

1 AN ACT relating to marijuana possession.

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 *(1) A person eighteen (18) years of age or older who knowingly and unlawfully*
6 *possesses a personal use quantity of marijuana shall pay a civil penalty of one*
7 *hundred dollars (\$100) or serve fifteen (15) hours of community service in lieu of*
8 *a fine, unless the offense occurs on elementary or secondary school property, in*
9 *which case the civil penalty is two hundred fifty dollars (\$250) or thirty (30)*
10 *hours of community service in lieu of the fine.*

11 *(2) An offense under this section shall not be considered a criminal offense.*

12 *(3) No person shall be subject to arrest for a violation of this section, provided the*
13 *peace officer does not have other lawful grounds for arrest.*

14 *(4) The fine for an offense under this section shall be prepayable, except when the*
15 *offense is cited with another offense that is not prepayable, in which case a court*
16 *appearance shall be required.*

17 ➔Section 2. KRS 218A.010 is amended to read as follows:

18 As used in this chapter:

19 (1) "Administer" means the direct application of a controlled substance, whether by
20 injection, inhalation, ingestion, or any other means, to the body of a patient or
21 research subject by:

22 (a) A practitioner or by his or her authorized agent under his or her immediate
23 supervision and pursuant to his or her order; or

24 (b) The patient or research subject at the direction and in the presence of the
25 practitioner;

26 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
27 pharmacologically related to testosterone that promotes muscle growth and includes

- 1 those substances classified as Schedule III controlled substances pursuant to KRS
2 218A.020 but does not include estrogens, progestins, and antioestrogens;
- 3 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 4 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of
5 its salts, isomers, or salts of isomers;
- 6 (5) "Child" means any person under the age of majority as specified in KRS 2.015;
- 7 (6) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical
8 and geometric isomers, and salts of isomers;
- 9 (7) "Controlled substance" means methamphetamine, or a drug, substance, or
10 immediate precursor in Schedules I through V and includes a controlled substance
11 analogue;
- 12 (8) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
13 subsection, means a substance:
- 14 1. The chemical structure of which is substantially similar to the structure
15 of a controlled substance in Schedule I or II; and
- 16 2. Which has a stimulant, depressant, or hallucinogenic effect on the
17 central nervous system that is substantially similar to or greater than the
18 stimulant, depressant, or hallucinogenic effect on the central nervous
19 system of a controlled substance in Schedule I or II; or
- 20 3. With respect to a particular person, which such person represents or
21 intends to have a stimulant, depressant, or hallucinogenic effect on the
22 central nervous system that is substantially similar to or greater than the
23 stimulant, depressant, or hallucinogenic effect on the central nervous
24 system of a controlled substance in Schedule I or II.
- 25 (b) Such term does not include:
- 26 1. Any substance for which there is an approved new drug application;
- 27 2. With respect to a particular person, any substance if an exemption is in

1 effect for investigational use for that person pursuant to federal law to
2 the extent conduct with respect to such substance is pursuant to such
3 exemption; or

4 3. Any substance to the extent not intended for human consumption before
5 the exemption described in subparagraph 2. of this paragraph takes
6 effect with respect to that substance;

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

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

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

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

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

21 (14) "Drug" means:

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

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

27 (c) Substances (other than food) intended to affect the structure or any function of

1 the body of man or animals; and

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

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

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

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

11 (a) By substitution:

12 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
13 ethyloxotetrazole ring system; and

14 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
15 or furanyl group; and

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

17 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
18 haloalkyl, hydroxyl, or halide substituents;

19 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
20 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
21 positions;

22 3. By substitution on the piperadine ring to any extent with a phenyl,
23 alkoxy, or carboxylate ester substituent at the 4- position; or

24 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
25 hydroxy substituents;

26 (17) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
27 prosecution only, means an in-person medical examination of the patient conducted

1 by the prescribing practitioner or other health-care professional routinely relied
2 upon in the ordinary course of his or her practice, at which time the patient is
3 physically examined and a medical history of the patient is obtained. "In-person"
4 includes telehealth examinations. This subsection shall not be applicable to hospice
5 providers licensed pursuant to KRS Chapter 216B;

6 (18) "Hazardous chemical substance" includes any chemical substance used or intended
7 for use in the illegal manufacture of a controlled substance as defined in this section
8 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
9 which:

10 (a) Poses an explosion hazard;

11 (b) Poses a fire hazard; or

12 (c) Is poisonous or injurious if handled, swallowed, or inhaled;

13 (19) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
14 isomers, or salts of isomers;

15 (20) "Hydrocodone combination product" means a drug with:

16 (a) 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 a fourfold or greater quantity of an
19 isoquinoline alkaloid of opium; or

20 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
21 its salts, per one hundred (100) milliliters or not more than fifteen (15)
22 milligrams per dosage unit, with one (1) or more active, nonnarcotic
23 ingredients in recognized therapeutic amounts;

24 (21) "Immediate precursor" means a substance which is the principal compound
25 commonly used or produced primarily for use, and which is an immediate chemical
26 intermediary used or likely to be used in the manufacture of a controlled substance
27 or methamphetamine, the control of which is necessary to prevent, curtail, or limit

1 manufacture;

2 (22) "Industrial hemp" has the same meaning as in KRS 260.850;

3 (23) "Industrial hemp products" has the same meaning as in KRS 260.850;

4 (24) "Intent to manufacture" means any evidence which demonstrates a person's
5 conscious objective to manufacture a controlled substance or methamphetamine.
6 Such evidence includes but is not limited to statements and a chemical substance's
7 usage, quantity, manner of storage, or proximity to other chemical substances or
8 equipment used to manufacture a controlled substance or methamphetamine;

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

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

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

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

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

26 (27) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
27 seeds thereof; the resin extracted from any part of the plant; and every compound,

1 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
2 or any compound, mixture, or preparation which contains any quantity of these
3 substances. The term "marijuana" does not include:

- 4 (a) Industrial hemp that is in the possession, custody, or control of a person who
5 holds a license issued by the Department of Agriculture permitting that person
6 to cultivate, handle, or process industrial hemp;
- 7 (b) Industrial hemp products that do not include any living plants, viable seeds,
8 leaf materials, or floral materials;
- 9 (c) The substance cannabidiol, when transferred, dispensed, or administered
10 pursuant to the written order of a physician practicing at a hospital or
11 associated clinic affiliated with a Kentucky public university having a college
12 or school of medicine;
- 13 (d) For persons participating in a clinical trial or in an expanded access program,
14 a drug or substance approved for the use of those participants by the United
15 States Food and Drug Administration;
- 16 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
17 260.850; or
- 18 (f) A cannabidiol product approved as a prescription medication by the United
19 States Food and Drug Administration;

20 (28) **"Marijuana accessory" means drug paraphernalia for the ingestion, inhalation,**
21 **or storage of a personal use quantity of marijuana;**

22 **(29)** "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
23 means an accounting of a patient's medical background, including but not limited to
24 prior medical conditions, prescriptions, and family background;

25 **(30)**~~(29)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution
26 only, means a lawful order of a specifically identified practitioner for a specifically
27 identified patient for the patient's health-care needs. "Medical order" may or may

1 not include a prescription drug order;

2 ~~(31)~~~~(30)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution
3 only, means a record, other than for financial or billing purposes, relating to a
4 patient, kept by a practitioner as a result of the practitioner-patient relationship;

5 ~~(32)~~~~(31)~~ "Methamphetamine" means any substance that contains any quantity of
6 methamphetamine, or any of its salts, isomers, or salts of isomers;

7 ~~(33)~~~~(32)~~ "Narcotic drug" means any of the following, whether produced directly or
8 indirectly by extraction from substances of vegetable origin, or independently by
9 means of chemical synthesis, or by a combination of extraction and chemical
10 synthesis:

11 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
12 opium or opiate;

13 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
14 chemically equivalent or identical with any of the substances referred to in
15 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
16 of opium;

17 (c) Opium poppy and poppy straw;

18 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
19 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
20 removed;

21 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

22 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

23 (g) Any compound, mixture, or preparation which contains any quantity of any of
24 the substances referred to in paragraphs (a) to (f) of this subsection;

25 ~~(34)~~~~(33)~~ "Opiate" means any substance having an addiction-forming or addiction-
26 sustaining liability similar to morphine or being capable of conversion into a drug
27 having addiction-forming or addiction-sustaining liability. It does not include,

1 unless specifically designated as controlled under KRS 218A.020, the
2 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
3 (dextromethorphan). It does include its racemic and levorotatory forms;

4 ~~(35)~~~~(34)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except
5 its seeds;

6 ~~(36)~~~~(35)~~ "Person" means individual, corporation, government or governmental
7 subdivision or agency, business trust, estate, trust, partnership or association, or any
8 other legal entity;

9 ~~(37)~~~~(36)~~ **"Personal use quantity of marijuana" means:**

10 **(a) One (1) ounce or less of marijuana in plant form;**

11 **(b) Five (5) grams or less of resin or concentrates derived from marijuana,**
12 **excluding the estimated weight of any non-marijuana ingredients combined**
13 **with the marijuana; or**

14 **(c) Marijuana products containing three hundred (300) grams or less of delta-9**
15 **tetrahydrocannabinol;**

16 ~~(38)~~ "Physical injury" has the same meaning it has in KRS 500.080;

17 ~~(39)~~~~(37)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after
18 mowing;

19 ~~(40)~~~~(38)~~ "Pharmacist" means a natural person licensed by this state to engage in the
20 practice of the profession of pharmacy;

21 ~~(41)~~~~(39)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
22 investigator, optometrist as authorized in KRS 320.240, advanced practice
23 registered nurse as authorized under KRS 314.011, or other person licensed,
24 registered, or otherwise permitted by state or federal law to acquire, distribute,
25 dispense, conduct research with respect to, or to administer a controlled substance
26 in the course of professional practice or research in this state. "Practitioner" also
27 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered

1 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
2 a state other than Kentucky and who is licensed and has prescriptive authority for
3 controlled substances under the professional licensing laws of another state, unless
4 the person's Kentucky license has been revoked, suspended, restricted, or probated,
5 in which case the terms of the Kentucky license shall prevail;

6 ~~(42)~~~~((40))~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for
7 criminal prosecution only, means a medical relationship that exists between a
8 patient and a practitioner or the practitioner's designee, after the practitioner or his
9 or her designee has conducted at least one (1) good faith prior examination;

10 ~~(43)~~~~((41))~~ "Prescription" means a written, electronic, or oral order for a drug or
11 medicine, or combination or mixture of drugs or medicines, or proprietary
12 preparation, signed or given or authorized by a medical, dental, chiropody,
13 veterinarian, optometric practitioner, or advanced practice registered nurse, and
14 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
15 disease in man or other animals;

16 ~~(44)~~~~((42))~~ "Prescription blank," with reference to a controlled substance, means a
17 document that meets the requirements of KRS 218A.204 and 217.216;

18 ~~(45)~~~~((43))~~ "Presumptive probation" means a sentence of probation not to exceed the
19 maximum term specified for the offense, subject to conditions otherwise authorized
20 by law, that is presumed to be the appropriate sentence for certain offenses
21 designated in this chapter, notwithstanding contrary provisions of KRS Chapter
22 533. That presumption shall only be overcome by a finding on the record by the
23 sentencing court of substantial and compelling reasons why the defendant cannot be
24 safely and effectively supervised in the community, is not amenable to community-
25 based treatment, or poses a significant risk to public safety;

26 ~~(46)~~~~((44))~~ "Production" includes the manufacture, planting, cultivation, growing, or
27 harvesting of a controlled substance;

1 ~~(47)~~~~((45))~~ "Recovery program" means an evidence-based, nonclinical service that assists
2 individuals and families working toward sustained recovery from substance use and
3 other criminal risk factors. This can be done through an array of support programs
4 and services that are delivered through residential and nonresidential means;

5 ~~(48)~~~~((46))~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the
6 plant presently classified botanically as *Salvia divinorum*, whether growing or not,
7 the seeds thereof, any extract from any part of that plant, and every compound,
8 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
9 extracts, including salts, isomers, and salts of isomers whenever the existence of
10 such salts, isomers, and salts of isomers is possible within the specific chemical
11 designation of that plant, its seeds, or extracts. The term shall not include any other
12 species in the genus *salvia*;

13 ~~(49)~~~~((47))~~ "Second or subsequent offense" means that for the purposes of this chapter an
14 offense is considered as a second or subsequent offense, if, prior to his or her
15 conviction of the offense, the offender has at any time been convicted under this
16 chapter, or under any statute of the United States, or of any state relating to
17 substances classified as controlled substances or counterfeit substances, except that
18 a prior conviction for a nontrafficking offense shall be treated as a prior offense
19 only when the subsequent offense is a nontrafficking offense. For the purposes of
20 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
21 constitute a conviction under this chapter;

22 ~~(50)~~~~((48))~~ "Sell" means to dispose of a controlled substance to another person for
23 consideration or in furtherance of commercial distribution;

24 ~~(51)~~~~((49))~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

25 ~~(52)~~~~((50))~~ "Synthetic cannabinoids or piperazines" means any chemical compound which
26 is not approved by the United States Food and Drug Administration or, if approved,
27 which is not dispensed or possessed in accordance with state and federal law, that

1 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
2 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
3 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
4 compound in the following structural classes:

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

13 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
14 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
15 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
16 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
17 substituted in the indole ring to any extent and whether or not substituted in
18 the phenyl ring to any extent. Examples of this structural class include but are
19 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

20 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
21 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
22 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
23 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
24 indole ring to any extent and whether or not substituted in the phenyl ring to
25 any extent. Examples of this structural class include but are not limited to
26 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

27 (d) Cyclohexylphenols: Any compound containing a 2-(3-

1 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
2 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
3 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
4 group whether or not substituted in the cyclohexyl ring to any extent.
5 Examples of this structural class include but are not limited to CP 47,497 and
6 its C8 homologue (cannabicyclohexanol);

7 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
8 naphthyl)methane structure with substitution at the nitrogen atom of the indole
9 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
10 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
11 further substituted in the indole 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-175, JWH-184, and JWH-185;

14 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole
15 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
16 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
17 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
18 substituted in the pyrrole ring to any extent and whether or not substituted in
19 the naphthyl ring to any extent. Examples of this structural class include but
20 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

21 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
22 naphthylmethyl)indene structure with substitution at the 3-position of the
23 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
24 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
25 or not further substituted in the indene ring to any extent and whether or not
26 substituted in the naphthyl ring to any extent. Examples of this structural class
27 include but are not limited to JWH-176;

- 1 (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-
2 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen
3 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,
4 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
5 group, whether or not further substituted in the indole ring to any extent and
6 whether or not further substituted in the tetramethylcyclopropyl ring to any
7 extent. Examples of this structural class include but are not limited to UR-144
8 and XLR-11;
- 9 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole
10 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
11 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
12 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
13 substituted in the indole ring to any extent and whether or not substituted in
14 the adamantyl ring system to any extent. Examples of this structural class
15 include but are not limited to AB-001 and AM-1248; or
- 16 (j) Any other synthetic cannabinoid or piperazine which is not approved by the
17 United States Food and Drug Administration or, if approved, which is not
18 dispensed or possessed in accordance with state and federal law;
- 19 ~~(53)~~~~(54)~~ "Synthetic cathinones" means any chemical compound which is not approved
20 by the United States Food and Drug Administration or, if approved, which is not
21 dispensed or possessed in accordance with state and federal law (not including
22 bupropion or compounds listed under a different schedule) structurally derived from
23 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,
24 or thiophene ring systems, whether or not the compound is further modified in one
25 (1) or more of the following ways:
- 26 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
27 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further

1 substituted in the ring system by one (1) or more other univalent substituents.
2 Examples of this class include but are not limited to 3,4-
3 Methylenedioxcathinone (bk-MDA);

4 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of
5 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one
6 (buphedrone);

7 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
8 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
9 cyclic structure. Examples of this class include but are not limited to
10 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
11 or

12 (d) Any other synthetic cathinone which is not approved by the United States
13 Food and Drug Administration or, if approved, is not dispensed or possessed
14 in accordance with state or federal law;

15 ~~(54)~~~~(52)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any
16 synthetic cathinones;

17 ~~(55)~~~~(53)~~ "Telehealth" has the same meaning it has in KRS 311.550;

18 ~~(56)~~~~(54)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances
19 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or
20 synthetic substances, derivatives, and their isomers with similar chemical structure
21 and pharmacological activity such as the following:

22 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

23 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

24 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

25 ~~(57)~~~~(55)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,
26 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,
27 dispense, or sell a controlled substance;

1 ~~(58)~~~~(56)~~ "Transfer" means to dispose of a controlled substance to another person
2 without consideration and not in furtherance of commercial distribution; and

3 ~~(59)~~~~(57)~~ "Ultimate user" means a person who lawfully possesses a controlled substance
4 for his or her own use or for the use of a member of his or her household or for
5 administering to an animal owned by him or her or by a member of his or her
6 household.

7 ➔Section 3. KRS 218A.1422 is amended to read as follows:

- 8 (1) A person is guilty of possession of marijuana when he or she knowingly and
9 unlawfully possesses marijuana.
- 10 (2) Possession of marijuana *in excess of a personal use quantity of marijuana* is a
11 Class B misdemeanor, except that, KRS Chapter 532 to the contrary
12 notwithstanding, the maximum term of incarceration shall be no greater than forty-
13 five (45) days.

14 ➔Section 4. KRS 218A.500 is amended to read as follows:

15 As used in this section and KRS 218A.510:

- 16 (1) "Drug paraphernalia" means all equipment, products and materials of any kind
17 which are used, intended for use, or designed for use in planting, propagating,
18 cultivating, growing, harvesting, manufacturing, compounding, converting,
19 producing, processing, preparing, testing, analyzing, packaging, repackaging,
20 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
21 introducing into the human body a controlled substance in violation of this chapter.

22 It includes but is not limited to:

- 23 (a) Kits used, intended for use, or designed for use in planting, propagating,
24 cultivating, growing, or harvesting of any species of plant which is a
25 controlled substance or from which a controlled substance can be derived;
- 26 (b) Kits used, intended for use, or designed for use in manufacturing,
27 compounding, converting, producing, processing, or preparing controlled

- 1 substances;
- 2 (c) Isomerization devices used, intended for use, or designed for use in increasing
3 the potency of any species of plant which is a controlled substance;
- 4 (d) Testing equipment used, intended for use, or designed for use in identifying,
5 or in analyzing the strength, effectiveness or purity of controlled substances;
- 6 (e) Scales and balances used, intended for use, or designed for use in weighing or
7 measuring controlled substances;
- 8 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
9 dextrose and lactose, used, intended for use, or designed for use in cutting
10 controlled substances;
- 11 (g) Separation gins and sifters used, intended for use, or designed for use in
12 removing twigs and seeds from, or in otherwise cleaning or refining
13 marijuana;
- 14 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
15 use, or designed for use in compounding controlled substances;
- 16 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
17 designed for use in packaging small quantities of controlled substances;
- 18 (j) Containers and other objects used, intended for use, or designed for use in
19 storing or concealing controlled substances;
- 20 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
21 designed for use in parenterally injecting controlled substances into the human
22 body; and
- 23 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
24 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the
25 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
26 pipes with or without screens, permanent screens, hashish heads, or punctured
27 metal bowls; water pipes; carburetion tubes and devices; smoking and

1 carburetion masks; roach clips which mean objects used to hold burning
2 material, such as marijuana cigarettes, that have become too small or too short
3 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber
4 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
5 pipes or chillers.

6 (2) *Except for marijuana accessories*, it is unlawful for any person to use, or to
7 possess with intent to use, drug paraphernalia for the purpose of planting,
8 propagating, cultivating, growing, harvesting, manufacturing, compounding,
9 converting, producing, processing, preparing, testing, analyzing, packing, repacking,
10 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
11 introducing into the human body a controlled substance in violation of this chapter.

12 (3) *Except for marijuana accessories*, it is unlawful for any person to deliver, possess
13 with intent to deliver, or manufacture with intent to deliver, drug paraphernalia,
14 knowing, or under circumstances where one reasonably should know, that it will be
15 used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,
16 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,
17 ingest, inhale, or otherwise introduce into the human body a controlled substance in
18 violation of this chapter.

19 (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other
20 publication any advertisement, knowing, or under circumstances where one
21 reasonably should know, that the purpose of the advertisement, in whole or in part,
22 is to promote the sale of objects designed or intended for use as drug paraphernalia.

23 (5) (a) This section shall not prohibit a local health department from operating a
24 substance abuse treatment outreach program which allows participants to
25 exchange hypodermic needles and syringes.

26 (b) To operate a substance abuse treatment outreach program under this
27 subsection, the local health department shall have the consent, which may be

1 revoked at any time, of the local board of health and:

2 1. The legislative body of the first or home rule class city in which the
3 program would operate if located in such a city; and

4 2. The legislative body of the county, urban-county government, or
5 consolidated local government in which the program would operate.

6 (c) Items exchanged at the program shall not be deemed drug paraphernalia under
7 this section while located at the program.

8 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace
9 officer may inquire as to the presence of needles or other sharp objects in the
10 areas to be searched that may cut or puncture the officer and offer to not
11 charge a person with possession of drug paraphernalia if the person declares to
12 the officer the presence of the needle or other sharp object. If, in response to
13 the offer, the person admits to the presence of the needle or other sharp object
14 prior to the search, the person shall not be charged with or prosecuted for
15 possession of drug paraphernalia for the needle or sharp object or for
16 possession of a controlled substance for residual or trace drug amounts present
17 on the needle or sharp object.

18 (b) The exemption under this subsection shall not apply to any other drug
19 paraphernalia that may be present and found during the search or to controlled
20 substances present in other than residual or trace amounts.

21 (7) Any person who violates any provision of this section shall be guilty of a Class A
22 misdemeanor.

23 ➔Section 5. KRS 218A.1421 is amended to read as follows:

24 (1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully
25 traffics in marijuana.

26 (2) Trafficking in *more than personal use quantities of marijuana but* less than eight
27 (8) ounces of marijuana is:

- 1 (a) For a first offense a Class A misdemeanor.
- 2 (b) For a second or subsequent offense a Class D felony.
- 3 (3) Trafficking in eight (8) or more ounces but less than five (5) pounds of marijuana
- 4 is:
- 5 (a) For a first offense a Class D felony.
- 6 (b) For a second or subsequent offense a Class C felony.
- 7 (4) Trafficking in five (5) or more pounds of marijuana is:
- 8 (a) For a first offense a Class C felony.
- 9 (b) For a second or subsequent offense a Class B felony.
- 10 (5) The unlawful possession by any person of eight (8) or more ounces of marijuana
- 11 shall be prima facie evidence that the person possessed the marijuana with the intent
- 12 to sell or transfer it.
- 13 ➔Section 6. KRS 431.450 is amended to read as follows:
- 14 (1) The Department of Kentucky State Police in consultation with the Transportation
- 15 Cabinet shall design, print, and distribute to all law enforcement agencies in the
- 16 Commonwealth a uniform citation.
- 17 (2) The citation shall:
- 18 (a) Be approved by the Supreme Court;
- 19 (b) Consist of an original document and five (5) copies;
- 20 (c) Be serially numbered in such a manner that the year of issue and the
- 21 individual citation number may be readily ascertained; and
- 22 (d) Contain such other information as may be required by the Supreme Court.
- 23 (3) The Circuit Court clerk shall maintain a system of accountability for all citations
- 24 issued in accordance with rules and regulations issued by the Supreme Court to
- 25 assure that citations are not wrongfully destroyed, tampered with, or otherwise
- 26 compromised in any manner.
- 27 (4) All peace officers in the Commonwealth shall use the uniform citation for all

1 violations of the traffic laws, offenses under Section 1 of this Act, and for all
2 felonies, misdemeanors, and violations.

3 ➔Section 7. KRS 500.080 is amended to read as follows:

4 As used in the Kentucky Penal Code, unless the context otherwise requires:

- 5 (1) "Actor" means any natural person and, where relevant, a corporation or an
6 unincorporated association;
- 7 (2) "Crime" means a misdemeanor or a felony;
- 8 (3) "Dangerous instrument" means any instrument, including parts of the human body
9 when a serious physical injury is a direct result of the use of that part of the human
10 body, article, or substance which, under the circumstances in which it is used,
11 attempted to be used, or threatened to be used, is readily capable of causing death or
12 serious physical injury;
- 13 (4) "Deadly weapon" means any of the following:
- 14 (a) A weapon of mass destruction;
- 15 (b) Any weapon from which a shot, readily capable of producing death or other
16 serious physical injury, may be discharged;
- 17 (c) Any knife other than an ordinary pocket knife or hunting knife;
- 18 (d) Billy, nightstick, or club;
- 19 (e) Blackjack or slapjack;
- 20 (f) Nunchaku karate sticks;
- 21 (g) Shuriken or death star; or
- 22 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 23 (5) "Felony" means an offense for which a sentence to a term of imprisonment of at
24 least one (1) year in the custody of the Department of Corrections may be imposed;
- 25 (6) "Government" means the United States, any state, county, municipality, or other
26 political unit, or any department, agency, or subdivision of any of the foregoing, or
27 any corporation or other association carrying out the functions of government;

- 1 (7) "He" means any natural person and, where relevant, a corporation or an
2 unincorporated association;
- 3 (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.
4 Unless the context otherwise clearly requires, "law" also includes the common law;
- 5 (9) "Minor" means any person who has not reached the age of majority as defined in
6 KRS 2.015;
- 7 (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a
8 sentence to a term of imprisonment of not more than twelve (12) months can be
9 imposed;
- 10 (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a
11 fine is provided by any law of this state or by any law, local law, or ordinance of a
12 political subdivision of this state or by any law, order, rule, or regulation of any
13 governmental instrumentality authorized by law to adopt the same;
- 14 (12) "Person" means a human being, and where appropriate, a public or private
15 corporation, an unincorporated association, a partnership, a government, or a
16 governmental authority;
- 17 (13) "Physical injury" means substantial physical pain or any impairment of physical
18 condition;
- 19 (14) "Possession" means to have actual physical possession or otherwise to exercise
20 actual dominion or control over a tangible object;
- 21 (15) "Serious physical injury" means physical injury which creates a substantial risk of
22 death, or which causes serious and prolonged disfigurement, prolonged impairment
23 of health, or prolonged loss or impairment of the function of any bodily organ. For a
24 child twelve (12) years of age or less at the time of the injury, a serious physical
25 injury includes but is not limited to the following:
- 26 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the
27 kidneys;

- 1 (b) Any bruising severe enough to cause underlying muscle damage as
2 determined by elevated creatine kinase levels in the blood;
- 3 (c) Any bruising or soft tissue injury to the genitals that affects the ability to
4 urinate or defecate;
- 5 (d) Any testicular injury sufficient to put fertility at risk;
- 6 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 7 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 8 (g) Any burn requiring hospitalization, debridement in the operating room, IV
9 fluids, intubation, or admission to a hospital's intensive care unit;
- 10 (h) Rib fracture;
- 11 (i) Scapula or sternum fractures;
- 12 (j) Any broken bone that requires surgery;
- 13 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
- 14 (l) A concussion that results in the child becoming limp, unresponsive, or results
15 in seizure activity;
- 16 (m) Abdominal injuries that indicate internal organ damage regardless of whether
17 surgery is required;
- 18 (n) Any injury requiring surgery;
- 19 (o) Any injury that requires a blood transfusion; and
- 20 (p) Any injury requiring admission to a hospital's critical care unit;
- 21 (16) "Unlawful" means contrary to law or, where the context so requires, not permitted
22 by law. It does not mean wrongful or immoral;
- 23 (17) "Violation" means an offense, other than a traffic infraction or an offense under
24 Section 1 of this Act, for which a sentence to a fine only can be imposed; and
- 25 (18) "Weapon of mass destruction" means:
- 26 (a) Any destructive device as defined in KRS 237.030, but not fireworks as
27 defined in KRS 227.700;

- 1 (b) Any weapon that is designed or intended to cause death or serious physical
2 injury through the release, dissemination, or impact of toxic or poisonous
3 chemicals or their precursors;
- 4 (c) Any weapon involving a disease organism; or
- 5 (d) Any weapon that is designed to release radiation or radioactivity at a level
6 dangerous to human life.

7 ➔Section 8. KRS 138.872 is amended to read as follows:

- 8 (1) A tax is hereby levied on each offender engaging in a taxable activity in this state.
9 The tax shall be paid at the following rates:
- 10 (a) One thousand dollars (\$1,000) per plant, whether growing or detached from
11 the soil, on each marijuana plant with foliage;
- 12 (b) Three dollars and fifty cents (\$3.50) on each gram, or portion thereof, of
13 marijuana which has been detached from the plant on which it grew ***and***
14 ***which exceeds a personal use quantity of marijuana as defined in Section 2***
15 ***of this Act;***
- 16 (c) Two hundred dollars (\$200) on each gram, or portion thereof, of controlled
17 substances; and
- 18 (d) Two thousand dollars (\$2,000) on each fifty (50) dosage units, or portion
19 thereof, of a controlled substance that is not sold by weight.
- 20 (2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c),
21 and (1)(d) of this section, the quantity shall be measured by the weight of the
22 marijuana or controlled substance, whether pure, impure, or diluted, or by dosage
23 units when a controlled substance is not sold by weight.
- 24 (3) An offender lawfully engaged in a taxable activity shall be exempt from the tax
25 imposed by this section if the offender is not in violation of any law which
26 authorizes him to engage in the activity.