 23 department's administrative regulations to provide the following services:

24 (1) Acquiring or possessing medicinal marijuana obtained from cardholders or
 25 cannabis businesses licensed under this chapter;

26 (2) Returning the medicinal marijuana to cardholders or cannabis businesses
 27 licensed under this chapter;

- 1 (3) Transporting medicinal marijuana that was produced by cannabis businesses
2 licensed under this chapter;
- 3 (4) The production or sale of approved educational materials related to the use of
4 medicinal marijuana;
- 5 (5) The production, sale, or transportation of equipment or materials other than
6 medicinal marijuana, including but not limited to lab equipment and packaging
7 materials that are used by cannabis businesses and cardholders, to cardholders or
8 cannabis businesses licensed under this chapter;
- 9 (6) Testing of marijuana samples, including for potency, pesticides, mold, and
10 contamination;
- 11 (7) Providing training to cardholders or cannabis business agents; and
- 12 (8) Receiving compensation for actions allowed under this section.

13 ➔SECTION 25. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
14 TO READ AS FOLLOWS:

- 15 (1) Cannabis businesses shall be subject to reasonable inspection by the department
16 and the Department for Public Health pursuant to the department's procedures
17 or administrative regulations. The department and the Department for Public
18 Health may inspect any licensed cannabis business premises without having to
19 first obtain a search warrant.
- 20 (2) Except as provided in Section 22 of this Act, the department may issue a civil fine
21 of up to three thousand dollars (\$3,000) to a cannabis business for a violation of
22 Sections 1 to 30 of this Act. All fines collected pursuant to this section shall be
23 forwarded to the medicinal marijuana trust fund established in Section 31 of this
24 Act.
- 25 (3) The department may, on its own motion or on complaint, after investigation and
26 opportunity for a public hearing at which the cannabis business has been
27 afforded an opportunity to appear and be heard pursuant to KRS Chapter 13B,

- 1 suspend or revoke a cannabis business license for multiple violations or a serious
2 violation of Sections 1 to 30 of this Act or any administrative regulations
3 promulgated thereunder by the licensee or any of its agents. A suspension shall
4 not be for a period of time longer than six (6) months.
- 5 (4) The department shall provide notice of suspension, revocation, fine, or other
6 penalty, as well as the required notice of the hearing, by mailing, via certified
7 mail, the same in writing to the cannabis business at the address on the license.
8 The cannabis business may, within thirty (30) days after the date of the mailing
9 of the department's notice, file a written request for an administrative hearing
10 regarding the suspension, revocation, fine, or other penalty. The hearing shall be
11 conducted in compliance with the requirements of KRS Chapter 13B.
- 12 (5) Final orders of the department after administrative hearings shall be subject to
13 judicial review. Jurisdiction and venue for judicial review are vested in the
14 Circuit Court of the county in which the cannabis business is physically located.
- 15 (6) A cultivator may continue to cultivate and possess marijuana plants during a
16 suspension, but it shall not transfer or sell medicinal marijuana during a
17 suspension.
- 18 (7) A dispensary may continue to possess its existing medicinal marijuana inventory
19 during a suspension, but it shall not acquire additional medicinal marijuana, or
20 dispense, transfer, or sell medicinal marijuana during a suspension.
- 21 (8) A processor may continue to process and possess its existing medicinal marijuana
22 inventory during a suspension, but it shall not acquire additional medicinal
23 marijuana, or dispense, transfer, or sell medicinal marijuana products during a
24 suspension.
- 25 (9) A safety compliance facility may possess medicinal marijuana during a
26 suspension, but it shall not transfer or receive any new medicinal marijuana
27 during a suspension.

1 ➔SECTION 26. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
2 TO READ AS FOLLOWS:

3 (1) For the purposes of this section, "local government" means a city, county,
4 urban-county government, consolidated local government, charter county
5 government, or unified local government.

6 (2) A local government may:

7 (a) Enact ordinances, not in conflict with Sections 1 to 30 of this Act or with
8 the department's administrative regulations, regulating the time, place, and
9 manner of cannabis business operations, except that a local government
10 shall not enact ordinances that impose an undue burden or make cannabis
11 business operations unreasonable or impractical;

12 (b) Prohibit all cannabis business operations within its territory through the
13 passage of an ordinance; or

14 (c) Enact resolutions directing that the question of prohibiting cannabis
15 businesses from operating within its territory be submitted to the voters of
16 its territory at the next regular election pursuant to subsection (5)(j) of this
17 section.

18 (3) If a county, consolidated local government, charter county government, or
19 unified local government prohibits all cannabis business operations, the
20 legislative body of a city located within the county, consolidated local
21 government, charter county government, or unified local government may:

22 (a) Approve cannabis business operations within the limits of the city through
23 the passage of an ordinance; or

24 (b) Enact resolutions directing that the question of allowing cannabis
25 businesses to operate within the limits of the city be submitted to the voters
26 who are eligible to vote in that city's elections at the next regular election
27 pursuant to subsection (5)(j) of this section.

- 1 (4) If a local government legislative body with jurisdiction prohibits cannabis
2 business operations through the passage of an ordinance, a public question that
3 is initiated by petition and that proposes allowing a cannabis business to operate
4 within the affected territory is authorized.
- 5 (5) A public question that is initiated by petition and is authorized by subsection (4)
6 of this section shall be submitted to the voters within the affected territory at the
7 next regular election by complying with the following requirements:
- 8 (a) Before a petition for submission of the proposal may be presented for
9 signatures, an intent to circulate the petition, including a copy of the
10 unsigned petition, shall be filed with the county clerk of the affected
11 territory by any person or group of persons seeking the submission of the
12 public question. The statement of intent shall include the addresses of the
13 person or group of persons and shall specify the person or group of persons,
14 as well as the address, to whom all notices are to be sent. Within ten (10)
15 days after the intent to circulate the petition is filed, the county clerk shall
16 deliver a copy of the intent to circulate the petition, including a copy of the
17 unsigned petition, to the legislative body of the affected territory;
- 18 (b) The petition shall set out in full the following question: "Are you in favor of
19 the sale of medicinal marijuana at a licensed dispensary and the operation
20 of other cannabis businesses in (affected territory)?";
- 21 (c) The petition for the submission of the proposal shall be signed by a number
22 of constitutionally qualified voters of the territory to be affected equal to five
23 percent (5%) of registered voters for the affected territory;
- 24 (d) Each signature shall be executed in ink or indelible pencil and shall be
25 followed by the legibly printed name of each voter, followed by the voter's
26 residence address, year of birth, and the correct date upon which the voter's
27 name was signed;

1 (e) No petition for the submission of the proposal shall be circulated for more
2 than six (6) months prior to its filing;

3 (f) After a petition for the submission of the proposal has received no fewer
4 than the number of qualifying signatures required by paragraph (c) of this
5 subsection, the signed petition shall be filed with the county clerk. When it
6 is filed, each sheet of the petition shall have an affidavit executed by the
7 circulator stating that he or she personally circulated the sheet, the number
8 of signatures thereon, that all signatures were affixed in his or her
9 presence, that he or she believes them to be the genuine signatures of
10 registered voters within the affected territory, and that each signer had an
11 opportunity before signing to read the full text of the proposal;

12 (g) No signer of the petition may withdraw his or her name or have it taken
13 from the petition after the petition has been filed. If the name of any person
14 has been placed on the petition for submission of the public question
15 without that person's authority, the person may, at any time prior to
16 certification of sufficiency of the petition by the county clerk as required by
17 paragraph (h) of this subsection, request the removal of his or her name by
18 the county board of elections and, upon proof that the person's name was
19 placed on the petition without his or her authority, the person's name and
20 personal information shall be eliminated, and he or she shall not be
21 counted as a petitioner;

22 (h) Within thirty (30) days after the petition is filed, the county clerk shall
23 complete a certificate as to its sufficiency and specifying, if it is insufficient,
24 the particulars of the insufficiency, and shall send a copy to the person or
25 persons specified in the statement of intent to receive all notices and to the
26 legislative body of the affected territory, all by registered mail. A petition
27 certified insufficient for lack of the required number of valid signatures

1 may be amended once by filing a supplemental petition upon additional
2 sheets within thirty (30) days after receiving the certificate of insufficiency.
3 The supplemental petition shall comply with the requirements applicable to
4 the original petition and, within ten (10) days after it is filed, the county
5 clerk shall complete a certificate as to the sufficiency of the petition as
6 amended and promptly send a copy of the certificate to the person or
7 persons specified to receive all notices and to the legislative body of the
8 affected territory by registered mail;

9 (i) A final determination as to the sufficiency of a petition shall be subject to
10 review in the Circuit Court of the county of the affected territory and shall
11 be limited to the validity of the county clerk's determination. A final
12 determination of insufficiency shall not prejudice the filing of a new
13 petition for the same purpose; and

14 (j) If, not later than the second Tuesday in August preceding the day
15 established for a regular election, the county clerk has certified that a
16 petition is sufficient or has received a local government resolution pursuant
17 to subsection (2) or (3) of this section, the county clerk shall have prepared
18 to place before the voters of the affected territory at the next regular election
19 the question, which shall be "Are you in favor of the sale of medicinal
20 marijuana at a licensed dispensary and the operation of other cannabis
21 businesses in (affected territory)? Yes....No....". The county clerk shall
22 cause to be published in accordance with KRS Chapter 424, at the same
23 time as the remaining voter information, the full text of the proposal. The
24 county clerk shall cause to be posted in each polling place one (1) copy of
25 the full text of the proposal.

26 (6) If the question submitted to the voters under subsection (3) or (5) of this section
27 fails to pass, three (3) years shall elapse before the question of medicinal

1 marijuana sales and cannabis business operations may be included on a regular
2 election ballot for the affected territory.

3 (7) If the question submitted to the voters under subsection (3) or (5) of this section
4 passes, medicinal marijuana sales and cannabis business operations may be
5 conducted in the affected territory, notwithstanding any local government
6 ordinances which prohibit all cannabis business operations within its territory.

7 (8) In circumstances where a county, consolidated local government, charter county
8 government, or unified local government prohibits cannabis business operations
9 but a city within that county, consolidated local government, charter county
10 government, or unified local government approves cannabis business operations
11 either through the adoption of an ordinance or following the affirmative vote of a
12 public question allowing cannabis business operations, then:

13 (a) The cannabis business operations may proceed within the limits of the city;
14 and

15 (b) The county, consolidated local government, charter county government, or
16 unified local government may assess an additional reasonable fee to
17 compensate for any additional corrections impact caused by the approval of
18 cannabis business operations. Any additional fees collected pursuant to this
19 subsection shall not exceed the additional corrections impact caused by the
20 approval of cannabis business operations.

21 (9) In circumstances where neither a city or the county, urban-county government,
22 consolidated local government, charter county government, or unified local
23 government in which the city is located prohibit cannabis business operations, a
24 cannabis business that is located within the jurisdiction of both the city and the
25 county shall only pay the reasonable established local fees of either the city or the
26 county. The fee shall be established, assessed, collected, and shared between the
27 city and the county, in a manner to be negotiated between the city and the county.

1 (10) The provisions of general election law shall apply to public questions submitted to
2 voters under this section.

3 ➔SECTION 27. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
4 TO READ AS FOLLOWS:

5 (1) The department shall maintain a confidential list of the persons to whom the
6 department has issued registry identification cards and their addresses, telephone
7 numbers, and registry identification numbers. This confidential list may be linked
8 to the database established in KRS 218A.202 for purposes consistent with
9 Sections 1 to 30 of this Act.

10 (2) The department shall, only at a cardholder's request, confirm his or her status as
11 a registered qualified patient, visiting qualified patient, or designated caregiver to
12 a third party, such as a landlord, employer, school, medical professional, or
13 court.

14 (3) The following information received and records kept pursuant to the
15 department's administrative regulations promulgated for purposes of
16 administering Sections 1 to 30 of this Act shall be confidential and exempt from
17 the Open Records Act, KRS 61.870 to 61.884, and shall not be subject to
18 disclosure to any individual or public or private entity, except as necessary for
19 authorized employees of the department to perform official duties pursuant to
20 Sections 1 to 30 of this Act:

21 (a) Applications and renewals, their contents, and supporting information
22 submitted by qualified patients, visiting qualified patients, and designated
23 caregivers in compliance with Section 12 of this Act, including information
24 regarding their designated caregivers and practitioners;

25 (b) The individual names and other information identifying persons to whom
26 the department has issued registry identification cards;

27 (c) Any dispensing information required to be kept under Section 22 of this Act

1 or the department's administrative regulations which shall only identify
2 cardholders by their registry identification numbers and shall not contain
3 names or other personal identifying information; and

4 (d) Any department hard drives or other data-recording media that are no
5 longer in use and that contain cardholder information. These hard drives
6 and other media shall be destroyed after a reasonable time or after the data
7 is otherwise stored.

8 Data subject to this section shall not be combined or linked in any manner with
9 any other list or database and shall not be used for any purpose not provided for
10 in Sections 1 to 30 of this Act.

11 (4) Nothing in this section shall preclude the following:

12 (a) Notification by the department's employees to state or local law enforcement
13 about falsified or fraudulent information submitted to the department or of
14 other apparently criminal violations of Sections 1 to 30 of this Act if the
15 employee who suspects that falsified or fraudulent information has been
16 submitted has conferred with his or her supervisor and both agree that
17 circumstances exist that warrant reporting;

18 (b) Notification by the department's employees to state licensing board if the
19 department has reasonable suspicion to believe a practitioner did not have a
20 bona fide practitioner-patient relationship with a patient for whom he or
21 she signed a written certification, if the department has reasonable
22 suspicion to believe the practitioner violated the standard of care, or for
23 other suspected violations of Sections 1 to 30 of this Act by a practitioner;

24 (c) Notification by dispensary agents to the department of a suspected violation
25 or attempted violation of Sections 1 to 30 of this Act or the administrative
26 regulations promulgated thereunder;

27 (d) Verification by the department of registry identification cards issued

- 1 pursuant to Sections 11 to 13 of this Act; and
2 (e) The submission of the report required by Section 3 of this Act to the
3 General Assembly.
4 (5) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in
5 jail and a one thousand dollar (\$1,000) fine for any person, including an
6 employee or official of the department or another state agency or local
7 government, to knowingly breach the confidentiality of information obtained
8 pursuant to Sections 1 to 30 of this Act.

9 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
10 TO READ AS FOLLOWS:

- 11 (1) Within one hundred twenty (120) days after the effective date of this Act, the
12 department shall:
13 (a) Establish a computer database that shall share data with all dispensaries to
14 monitor amounts of medicinal marijuana purchased by cardholders in real
15 time;
16 (b) Establish a verification system. The verification system shall allow law
17 enforcement personnel and cannabis business agents that need access to the
18 verification system to enter a registry identification number to determine
19 whether or not the number corresponds with a current, valid registry
20 identification card. The system shall only disclose whether the identification
21 card is valid, whether the cardholder is a registered qualified patient,
22 visiting qualified patient, or designated caregiver, and the amount of
23 medicinal marijuana the individual is legally allowed to purchase at the
24 time of verification pursuant to subsection (4) of Section 4 of this Act;
25 (c) Establish an inventory tracking program that is capable of tracking
26 medicinal marijuana from the point of cultivation to the point of sale to a
27 qualifying patient, designated caregiver, or visiting qualified patient; and

1 (d) Promulgate administrative regulations, including but not limited to the
2 following, to establish:

3 1. The manner in which the department shall consider applications for
4 and renewals of registry identification cards which may include
5 creating a standardized written certification form and standardized
6 registry identification card application form;

7 2. Procedures for the issuance and revocation of registry identification
8 cards;

9 3. Procedures for the issuance, renewal, suspension, and revocation of
10 cannabis business licenses, including the creation of a uniform
11 licensure application form and the competitive bid process described
12 in Section 19 of this Act, with all such procedures subject to the
13 requirements of KRS Chapters 13A and 13B;

14 4. A convenience fee to be assessed and collected by dispensaries for
15 visiting qualified patients who do not possess a valid registry
16 identification card issued by the department and who purchase
17 medicinal marijuana with a registry identification card or its
18 equivalent issued pursuant to the laws of another state, district,
19 territory, commonwealth, insular possession of the United States, or
20 country recognized by the United States that allows the person to use
21 medicinal marijuana in the jurisdiction of issuance. The convenience
22 fee established pursuant to this subparagraph shall not exceed fifteen
23 dollars (\$15) per transaction;

24 5. A definition of the amount of medicinal marijuana or delta-9
25 tetrahydrocannabinol that constitutes a daily supply, a ten (10) day
26 supply, and a thirty (30) day supply;

27 6. Provisions governing the following matters related to cannabis

- 1 businesses with the goal of protecting against diversion and theft,
2 without imposing any undue burden that would make cannabis
3 business operations unreasonable or impractical on cannabis
4 businesses or compromising the confidentiality of cardholders:
- 5 a. Recordkeeping and inventory control requirements;
6 b. Procedures for the verification and validation of a registry
7 identification card, or its equivalent, that was issued pursuant to
8 the laws of another state, district, territory, commonwealth,
9 insular possession of the United States, or country recognized by
10 the United States that allows for the use of medicinal marijuana
11 in the jurisdiction of issuance;
12 c. Security requirements for safety compliance facilities,
13 processors, dispensaries, and cultivators, which shall include at
14 a minimum lighting, video security, alarm requirements, on-site
15 parking, and measures to prevent loitering;
16 d. Procedures for the secure transportation and storage of
17 medicinal marijuana by cannabis business licensees and their
18 employees or agents;
19 e. Employment and training requirements for licensees, their
20 agents, or their employees, including requiring each licensee to
21 create an identification badge for each of the licensee's agents or
22 employees; and
23 f. Restrictions on visits to licensed cultivation and processing
24 facilities, including requiring the use of visitor logs;
- 25 7. Procedures to establish, publish, and annually update a list of varieties
26 of marijuana that possess a low but effective level of
27 tetrahydrocannabinol, including the substance cannabidiol, by

- 1 comparing percentages of chemical compounds within a given variety
2 against other varieties of marijuana;
- 3 8. A rating system that tracks the terpene content of at least the twelve
4 (12) major terpenoids within each strain of marijuana available for
5 medicinal use within the Commonwealth;
- 6 9. Requirements for random sample testing of medicinal marijuana to
7 ensure quality control, including testing for cannabinoids, terpenoids,
8 residual solvents, pesticides, poisons, toxins, mold, mildew, insects,
9 bacteria, and any other dangerous adulterant;
- 10 10. Requirements for licensed cultivators and processors to contract with
11 an independent safety compliance facility to test the medicinal
12 marijuana before it is sold at a dispensary. The department may
13 approve the safety compliance facility chosen by a cultivator or
14 processor and require that the safety compliance facility report test
15 results for a designated quantity of medicinal marijuana to the
16 cultivator or processor and department;
- 17 11. Standards for the operation of safety compliance facilities which may
18 include:
- 19 a. Requirements for equipment;
20 b. Personnel qualifications; and
21 c. Requiring facilities to be accredited by a relevant certifying
22 entity;
- 23 12. Standards for the packaging and labeling of medicinal marijuana sold
24 or distributed by cannabis business licensees, including:
- 25 a. Standards for packaging that requires at least a two (2) step
26 process of initial opening;
27 b. A warning label which may include the length of time it typically

1 takes for the product to take effect, how long the effects of the
2 product typically last, and any other information deemed
3 appropriate or necessary by the department;

4 c. The amount of medicinal marijuana the product is considered
5 the equivalent to;

6 d. Disclosing ingredients and possible allergens;

7 e. A nutritional fact panel;

8 f. Opaque, child-resistant packaging;

9 g. A requirement that all flower or bud sold by a licensed
10 dispensary be marked or labeled as "NOT INTENDED FOR
11 CONSUMPTION BY SMOKING";

12 h. A requirement that edible medicinal marijuana products be
13 clearly marked with an identifiable and standardized symbol
14 indicating that the product contains marijuana; and

15 i. A requirement that edible medicinal marijuana products not be
16 visually reminiscent of major brands of edible noncannabis
17 products or otherwise present an attractive nuisance to minors;

18 13. Health and safety requirements for the processing of medicinal
19 marijuana and both the indoor and outdoor cultivation of medicinal
20 marijuana by licensees;

21 14. Restrictions on:

22 a. Additives to medicinal marijuana that are toxic or increase the
23 likelihood of addiction; and

24 b. Pesticides, fertilizers, and herbicides used during medicinal
25 marijuana cultivation which pose a threat to human health and
26 safety;

27 15. Standards for the safe processing of medicinal marijuana products

1 created by extracting or concentrating compounds from raw plant
 2 material;

3 16. Standards for determining the amount of unprocessed raw plant
 4 material that medicinal marijuana products are considered the
 5 equivalent to;

6 17. Restrictions on advertising, marketing, and signage in regard to
 7 operations or establishments owned by licensees necessary to prevent
 8 the targeting of minors;

9 18. The requirement that evidence-based educational materials regarding
 10 dosage and impairment be disseminated to registered qualified
 11 patients, visiting qualified patients, and designated caregivers who
 12 purchase medicinal marijuana products; and

13 19. Policies governing insurance requirements for cultivators,
 14 dispensaries, processors, and safety compliance facilities.

15 (2) The department shall perform all acts necessary or advisable for the purpose of
 16 contracting with a third party for the development and maintenance of the
 17 computer database, verification system, and inventory tracking system described
 18 in subsection (1) (a) to (c) of this section.

19 ➔SECTION 29. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 20 TO READ AS FOLLOWS:

21 Nothing in Sections 1 to 30 of this Act shall require a government medical assistance
 22 program, private health insurer or workers' compensation carrier, or self-funded
 23 employer providing workers' compensation benefits to reimburse a person for costs
 24 associated with the medicinal use of marijuana.

25 ➔SECTION 30. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 26 TO READ AS FOLLOWS:

27 The provisions of KRS 138.870 to 138.889 shall not apply to any individual or entity

1 for:

2 (1) Any amount of medicinal marijuana that is necessary or reasonably necessary
 3 for use of a license or registry identification card issued pursuant to Sections 1 to
 4 30 of this Act; or

5 (2) Any use of medicinal marijuana that complies with Sections 1 to 30 of this Act
 6 and any administrative regulations promulgated thereunder.

7 ➔SECTION 31. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 8 TO READ AS FOLLOWS:

9 (1) The medicinal marijuana trust fund is hereby created within the State Treasury.
 10 The fund shall consist of funds collected from registration fees, licensing fees,
 11 finances, and penalties established pursuant to Sections 1 to 26 and Sections 28 and
 12 30 of this Act, a portion of the excise taxes imposed under Section 33 of this Act,
 13 and any proceeds from grants, contributions, appropriations, or other moneys
 14 made available for purposes of this fund.

15 (2) The medicinal marijuana trust fund shall be administered by the Finance and
 16 Administration Cabinet.

17 (3) Trust fund moneys shall be used as follows:

18 (a) Fifteen percent (15%) shall be transferred to the Kentucky State Police for
 19 the purposes of enforcement of medicinal marijuana laws, the hiring and
 20 training of additional drug recognition experts (DRE), and advanced
 21 roadside impaired driving enforcement (ARIDE) training;

22 (b) No less than fifteen percent (15%) shall be returned equally to the
 23 dispensaries for the use of indigent persons who are registered qualified
 24 patients enrolled in Medicaid, receiving Supplemental Security Income or
 25 Social Security disability insurance, or veterans of the United States Armed
 26 Forces; and

27 (c) No more than seventy percent (70%) shall be used to offset the department's

1 actual cost and expenses of operating the medicinal marijuana program
 2 and enforcement activities established in Sections 1 to 30 of this Act.

3 (4) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the
 4 fiscal year shall not lapse but shall be carried forward to the next fiscal year.

5 (5) Any interest earnings of the trust fund shall become part of the fund and shall
 6 not lapse.

7 (6) Moneys transferred to the fund are hereby appropriated for the purposes set forth
 8 in this section.

9 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
 10 TO READ AS FOLLOWS:

11 (1) The local medicinal marijuana trust fund is hereby created within the State
 12 Treasury. The fund shall consist of funds collected from a portion of the excise
 13 taxes imposed under Section 33 of this Act.

14 (2) The local medicinal marijuana trust fund shall be administered by the Finance
 15 and Administration Cabinet.

16 (3) (a) The Finance and Administration Cabinet shall, on a quarterly basis,
 17 distribute the funds deposited into the local medicinal marijuana trust fund
 18 during the fiscal quarter immediately preceding the most recent fiscal
 19 quarter. Funds shall be distributed among those cities, counties, urban-
 20 county governments, consolidated local governments, charter county
 21 governments, and unified local governments in which at least one (1)
 22 cannabis business licensed as a cultivator, processor, or dispensary was
 23 permitted to operate during the fiscal quarter immediately preceding the
 24 most recent fiscal quarter.

25 (b) 1. A city in which at least one (1) cannabis business licensed as a
 26 cultivator, processor, or dispensary operated during the fiscal quarter
 27 immediately preceding the most recent fiscal quarter shall receive an

1 amount equal to seventy-five percent (75%) of the total excise tax
2 revenue collected from all cannabis businesses licensed to operate
3 inside the territory of the city and deposited into the trust fund during
4 the fiscal quarter immediately preceding the most recent fiscal quarter
5 unless the county, consolidated local government, charter county
6 government, or unified local government in which the city is located
7 has, pursuant to Section 26 of the Act, prohibited the operation of
8 cannabis businesses.

9 2. If the county, consolidated local government, charter county
10 government, or unified local government in which the city is located
11 has prohibited the operation of cannabis businesses, then the city shall
12 receive an amount equal to one hundred percent (100%) of the total
13 excise tax revenue collected from all cannabis businesses licensed to
14 operate inside the territory of the city and deposited into the trust fund
15 during the fiscal quarter immediately preceding the most recent fiscal
16 quarter.

17 (c) A county that has not prohibited the operation of cannabis businesses,
18 pursuant to Section 26 of this Act, and in which at least one (1) cannabis
19 business licensed as a cultivator, processor, or dispensary was operated
20 during the fiscal quarter immediately preceding the most recent fiscal
21 quarter shall receive an amount equal to one hundred percent (100%) of the
22 total excise tax revenue collected from all cannabis businesses licensed to
23 operated inside the territory of the county but outside the territory of any
24 city and deposited into the trust fund during the fiscal quarter immediately
25 preceding the most recent fiscal quarter plus twenty-five percent (25%) of
26 the total excise tax revenue collected from all cannabis businesses licensed
27 to operate inside the territory of an incorporated municipality inside the

1 territory of the county and deposited into the trust fund during the fiscal
 2 quarter immediately preceding the most recent fiscal quarter.

3 (4) Trust fund moneys may be used for the purposes of local enforcement of
 4 medicinal marijuana laws by local law enforcement agencies, local medicinal
 5 marijuana licensing, the hiring or training of additional Drug Recognition
 6 Experts (DRE), Advanced Roadside Impaired Driving Enforcement (ARIDE)
 7 training, local evidence-based drug addiction rehabilitation projects, or
 8 educational activities within local jails.

9 (5) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the
 10 fiscal year shall not lapse but shall be carried forward to the next fiscal year.

11 (6) Any interest earnings of the trust fund shall become part of the fund and shall
 12 not lapse.

13 (7) Moneys transferred to the fund are hereby appropriated for the purposes set forth
 14 in this section.

15 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
 16 READ AS FOLLOWS:

17 (1) As used in this section:

18 (a) "Cultivator" has the same meaning as in Section 1 of this Act;

19 (b) "Department" means the Department of Revenue;

20 (c) "Dispensary" has the same meaning as in Section 1 of this Act;

21 (d) "Medicinal marijuana" has the same meaning as in Section 1 of this Act;

22 and

23 (e) "Processor" has the same meaning as in Section 1 of this Act.

24 (2) Effective January 1, 2020:

25 (a) An excise tax is hereby imposed on the gross receipts of a cultivator or
 26 processor received from the sale of medicinal marijuana by a cultivator or
 27 processor to a dispensary, to be paid by the cultivator or processor at a rate

1 of twelve percent (12%) of the actual price for which a cultivator or
2 processor sells medicinal marijuana to a dispensary in this state.

3 (b) The tax shall be charged against and be paid by the grower or processor
4 and shall not be added as a separate charge or line item on any sales slip,
5 invoice, receipt, or other statement or memorandum of the price paid by the
6 dispensary.

7 (3) (a) Eighty percent (80%) of the revenue from the excise tax established in this
8 paragraph shall be deposited in the medicinal marijuana trust fund
9 established in Section 31 of this Act for the purpose of administration of the
10 medicinal marijuana program and for the purposes established in that
11 section.

12 (b) Twenty percent (20%) of the revenue from the excise tax established in this
13 paragraph shall be deposited in the local medicinal marijuana trust fund
14 established in Section 32 of this Act for the purposes of distributing tax
15 proceeds among participating local governments and for the purposes
16 established in that section; and

17 (4) Cultivators and processors of medicinal marijuana products shall:

18 (a) Register with the department;

19 (b) Report and pay the tax levied under this section on or before the twentieth
20 day of the calendar month immediately following the month in which the
21 medicinal marijuana was sold. A tax return shall be filed for each reporting
22 period whether or not tax is due; and

23 (c) Identify the county and city, if any, in which the medicinal marijuana
24 business is located.

25 (5) Any person who violates any provision of this section shall be subject to the
26 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax
27 interest rate as defined in KRS 131.010(6) from the date due until the date of

1 payment.

2 (6) (a) Notwithstanding any other provision of this section, the president, vice
3 president, secretary, treasurer, or any other person holding any equivalent
4 corporate office of any corporation subject to the provisions of this section
5 shall be personally and individually liable, both jointly and severally, for the
6 taxes imposed under this section.

7 (b) Corporate dissolution, withdrawal of the corporation from the state, or the
8 cessation of holding any corporate office shall not discharge the liability of
9 any person. The personal and individual liability shall apply to every person
10 holding a corporate office at the time the tax becomes or became due.

11 (c) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-
12 306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of
13 a limited liability company, the partners of a limited liability partnership,
14 and the general partners of a limited liability limited partnership, or any
15 other person holding any equivalent office of a limited liability company,
16 limited liability partnership, or limited liability limited partnership subject to
17 the provisions of this section shall be personally and individually liable,
18 both jointly and severally, for the tax imposed under this section.

19 (d) Dissolution, withdrawal of the limited liability company, limited liability
20 partnership, or limited liability limited partnership from the state, or the
21 cessation of holding any office shall not discharge the liability of any
22 person. The personal and individual liability shall apply to every manager
23 of a limited liability company, partner of a limited liability partnership, or
24 general partner of a limited liability limited partnership at the time the tax
25 becomes or became due.

26 (e) No person shall be personally and individually liable under this section who
27 had no authority to truthfully account for, or pay over, any tax imposed by

1 *this section at the time the tax imposed becomes or became due.*

2 *(f) "Taxes" as used in this section includes interest accrued at the rate*
3 *provided by KRS 131.183, all applicable penalties imposed under the*
4 *provisions of this chapter, and all applicable penalties imposed under KRS*
5 *131.180, 131.410 to 131.445, and 131.990.*

6 *(7) The department shall administer the provisions of this chapter and shall have all*
7 *of the powers, rights, duties, and authority with respect to the assessment,*
8 *collection, refunding, and administration of the taxes levied by this section,*
9 *conferred generally upon the department by the Kentucky Revised Statutes,*
10 *including KRS Chapters 131, 134, and 135.*

11 *(8) Every cultivator and processor shall keep records, receipts, invoices, and other*
12 *pertinent papers in such form as the department may require for not less than*
13 *four (4) years from the making of such records, receipts, invoices, and other*
14 *pertinent papers.*

15 ➔Section 34. KRS 342.815 is amended to read as follows:

16 (1) The authority may provide coverage for insurance, authorized in KRS 342.803, to
17 any employer in the Commonwealth, and who tenders the required premium for
18 coverage and comply with other conditions and qualifications for obtaining and
19 maintaining coverage adopted by the authority to protect and ensure its actuarial
20 soundness and solvency.

21 (2) The authority shall provide coverage to any employer who is unable to secure
22 coverage in the voluntary market unless:

23 *(a)* The employer owes undisputed premiums to a previous workers'
24 compensation carrier or to a workers' compensation residual market
25 mechanism; *or*

26 *(b) Providing coverage to the employer would subject the authority or its*
27 *employees to a violation of federal or state law.*

1 ➔Section 35. KRS 139.470 is amended to read as follows:

2 There are excluded from the computation of the amount of taxes imposed by this chapter:

- 3 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
4 state of, tangible personal property or digital property which this state is prohibited
5 from taxing under the Constitution or laws of the United States, or under the
6 Constitution of this state;
- 7 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
8 of:
- 9 (a) Nonreturnable and returnable containers when sold without the contents to
10 persons who place the contents in the container and sell the contents together
11 with the container; and
- 12 (b) Returnable containers when sold with the contents in connection with a retail
13 sale of the contents or when resold for refilling;
- 14 As used in this section the term "returnable containers" means containers of a kind
15 customarily returned by the buyer of the contents for reuse. All other containers are
16 "nonreturnable containers";
- 17 (3) Gross receipts from occasional sales of tangible personal property or digital
18 property and the storage, use, or other consumption in this state of tangible personal
19 property or digital property, the transfer of which to the purchaser is an occasional
20 sale;
- 21 (4) Gross receipts from sales of tangible personal property to a common carrier,
22 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
23 freight is paid in advance or the shipment is made freight charges collect, to a point
24 outside this state and the property is actually transported to the out-of-state
25 destination for use by the carrier in the conduct of its business as a common carrier;
- 26 (5) Gross receipts from sales of tangible personal property sold through coin-operated
27 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the

1 retailer is primarily engaged in making the sales and maintains records satisfactory
2 to the department. As used in this subsection, "bulk vending machine" means a
3 vending machine containing unsorted merchandise which, upon insertion of a coin,
4 dispenses the same in approximately equal portions, at random and without
5 selection by the customer;

6 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
7 other statutory or constitutional agency of the state and gross receipts from sales to
8 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
9 apply only to purchases of tangible personal property, digital property, or services
10 for use solely in the government function. A purchaser not qualifying as a
11 governmental agency or unit shall not be entitled to the exemption even though the
12 purchaser may be the recipient of public funds or grants;

13 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
14 residents for use in heating, water heating, cooking, lighting, and other
15 residential uses. As used in this subsection, "fuel" shall include but not be
16 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
17 Determinations of eligibility for the exemption shall be made by the
18 department;

19 (b) In making the determinations of eligibility, the department shall exempt from
20 taxation all gross receipts derived from sales:

- 21 1. Classified as "residential" by a utility company as defined by applicable
22 tariffs filed with and accepted by the Public Service Commission;
- 23 2. Classified as "residential" by a municipally owned electric distributor
24 which purchases its power at wholesale from the Tennessee Valley
25 Authority;
- 26 3. Classified as "residential" by the governing body of a municipally owned
27 electric distributor which does not purchase its power from the

1 Tennessee Valley Authority, if the "residential" classification is
2 reasonably consistent with the definitions of "residential" contained in
3 tariff filings accepted and approved by the Public Service Commission
4 with respect to utilities which are subject to Public Service Commission
5 regulation.

6 If the service is classified as residential, use other than for "residential"
7 purposes by the customer shall not negate the exemption;

8 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
9 billed to an owner or operator of a multi-unit residential rental facility or
10 mobile home and recreational vehicle park other than residential
11 classification; and

12 (d) The exemption shall apply also to residential property which may be held by
13 legal or equitable title, by the entireties, jointly, in common, as a
14 condominium, or indirectly by the stock ownership or membership
15 representing the owner's or member's proprietary interest in a corporation
16 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

17 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
18 exempt from sales and use tax in its state of residence when that agency,
19 organization, or institution gives proof of its tax-exempt status to the retailer and the
20 retailer maintains a file of the proof;

21 (9) (a) Gross receipts derived from the sale of, the following tangible personal
22 property to a manufacturer or industrial processor if the property is to be
23 directly used in the manufacturing or industrial processing process of tangible
24 personal property at a plant facility and which will be for sale:

25 1. Materials which enter into and become an ingredient or component part
26 of the manufactured product;

27 2. Other tangible personal property which is directly used in the

1 manufacturing or industrial processing process, if the property has a
2 useful life of less than one (1) year. Specifically these items are
3 categorized as follows:

- 4 a. Materials. This refers to the raw materials which become an
5 ingredient or component part of supplies or industrial tools exempt
6 under subdivisions b. and c. below;
- 7 b. Supplies. This category includes supplies such as lubricating and
8 compounding oils, grease, machine waste, abrasives, chemicals,
9 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
10 dyes, refrigerants, and explosives. The supplies indicated above
11 need not come in direct contact with a manufactured product to be
12 exempt. "Supplies" does not include repair, replacement, or spare
13 parts of any kind; and
- 14 c. Industrial tools. This group is limited to hand tools such as jigs,
15 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
16 and to tools attached to a machine such as molds, grinding balls,
17 grinding wheels, dies, bits, and cutting blades. Normally, for
18 industrial tools to be considered directly used in the manufacturing
19 or industrial processing process, they shall come into direct contact
20 with the product being manufactured or processed; and
- 21 3. Materials and supplies that are not reusable in the same manufacturing
22 or industrial processing process at the completion of a single
23 manufacturing or processing cycle. A single manufacturing cycle shall
24 be considered to be the period elapsing from the time the raw materials
25 enter into the manufacturing process until the finished product emerges
26 at the end of the manufacturing process.

27 (b) The property described in paragraph (a) of this subsection shall be regarded as

1 having been purchased for resale.

2 (c) For purposes of this subsection, a manufacturer or industrial processor
3 includes an individual or business entity that performs only part of the
4 manufacturing or industrial processing activity, and the person or business
5 entity need not take title to tangible personal property that is incorporated into,
6 or becomes the product of, the activity.

7 (d) The exemption provided in this subsection does not include repair,
8 replacement, or spare parts;

9 (10) Any water use fee paid or passed through to the Kentucky River Authority by
10 facilities using water from the Kentucky River basin to the Kentucky River
11 Authority in accordance with KRS 151.700 to 151.730 and administrative
12 regulations promulgated by the authority;

13 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
14 use, or other consumption outside this state and delivered by the retailer's own
15 vehicle to a location outside this state, or delivered to the United States Postal
16 Service, a common carrier, or a contract carrier for delivery outside this state,
17 regardless of whether the carrier is selected by the purchaser or retailer or an agent
18 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
19 shipping point or purchaser's destination.

20 (a) As used in this subsection:

21 1. "Catalogs" means tangible personal property that is printed to the special
22 order of the purchaser and composed substantially of information
23 regarding goods and services offered for sale; and

24 2. "Newspaper inserts" means printed materials that are placed in or
25 distributed with a newspaper of general circulation.

26 (b) The retailer shall be responsible for establishing that delivery was made to a
27 non-Kentucky location through shipping documents or other credible evidence

1 as determined by the department;

2 (12) Gross receipts from the sale of water used in the raising of equine as a business;

3 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
4 purchased for storage, use, or other consumption outside this state and delivered by
5 the retailer's own vehicle to a location outside this state, or delivered to the United
6 States Postal Service, a common carrier, or a contract carrier for delivery outside
7 this state, regardless of whether the carrier is selected by the purchaser or retailer or
8 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
9 retailer's shipping point or the purchaser's destination.

10 (a) As used in this subsection, "metal retail fixtures" means check stands and
11 belted and nonbelted checkout counters, whether made in bulk or pursuant to
12 specific purchaser specifications, that are to be used directly by the purchaser
13 or to be distributed by the purchaser.

14 (b) The retailer shall be responsible for establishing that delivery was made to a
15 non-Kentucky location through shipping documents or other credible evidence
16 as determined by the department;

17 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
18 ultimate storage, use, or other consumption outside this state and delivered to a
19 common carrier in this state for delivery outside this state, regardless of whether the
20 carrier is selected by the purchaser or retailer, or is an agent or representative of the
21 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
22 purchaser's destination;

23 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
24 means an agreement whereby an amount, whether paid in money, credit, or
25 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
26 the quantity and unit price of tobacco products sold at retail that requires the retailer
27 to reduce the selling price of the product to the purchaser without the use of a

- 1 manufacturer's or wholesaler's coupon or redemption certificate;
- 2 (16) Gross receipts from the sale of tangible personal property or digital property
3 returned by a purchaser when the full sales price is refunded either in cash or credit.
4 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
5 required to purchase other tangible personal property or digital property at a price
6 greater than the amount charged for the property that is returned;
- 7 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
8 Chapter 138;
- 9 (18) The amount of any tax imposed by the United States upon or with respect to retail
10 sales, whether imposed on the retailer or the consumer, not including any
11 manufacturer's excise or import duty;
- 12 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
13 is:
- 14 (a) Sold to a Kentucky resident, registered for use on the public highways, and
15 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 16 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
17 vehicle in a state that:
- 18 1. Allows residents of Kentucky to purchase motor vehicles without
19 payment of that state's sales tax at the time of sale; or
- 20 2. Allows residents of Kentucky to remove the vehicle from that state
21 within a specific period for subsequent registration and use in Kentucky
22 without payment of that state's sales tax;
- 23 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
24 trailer as defined in KRS 189.010(17);
- 25 (21) Gross receipts from the first fifty thousand dollars (\$50,000) in sales of admissions
26 to county fairs held in Kentucky in any calendar year by a nonprofit county fair
27 board;

- 1 (22) Gross receipts from the collection of:
- 2 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 3 (b) The charge imposed by KRS 65.7629(3);
- 4 (c) The fee imposed by KRS 65.7634; and
- 5 (d) The service charge imposed by KRS 65.7636;~~and~~
- 6 (23) Gross receipts derived from charges for labor or services to apply, install, repair, or
- 7 maintain tangible personal property directly used in manufacturing or industrial
- 8 processing process, and that is not otherwise exempt under subsection (9) of this
- 9 section or KRS 139.480(10), if the charges for labor or services are separately stated
- 10 on the invoice, bill of sale, or similar document given to purchaser; **and**
- 11 **(24) Gross receipts from the sale of medicinal marijuana subject to tax under Section**
- 12 **33 of this Act.**

13 ➔Section 36. KRS 218A.010 is amended to read as follows:

14 As used in this chapter:

- 15 (1) "Administer" means the direct application of a controlled substance, whether by
- 16 injection, inhalation, ingestion, or any other means, to the body of a patient or
- 17 research subject by:
- 18 (a) A practitioner or by his or her authorized agent under his or her immediate
- 19 supervision and pursuant to his or her order; or
- 20 (b) The patient or research subject at the direction and in the presence of the
- 21 practitioner;
- 22 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
- 23 pharmacologically related to testosterone that promotes muscle growth and includes
- 24 those substances classified as Schedule III controlled substances pursuant to KRS
- 25 218A.020 but does not include estrogens, progestins, and anticosteroids;
- 26 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 27 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of

1 its salts, isomers, or salts of isomers;

2 (5) "Child" means any person under the age of majority as specified in KRS 2.015;

3 (6) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical
4 and geometric isomers, and salts of isomers;

5 (7) "Controlled substance" means methamphetamine, or a drug, substance, or
6 immediate precursor in Schedules I through V and includes a controlled substance
7 analogue;

8 (8) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
9 subsection, means a substance:

10 1. The chemical structure of which is substantially similar to the structure
11 of a controlled substance in Schedule I or II; and

12 2. Which has a stimulant, depressant, or hallucinogenic effect on the
13 central nervous system that is substantially similar to or greater than the
14 stimulant, depressant, or hallucinogenic effect on the central nervous
15 system of a controlled substance in Schedule I or II; or

16 3. With respect to a particular person, which such person represents or
17 intends to have a stimulant, depressant, or hallucinogenic effect on the
18 central nervous system that is substantially similar to or greater than the
19 stimulant, depressant, or hallucinogenic effect on the central nervous
20 system of a controlled substance in Schedule I or II.

21 (b) Such term does not include:

22 1. Any substance for which there is an approved new drug application;

23 2. With respect to a particular person, any substance if an exemption is in
24 effect for investigational use for that person pursuant to federal law to
25 the extent conduct with respect to such substance is pursuant to such
26 exemption; or

27 3. Any substance to the extent not intended for human consumption before

1 the exemption described in subparagraph 2. of this paragraph takes
2 effect with respect to that substance;

3 (9) "Counterfeit substance" means a controlled substance which, or the container or
4 labeling of which, without authorization, bears the trademark, trade name, or other
5 identifying mark, imprint, number, or device, or any likeness thereof, of a
6 manufacturer, distributor, or dispenser other than the person who in fact
7 manufactured, distributed, or dispensed the substance;

8 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research
9 subject by or pursuant to the lawful order of a practitioner, including the packaging,
10 labeling, or compounding necessary to prepare the substance for that delivery;

11 (11) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
12 controlled substance to or for the use of an ultimate user;

13 (12) "Distribute" means to deliver other than by administering or dispensing a controlled
14 substance;

15 (13) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
16 administration available as a single unit;

17 (14) "Drug" means:

18 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
19 official Homeopathic Pharmacopoeia of the United States, or official National
20 Formulary, or any supplement to any of them;

21 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
22 prevention of disease in man or animals;

23 (c) Substances (other than food) intended to affect the structure or any function of
24 the body of man or animals; and

25 (d) Substances intended for use as a component of any article specified in this
26 subsection.

27 It does not include devices or their components, parts, or accessories;

1 (15) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts,
2 isomers, or salts of isomers;

3 (16) "Fentanyl derivative" means a substance containing any quantity of any chemical
4 compound, except compounds specifically scheduled as controlled substances by
5 statute or by administrative regulation pursuant to this chapter, which is structurally
6 derived from 1-ethyl-4-(N-phenylamido) piperadine:

7 (a) By substitution:

- 8 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
9 ethyloxotetrazole ring system; and
- 10 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
11 or furanyl group; and

12 (b) Which may be further modified in one (1) or more of the following ways:

- 13 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
14 haloalkyl, hydroxyl, or halide substituents;
- 15 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
16 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
17 positions;
- 18 3. By substitution on the piperadine ring to any extent with a phenyl,
19 alkoxy, or carboxylate ester substituent at the 4- position; or
- 20 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
21 hydroxy substituents;

22 (17) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
23 prosecution only, means an in-person medical examination of the patient conducted
24 by the prescribing practitioner or other health-care professional routinely relied
25 upon in the ordinary course of his or her practice, at which time the patient is
26 physically examined and a medical history of the patient is obtained. "In-person"
27 includes telehealth examinations. This subsection shall not be applicable to hospice

- 1 providers licensed pursuant to KRS Chapter 216B;
- 2 (18) "Hazardous chemical substance" includes any chemical substance used or intended
3 for use in the illegal manufacture of a controlled substance as defined in this section
4 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
5 which:
- 6 (a) Poses an explosion hazard;
- 7 (b) Poses a fire hazard; or
- 8 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- 9 (19) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
10 isomers, or salts of isomers;
- 11 (20) "Hydrocodone combination product" means a drug with:
- 12 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
13 its salts, per one hundred (100) milliliters or not more than fifteen (15)
14 milligrams per dosage unit, with a fourfold or greater quantity of an
15 isoquinoline alkaloid of opium; or
- 16 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
17 its salts, per one hundred (100) milliliters or not more than fifteen (15)
18 milligrams per dosage unit, with one (1) or more active, nonnarcotic
19 ingredients in recognized therapeutic amounts;
- 20 (21) "Immediate precursor" means a substance which is the principal compound
21 commonly used or produced primarily for use, and which is an immediate chemical
22 intermediary used or likely to be used in the manufacture of a controlled substance
23 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
24 manufacture;
- 25 (22) "Industrial hemp" has the same meaning as in KRS 260.850;
- 26 (23) "Industrial hemp products" has the same meaning as in KRS 260.850;
- 27 (24) "Intent to manufacture" means any evidence which demonstrates a person's

1 conscious objective to manufacture a controlled substance or methamphetamine.
2 Such evidence includes but is not limited to statements and a chemical substance's
3 usage, quantity, manner of storage, or proximity to other chemical substances or
4 equipment used to manufacture a controlled substance or methamphetamine;

5 (25) "Isomer" means the optical isomer, except the Cabinet for Health and Family
6 Services may include the optical, positional, or geometric isomer to classify any
7 substance pursuant to KRS 218A.020;

8 (26) "Manufacture," except as provided in KRS 218A.1431, means the production,
9 preparation, propagation, compounding, conversion, or processing of a controlled
10 substance, either directly or indirectly by extraction from substances of natural
11 origin or independently by means of chemical synthesis, or by a combination of
12 extraction and chemical synthesis, and includes any packaging or repackaging of the
13 substance or labeling or relabeling of its container except that this term does not
14 include activities:

15 (a) By a practitioner as an incident to his or her administering or dispensing of a
16 controlled substance in the course of his or her professional practice;

17 (b) By a practitioner, or by his or her authorized agent under his supervision, for
18 the purpose of, or as an incident to, research, teaching, or chemical analysis
19 and not for sale; or

20 (c) By a pharmacist as an incident to his or her dispensing of a controlled
21 substance in the course of his or her professional practice;

22 (27) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
23 seeds thereof; the resin extracted from any part of the plant; and every compound,
24 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
25 or any compound, mixture, or preparation which contains any quantity of these
26 substances. The term "marijuana" does not include:

27 (a) Industrial hemp that is in the possession, custody, or control of a person who

- 1 holds a license issued by the Department of Agriculture permitting that person
2 to cultivate, handle, or process industrial hemp;
- 3 (b) Industrial hemp products that do not include any living plants, viable seeds,
4 leaf materials, or floral materials;
- 5 (c) The substance cannabidiol, when transferred, dispensed, or administered
6 pursuant to the written order of a physician practicing at a hospital or
7 associated clinic affiliated with a Kentucky public university having a college
8 or school of medicine;
- 9 (d) For persons participating in a clinical trial or in an expanded access program,
10 a drug or substance approved for the use of those participants by the United
11 States Food and Drug Administration;
- 12 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
13 260.850;~~[-or]~~
- 14 (f) A cannabidiol product approved as a prescription medication by the United
15 States Food and Drug Administration; or
- 16 **(g) *The use of medicinal marijuana pursuant to Sections 1 to 30 of this Act.***
- 17 (28) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
18 means an accounting of a patient's medical background, including but not limited to
19 prior medical conditions, prescriptions, and family background;
- 20 (29) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,
21 means a lawful order of a specifically identified practitioner for a specifically
22 identified patient for the patient's health-care needs. "Medical order" may or may
23 not include a prescription drug order;
- 24 (30) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
25 means a record, other than for financial or billing purposes, relating to a patient,
26 kept by a practitioner as a result of the practitioner-patient relationship;
- 27 (31) "Methamphetamine" means any substance that contains any quantity of

- 1 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 2 (32) "Narcotic drug" means any of the following, whether produced directly or indirectly
- 3 by extraction from substances of vegetable origin, or independently by means of
- 4 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 5 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
- 6 opium or opiate;
- 7 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
- 8 chemically equivalent or identical with any of the substances referred to in
- 9 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
- 10 of opium;
- 11 (c) Opium poppy and poppy straw;
- 12 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
- 13 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
- 14 removed;
- 15 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 16 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 17 (g) Any compound, mixture, or preparation which contains any quantity of any of
- 18 the substances referred to in paragraphs (a) to (f) of this subsection;
- 19 (33) "Opiate" means any substance having an addiction-forming or addiction-sustaining
- 20 liability similar to morphine or being capable of conversion into a drug having
- 21 addiction-forming or addiction-sustaining liability. It does not include, unless
- 22 specifically designated as controlled under KRS 218A.020, the dextrorotatory
- 23 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
- 24 include its racemic and levorotatory forms;
- 25 (34) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
- 26 seeds;
- 27 (35) "Person" means individual, corporation, government or governmental subdivision

1 or agency, business trust, estate, trust, partnership or association, or any other legal
2 entity;

3 (36) "Physical injury" has the same meaning it has in KRS 500.080;

4 (37) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

5 (38) "Pharmacist" means a natural person licensed by this state to engage in the practice
6 of the profession of pharmacy;

7 (39) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
8 investigator, optometrist as authorized in KRS 320.240, advanced practice
9 registered nurse as authorized under KRS 314.011, or other person licensed,
10 registered, or otherwise permitted by state or federal law to acquire, distribute,
11 dispense, conduct research with respect to, or to administer a controlled substance
12 in the course of professional practice or research in this state. "Practitioner" also
13 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered
14 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
15 a state other than Kentucky and who is licensed and has prescriptive authority for
16 controlled substances under the professional licensing laws of another state, unless
17 the person's Kentucky license has been revoked, suspended, restricted, or probated,
18 in which case the terms of the Kentucky license shall prevail;

19 (40) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
20 prosecution only, means a medical relationship that exists between a patient and a
21 practitioner or the practitioner's designee, after the practitioner or his or her
22 designee has conducted at least one (1) good faith prior examination;

23 (41) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
24 combination or mixture of drugs or medicines, or proprietary preparation, signed or
25 given or authorized by a medical, dental, chiropody, veterinarian, optometric
26 practitioner, or advanced practice registered nurse, and intended for use in the
27 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other

- 1 animals;
- 2 (42) "Prescription blank," with reference to a controlled substance, means a document
3 that meets the requirements of KRS 218A.204 and 217.216;
- 4 (43) "Presumptive probation" means a sentence of probation not to exceed the maximum
5 term specified for the offense, subject to conditions otherwise authorized by law,
6 that is presumed to be the appropriate sentence for certain offenses designated in
7 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
8 presumption shall only be overcome by a finding on the record by the sentencing
9 court of substantial and compelling reasons why the defendant cannot be safely and
10 effectively supervised in the community, is not amenable to community-based
11 treatment, or poses a significant risk to public safety;
- 12 (44) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
13 of a controlled substance;
- 14 (45) "Recovery program" means an evidence-based, nonclinical service that assists
15 individuals and families working toward sustained recovery from substance use and
16 other criminal risk factors. This can be done through an array of support programs
17 and services that are delivered through residential and nonresidential means;
- 18 (46) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant
19 presently classified botanically as *Salvia divinorum*, whether growing or not, the
20 seeds thereof, any extract from any part of that plant, and every compound,
21 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
22 extracts, including salts, isomers, and salts of isomers whenever the existence of
23 such salts, isomers, and salts of isomers is possible within the specific chemical
24 designation of that plant, its seeds, or extracts. The term shall not include any other
25 species in the genus *salvia*;
- 26 (47) "Second or subsequent offense" means that for the purposes of this chapter an
27 offense is considered as a second or subsequent offense, if, prior to his or her

1 conviction of the offense, the offender has at any time been convicted under this
2 chapter, or under any statute of the United States, or of any state relating to
3 substances classified as controlled substances or counterfeit substances, except that
4 a prior conviction for a nontrafficking offense shall be treated as a prior offense
5 only when the subsequent offense is a nontrafficking offense. For the purposes of
6 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
7 constitute a conviction under this chapter;

8 (48) "Sell" means to dispose of a controlled substance to another person for
9 consideration or in furtherance of commercial distribution;

10 (49) "Serious physical injury" has the same meaning it has in KRS 500.080;

11 (50) "Synthetic cannabinoids or piperazines" means any chemical compound which is
12 not approved by the United States Food and Drug Administration or, if approved,
13 which is not dispensed or possessed in accordance with state and federal law, that
14 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
15 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
16 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
17 compound in the following structural classes:

18 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
19 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
20 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
21 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
22 substituted in the indole ring to any extent and whether or not substituted in
23 the naphthyl ring to any extent. Examples of this structural class include but
24 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,
25 JWH-122, JWH-200, and AM-2201;

26 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
27 structure with substitution at the nitrogen atom of the indole ring by an alkyl,

- 1 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
2 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
3 substituted in the indole ring to any extent and whether or not substituted in
4 the phenyl ring to any extent. Examples of this structural class include but are
5 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 6 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
7 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
8 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
9 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
10 indole ring to any extent and whether or not substituted in the phenyl ring to
11 any extent. Examples of this structural class include but are not limited to
12 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- 13 (d) Cyclohexylphenols: Any compound containing a 2-(3-
14 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
15 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
16 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
17 group whether or not substituted in the cyclohexyl ring to any extent.
18 Examples of this structural class include but are not limited to CP 47,497 and
19 its C8 homologue (cannabicyclohexanol);
- 20 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
21 naphthyl)methane structure with substitution at the nitrogen atom of the indole
22 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
23 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
24 further substituted in the indole ring to any extent and whether or not
25 substituted in the naphthyl ring to any extent. Examples of this structural class
26 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 27 (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole

1 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
2 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
3 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
4 substituted in the pyrrole ring to any extent and whether or not substituted in
5 the naphthyl ring to any extent. Examples of this structural class include but
6 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

7 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
8 naphthylmethyl)indene structure with substitution at the 3-position of the
9 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
10 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
11 or not further substituted in the indene ring to any extent and whether or not
12 substituted in the naphthyl ring to any extent. Examples of this structural class
13 include but are not limited to JWH-176;

14 (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-
15 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen
16 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,
17 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
18 group, whether or not further substituted in the indole ring to any extent and
19 whether or not further substituted in the tetramethylcyclopropyl ring to any
20 extent. Examples of this structural class include but are not limited to UR-144
21 and XLR-11;

22 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole
23 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
24 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
25 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
26 substituted in the indole ring to any extent and whether or not substituted in
27 the adamantyl ring system to any extent. Examples of this structural class

- 1 include but are not limited to AB-001 and AM-1248; or
- 2 (j) Any other synthetic cannabinoid or piperazine which is not approved by the
3 United States Food and Drug Administration or, if approved, which is not
4 dispensed or possessed in accordance with state and federal law;
- 5 (51) "Synthetic cathinones" means any chemical compound which is not approved by the
6 United States Food and Drug Administration or, if approved, which is not dispensed
7 or possessed in accordance with state and federal law (not including bupropion or
8 compounds listed under a different schedule) structurally derived from 2-
9 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or
10 thiophene ring systems, whether or not the compound is further modified in one (1)
11 or more of the following ways:
- 12 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
13 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
14 substituted in the ring system by one (1) or more other univalent substituents.
15 Examples of this class include but are not limited to 3,4-
16 Methylenedioxcathinone (bk-MDA);
- 17 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of
18 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one
19 (buphedrone);
- 20 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
21 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
22 cyclic structure. Examples of this class include but are not limited to
23 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
24 or
- 25 (d) Any other synthetic cathinone which is not approved by the United States
26 Food and Drug Administration or, if approved, is not dispensed or possessed
27 in accordance with state or federal law;

- 1 (52) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
2 cathinones;
- 3 (53) "Telehealth" has the same meaning it has in KRS 311.550;
- 4 (54) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
5 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
6 substances, derivatives, and their isomers with similar chemical structure and
7 pharmacological activity such as the following:
- 8 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 9 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 10 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- 11 (55) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
12 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
13 or sell a controlled substance;
- 14 (56) "Transfer" means to dispose of a controlled substance to another person without
15 consideration and not in furtherance of commercial distribution; and
- 16 (57) "Ultimate user" means a person who lawfully possesses a controlled substance for
17 his or her own use or for the use of a member of his or her household or for
18 administering to an animal owned by him or her or by a member of his or her
19 household.
- 20 ➔Section 37. KRS 218A.1421 is amended to read as follows:
- 21 (1) A person is guilty of trafficking in marijuana when he or she knowingly and
22 unlawfully traffics in marijuana, and the trafficking is not in compliance with, or
23 otherwise authorized by, Sections 1 to 30 of this Act.
- 24 (2) Unless authorized by Sections 1 to 30 of this Act, trafficking in less than eight (8)
25 ounces of marijuana is:
- 26 (a) For a first offense a Class A misdemeanor.
- 27 (b) For a second or subsequent offense a Class D felony.

- 1 (3) **Unless authorized by Sections 1 to 30 of this Act,** trafficking in eight (8) or more
 2 ounces but less than five (5) pounds of marijuana is:
- 3 (a) For a first offense a Class D felony.
 4 (b) For a second or subsequent offense a Class C felony.
- 5 (4) **Unless authorized by Sections 1 to 30 of this Act,** trafficking in five (5) or more
 6 pounds of marijuana is:
- 7 (a) For a first offense a Class C felony.
 8 (b) For a second or subsequent offense a Class B felony.
- 9 (5) **Unless authorized by Sections 1 to 30 of this Act,** the unlawful possession by any
 10 person of eight (8) or more ounces of marijuana shall be prima facie evidence that
 11 the person possessed the marijuana with the intent to sell or transfer it.
- 12 **(6) This section does not apply to:**
- 13 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
 14 **of this Act, when acting in compliance with a license issued pursuant to**
 15 **Sections 1 to 30 of this Act; or**
- 16 **(b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of**
 17 **marijuana is in compliance with Sections 1 to 30 of this Act.**
- 18 ➔Section 38. KRS 218A.1422 is amended to read as follows:
- 19 (1) A person is guilty of possession of marijuana when he or she knowingly and
 20 unlawfully possesses marijuana, **and the possession is not in compliance with, or**
 21 **otherwise authorized by, Sections 1 to 30 of this Act.**
- 22 (2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532
 23 to the contrary notwithstanding, the maximum term of incarceration shall be no
 24 greater than forty-five (45) days.
- 25 **(3) This section does not apply to:**
- 26 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
 27 **of this Act, when acting in compliance with a license issued pursuant to**

1 **Sections 1 to 30 of this Act; or**

2 **(b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of**
 3 **marijuana is in compliance with Sections 1 to 30 of this Act.**

4 ➔Section 39. KRS 218A.1423 is amended to read as follows:

5 (1) A person is guilty of marijuana cultivation when he **or she** knowingly and
 6 unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer
 7 it, **and the cultivation is not in compliance with, or otherwise authorized by,**
 8 **Sections 1 to 30 of this Act.**

9 (2) **Unless authorized by Sections 1 to 30 of this Act,** marijuana cultivation of five (5)
 10 or more plants of marijuana is:

11 (a) For a first offense a Class D felony.

12 (b) For a second or subsequent offense a Class C felony.

13 (3) **Unless authorized by Sections 1 to 30 of this Act,** marijuana cultivation of fewer
 14 than five (5) plants is:

15 (a) For a first offense a Class A misdemeanor.

16 (b) For a second or subsequent offense a Class D felony.

17 (4) **Unless authorized by Sections 1 to 30 of this Act,** the planting, cultivating, or
 18 harvesting of five (5) or more marijuana plants shall be prima facie evidence that
 19 the marijuana plants were planted, cultivated, or harvested for the purpose of sale or
 20 transfer.

21 **(5) This section does not apply to a cannabis business or a cannabis business agent,**
 22 **as defined in Section 1 of this Act, when acting in compliance with a license**
 23 **issued pursuant to Sections 1 to 30 of this Act.**

24 ➔Section 40. KRS 12.020 is amended to read as follows:

25 Departments, program cabinets and their departments, and the respective major
 26 administrative bodies that they include are enumerated in this section. It is not intended
 27 that this enumeration of administrative bodies be all-inclusive. Every authority, board,

1 bureau, interstate compact, commission, committee, conference, council, office, or any
2 other form of organization shall be included in or attached to the department or program
3 cabinet in which they are included or to which they are attached by statute or statutorily
4 authorized executive order; except in the case of the Personnel Board and where the
5 attached department or administrative body is headed by a constitutionally elected officer,
6 the attachment shall be solely for the purpose of dissemination of information and
7 coordination of activities and shall not include any authority over the functions,
8 personnel, funds, equipment, facilities, or records of the department or administrative
9 body.

10 I. Cabinet for General Government - Departments headed by elected officers:

- 11 (1) The Governor.
12 (2) Lieutenant Governor.
13 (3) Department of State.
14 (a) Secretary of State.
15 (b) Board of Elections.
16 (c) Registry of Election Finance.
17 (4) Department of Law.
18 (a) Attorney General.
19 (5) Department of the Treasury.
20 (a) Treasurer.
21 (6) Department of Agriculture.
22 (a) Commissioner of Agriculture.
23 (b) Kentucky Council on Agriculture.
24 (7) Auditor of Public Accounts.

25 II. Program cabinets headed by appointed officers:

- 26 (1) Justice and Public Safety Cabinet:
27 (a) Department of Kentucky State Police.

- 1 (b) Department of Criminal Justice Training.
- 2 (c) Department of Corrections.
- 3 (d) Department of Juvenile Justice.
- 4 (e) Office of the Secretary.
- 5 (f) Office of Drug Control Policy.
- 6 (g) Office of Legal Services.
- 7 (h) Office of the Kentucky State Medical Examiner.
- 8 (i) Parole Board.
- 9 (j) Kentucky State Corrections Commission.
- 10 (k) Office of Legislative and Intergovernmental Services.
- 11 (l) Office of Management and Administrative Services.
- 12 (m) Department of Public Advocacy.
- 13 (2) Education and Workforce Development Cabinet:
- 14 (a) Office of the Secretary.
 - 15 1. Governor's Scholars Program.
 - 16 2. Governor's School for Entrepreneurs Program.
- 17 (b) Office of Legal and Legislative Services.
 - 18 1. Client Assistance Program.
- 19 (c) Office of Communication.
- 20 (d) Office of Budget and Administration.
 - 21 1. Division of Human Resources.
 - 22 2. Division of Administrative Services.
- 23 (e) Office of Technology Services.
- 24 (f) Office of Educational Programs.
- 25 (g) Office for Education and Workforce Statistics.
- 26 (h) Board of the Kentucky Center for Education and Workforce Statistics.
- 27 (i) Board of Directors for the Center for School Safety.

- 1 (j) Department of Education.
- 2 1. Kentucky Board of Education.
- 3 2. Kentucky Technical Education Personnel Board.
- 4 (k) Department for Libraries and Archives.
- 5 (l) Department of Workforce Investment.
- 6 1. Office for the Blind.
- 7 2. Office of Vocational Rehabilitation.
- 8 3. Office of Employment and Training.
- 9 a. Division of Grant Management and Support.
- 10 b. Division of Workforce and Employment Services.
- 11 c. Division of Unemployment Insurance.
- 12 (m) Foundation for Workforce Development.
- 13 (n) Kentucky Office for the Blind State Rehabilitation Council.
- 14 (o) Kentucky Workforce Investment Board.
- 15 (p) Statewide Council for Vocational Rehabilitation.
- 16 (q) Unemployment Insurance Commission.
- 17 (r) Education Professional Standards Board.
- 18 1. Division of Educator Preparation.
- 19 2. Division of Certification.
- 20 3. Division of Professional Learning and Assessment.
- 21 4. Division of Legal Services.
- 22 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 23 (t) Kentucky Educational Television.
- 24 (u) Kentucky Environmental Education Council.
- 25 (3) Energy and Environment Cabinet:
- 26 (a) Office of the Secretary.
- 27 1. Office of Legislative and Intergovernmental Affairs.

- 1 2. Office of Legal Services.
- 2 a. Legal Division I.
- 3 b. Legal Division II.
- 4 3. Office of Administrative Hearings.
- 5 4. Office of Communication.
- 6 5. Mine Safety Review Commission.
- 7 6. Office of Kentucky Nature Preserves.
- 8 7. Kentucky Public Service Commission.
- 9 (b) Department for Environmental Protection.
- 10 1. Office of the Commissioner.
- 11 2. Division for Air Quality.
- 12 3. Division of Water.
- 13 4. Division of Environmental Program Support.
- 14 5. Division of Waste Management.
- 15 6. Division of Enforcement.
- 16 7. Division of Compliance Assistance.
- 17 (c) Department for Natural Resources.
- 18 1. Office of the Commissioner.
- 19 2. Division of Mine Permits.
- 20 3. Division of Mine Reclamation and Enforcement.
- 21 4. Division of Abandoned Mine Lands.
- 22 5. Division of Oil and Gas.
- 23 6. Division of Mine Safety.
- 24 7. Division of Forestry.
- 25 8. Division of Conservation.
- 26 9. Office of the Reclamation Guaranty Fund.
- 27 (d) Office of Energy Policy.

- 1 1. Division of Energy Assistance.
- 2 (e) Office of Administrative Services.
- 3 1. Division of Human Resources Management.
- 4 2. Division of Financial Management.
- 5 3. Division of Information Services.
- 6 (4) Public Protection Cabinet.
- 7 (a) Office of the Secretary.
- 8 1. Office of Communications and Public Outreach.
- 9 2. Office of Legal Services.
- 10 a. Insurance Legal Division.
- 11 b. Charitable Gaming Legal Division.
- 12 c. Alcoholic Beverage and Cannabis Control Legal Division.
- 13 d. Housing, Buildings and Construction Legal Division.
- 14 e. Financial Institutions Legal Division.
- 15 f. Professional Licensing Legal Division.
- 16 3. Office of Administrative Hearings.
- 17 4. Office of Administrative Services.
- 18 a. Division of Human Resources.
- 19 b. Division of Fiscal Responsibility.
- 20 (b) Kentucky Claims Commission.
- 21 (c) Kentucky Boxing and Wrestling Commission.
- 22 (d) Kentucky Horse Racing Commission.
- 23 1. Office of Executive Director.
- 24 a. Division of Pari-mutuel Wagering and Compliance.
- 25 b. Division of Stewards.
- 26 c. Division of Licensing.
- 27 d. Division of Enforcement.

- 1 e. Division of Incentives and Development.
- 2 f. Division of Veterinary Services.
- 3 (e) Department of Alcoholic Beverage *and Cannabis* Control.
- 4 1. Division of Distilled Spirits.
- 5 2. Division of Malt Beverages.
- 6 3. *Division of Medicinal Marijuana.*
- 7 *4.* Division of *Alcohol and Cannabis* Enforcement.
- 8 (f) Department of Charitable Gaming.
- 9 1. Division of Licensing and Compliance.
- 10 2. Division of Enforcement.
- 11 (g) Department of Financial Institutions.
- 12 1. Division of Depository Institutions.
- 13 2. Division of Non-Depository Institutions.
- 14 3. Division of Securities.
- 15 (h) Department of Housing, Buildings and Construction.
- 16 1. Division of Fire Prevention.
- 17 2. Division of Plumbing.
- 18 3. Division of Heating, Ventilation, and Air Conditioning.
- 19 4. Division of Building Code Enforcement.
- 20 (i) Department of Insurance.
- 21 1. Division of Insurance Product Regulation.
- 22 2. Division of Administrative Services.
- 23 3. Division of Financial Standards and Examination.
- 24 4. Division of Agent Licensing.
- 25 5. Division of Insurance Fraud Investigation.
- 26 6. Division of Consumer Protection.
- 27 7. Division of Kentucky Access.

- 1 (j) Department of Professional Licensing.
- 2 1. Real Estate Authority.
- 3 (5) Labor Cabinet.
- 4 (a) Office of the Secretary.
- 5 1. Office of General Counsel.
- 6 a. Workplace Standards Legal Division.
- 7 b. Workers' Claims Legal Division.
- 8 2. Office of Administrative Services.
- 9 a. Division of Human Resources Management.
- 10 b. Division of Fiscal Management.
- 11 c. Division of Professional Development and Organizational
- 12 Management.
- 13 d. Division of Information Technology and Support Services.
- 14 3. Office of Inspector General.
- 15 (b) Department of Workplace Standards.
- 16 1. Division of Apprenticeship.
- 17 2. Division of Occupational Safety and Health Compliance.
- 18 3. Division of Occupational Safety and Health Education and
- 19 Training.
- 20 4. Division of Wages and Hours.
- 21 (c) Department of Workers' Claims.
- 22 1. Division of Workers' Compensation Funds.
- 23 2. Office of Administrative Law Judges.
- 24 3. Division of Claims Processing.
- 25 4. Division of Security and Compliance.
- 26 5. Division of Information Services.
- 27 6. Division of Specialist and Medical Services.

- 1 7. Workers' Compensation Board.
- 2 (d) Workers' Compensation Funding Commission.
- 3 (e) Occupational Safety and Health Standards Board.
- 4 (f) Apprenticeship and Training Council.
- 5 (g) State Labor Relations Board.
- 6 (h) Employers' Mutual Insurance Authority.
- 7 (i) Kentucky Occupational Safety and Health Review Commission.
- 8 (j) Workers' Compensation Nominating Committee.
- 9 (6) Transportation Cabinet:
- 10 (a) Department of Highways.
 - 11 1. Office of Project Development.
 - 12 2. Office of Project Delivery and Preservation.
 - 13 3. Office of Highway Safety.
 - 14 4. Highway District Offices One through Twelve.
- 15 (b) Department of Vehicle Regulation.
- 16 (c) Department of Aviation.
- 17 (d) Department of Rural and Municipal Aid.
 - 18 1. Office of Local Programs.
 - 19 2. Office of Rural and Secondary Roads.
- 20 (e) Office of the Secretary.
 - 21 1. Office of Public Affairs.
 - 22 2. Office for Civil Rights and Small Business Development.
 - 23 3. Office of Budget and Fiscal Management.
 - 24 4. Office of Inspector General.
- 25 (f) Office of Support Services.
- 26 (g) Office of Transportation Delivery.
- 27 (h) Office of Audits.

- 1 (i) Office of Human Resource Management.
- 2 (j) Office of Information Technology.
- 3 (k) Office of Legal Services.
- 4 (7) Cabinet for Economic Development:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legal Services.
- 7 2. Department for Business Development.
- 8 3. Department for Financial Services.
- 9 a. Kentucky Economic Development Finance Authority.
- 10 b. Finance and Personnel Division.
- 11 c. IT and Resource Management Division.
- 12 d. Compliance Division.
- 13 e. Incentive Administration Division.
- 14 f. Bluegrass State Skills Corporation.
- 15 4. Office of Marketing and Public Affairs.
- 16 a. Communications Division.
- 17 b. Graphics Design Division.
- 18 5. Office of Workforce, Community Development, and Research.
- 19 6. Office of Entrepreneurship.
- 20 a. Commission on Small Business Advocacy.
- 21 (8) Cabinet for Health and Family Services:
- 22 (a) Office of the Secretary.
- 23 (b) Office of Health Policy.
- 24 (c) Office of Legal Services.
- 25 (d) Office of Inspector General.
- 26 (e) Office of Communications and Administrative Review.
- 27 (f) Office of the Ombudsman.

- 1 (g) Office of Finance and Budget.
- 2 (h) Office of Human Resource Management.
- 3 (i) Office of Administrative and Technology Services.
- 4 (j) Department for Public Health.
- 5 (k) Department for Medicaid Services.
- 6 (l) Department for Behavioral Health, Developmental and Intellectual
7 Disabilities.
- 8 (m) Department for Aging and Independent Living.
- 9 (n) Department for Community Based Services.
- 10 (o) Department for Income Support.
- 11 (p) Department for Family Resource Centers and Volunteer Services.
- 12 (q) Office for Children with Special Health Care Needs.
- 13 (r) Governor's Office of Electronic Health Information.
- 14 (s) Office of Legislative and Regulatory Affairs.
- 15 (9) Finance and Administration Cabinet:
- 16 (a) Office of the Secretary.
- 17 (b) Office of the Inspector General.
- 18 (c) Office of Legislative and Intergovernmental Affairs.
- 19 (d) Office of General Counsel.
- 20 (e) Office of the Controller.
- 21 (f) Office of Administrative Services.
- 22 (g) Office of Policy and Audit.
- 23 (h) Department for Facilities and Support Services.
- 24 (i) Department of Revenue.
- 25 (j) Commonwealth Office of Technology.
- 26 (k) State Property and Buildings Commission.
- 27 (l) Office of Equal Employment Opportunity and Contract Compliance.

- 1 (m) Kentucky Employees Retirement Systems.
- 2 (n) Commonwealth Credit Union.
- 3 (o) State Investment Commission.
- 4 (p) Kentucky Housing Corporation.
- 5 (q) Kentucky Local Correctional Facilities Construction Authority.
- 6 (r) Kentucky Turnpike Authority.
- 7 (s) Historic Properties Advisory Commission.
- 8 (t) Kentucky Tobacco Settlement Trust Corporation.
- 9 (u) Kentucky Higher Education Assistance Authority.
- 10 (v) Kentucky River Authority.
- 11 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 12 (x) Executive Branch Ethics Commission.
- 13 (10) Tourism, Arts and Heritage Cabinet:
- 14 (a) Kentucky Department of Tourism.
- 15 1. Division of Tourism Services.
- 16 2. Division of Marketing and Administration.
- 17 3. Division of Communications and Promotions.
- 18 (b) Kentucky Department of Parks.
- 19 1. Division of Information Technology.
- 20 2. Division of Human Resources.
- 21 3. Division of Financial Operations.
- 22 4. Division of Facilities Management.
- 23 5. Division of Facilities Maintenance.
- 24 6. Division of Customer Services.
- 25 7. Division of Recreation.
- 26 8. Division of Golf Courses.
- 27 9. Division of Food Services.

- 1 10. Division of Rangers.
- 2 11. Division of Resort Parks.
- 3 12. Division of Recreational Parks and Historic Sites.
- 4 (c) Department of Fish and Wildlife Resources.
- 5 1. Division of Law Enforcement.
- 6 2. Division of Administrative Services.
- 7 3. Division of Engineering, Infrastructure, and Technology.
- 8 4. Division of Fisheries.
- 9 5. Division of Information and Education.
- 10 6. Division of Wildlife.
- 11 7. Division of Marketing.
- 12 (d) Kentucky Horse Park.
- 13 1. Division of Support Services.
- 14 2. Division of Buildings and Grounds.
- 15 3. Division of Operational Services.
- 16 (e) Kentucky State Fair Board.
- 17 1. Office of Administrative and Information Technology Services.
- 18 2. Office of Human Resources and Access Control.
- 19 3. Division of Expositions.
- 20 4. Division of Kentucky Exposition Center Operations.
- 21 5. Division of Kentucky International Convention Center.
- 22 6. Division of Public Relations and Media.
- 23 7. Division of Venue Services.
- 24 8. Division of Personnel Management and Staff Development.
- 25 9. Division of Sales.
- 26 10. Division of Security and Traffic Control.
- 27 11. Division of Information Technology.

- 1 12. Division of the Louisville Arena.
- 2 13. Division of Fiscal and Contract Management.
- 3 14. Division of Access Control.
- 4 (f) Office of the Secretary.
 - 5 1. Office of Finance.
 - 6 2. Office of Government Relations and Administration.
 - 7 3. Office of Film and Tourism Development.
- 8 (g) Office of Legal Affairs.
- 9 (h) Office of Human Resources.
- 10 (i) Office of Public Affairs and Constituent Services.
- 11 (j) Office of Arts and Cultural Heritage.
- 12 (k) Kentucky African-American Heritage Commission.
- 13 (l) Kentucky Foundation for the Arts.
- 14 (m) Kentucky Humanities Council.
- 15 (n) Kentucky Heritage Council.
- 16 (o) Kentucky Arts Council.
- 17 (p) Kentucky Historical Society.
 - 18 1. Division of Museums.
 - 19 2. Division of Oral History and Educational Outreach.
 - 20 3. Division of Research and Publications.
 - 21 4. Division of Administration.
- 22 (q) Kentucky Center for the Arts.
 - 23 1. Division of Governor's School for the Arts.
- 24 (r) Kentucky Artisans Center at Berea.
- 25 (s) Northern Kentucky Convention Center.
- 26 (t) Eastern Kentucky Exposition Center.
- 27 (11) Personnel Cabinet:

- 1 (a) Office of the Secretary.
- 2 (b) Department of Human Resources Administration.
- 3 (c) Office of Employee Relations.
- 4 (d) Kentucky Public Employees Deferred Compensation Authority.
- 5 (e) Office of Administrative Services.
- 6 (f) Office of Legal Services.
- 7 (g) Governmental Services Center.
- 8 (h) Department of Employee Insurance.
- 9 (i) Office of Diversity, Equality, and Training.
- 10 (j) Office of Public Affairs.

11 III. Other departments headed by appointed officers:

- 12 (1) Council on Postsecondary Education.
- 13 (2) Department of Military Affairs.
- 14 (3) Department for Local Government.
- 15 (4) Kentucky Commission on Human Rights.
- 16 (5) Kentucky Commission on Women.
- 17 (6) Department of Veterans' Affairs.
- 18 (7) Kentucky Commission on Military Affairs.
- 19 (8) Office of Minority Empowerment.
- 20 (9) Governor's Council on Wellness and Physical Activity.
- 21 (10) Kentucky Communications Network Authority.

22 ➔Section 41. KRS 12.252 is amended to read as follows:

- 23 (1) There is established within the Public Protection Cabinet a Department of Financial
24 Institutions, a Department of Insurance, a Department of Housing, Buildings and
25 Construction, a Department of Charitable Gaming, a Department of Professional
26 Licensing, and a Department of Alcoholic Beverage and Cannabis Control. Each
27 department shall be headed by a commissioner appointed by the Governor as

1 required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and
2 304.2-020. Commissioners shall be directly responsible to the secretary and shall
3 perform the functions, powers, and duties provided by law and prescribed by the
4 secretary.

5 (2) The secretary of the Public Protection Cabinet shall be appointed by the Governor
6 in accordance with KRS 12.255. The Office of the Secretary shall contain the
7 following entities:

8 (a) The Office of Communications and Public Outreach, which shall be headed
9 by an executive director appointed by the secretary with the approval of the
10 Governor in accordance with KRS 12.050;

11 (b) The Office of Legal Services, which shall be headed by an executive director
12 appointed by the secretary with the approval of the Governor in accordance
13 with KRS 12.050 and 12.210;

14 (c) The Office of Administrative Hearings, which shall be headed by an executive
15 director appointed by the secretary with the approval of the Governor in
16 accordance with KRS 12.050 and 12.210; and

17 (d) The Office of Administrative Services, which shall be headed by an executive
18 director appointed by the secretary with the approval of the Governor in
19 accordance with KRS 12.050.

20 (3) There is established within the Public Protection Cabinet the Kentucky Claims
21 Commission pursuant to KRS 49.010.

22 (4) The Kentucky Horse Racing Commission is attached to the Public Protection
23 Cabinet for administrative purposes only, except as provided in KRS 131.330.

24 (5) There is established within the Public Protection Cabinet the Kentucky Boxing and
25 Wrestling Commission, which shall be headed by an executive director appointed
26 by the secretary with the approval of the Governor as required by KRS 12.050. The
27 executive director shall be directly responsible to the secretary and shall perform the

1 functions, powers, and duties provided by law and prescribed by the secretary.

2 ➔Section 42. KRS 15.300 is amended to read as follows:

- 3 (1) As used in this section, "consent order" means the consent order of December 21,
4 1998, agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket
5 Number 98-CI-01579, Franklin Circuit Court.
- 6 (2) There is created the Tobacco Master Settlement Agreement Compliance Advisory
7 Board in the Department of Law. The board shall be composed of six (6) members
8 as follows:
- 9 (a) The Attorney General, or the Attorney General's designee;
 - 10 (b) The secretary of the Cabinet for Health and Family Services, or the secretary's
11 designee;
 - 12 (c) The Commissioner of Agriculture, or the Commissioner's designee;
 - 13 (d) The secretary of the Public Protection Cabinet, or the secretary's designee; and
 - 14 (e) Two (2) citizens at large appointed by the Attorney General.
- 15 (3) The citizen members of the board shall serve for terms of one (1) year and until
16 their successors are appointed. The citizen members shall be eligible for successive
17 terms on the board.
- 18 (4) The board shall annually elect a member to serve as its chair and shall meet at least
19 quarterly on a date set by the board. Board members shall be reimbursed for
20 necessary expenses incurred in serving on the board.
- 21 (5) The board may adopt rules governing the conduct of its meetings, the creation of
22 meeting agendas, and other procedural matters it deems necessary. The board may
23 adopt reporting forms, which shall be developed in consultation with participating
24 agencies.
- 25 (6) The Office of the Attorney General shall:
- 26 (a) Enter into a memorandum of agreement with the Department of Public Health
27 of the Cabinet for Health and Family Services, the Department of Alcoholic

1 Beverage and Cannabis Control in the Public Protection Cabinet, and the
2 Department of Agriculture to identify and report possible violations of the
3 consent order;

4 (b) Attempt to secure funding under the master settlement agreement to reimburse
5 the agencies specified in paragraph (a) of this subsection for any compliance
6 activity that they perform; and

7 (c) Provide necessary funding and staff for administrative expenses related to the
8 operation of the board. The board may request assistance from other state
9 agencies.

10 (7) The Tobacco Master Settlement Agreement Compliance Advisory Board shall:

11 (a) Identify activities for which training is required for personnel of the state
12 agencies specified in paragraph (a) of subsection (6) of this section that are
13 responsible for identifying and reporting possible violations of the consent
14 order;

15 (b) Determine eligible compliance training costs and seek reimbursement for the
16 costs; and

17 (c) Notify the appropriate tobacco manufacturer, in writing, of any alleged
18 violation of the consent order and request a response and, if applicable, a
19 corrective action plan within thirty (30) days from the date of the notice. If the
20 manufacturer fails to respond or to satisfactorily resolve the matter, the board
21 shall review the matter at its next meeting and may refer the matter to the
22 Office of the Attorney General for enforcement action, if warranted.

23 ➔Section 43. KRS 15.380 is amended to read as follows:

24 (1) The following officers employed or appointed as full-time, part-time, or auxiliary
25 officers, whether paid or unpaid, shall be certified:

26 (a) Department of Kentucky State Police officers, but for the commissioner of the
27 Department of Kentucky State Police;

- 1 (b) City, county, and urban-county police officers;
- 2 (c) Court security officers and deputy sheriffs, except those identified in KRS
3 70.045 and 70.263(3);
- 4 (d) State or public university police officers appointed pursuant to KRS 164.950;
- 5 (e) School security officers employed by local boards of education who are
6 special law enforcement officers appointed under KRS 61.902;
- 7 (f) Airport safety and security officers appointed under KRS 183.880;
- 8 (g) Department of Alcoholic Beverage and Cannabis Control investigators
9 appointed under KRS 241.090;
- 10 (h) Division of Insurance Fraud Investigation investigators appointed under KRS
11 304.47-040;
- 12 (i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and
- 13 (j) County detectives appointed in a county containing a consolidated local
14 government with the power of arrest in the county and the right to execute
15 process statewide in accordance with KRS 69.360.
- 16 (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state
17 peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be
18 incorporated by the Personnel Cabinet for job specifications.
- 19 (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for
20 all peace officers possessing arrest powers who have specialized law enforcement
21 responsibilities shall be the responsibility of the employing agency.
- 22 (4) The following officers may, upon request of the employing agency, be certified by
23 the council:
- 24 (a) Deputy coroners;
- 25 (b) Deputy constables;
- 26 (c) Deputy jailers;
- 27 (d) Deputy sheriffs under KRS 70.045 and 70.263(3);

- 1 (e) Officers appointed under KRS 61.360;
- 2 (f) Officers appointed under KRS 61.902, except those who are school security
3 officers employed by local boards of education;
- 4 (g) Private security officers;
- 5 (h) Employees of a correctional services division created pursuant to KRS
6 67A.028 and employees of a metropolitan correctional services department
7 created pursuant to KRS 67B.010 to 67B.080; and
- 8 (i) Investigators employed by the Department of Charitable Gaming in
9 accordance with KRS 238.510; and
- 10 (j) Commonwealth detectives employed under KRS 69.110 and county detectives
11 employed under KRS 69.360.

12 (5) The following officers shall be exempted from the certification requirements but
13 may upon their request be certified by the council:

- 14 (a) Sheriffs;
- 15 (b) Coroners;
- 16 (c) Constables;
- 17 (d) Jailers;
- 18 (e) Kentucky Horse Racing Commission security officers employed under KRS
19 230.240; and
- 20 (f) Commissioner of the State Police.

21 (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

22 ➔Section 44. KRS 15.398 is amended to read as follows:

23 The following Kentucky Revised Statutes and any administrative regulations promulgated
24 thereunder affecting those peace officers required to be certified pursuant to KRS 15.380
25 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all
26 instances the provisions of all statutes specified below shall prevail:

27 (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;

- 1 (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- 2 (3) KRS Chapter 78, relating to county police;
- 3 (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county
4 police;
- 5 (5) KRS Chapter 183, relating to airport safety and security officers;
- 6 (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education
7 and Archaeology officers;
- 8 (7) KRS Chapter 18A, relating to all state peace officers;
- 9 (8) KRS 241.090, relating to Department of Alcoholic Beverage and Cannabis Control
10 investigators;
- 11 (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- 12 (10) Any other statutes affecting peace officers not specifically cited herein.

13 ➔Section 45. KRS 15.420 is amended to read as follows:

14 As used in KRS 15.410 to 15.510, unless the context otherwise requires:

- 15 (1) "Cabinet" means the Justice and Public Safety Cabinet;
- 16 (2) (a) "Police officer" means:
 - 17 1. A local officer, limited to:
 - 18 a. A full-time:
 - 19 i. Member of a lawfully organized police department of county,
20 urban-county, or city government; or
 - 21 ii. Sheriff or full-time deputy sheriff, including any sheriff
22 providing court security or appointed under KRS 70.030; or
 - 23 b. A school security officer; and
 - 24 2. A state officer, limited to:
 - 25 a. A public university police officer;
 - 26 b. A Kentucky state trooper;
 - 27 c. A Kentucky State Police arson investigator;

- 1 d. A Kentucky State Police hazardous device investigator;
- 2 e. A Kentucky State Police legislative security specialist;
- 3 f. A Kentucky vehicle enforcement officer;
- 4 g. A Kentucky Horse Park mounted patrol officer, subject to KRS
- 5 15.460(1)(f);
- 6 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);
- 7 i. An agriculture investigator;
- 8 j. A charitable gaming investigator;
- 9 k. An alcoholic beverage and cannabis control investigator;
- 10 l. An insurance fraud investigator;
- 11 m. An Attorney General investigator; and
- 12 n. A Kentucky Department of Fish and Wildlife Resources
- 13 conservation officer, subject to KRS 15.460(1)(e);
- 14 who is responsible for the prevention and detection of crime and the
- 15 enforcement of the general criminal laws of the state;
- 16 (b) "Police officer" does not include any sheriff who earns the maximum
- 17 constitutional salary for this office, any special deputy sheriff appointed under
- 18 KRS 70.045, any constable, deputy constable, district detective, deputy district
- 19 detective, special local peace officer, auxiliary police officer, or any other
- 20 peace officer not specifically authorized in KRS 15.410 to 15.510;
- 21 (3) "Police department" means the employer of a police officer;
- 22 (4) "Retirement plan" means a defined benefit plan consisting of required employer
- 23 contributions pursuant to KRS 61.565, 61.702, or any other provision of law;
- 24 (5) "Unit of government" means any city, county, combination of cities and counties,
- 25 public university, state agency, local school district, or county sheriff's office of the
- 26 Commonwealth; and
- 27 (6) "Validated job task analysis" means the core job description that describes the

1 minimum entry level requirements, qualifications, and training requirements for
2 peace officers in the Commonwealth, and that is based upon an actual survey and
3 study of police officer duties and responsibilities conducted by an entity recognized
4 by the council as being competent to conduct such a study.

5 ➔Section 46. KRS 15A.340 is amended to read as follows:

6 (1) As used in this section and KRS 15A.342 and 15A.344, "KY-ASAP" means the
7 Kentucky Agency for Substance Abuse Policy.

8 (2) The Office of Drug Control Policy shall administer an endowment from interest
9 generated through funds appropriated or gifts, donations, or funds received from
10 any source. The Office of Drug Control Policy may expend endowment principal, if
11 necessary in its discretion, to carry out the purposes of this section and KRS
12 15A.342 and 15A.344. These expenditures from the endowment principal are
13 hereby appropriated for this purpose.

14 (3) (a) The Office of Drug Control Policy shall oversee the activities specified in this
15 section and KRS 15A.342 and 15A.344 and provide administrative support to
16 the seventeen (17) member KY-ASAP Board, which is created to oversee the
17 activities of KY-ASAP. Membership of the board shall be appointed by the
18 Governor and shall consist of the following:

- 19 1. One (1) member representing the Kentucky Family Resource Youth
20 Services Coalition, or a designee;
- 21 2. One (1) member representing the Kentucky Health Department
22 Association, or a designee;
- 23 3. The secretary of the Cabinet for Health and Family Services, or
24 designee;
- 25 4. The secretary of the Justice and Public Safety Cabinet, or a designee;
- 26 5. One (1) member representing the Division of Behavioral Health within
27 the Department for Behavioral Health, Developmental and Intellectual

- 1 Disabilities, Cabinet for Health and Family Services, or a designee;
- 2 6. The commissioner of the Department for Public Health, Cabinet for
- 3 Health and Family Services, or a designee;
- 4 7. The commissioner of the Department of Alcoholic Beverage ***and***
- 5 **Cannabis** Control, or a designee;
- 6 8. The commissioner of the Department of Education;
- 7 9. The director of the Administrative Office of the Courts, or a designee;
- 8 10. One (1) member representing the Kentucky Association of Regional
- 9 Programs, or a designee;
- 10 11. One (1) member representing the Kentucky Heart Association, or a
- 11 designee;
- 12 12. One (1) member representing the Kentucky Lung Association, or a
- 13 designee;
- 14 13. One (1) member representing the Kentucky Cancer Society, or a
- 15 designee;
- 16 14. Two (2) members representing local tobacco addiction and substance
- 17 abuse advisory and coordination boards; and
- 18 15. Two (2) members representing private community-based organizations,
- 19 whether for-profit or nonprofit, with experience in programs involving
- 20 smoking cessation or prevention or alcohol or substance abuse
- 21 prevention and treatment.
- 22 (b) Members shall serve for a term of four (4) years, may be reappointed, and may
- 23 serve no more than two (2) consecutive terms. Members shall not be
- 24 compensated but shall receive reimbursement for expenses incurred while
- 25 performing board business.
- 26 (c) The board shall meet at least quarterly. A quorum of nine (9) members shall
- 27 be required for the transaction of business. Meetings shall be held at the call

1 of the chair, or upon the written request of two (2) members to the chair.

2 (d) The board shall:

3 1. Oversee deposits and expenditures from the endowment;

4 2. Request, in its discretion, an audit relating to the expenditure of
5 endowment funds;

6 3. Receive quarterly reports from the commissioner of the Department of
7 Alcoholic Beverage and Cannabis Control regarding KY-ASAP's
8 activities;

9 4. Progress toward development and implementation of the strategic plan;

10 5. Recommend to KY-ASAP the most efficient means for using public
11 funds to coordinate, supplement, and support high quality and ongoing
12 programs of all public agencies and private service providers related to
13 smoking cessation and prevention and alcohol and substance abuse
14 prevention and treatment;

15 6. Recommend matters for review and analysis by KY-ASAP; and

16 7. Perform other duties as necessary for the oversight of KY-ASAP.

17 (4) The Office of Drug Control Policy and KY-ASAP shall promote the
18 implementation of research-based strategies that target Kentucky's youth and adult
19 populations.

20 (5) The Office of Drug Control Policy and KY-ASAP shall vigorously pursue the
21 philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem
22 because of the addictive qualities of nicotine, and because tobacco is the most
23 prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

24 ➔Section 47. KRS 61.592 is amended to read as follows:

25 (1) (a) "Hazardous position" for employees participating in the Kentucky Employees
26 Retirement System, and for employees who begin participating in the County
27 Employees Retirement System before September 1, 2008, means:

- 1 1. Any position whose principal duties involve active law enforcement,
2 including the positions of probation and parole officer and
3 Commonwealth detective, active fire suppression or prevention, or other
4 positions, including, but not limited to, pilots of the Transportation
5 Cabinet and paramedics and emergency medical technicians, with duties
6 that require frequent exposure to a high degree of danger or peril and
7 also require a high degree of physical conditioning;
 - 8 2. Positions in the Department of Corrections in state correctional
9 institutions and the Kentucky Correctional Psychiatric Center with
10 duties that regularly and routinely require face-to-face contact with
11 inmates; and
 - 12 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2.
13 and who continue to provide educational services and support to inmates
14 as a Department of Corrections employee.
- 15 (b) "Hazardous position" for employees who begin participating in the County
16 Employees Retirement System on or after September 1, 2008, means police
17 officers and firefighters as defined in KRS 61.315(1), paramedics, correctional
18 officers with duties that routinely and regularly require face-to-face contact
19 with inmates, and emergency medical technicians if:
- 20 1. The employee's duties require frequent exposure to a high degree of
21 danger or peril and a high degree of physical conditioning; and
 - 22 2. The employee's duties are not primarily clerical or administrative.
- 23 (c) The effective date of participation under hazardous duty coverage for
24 positions in the Department of Alcoholic Beverage and Cannabis Control
25 shall be April 1, 1998. The employer and employee contributions shall be paid
26 by the employer and forwarded to the retirement system for the period not
27 previously reported.

1 (2) (a) Each employer may request of the board hazardous duty coverage for those
2 positions as defined in subsection (1) of this section. Upon request, each
3 employer shall certify to the system, in the manner prescribed by the board,
4 the names of all employees working in a hazardous position as defined in
5 subsection (1) of this section for which coverage is requested. The
6 certification of the employer shall bear the approval of the agent or agency
7 responsible for the budget of the department or county indicating that the
8 required employer contributions have been provided for in the budget of the
9 employing department or county. The system shall determine whether the
10 employees whose names have been certified by the employer are working in
11 positions meeting the definition of a hazardous position as provided by
12 subsection (1) of this section. This process shall not be required for employees
13 who elect coverage under KRS 196.167(3)(b)2.

14 (b) Each employer desiring to provide hazardous duty coverage to employees who
15 begin participating in the County Employees Retirement System on or after
16 September 1, 2008, may request that the board approve hazardous duty
17 coverage for those positions that meet the criteria set forth in subsection (1)(b)
18 of this section. Each employer shall certify to the system, in the manner
19 prescribed by the board, the names of all employees working in a hazardous
20 position as defined in subsection (1)(b) of this section for which coverage is
21 requested and a job description for each position or employee. The
22 certification of the employer shall bear the approval of the agent or agency
23 responsible for the budget of the department or county indicating that the
24 required employer contributions have been provided for in the budget of the
25 employing department or county. Each employer shall also certify, under
26 penalty of perjury in accordance with KRS Chapter 523, that each employee's
27 actual job duties are accurately reflected in the job description provided to the

1 system. The system shall determine whether the employees whose names have
2 been certified by the employer are working in positions meeting the definition
3 of a hazardous position as defined in subsection (1)(b) of this section. The
4 board shall have the authority to remove any employee from hazardous duty
5 coverage if the board determines the employee is not working in a hazardous
6 duty position or if the employee is classified in a hazardous duty position but
7 has individual job duties that do not meet the definition of a hazardous duty
8 position or are not accurately reflected in the job descriptions filed by the
9 employer with the system.

10 (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an
11 employee participating in the Kentucky Employees Retirement System who is
12 determined by the system to be working in a hazardous position in accordance
13 with subsection (2) of this section, shall contribute, for each pay period for
14 which he receives compensation, eight percent (8%) of his creditable
15 compensation. An employee participating in the County Employees
16 Retirement System who is determined by the system to be working in a
17 hazardous duty position in accordance with subsection (2) of this section shall
18 contribute, for each pay period for which he receives compensation, eight
19 percent (8%) of his creditable compensation.

20 (b) Each employer shall pay employer contributions based on the creditable
21 compensation of the employees determined by the system to be working in a
22 hazardous position at the employer contribution rate as determined by the
23 board. The rate shall be determined by actuarial methods consistent with the
24 provisions of KRS 61.565.

25 (c) If the employer participated in the system prior to electing hazardous duty
26 coverage, the employer may pay to the system the cost of converting the
27 nonhazardous service to hazardous service from the date of participation to

1 the date the payment is made, or the employer may establish a payment
2 schedule for payment of the cost of the hazardous service above that which
3 would be funded within the existing employer contribution rate. The employer
4 may extend the payment schedule to a maximum of thirty (30) years.
5 Payments made by the employer under this subsection shall be deposited to
6 the retirement allowance account of the proper retirement system and these
7 funds shall not be considered accumulated contributions of the individual
8 members. If the employer elects not to make the additional payment, the
9 employee may pay the cost of converting the service and provide payment for
10 the cost as provided by KRS 61.552(14). Payments made by the employee
11 under this subsection shall not be picked up, as described in KRS 61.560(4),
12 by the employer. If neither the employer nor employee makes the payment, the
13 service prior to hazardous coverage shall remain nonhazardous. The
14 provisions of this paragraph shall not apply to members who begin
15 participating in the systems administered by Kentucky Retirement Systems on
16 or after January 1, 2014.

17 (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other
18 benefits, eligibility requirements, rights, and responsibilities of a member in a
19 hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and
20 the responsibilities, rights, and requirements of his employer shall be as prescribed
21 for a member and employer participating in the State Police Retirement System as
22 provided for by KRS 16.505 to 16.652.

23 (5) Any person employed in a hazardous position after July 1, 1972, shall be required to
24 undergo a thorough medical examination by a licensed physician, and a copy of the
25 medical report of the physician shall be retained on file by the employee's
26 department or county and made available to the system upon request.

27 (6) If doubt exists regarding the benefits payable to a hazardous position employee

1 under this section, the board shall determine the benefits payable under KRS 61.510
2 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

3 ➔Section 48. KRS 62.160 is amended to read as follows:

4 (1) The state officers elected by the voters of the state at large, except the Governor and
5 the Lieutenant Governor, the heads of departments, offices, and cabinets of the state
6 government, the adjutant general, the members of the Public Service Commission,
7 the members of the State Fair Board and Fish and Wildlife Resources Commission,
8 and the members of the Kentucky Claims Commission and the Alcoholic Beverage
9 Control Board, shall each give bond. The amounts of the bonds shall be fixed by the
10 Governor, which amounts as to those offices set forth in subsection (2) of this
11 section shall be not less than the amounts set forth for the respective offices. At any
12 time when it appears to be to the interest of the Commonwealth, the Governor may
13 increase the penal sum of any bond or require a renewal of the bond with other or
14 additional surety.

15 (2) The minimum sum of the bond for the following offices shall be as follows:

16	Secretary of State	\$10,000
17	Attorney General	10,000
18	State Treasurer	300,000
19	Secretary for economic development	10,000
20	Commissioner of Agriculture	10,000
21	Secretary for education	10,000
22	Auditor of Public Accounts	25,000
23	Adjutant general	10,000
24	Secretary of finance and administration	100,000
25	Commissioner of revenue	50,000
26	Secretary of transportation	50,000
27	Commissioner of highways	50,000

1	Secretary of justice and public safety	50,000
2	Secretary of corrections	25,000
3	Commissioner for public health services	10,000
4	Secretary of labor	5,000
5	Commissioner for natural resources	50,000
6	State librarian	5,000
7	Commissioner of alcoholic beverage <u>and cannabis</u> control	10,000
8	Commissioner of financial institutions	25,000
9	Secretary for energy and environment	50,000
10	Commissioner of insurance	50,000
11	Commissioner of vehicle regulation	10,000
12	Commissioner of fish and wildlife resources	5,000
13	Secretary for health and family services	20,000
14	Commissioner of environmental protection	10,000
15	Secretary of public protection	10,000
16	Secretary of tourism, arts and heritage	25,000
17	Commissioner for community based services	20,000
18	Member of the Public Service Commission	10,000
19	Member of State Fair Board	10,000
20	Member of Fish and Wildlife Resources Commission	1,000
21	Member of Kentucky Claims Commission.....	10,000
22	Associate member of Alcoholic Beverage Control Board	5,000
23	Commissioner of local government	100,000

24 ➔Section 49. KRS 131.1815 is amended to read as follows:

- 25 (1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter
- 26 243, is a delinquent taxpayer as defined in subsection (2) of this section, the
- 27 department may, after giving notice as provided in subsection (3) of this section,

1 submit the name of the taxpayer to the Department of Alcoholic Beverage and
2 Cannabis Control for revocation of any license issued under KRS Chapter 243.

3 (2) Any of the following situations shall be sufficient to cause a taxpayer to be
4 classified as a "delinquent taxpayer" for purposes of this section:

5 (a) When a taxpayer has an overdue state tax liability arising directly or indirectly
6 from the manufacture, sale, transportation, or distribution of alcoholic
7 beverages, for which all protest and appeal rights granted by law have expired,
8 and the taxpayer has been contacted by the department concerning the overdue
9 tax liability. This does not include a taxpayer who is making current timely
10 installment payments on the overdue tax liability under agreement with the
11 department;

12 (b) When a taxpayer has not filed a required tax return as of ninety (90) days after
13 the due date or after the extended due date, and the taxpayer has been
14 contacted by the department concerning the delinquent return; or

15 (c) When an owner, partner, or corporate officer of a proprietorship, partnership,
16 or corporation holding a license under KRS Chapter 243 held a similar
17 position in a business whose license was revoked as a "delinquent taxpayer,"
18 and the tax liability remains unpaid as of ninety (90) days after the due date.

19 (3) At least twenty (20) days before submitting a taxpayer's name to the Department of
20 Alcoholic Beverage and Cannabis Control as provided in subsection (1) of this
21 section, the department shall notify the taxpayer by certified mail that the action is
22 to be taken. The notice shall state the reason for the action and shall set out the
23 amount of any tax liability including any applicable penalties and interest and any
24 other area of noncompliance that must be satisfied in order to prevent the
25 submission of his name to the Department of Alcoholic Beverage and Cannabis
26 Control as a delinquent taxpayer.

27 ➔Section 50. KRS 211.285 is amended to read as follows:

- 1 (1) There is hereby created the malt beverage educational fund which shall provide
2 moneys on a matching basis for educational information and materials that deter or
3 eliminate underage drinking. The fund shall consist of moneys generated from one
4 percent (1%) of the excise tax collected from the sale and distribution of malt
5 beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected
6 from distributors of malt beverages and microbreweries under KRS 243.884.
- 7 (2) The malt beverage educational fund shall be established in the State Treasury as a
8 trust and revolving account under KRS 45.253. Moneys in the account shall be
9 distributed by the State Treasurer to the Malt Beverage Educational Corporation, a
10 nonprofit organization that is organized under the laws of this state, upon the
11 authorization of the secretary of the Cabinet for Health and Family Services. The
12 moneys shall be awarded to the corporation solely to fund educational programs to
13 deter or eliminate underage drinking.
- 14 (3) The secretary of the Cabinet for Health and Family Services shall authorize that
15 moneys from the fund be disbursed to the corporation upon the secretary's receipt of
16 a certification from the corporation showing the moneys the corporation has
17 received from malt beverage distributors, microbreweries, and other private sources
18 since the last certification. The moneys disbursed from the fund shall be equal to the
19 contributions that the corporation has received from its members and other private
20 sources during that period. The moneys in the fund shall be disbursed in accordance
21 with a schedule established by the secretary, and shall be disbursed until the moneys
22 in the fund are exhausted or until the moneys in the fund lapse in accordance with
23 subsection (4) of this section, whichever comes first.
- 24 (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at
25 the end of the fiscal year and shall be returned to the general fund.
- 26 (5) As a condition of receiving the governmental funds, the corporation's board of
27 directors shall include the following among its directors:

- 1 (a) The Governor or his or her designee;
- 2 (b) The Attorney General or his or her designee;
- 3 (c) The President of the Senate or his or her designee;
- 4 (d) The Speaker of the House or his or her designee;
- 5 (e) The secretary of the Cabinet for Health and Family Services or his or her
- 6 designee; and
- 7 (f) The commissioner of the Department of Alcoholic and Cannabis Beverage
- 8 Control or his or her designee.

9 (6) All expenditures of moneys from the fund shall be approved by a majority of those
10 persons set out in subsection (5)(a) to (f) of this section. If the moneys from the
11 fund are not expended in their entirety, any moneys that remain unused by the
12 corporation at the end of the fiscal year shall be returned to the general fund.

13 (7) Any moneys from the fund that are not expended shall be returned to the general
14 fund upon the dissolution of the corporation.

15 (8) Any high school in the Commonwealth of Kentucky that was registered with the
16 Department of Education as of July 1, 1997, may make an application to the Malt
17 Beverage Education Corporation by February 28 of each year and shall be granted a
18 minimum of five hundred dollars (\$500) annually from the funds contributed by the
19 malt beverage educational fund for the single purpose of supporting "Project
20 Graduation" events.

21 ➔Section 51. KRS 241.010 is amended to read as follows:

22 As used in KRS Chapters 241 to 244, unless the context requires otherwise:

- 23 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
24 whatever source or by whatever process it is produced;
- 25 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
26 patented or not, containing alcohol in an amount in excess of more than one percent
27 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every

1 spurious or imitation liquor sold as, or under any name commonly used for,
2 alcoholic beverages, whether containing any alcohol or not. It does not include the
3 following products:

- 4 (a) Medicinal preparations manufactured in accordance with formulas prescribed
5 by the United States Pharmacopoeia, National Formulary, or the American
6 Institute of Homeopathy;
- 7 (b) Patented, patent, and proprietary medicines;
- 8 (c) Toilet, medicinal, and antiseptic preparations and solutions;
- 9 (d) Flavoring extracts and syrups;
- 10 (e) Denatured alcohol or denatured rum;
- 11 (f) Vinegar and preserved sweet cider;
- 12 (g) Wine for sacramental purposes; and
- 13 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
14 use;
- 15 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
16 or process that mixes liquor, spirits, or any other alcohol product with pure
17 oxygen or by any other means produces a vaporized alcoholic product used for
18 human consumption;
- 19 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
20 nebulizer, atomizer, or other device that is designed and intended by the
21 manufacturer to dispense a prescribed or over-the-counter medication or a
22 device installed and used by a licensee under this chapter to demonstrate the
23 aroma of an alcoholic beverage;
- 24 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
25 seating capacity of at least thirty thousand (30,000) people;
- 26 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 27 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are

- 1 occupied for sleeping purposes by persons not members of the single-family
2 unit;
- 3 (b) Holds a permit under KRS Chapter 219; and
- 4 (c) Has an innkeeper who resides on the premises or property adjacent to the
5 premises during periods of occupancy;
- 6 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
7 241.030;
- 8 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
9 use and sale of alcoholic beverages at retail;
- 10 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
11 carries on, works, or conducts any brewery, either alone or through an agent;
- 12 (9) "Brewery" means any place or premises where malt beverages are manufactured for
13 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
14 and storerooms connected with the premises; or where any part of the process of the
15 manufacture of malt beverages is carried on; or where any apparatus connected with
16 manufacture is kept or used; or where any of the products of brewing or
17 fermentation are stored or kept;
- 18 (10) "Building containing licensed premises" means the licensed premises themselves
19 and includes the land, tract of land, or parking lot in which the premises are
20 contained, and any part of any building connected by direct access or by an entrance
21 which is under the ownership or control of the licensee by lease holdings or
22 ownership;
- 23 (11) "Caterer" means a person operating a food service business that prepares food in a
24 licensed and inspected commissary, transports the food and alcoholic beverages to
25 the caterer's designated and inspected banquet hall or to an agreed location, and
26 serves the food and alcoholic beverages pursuant to an agreement with another
27 person;

- 1 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
2 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
3 501(c)) or any organization having been established and continuously operating
4 within the Commonwealth of Kentucky for charitable purposes for three (3) years
5 and which expends at least sixty percent (60%) of its gross revenue exclusively for
6 religious, educational, literary, civic, fraternal, or patriotic purposes;
- 7 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or
8 more alcohol by volume and includes hard cider and perry cider;
- 9 (14) "City administrator" means city alcoholic beverage control administrator;
- 10 (15) "Commercial airport" means an airport through which more than five hundred
11 thousand (500,000) passengers arrive or depart annually;
- 12 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)
13 pairs of fully operative pedals for propulsion by means of human muscular power
14 exclusively and which:
- 15 (a) Has four (4) wheels;
- 16 (b) Is operated in a manner similar to that of a bicycle;
- 17 (c) Is equipped with a minimum of thirteen (13) seats for passengers;
- 18 (d) Has a unibody design;
- 19 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
- 20 (f) Is used for commercial tour purposes; and
- 21 (g) Is operated by the vehicle owner or an employee of the owner;
- 22 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
23 and Cannabis Control;
- 24 (18) "Convention center" means any facility which, in its usual and customary business,
25 provides seating for a minimum of one thousand (1,000) people and offers
26 convention facilities and related services for seminars, training and educational
27 purposes, trade association meetings, conventions, or civic and community events

- 1 or for plays, theatrical productions, or cultural exhibitions;
- 2 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
3 guilty, the decision of a court, or the finding of a jury, irrespective of a
4 pronouncement of judgment or the suspension of the judgment;
- 5 (20) "County administrator" means county alcoholic beverage control administrator;
- 6 (21) "Department" means the Department of Alcoholic Beverage and Cannabis Control;
- 7 (22) "Dining car" means a railroad passenger car that serves meals to consumers on any
8 railroad or Pullman car company;
- 9 (23) "Discount in the usual course of business" means price reductions, rebates, refunds,
10 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
11 an agreement made at the time of the sale of the merchandise involved and are
12 considered a part of the sales transaction, constituting reductions in price pursuant
13 to the terms of the sale, irrespective of whether the quantity discount was:
- 14 (a) Prorated and allowed on each delivery;
- 15 (b) Given in a lump sum after the entire quantity of merchandise purchased had
16 been delivered; or
- 17 (c) Based on dollar volume or on the quantity of merchandise purchased;
- 18 (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a
19 human being which contains alcohol in excess of the amount permitted by KRS
20 Chapter 242 obtained by distilling, mixed with water or other substances in
21 solution, except wine, hard cider, and malt beverages;
- 22 (25) "Distiller" means any person who is engaged in the business of manufacturing
23 distilled spirits at any distillery in the state and is registered in the Office of the
24 Collector of Internal Revenue for the United States at Louisville, Kentucky;
- 25 (26) "Distillery" means any place or premises where distilled spirits are manufactured for
26 sale, and which are registered in the office of any collector of internal revenue for
27 the United States. It includes any United States government bonded warehouse;

- 1 (27) "Distributor" means any person who distributes malt beverages for the purpose of
2 being sold at retail;
- 3 (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all
4 forms of retail alcohol sales through a local option election held under KRS Chapter
5 242;
- 6 (29) "Election" means:
- 7 (a) An election held for the purpose of taking the sense of the people as to the
8 application or discontinuance of alcoholic beverage sales under KRS Chapter
9 242; or
- 10 (b) Any other election not pertaining to alcohol;
- 11 (30) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
12 KRS Chapter 230;
- 13 (31) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
14 designed primarily to serve transient patrons;
- 15 (32) "Investigator" means any employee or agent of the department who is regularly
16 employed and whose primary function is to travel from place to place for the
17 purpose of visiting licensees, and any employee or agent of the department who is
18 assigned, temporarily or permanently, by the commissioner to duty outside the main
19 office of the department at Frankfort, in connection with the administration of
20 alcoholic beverage statutes;
- 21 (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 22 (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS
23 Chapters 241 to 244;
- 24 (35) "Limited restaurant" means:
- 25 (a) A facility where the usual and customary business is the preparation and
26 serving of meals to consumers, which has a bona fide kitchen facility, which
27 receives at least seventy percent (70%) of its food and alcoholic beverage

1 receipts from the sale of food, which maintains a minimum seating capacity of
2 fifty (50) persons for dining, which has no open bar, which requires that
3 alcoholic beverages be sold in conjunction with the sale of a meal, and which
4 is located in a wet or moist territory under KRS 242.1244; or

5 (b) A facility where the usual and customary business is the preparation and
6 serving of meals to consumers, which has a bona fide kitchen facility, which
7 receives at least seventy percent (70%) of its food and alcoholic beverage
8 receipts from the sale of food, which maintains a minimum seating capacity of
9 one hundred (100) persons of dining, and which is located in a wet or moist
10 territory under KRS 242.1244;

11 (36) "Local administrator" means a city alcoholic beverage administrator, county
12 alcoholic beverage administrator, or urban-county alcoholic beverage control
13 administrator;

14 (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or
15 description, manufactured from malt wholly or in part, or from any substitute for
16 malt, and includes weak cider;

17 (38) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

18 (39) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person
19 engaged in the production or bottling of alcoholic beverages;

20 (40) "Minor" means any person who is not twenty-one (21) years of age or older;

21 (41) "Moist" means a territory in which a majority of the electorate voted to permit
22 limited alcohol sales by any one (1) or a combination of special limited local option
23 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
24 242.1243, 242.1244, or 242.1292;

25 (42) "Population" means the population figures established by the federal decennial
26 census for a census year or the current yearly population estimates prepared by the
27 Kentucky State Data Center, Urban Studies Center of the University of Louisville,

1 Louisville, Kentucky, for all other years;

2 (43) "Premises" means the land and building in and upon which any business regulated
3 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
4 as a single unit two (2) or more separate businesses of one (1) owner on the same
5 lot or tract of land, in the same or in different buildings if physical and permanent
6 separation of the premises is maintained, excluding employee access by keyed entry
7 and emergency exits equipped with crash bars, and each has a separate public
8 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
9 an alcoholic beverage license on July 15, 1998, shall not, by reason of this
10 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
11 of the license;

12 (44) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
13 producer, owner of the commodity at the time it becomes a marketable product,
14 bottler, or authorized agent of the brand owner. In the case of imported products, the
15 primary source of supply means either the foreign producer, owner, bottler, or agent
16 of the prime importer from, or the exclusive agent in, the United States of the
17 foreign distiller, producer, bottler, or owner;

18 (45) "Private club" means a nonprofit social, fraternal, military, or political organization,
19 club, or entity maintaining or operating a club room, club rooms, or premises from
20 which the general public is excluded;

21 (46) "Public nuisance" means a condition that endangers safety or health, is offensive to
22 the senses, or obstructs the free use of property so as to interfere with the
23 comfortable enjoyment of life or property by a community or neighborhood or by
24 any considerable number of persons;

25 (47) "Qualified historic site" means:

26 (a) A contributing property with dining facilities for at least fifty (50) persons at
27 tables, booths, or bars where food may be served within a commercial district

- 1 listed in the National Register of Historic Places;
- 2 (b) A site that is listed as a National Historic Landmark or in the National
3 Register of Historic Places with dining facilities for at least fifty (50) persons
4 at tables, booths, or bars where food may be served;
- 5 (c) A distillery which is listed as a National Historic Landmark and which
6 conducts souvenir retail package sales under KRS 243.0305; or
- 7 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
8 Places;
- 9 (48) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
10 wine by any process other than as provided for on distillery premises, and every
11 person who, without rectifying, purifying, or refining distilled spirits by mixing
12 alcoholic beverages with any materials, manufactures any imitations of or
13 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
14 spirits, cordials, bitters, or any other name;
- 15 (49) "Repackaging" means the placing of alcoholic beverages in any retail container
16 irrespective of the material from which the container is made;
- 17 (50) "Restaurant" means a facility where the usual and customary business is the
18 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
19 and that receives at least fifty percent (50%) of its food and alcoholic beverage
20 receipts from the sale of food at the premises;
- 21 (51) "Retail container" means any bottle, can, barrel, or other container which, without a
22 separable intermediate container, holds alcoholic beverages and is suitable and
23 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer
24 or not;
- 25 (52) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- 26 (53) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
27 consumers, except for producers with limited retail sale privileges;

- 1 (54) "Riverboat" means any boat or vessel with a regular place of mooring in this state
2 that is licensed by the United States Coast Guard to carry one hundred (100) or
3 more passengers for hire on navigable waters in or adjacent to this state;
- 4 (55) "Sale" means any transfer, exchange, or barter for consideration, and includes all
5 sales made by any person, whether principal, proprietor, agent, servant, or
6 employee, of any alcoholic beverage;
- 7 (56) "Service bar" means a bar, counter, shelving, or similar structure used for storing or
8 stocking supplies of alcoholic beverages that is a workstation where employees
9 prepare alcoholic beverage drinks to be delivered to customers away from the
10 service bar;
- 11 (57) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with
12 intent to sell, and the delivery of any alcoholic beverage;
- 13 (58) "Small farm winery" means a winery whose wine production is not less than two
14 hundred fifty (250) gallons and not greater than one hundred thousand (100,000)
15 gallons in a calendar year;
- 16 (59) "Souvenir package" means a special package of distilled spirits available from a
17 licensed retailer that is:
- 18 (a) Available for retail sale at a licensed Kentucky distillery where the distilled
19 spirits were produced or bottled; or
- 20 (b) Available for retail sale at a licensed Kentucky distillery but produced or
21 bottled at another of that distiller's licensed distilleries in Kentucky;
- 22 (60) "State administrator" or "administrator" means the distilled spirits administrator or
23 the malt beverages administrator, or both, as the context requires;
- 24 (61) "State park" means a state park that has a:
- 25 (a) Nine (9) or eighteen (18) hole golf course; or
- 26 (b) Full-service lodge and dining room;
- 27 (62) "Supplemental bar" means a bar, counter, shelving, or similar structure used for

- 1 serving and selling distilled spirits or wine by the drink for consumption on the
2 licensed premises to guests and patrons from additional locations other than the
3 main bar;
- 4 (63) "Territory" means a county, city, district, or precinct;
- 5 (64) "Urban-county administrator" means an urban-county alcoholic beverage control
6 administrator;
- 7 (65) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
8 move alcoholic beverages or any products, equipment, or appurtenances used to
9 manufacture, bottle, or sell these beverages;
- 10 (66) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- 11 (a) Are in their original manufacturer's unopened container;
- 12 (b) Are not owned by a distillery; and
- 13 (c) Are not otherwise available for purchase from a licensed wholesaler within
14 the Commonwealth;
- 15 (67) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 16 (68) "Weak cider" means any fermented fruit-based beverage containing more than one
17 percent (1%) but less than seven percent (7%) alcohol by volume;
- 18 (69) "Wet" means a territory in which a majority of the electorate voted to permit all
19 forms of retail alcohol sales by a local option election under KRS 242.050 or
20 242.125 on the following question: "Are you in favor of the sale of alcoholic
21 beverages in (name of territory)?";
- 22 (70) "Wholesale sale" means a sale to any person for the purpose of resale;
- 23 (71) "Wholesaler" means any person who distributes alcoholic beverages for the purpose
24 of being sold at retail, but it shall not include a subsidiary of a manufacturer or
25 cooperative of a retail outlet;
- 26 (72) "Wine" means the product of the normal alcoholic fermentation of the juices of
27 fruits, with the usual processes of manufacture and normal additions, and includes

1 champagne and sparkling and fortified wine of an alcoholic content not to exceed
 2 twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry
 3 cider and also includes preparations or mixtures vended in retail containers if these
 4 preparations or mixtures contain not more than fifteen percent (15%) of alcohol by
 5 volume. It does not include weak cider; and

6 (73) "Winery" means any place or premises in which wine is manufactured from any
 7 fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are
 8 compounded, except a place or premises that manufactures wine for sacramental
 9 purposes exclusively.

10 ➔Section 52. KRS 241.015 is amended to read as follows:

11 There is created a Department of Alcoholic Beverage and Cannabis Control, which shall
 12 constitute a statutory administrative department of the state government within the
 13 meaning of KRS Chapter 12. The department consists of the commissioner of alcoholic
 14 beverage and cannabis control, ~~and~~ the Alcoholic Beverage Control Board, and the
 15 Division of Medicinal Marijuana. The commissioner shall head the department, shall be
 16 its executive officer, and shall have charge of the administration of the department and
 17 perform all functions of the department not specifically assigned to the board or division.
 18 The Governor shall appoint as commissioner a person with administrative experience in
 19 the field of alcoholic beverage or cannabis control.

20 ➔Section 53. KRS 241.030 is amended to read as follows:

21 The Alcoholic Beverage Control Board shall consist of the commissioner ~~of alcoholic~~
 22 ~~beverage control~~ and two (2) persons appointed by the secretary of the Public Protection
 23 Cabinet with the approval of the Governor, who shall be persons with administrative
 24 experience in the field of alcoholic beverage or cannabis control. One (1) of these
 25 persons shall serve as administrator of the Division of Distilled Spirits, and the other shall
 26 serve as administrator of the Division of Malt Beverages. The commissioner shall be
 27 chairman of the board.

1 ➔Section 54. KRS 243.025 is amended to read as follows:

- 2 (1) All of the fees paid into the State Treasury for state licenses shall be credited to a
3 revolving trust and agency account, as provided in KRS 45.253, for the Department
4 of Alcoholic Beverage and Cannabis Control.
- 5 (2) All fees associated with the department's server training program shall be collected
6 on a cost recovery basis and shall be credited to the revolving trust and agency
7 account established under subsection (1) of this section.
- 8 (3) These moneys shall be used solely for the administration and enforcement of KRS
9 Chapters 241 to 244. The moneys in the account shall not lapse at the close of the
10 fiscal year.

11 ➔Section 55. KRS 243.0307 is amended to read as follows:

- 12 (1) A sampling license may be issued to the holder of:
- 13 (a) A quota retail drink license;
- 14 (b) A quota retail package license;
- 15 (c) An NQ1 license;
- 16 (d) An NQ2 license; or
- 17 (e) A distiller's license.
- 18 (2) A sampling license shall authorize the licensee to allow customers to sample, free of
19 charge, distilled spirits and wine under the following conditions:
- 20 (a) Sampling shall be permitted only on licensed premises and by licensees
21 holding a sampling license, during regular business hours;
- 22 (b) A distillery shall provide samples as authorized by KRS 243.0305; and
- 23 (c) All other licensees shall limit a customer to:
- 24 1. One (1) ounce of distilled spirits samples per day; and
- 25 2. Six (6) ounces of wine samples per day.
- 26 (3) Retailers holding a sampling license shall:
- 27 (a) Notify the Department of Alcoholic Beverage and Cannabis Control at least

- 1 seven (7) days in advance of conducting a free sampling event; and
- 2 (b) Limit a sampling event to a period not to exceed four (4) consecutive hours
- 3 between 12 noon and 8 p.m.
- 4 (4) In addition to free sampling, a quota retail package licensee holding a sampling
- 5 license may also sell sample distilled spirits and wine under the following
- 6 conditions:
- 7 (a) Paid samples may be sold only on licensed premises and by licensees holding
- 8 a sampling license, during regular business hours; and
- 9 (b) A licensee shall limit a customer to purchased samples totaling no more than:
- 10 1. Two (2) ounces of distilled spirits per day; and
- 11 2. Nine (9) ounces of wine per day.
- 12 (5) A quota retail package licensee holding both a sampling license and a nonquota
- 13 retail malt beverage package license may also sell samples of malt beverages under
- 14 the following conditions:
- 15 (a) Paid samples may be sold only on licensed premises and by licensees holding
- 16 a sampling license, during regular business hours;
- 17 (b) A licensee shall limit a customer to no more than sixteen (16) ounces of malt
- 18 beverages per day;
- 19 (c) Nothing in this subsection shall allow a quota retail package licensee to
- 20 provide a customer samples of malt beverages free of charge;
- 21 (d) The retail price of a sample shall not be less than a licensee's purchase cost of
- 22 the sample; and
- 23 (e) A licensee, supplier, or individual shall not request, require, or allow a
- 24 distributor to provide malt beverages free of charge or participate in any
- 25 activity allowed under this subsection.
- 26 (6) No customer shall be allowed to receive a combination of free and purchased
- 27 samples totaling more than:

1 (a) Two (2) ounces of distilled spirits per day; and

2 (b) Nine (9) ounces of wine per day.

3 (7) Free and paid samples provided under this section shall not constitute drink sales.

4 ➔Section 56. KRS 243.038 is amended to read as follows:

5 (1) The Department of Alcoholic Beverage and Cannabis Control shall not issue a
6 license to an applicant authorized to apply for a license to sell alcoholic beverages
7 by the drink under KRS 243.039 unless the applicant and the golf course, if
8 different from the applicant, agree to voluntarily comply with the provisions of KRS
9 Chapter 344, whether or not the applicant and the golf course would otherwise be
10 covered by the provisions of KRS Chapter 344.

11 (2) The department shall revoke or suspend any license issued under KRS 243.039 if
12 the department or the Kentucky Commission on Human Rights makes a finding that
13 the applicant or the golf course, if different from the applicant, has violated a
14 requirement specified in this section.

15 ➔Section 57. KRS 243.090 is amended to read as follows:

16 (1) All licenses issued by the department, except special event licenses, temporary
17 licenses, or licenses listed in subsection (5) of this section, shall be valid for a
18 period of no more than a year. The board shall promulgate administrative
19 regulations establishing the year-round system for renewal of licenses. The system
20 shall be designed to distribute the workload as uniformly as possible within the
21 offices of the local administrators and the Department of Alcoholic Beverage and
22 Cannabis Control.

23 (2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses
24 issued after January 1, 2017, by a local administrator shall be valid for a
25 period of no more than a year and shall be renewable upon the date
26 established by the department for the expiration of state licenses issued for
27 premises located in that county or city. During the first year following July 15,

- 1 2016, if the new date for renewal for the licensee does not occur on the date
2 established by the department for the expiration of the licensee's state license,
3 the local administrator shall either:
- 4 1. Prorate the cost of the renewed license by proportionally reducing the
5 cost of the renewed license if the new date for the renewal occurs prior
6 to the expiration of a previous license; or
 - 7 2. Provide a prorated provisional local license to cover any period of time
8 between the expiration of the previous license and the new date for
9 renewal if the new date for renewal occurs after the expiration of the
10 licensee's previous license.
- 11 (b) Paragraph (a) of this subsection shall not apply to licenses issued by a
12 consolidated local government, special event licenses, temporary licenses, or
13 licenses listed in subsection (5) of this section.
- 14 (3) When any person applies for a new license authorized under KRS Chapters 241 to
15 244, the person shall be charged, if the license is issued, the full fee for the
16 respective license if six (6) months or more remain before the license is due to be
17 renewed and one-half (1/2) the fee if less than six (6) months remain before the
18 license is due to be renewed. No abatement of license fees shall be permitted to any
19 person who held a license of the same kind for the same premises in the preceding
20 license period and who was actually doing business under the license during the last
21 month of the preceding license period.
- 22 (4) The renewal by the department of any alcoholic beverage license shall not be
23 construed to waive or condone any violation that occurred prior to the renewal and
24 shall not prevent subsequent proceedings against the licensee.
- 25 (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew
26 their licenses for either a one (1) year term or a two (2) year term.
- 27 (6) The department may deny license renewal if the licensee is a delinquent taxpayer as

1 defined in KRS 131.1815.

2 ➔Section 58. KRS 243.360 is amended to read as follows:

3 (1) All persons, except an applicant for the same license for the same premises, or an
4 applicant for an out-of-state malt beverage supplier's license, limited out-of-state
5 malt beverage supplier's license, out-of-state distilled spirits and wine supplier's
6 license, limited out-of-state distilled spirits and wine supplier's license,
7 supplemental bar license, extended hours supplemental license, a special agent or
8 solicitor's license, a special nonbeverage alcohol license, a transporter's license, a
9 special Sunday drink license, a hotel in-room license, a sampling license, or a
10 special temporary drink license shall, before applying for a license, advertise by
11 publication their intention to apply for a license in the newspaper for legal notices
12 under KRS 424.120 for the county or city whose local administrator has local
13 jurisdiction over the proposed premises.

14 (2) The notice shall contain the following information:

15 (a) The notice shall state: the name and address of the applicant and the name and
16 address of each principal owner, partner, member, officer, and director if the
17 applicant is a partnership, limited partnership, limited liability company,
18 corporation, governmental agency, or other business entity recognized by law;

19 (b) The notice shall specifically state the location of the premises for which the
20 license is sought, the type of business, and the type of license being requested;
21 and

22 (c) The notice shall state the date the application will be filed and shall contain
23 the following statement: "Any person, association, corporation, or body politic
24 may protest the approval of the license by writing the Department of
25 Alcoholic Beverage and Cannabis Control, 1003 Twilight Trail, Frankfort,
26 Kentucky 40601, within thirty (30) days of the date of legal publication."

27 (3) Any protest received after the thirty (30) day period has expired shall not be

1 considered a valid legal protest by the board.

2 (4) Substantial compliance with the information listed in subsection (2) of this section
3 shall be sufficient to comply with this section.

4 ➔Section 59. KRS 438.310 is amended to read as follows:

5 (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine
6 product, or vapor product at retail to any person under the age of eighteen (18), or
7 solicit any person under the age of eighteen (18) to purchase any tobacco product,
8 alternative nicotine product, or vapor product at retail.

9 (2) Any person who sells tobacco products, alternative nicotine products, or vapor
10 products at retail shall cause to be posted in a conspicuous place in his
11 establishment a notice stating that it is illegal to sell tobacco products, alternative
12 nicotine products, or vapor products to persons under age eighteen (18).

13 (3) Any person selling tobacco products, alternative nicotine products, or vapor
14 products shall require proof of age from a prospective buyer or recipient if the
15 person has reason to believe that the prospective buyer or recipient is under the age
16 of eighteen (18).

17 (4) A person who violates subsection (1) or (2) of this section shall be subject to a fine
18 of not less than one hundred dollars (\$100) nor more than five hundred dollars
19 (\$500) for a first violation and a fine of not less than five hundred dollars (\$500) nor
20 more than one thousand dollars (\$1,000) for any subsequent violation. The fine
21 shall be administered by the Department of Alcoholic Beverage and Cannabis
22 Control using a civil enforcement procedure.

23 ➔Section 60. KRS 438.311 is amended to read as follows:

24 (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has
25 not attained the age of eighteen (18) years to purchase or accept receipt of or to
26 attempt to purchase or accept receipt of a tobacco product, alternative nicotine
27 product, or vapor product, or to present or offer to any person any purported proof

1 of age which is false, fraudulent, or not actually his or her own, for the purpose of
2 purchasing or receiving any tobacco product, alternative nicotine product, or vapor
3 product. It shall not be unlawful for such a person to accept receipt of a tobacco
4 product, alternative nicotine product, or vapor product from an employer when
5 required in the performance of the person's duties.

6 (2) This offense shall be deemed a status offense and shall be under the jurisdiction of
7 the juvenile session of the District Court.

8 (3) All peace officers with general law enforcement authority and employees of the
9 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
10 citation, but not make an arrest or take a child into custody, for a violation of this
11 section. If a child fails to appear in court in response to a uniform citation issued
12 pursuant to the section, the court may compel the attendance of the defendant in the
13 manner specified by law.

14 ➔Section 61. KRS 438.313 is amended to read as follows:

15 (1) No wholesaler, retailer, or manufacturer of cigarettes, tobacco products, alternative
16 nicotine products, or vapor products may distribute cigarettes, tobacco products,
17 alternative nicotine products, or vapor products, including samples thereof, free of
18 charge or otherwise, to any person under the age of eighteen (18).

19 (2) Any person who distributes cigarettes, tobacco products, alternative nicotine
20 products, or vapor products, including samples thereof, free of charge or otherwise
21 shall require proof of age from a prospective buyer or recipient if the person has
22 reason to believe that the prospective purchaser or recipient is under the age of
23 eighteen (18).

24 (3) Any person who violates the provisions of this section shall be fined not less than
25 one thousand dollars (\$1,000) nor more than two thousand five hundred dollars
26 (\$2,500) for each offense. The fine shall be administered by the Department of
27 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for

1 persons eighteen (18) years of age or older. For persons under the age of eighteen
2 (18) years, the offense shall be deemed a status offense and shall be under the
3 jurisdiction of the juvenile session of the District Court.

4 (4) All peace officers with general law enforcement authority and employees of the
5 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
6 citation, but may not make an arrest, or take a child into custody, for a violation of
7 this section. If a child fails to appear in court in response to a uniform citation
8 issued pursuant to this section, the court may compel the attendance of the
9 defendant in the manner specified by law.

10 ➔Section 62. KRS 438.315 is amended to read as follows:

11 (1) The sale of tobacco products, alternative nicotine products, or vapor products
12 dispensed through a vending machine is prohibited to any person under the age of
13 eighteen (18) years.

14 (2) The purchase of tobacco products, alternative nicotine products, or vapor products
15 dispensed through a vending machine is prohibited to any person under the age of
16 eighteen (18) years.

17 (3) Except for vending machines located in factories or vending machines located in
18 bars or taverns to which minors are not permitted access, any vending machine from
19 which tobacco products, alternative nicotine products, or vapor products are
20 dispensed shall be located in the line of sight of the cashier for the retail
21 establishment.

22 (4) Any owner of a retail establishment violating this section shall be subject to a fine
23 of not less than one hundred dollars (\$100) nor more than five hundred dollars
24 (\$500) for each violation. The fine shall be administered by the Department of
25 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for
26 persons eighteen (18) years of age or older. For persons under the age of eighteen
27 (18) years, the offense shall be deemed a status offense and shall be under the

1 jurisdiction of the juvenile session of the District Court.

2 (5) All peace officers with general law enforcement authority and employees of the
3 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
4 citation, but may not make an arrest, or take a child into custody, for a violation of
5 this section. If a child fails to appear in court in response to a uniform citation
6 issued pursuant to this section, the court may compel the attendance of the
7 defendant in the manner specified by law.

8 ➔Section 63. KRS 438.317 is amended to read as follows:

9 (1) No person shall sell or cause to be sold at retail cigarettes packaged in units of
10 fewer than twenty (20) cigarettes.

11 (2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available
12 to a retail establishment cigarettes packaged for retail sale in units of less than
13 twenty (20) cigarettes.

14 (3) Any person violating subsection (1) of this section shall be subject to a fine of not
15 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
16 Any person violating subsection (2) of this section shall be fined not less than one
17 thousand dollars (\$1,000) nor more than two thousand five hundred dollars
18 (\$2,500). These penalties shall be enforced by the Department of Alcoholic
19 Beverage and Cannabis Control through civil enforcement procedures.

20 ➔Section 64. KRS 438.320 is amended to read as follows:

21 Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products
22 available to a retail establishment for sale or distribution shall report the name and
23 address of the owner of the retail establishment to the Department of Alcoholic Beverage
24 and Cannabis Control in a manner specified by administrative regulations promulgated
25 pursuant to KRS Chapter 13A.

26 ➔Section 65. KRS 438.325 is amended to read as follows:

27 (1) Each owner of a retail establishment selling or distributing tobacco products,

1 alternative nicotine products, or vapor products shall notify each individual
2 employed in the retail establishment as a retail sales clerk that the sale of tobacco
3 products, alternative nicotine products, or vapor products to any person under the
4 age of eighteen (18) years and the purchase of tobacco products, alternative nicotine
5 products, or vapor products by any person under the age of eighteen (18) years are
6 prohibited.

7 (2) Each owner of a retail establishment selling or distributing tobacco products,
8 alternative nicotine products, or vapor products shall notify each individual
9 employed in the retail establishment as a retail sales clerk that proof of age is
10 required from a prospective buyer or recipient if the person has reason to believe
11 that the prospective purchaser or recipient is under the age of eighteen (18).

12 (3) The notice to employees that is required in subsection (1) of this section shall be
13 provided before the person commences work as a retail sales clerk, or, in the case of
14 a person employed as a retail sales clerk on April 10, 2014, within thirty (30) days
15 of that date. The employee shall signify receipt of the notice required by this section
16 by signing a form that states as follows:

17 "I understand that under the law of the Commonwealth of Kentucky it is illegal to
18 sell or distribute tobacco products, alternative nicotine products, or vapor products
19 to persons under the age of eighteen (18) years and that it is illegal for persons
20 under the age of eighteen (18) years to purchase tobacco products, alternative
21 nicotine products, or vapor products."

22 (4) The owner of the retail establishment shall maintain the signed notice that is
23 required pursuant to subsection (3) of this section in a place and in a manner so as
24 to be easily accessible to any employee of the Department of Alcoholic Beverage
25 and Cannabis Control or the Department of Agriculture conducting an inspection
26 of the retail establishment for the purpose of monitoring compliance in limiting the
27 sale or distribution of tobacco products, alternative nicotine products, or vapor

1 products to persons under the age of eighteen (18) as provided in KRS 438.305 to
2 438.340.

3 (5) Any owner of the retail establishment violating subsections (1) to (4) of this section
4 shall be subject to a fine of not less than one hundred dollars (\$100) nor more than
5 five hundred dollars (\$500) for each violation. The fine shall be administered by the
6 Department of Alcoholic Beverage and Cannabis Control in a civil enforcement
7 procedure.

8 ➔Section 66. KRS 438.330 is amended to read as follows:

9 (1) The Department of Alcoholic Beverage and Cannabis Control and the Department
10 of Agriculture shall carry out annually conducted random, unannounced inspections
11 of retail establishments where tobacco products, alternative nicotine products, or
12 vapor products are sold or distributed for the purpose of enforcing the provisions of
13 KRS 438.305 to 438.340. The inspections shall be conducted to the extent
14 necessary to assure that the Commonwealth remains in compliance with Public Law
15 102-321 and applicable federal regulations. The Department of Alcoholic Beverage
16 and Cannabis Control and the Department of Agriculture shall also ensure that
17 targeted inspections are conducted at those retail establishments where, and at those
18 times when, persons under the age of eighteen (18) years are most likely to purchase
19 tobacco products, alternative nicotine products, or vapor products. Persons under
20 the age of eighteen (18) years may be used to test compliance with the provisions of
21 KRS 438.305 to 438.340 only if the testing is conducted under the direct
22 supervision of the Department of Alcoholic Beverage and Cannabis Control,
23 sheriff, or chief of police, or their employees, and written parental consent has been
24 obtained. The Department of Alcoholic Beverage and Cannabis Control shall
25 prepare annually, for submission by the Governor to the Secretary of the United
26 States Department of Health and Human Services, the report required by Section
27 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

1 (2) The Department of Alcoholic Beverage and Cannabis Control shall develop and
2 implement the survey sampling methodologies to carry out the inspections as
3 described in this section.

4 ➔Section 67. KRS 438.337 is amended to read as follows:

5 (1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a
6 juvenile, which shall be under the jurisdiction of the juvenile session of the District
7 Court, the Department of Alcoholic Beverage and Cannabis Control shall carry out
8 the enforcement provisions of KRS 438.305 to 438.340.

9 (2) The Department of Alcoholic Beverage and Cannabis Control shall be entitled to
10 the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent
11 (\$0.03) per pack revenue collected by the Finance and Administration Cabinet from
12 the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be
13 deposited in a trust and agency account created in the State Treasury, and to keep
14 fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset
15 the costs of enforcement of KRS 438.305 to 438.340.

16 (3) The Department of Alcoholic Beverage and Cannabis Control shall be responsible
17 for maintaining statistics for compilation of required reports to be submitted to the
18 United States Department of Health and Human Services.

19 (4) The Department of Alcoholic Beverage and Cannabis Control shall devise a plan
20 and time frame for enforcement to determine by random inspection if the percentage
21 of retailers or distributors making illegal sales to minors does or does not exceed
22 federal guidelines preventing tobacco sales to minors.

23 ➔Section 68. KRS 438.340 is amended to read as follows:

24 The Department of Alcoholic Beverage and Cannabis Control and the Department of
25 Agriculture are authorized to promulgate administrative regulations pursuant to KRS
26 Chapter 13A as necessary to implement and carry out the provisions of KRS 438.305 to
27 438.340.

1 ➔Section 69. This Act takes effect January 1, 2020.