

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:*

14 *(a) A treatment or consulting relationship, during the course of which the*
15 *practitioner has completed an assessment of the patient's medical history*
16 *and current medical condition;*

17 *(b) The practitioner has consulted with the patient with respect to the possible*
18 *therapeutic and palliative properties of medicinal marijuana as well as*
19 *possible risks and side effects;*

20 *(c) The practitioner provides follow-up care and treatment to the patient; and*

21 *(d) Such a relationship may be established via telehealth as defined by KRS*
22 *304.17A-005;*

23 *(3) "Cannabis business" means a cultivator, dispensary, processor, or a safety*
24 *compliance facility licensed pursuant to Sections 15 to 18 of this Act;*

25 *(4) "Cannabis business agent" means a principal officer, board member, employee,*
26 *volunteer, or agent of a cannabis business who is at least twenty-one (21) years of*
27 *age, who has not been convicted of a disqualifying felony offense, and who has*

1 been registered through the department as required by Sections 1 to 30 of this
2 Act;

3 (5) "Cardholder" means:

4 (a) A qualified patient, designated caregiver, or visiting qualified patient who
5 has applied for, obtained, and possesses a valid registry identification card
6 issued by the department as required by Sections 1 to 30 of this Act; or

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

13 (6) "Cultivator" means an entity licensed pursuant to Sections 15 to 18 of this Act
14 that grows, processes, and delivers medicinal marijuana to another cultivator,
15 dispensary, processor, or safety compliance facility;

16 (7) "Cultivator agent" means a principal officer, board member, employee,
17 volunteer, or agent of a cultivator who is at least twenty-one (21) years of age,
18 who has not been convicted of a disqualifying felony offense, and who has been
19 registered through the department as required by Sections 1 to 30 of this Act;

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

22 (9) "Designated caregiver" means a person who has been registered through the
23 department as required by Sections 1 to 30 of this Act and who:

24 (a) Is a resident of Kentucky;

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

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

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

2 (10) "Dispensary" means an entity licensed pursuant to Sections 15 to 18 of this Act
3 that acquires, possesses, manufactures, delivers, transfers, transports, sells,
4 supplies, or dispenses medicinal marijuana or usable marijuana to cardholders;

5 (11) "Dispensary agent" means a principal officer, board member, employee,
6 volunteer, or agent of a dispensary who is at least twenty-one (21) years of age,
7 has not been convicted of a disqualifying felony offense, and has been registered
8 through the department as required by Sections 1 to 30 of this Act;

9 (12) "Disqualifying felony offense" means:

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

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

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

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

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

23 (a) A closet, room, greenhouse, building, or other enclosed area that is
24 equipped with locks and other security devices that permit access only by a
25 cardholder authorized to cultivate medicinal marijuana or, in the case of a
26 licensed cultivator, the cultivator agents employed by the cultivator; or

27 (b) For licensed cultivators operating outdoor growing operations, a secured

1 and electronically monitored outdoor growing space that complies with
2 administrative regulations promulgated by the department;

3 (14) "Gross receipts" means all amounts received in money, credits, property, or other
4 money's worth in any form, by a cannabis business;

5 (15) "Marijuana," "medicinal marijuana," or "cannabis" means all parts of the
6 plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted
7 from any part of the plant; and every compound, manufacture, salt, derivative,
8 mixture, or preparation of the plant, its seeds, or its resin; or any compound,
9 mixture, or preparation which contains any quantity of these substances; when
10 utilized in pursuit of therapeutic or palliative relief in accordance with Sections 1
11 to 30 of this Act. The terms "marijuana," "medicinal marijuana," or "cannabis"
12 do not include:

13 (a) Industrial hemp that is in the possession, custody, or control of a person
14 who holds a license issued by the Department of Agriculture permitting that
15 person to cultivate, handle, or process industrial hemp;

16 (b) Industrial hemp products that do not include any living plants, viable seeds,
17 leaf materials, or floral materials;

18 (c) The substance cannabidiol, when transferred, dispensed, or administered
19 pursuant to the written order of a physician practicing at a hospital or
20 associated clinic affiliated with a Kentucky public university having a
21 college or school of medicine;

22 (d) For persons participating in a clinical trial or in an expanded access
23 program, a drug or substance approved for the use of those participants by
24 the United States Food and Drug Administration;

25 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
26 260.850; or

27 (f) A cannabidiol product approved as a prescription medication by the United

1 States Food and Drug Administration;

2 (16) "Mature marijuana plant" means a marijuana plant that has flowers;

3 (17) "Practitioner" means a physician, dentist, podiatrist, optometrist as authorized
4 under KRS 320.240, an advanced practice registered nurse as defined in KRS
5 314.011, or other person who:

6 (a) Is licensed, registered, or otherwise permitted by state or federal law to
7 administer a controlled substance in the course of professional practice in
8 Kentucky;

9 (b) Has completed any training or certification requirements required by the
10 department for practitioners who wish to be authorized to provide written
11 certifications for the use of medicinal marijuana; and

12 (c) Has notified the department and the Kentucky Board of Medical Licensure
13 that he or she intends to or is willing to, during the course of a bona fide
14 practitioner-patient relationship, provide patients with a written certification
15 for the use of medicinal marijuana;

16 (18) "Processor" means an entity licensed pursuant to Sections 15 to 18 of this Act
17 that acquires marijuana from a cultivator in order to prepare, trim, manipulate,
18 blend, or otherwise modify raw marijuana material, and package medicinal
19 marijuana products for sale to a licensed dispensary;

20 (19) "Processor agent" means a principal officer, board member, employee,
21 volunteer, or agent of a processor who is at least twenty-one (21) years of age, has
22 not been convicted of a disqualifying felony offense, and has been registered
23 through the department as required by Sections 1 to 30 of this Act;

24 (20) "Qualified patient" means a person who:

25 (a) Is a resident of Kentucky; and

26 (b) Has obtained a written certification from a practitioner with whom he or
27 she has a bona fide practitioner-patient relationship;

- 1 (21) "Registration certificate" means a document issued by the department that
2 identifies an entity as a licensed cultivator, dispensary, processor, or safety
3 compliance facility;
- 4 (22) "Registry identification card" means a document issued by the department that:
5 (a) Identifies a person as a qualified patient, visiting qualified patient,
6 designated caregiver, cultivator agent, dispensary agent, processor agent,
7 safety compliance facility agent, or a cannabis business agent; and
8 (b) Specifies whether a qualified patient or designated caregiver is authorized
9 by the department to cultivate medicinal marijuana for personal medicinal
10 use;
- 11 (23) "Safety compliance facility" means an entity licensed pursuant to Sections 15 to
12 18 of this Act that provides at least one (1) of the following services:
13 (a) Testing medicinal marijuana and products that contain medicinal
14 marijuana produced in Kentucky, including testing for potency and
15 contaminants; or
16 (b) Training cardholders and cannabis business agents. The training may
17 include but need not be limited to information related to the following:
18 1. The safe and efficient cultivation, harvesting, packaging, labeling, and
19 distribution of medicinal marijuana;
20 2. Security and inventory accountability procedures; or
21 3. Up-to-date scientific and medical research findings related to
22 palliative uses of marijuana;
- 23 (24) "Safety compliance facility agent" means a principal officer, board member,
24 employee, volunteer, or agent of a safety compliance facility who is at least
25 twenty-one (21) years of age, who has not been convicted of a disqualifying felony
26 offense, and who has been registered through the department as required by
27 Sections 1 to 30 of this Act;

- 1 (25) "Seedling" means a marijuana plant that has no flowers and is taller than eight
2 (8) inches;
- 3 (26) "Use of medicinal marijuana" or "medicinal use of marijuana" includes the
4 acquisition, administration, cultivation or manufacture in an enclosed, locked
5 facility, delivery, possession, transfer, transportation, or consumption of
6 medicinal marijuana, medicinal marijuana products, or supplies relating to the
7 administration of medicinal marijuana. "Use of medicinal marijuana" or
8 "medicinal use of marijuana" does not include cultivation by any visiting
9 qualified patient or by a designated caregiver or qualified patient who has not
10 been authorized by the department to cultivate mature marijuana plants and
11 seedlings for personal medicinal use;
- 12 (27) "Usable marijuana" or "usable medicinal marijuana" means the flowers of the
13 marijuana plant and any mixture, concentrate, resin, or preparation thereof. The
14 term "usable marijuana" does not include:
- 15 (a) The seeds, stalks, or roots of the marijuana plant; or
16 (b) The weight of any non-marijuana ingredients combined with the
17 marijuana, including ingredients added to prepare a topical administration,
18 oil, tincture, food, or drink;
- 19 (28) "Verification system" means a telephone-based and Web-based system
20 established and maintained by the department that is available to law
21 enforcement personnel and dispensary agents on a twenty-four (24) hour basis
22 for verification of registry identification cards, which may cross-reference or
23 utilize the electronic system for monitoring controlled substances established in
24 KRS 218A.202 as necessary;
- 25 (29) "Visiting qualified patient" means a person who is not a resident of Kentucky or
26 who has been a resident of Kentucky for less than thirty (30) days and prefers to
27 have a visiting qualified patient distinction; and who possesses a valid registry

1 identification card, or an equivalent document, that was issued pursuant to the
2 laws of another state, district, territory, commonwealth, insular possession of the
3 United States, or country recognized by the United States that allows the person
4 to use medicinal marijuana in the jurisdiction of issuance; and

5 (30) "Written certification" means a document dated and signed by a practitioner,
6 that:

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

9 (b) Specifies the medical condition or conditions for which the practitioner
10 believes that the patient may receive therapeutic or palliative benefit; and

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

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

15 Notwithstanding any provisions to the contrary:

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

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

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

1 thereunder.

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

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

11 (2) The department shall attempt to enter into memoranda of understanding or
12 contracts with local police departments or sheriff departments to conduct
13 inspections, investigations, and local administrative duties as required under
14 Sections 1 to 30 of this Act for its local inspection and oversight obligations.

15 (3) No later than December 1 of each year beginning in 2020, the department shall
16 submit to the Legislative Research Commission an annual report. The annual
17 report shall, at a minimum, include:

18 (a) The number of applications and renewals filed for registry identification
19 cards including the number of qualified patients, the number of visiting
20 qualified patients, and the number of designated caregivers;

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

23 (c) The number of practitioners providing written certifications;

24 (d) The nature of the medical conditions for which practitioners have provided
25 written certifications;

26 (e) The number of each type of cannabis business licensed and in operation
27 and the total number of cannabis business agents employed by each type of

1 cannabis business;

2 (f) An assessment of:

3 1. The ability of cardholders in all areas of the state to obtain timely
4 access to medicinal marijuana;

5 2. The effectiveness of the cultivators, individually and collectively, in
6 servicing the needs of the dispensaries and cardholders, the
7 reasonableness of their fees, whether they are generating any
8 complaints or security problems, and the sufficiency of the number
9 operating to serve the dispensaries and qualified patients in the
10 Commonwealth;

11 3. The effectiveness of the dispensaries and processors, individually and
12 collectively, in servicing the needs of cardholders, including the
13 provision of educational and support services, the reasonableness of
14 their fees, whether they are generating any complaints or security
15 problems, and the sufficiency of the number operating to serve
16 qualified patients in the Commonwealth; and

17 4. The effectiveness of the licensed safety compliance facilities,
18 individually and collectively, in servicing the needs of cannabis
19 businesses including the provision of testing and training services, the
20 reasonableness of their fees, whether they are generating any
21 complaints or security problems, and the sufficiency of the number
22 operating to serve other cannabis businesses and qualified patients in
23 the Commonwealth;

24 (g) The profits and expenditures by cannabis businesses, individually and
25 collectively;

26 (h) The amount of medicinal marijuana sold per month in the Commonwealth;

27 (i) The amount of revenue generated from cannabis business licensure and

- 1 cardholder fees for each calendar year and aggregated by prior years;
- 2 (j) The total amount of revenue generated by the excise tax on medicinal
- 3 marijuana and products that contain medicinal marijuana;
- 4 (k) The total cost of enforcement for the medicinal marijuana program at the
- 5 time of the report, by county and overall;
- 6 (l) The sufficiency of the regulatory and security safeguards contained in
- 7 Sections 1 to 30 of this Act and adopted by the department through
- 8 administrative regulations to ensure that access to and use of marijuana
- 9 cultivated in this state is provided only to cardholders;
- 10 (m) Any recommended additions or revisions to the department's administrative
- 11 regulations or Sections 1 to 30 of this Act including those relating to
- 12 security, safe handling, labeling, and nomenclature;
- 13 (n) The results of any scientific research studies regarding the health effects of
- 14 marijuana; and
- 15 (o) Any other data requested by the Legislative Research Commission relating
- 16 to the medicinal marijuana program and Sections 1 to 30 of this Act.
- 17 (4) The information contained in the report described in subsection (3) of this section
- 18 shall be present in a manner that does not disclose any identifying information
- 19 about cardholders or licensed cannabis businesses.
- 20 (5) Nothing in Sections 1 to 30 of this Act shall require the department to assume
- 21 duties in relation to the medicinal marijuana program that are more than
- 22 administrative in nature if federal law or a current and clear directive from the
- 23 federal government indicates that duties assumed by the department that are
- 24 more than administrative could result in federal prosecution or invalidation of
- 25 the medicinal marijuana program established in Sections 1 to 30 of this Act.
- 26 (6) If the department makes a determination that it is required by Sections 1 to 30 of
- 27 this Act to conduct duties that are more than administrative in nature, then it

1 shall continue to conduct duties that are administrative in nature and designate
2 or enter into a contract with a nongovernmental entity to conduct any duties
3 required by Sections 1 to 30 of this Act that are more than administrative in
4 nature. The department may reimburse the state for any costs involved in
5 working with outside consultants to implement the program.

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

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

12 (a) Has applied for, obtained, and possesses a valid registry identification card
13 or provisional license receipt issued by the department in accordance with
14 Sections 10 to 12 of this Act; and

15 (b) Does not possess more than:

16 1. An amount of medicinal marijuana determined by the department to
17 constitute an uninterrupted thirty (30) day supply at his or her
18 residence;

19 2. An amount of medicinal marijuana determined by the department to
20 constitute an uninterrupted ten (10) day supply on his or her person,
21 except that an amount greater than a ten (10) day supply, including up
22 to a thirty (30) day supply, may be transported by a qualified patient
23 from a dispensary to his or her residence if the medicinal marijuana is
24 contained in a sealed package that requires at least a two (2) step
25 process for initial opening; and

26 3. Six (6) mature marijuana plants and six (6) seedlings, if the qualified
27 patient is authorized by the department to possess and cultivate mature

1 marijuana plants and seedlings for personal use pursuant to Section
2 11 of this Act and any administrative regulations promulgated
3 thereunder.

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

8 (a) Has applied for, obtained, and possesses a valid registry identification card
9 issued by the department in accordance with Sections 10 to 12 of this Act, or
10 an equivalent document issued pursuant to the laws of another state,
11 district, territory, commonwealth, insular possession of the United States, or
12 country recognized by the United States that allows the person to use
13 medicinal marijuana in the jurisdiction of issuance; and

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

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

20 (a) Assisting a qualified patient to whom the designated caregiver is connected
21 through the department's registration process with the medicinal use of
22 marijuana if the designated caregiver:

23 1. Has applied for, obtained, and possesses a valid registry identification
24 card issued by the department in accordance with Sections 10 to 12 of
25 this Act; and

26 2. Does not possess more than:

27 a. An amount of medicinal marijuana determined by the

1 department to constitute an uninterrupted thirty (30) day supply
2 for each qualified patient to whom the caregiver is connected
3 through the department's registration process; and

4 b. Six (6) mature marijuana plants and six (6) seedlings for each
5 qualified patient to whom the caregiver is connected through the
6 department's registration process and for whom the caregiver
7 has been authorized by the department to possess and cultivate
8 mature marijuana plants and seedlings for the qualified patient's
9 personal use pursuant to Section 11 of this Act and any
10 administrative regulations promulgated thereunder; or

11 (b) Receiving compensation for reasonable costs associated with assisting a
12 qualified patient in the use of medicinal marijuana if the designated
13 caregiver is connected to the qualified patient through the department's
14 registration process.

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

16 (a) A qualified patient shall not be permitted to purchase more medicinal
17 marijuana than the amount determined by the department to constitute an
18 uninterrupted thirty (30) day supply of medicinal marijuana during a given
19 twenty-five (25) day period;

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

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

1 constitute an uninterrupted ten (10) day supply of medicinal marijuana
2 during a given eight (8) day period.

3 (5) All mature marijuana plants and seedlings possessed pursuant to this section
4 shall be kept in an enclosed, locked facility, unless they are being transported to a
5 permissible location, for any reason, including the reason that the cardholder is
6 changing residences, the qualified patient has changed his or her designation of
7 who may cultivate, or possession of the plants is being transferred to someone
8 allowed to possess them pursuant to Sections 1 to 30 of this Act. An enclosed,
9 locked facility may be used by no more than two (2) qualified patients or
10 designated caregivers who reside in the same dwelling and who have been
11 authorized by the department to cultivate medicinal marijuana for personal use.

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

15 (a) Possession of marijuana that is incidental to the medicinal use of
16 marijuana, but is not mature marijuana plants, seedlings, or usable
17 marijuana except as permitted by subsections (1) to (3) of this section;

18 (b) Possession of marijuana paraphernalia;

19 (c) Selling, transferring, donating, or delivering medicinal marijuana produced
20 by a qualified patient or a qualified patient's designated caregiver to a
21 dispensary if the cardholder is authorized by the department to cultivate
22 medicinal marijuana for personal use pursuant to Sections 10 and 11 of
23 this Act; or

24 (d) Transferring medicinal marijuana to a safety facility for testing.

25 (7) No person may be subject to arrest, prosecution, or denial of any right or
26 privilege, including but not limited to a civil penalty or disciplinary action by a
27 court or occupational or professional licensing board, for:

- 1 (a) Selling marijuana paraphernalia to a cardholder upon presentation of a
2 valid registry identification card issued by the department in accordance
3 with Sections 10 to 12 of this Act, or its equivalent issued pursuant to the
4 laws of another state, district, territory, commonwealth, insular possession
5 of the United States, or country recognized by the United States that allows
6 the person to use medicinal marijuana in the jurisdiction of issuance;
- 7 (b) Being in the presence or vicinity of the use of medicinal marijuana as
8 allowed under Sections 1 to 30 of this Act; or
- 9 (c) Assisting a qualified patient or visiting qualified patient with using or
10 administering medicinal marijuana if the qualified patient or visiting
11 qualified patient possesses a valid registry identification card or an
12 equivalent document issued pursuant to the laws of another state, district,
13 territory, commonwealth, insular possession of the United States, or country
14 recognized by the United States that allows the person to use medicinal
15 marijuana in the jurisdiction of issuance. For purposes of illustration and
16 not limitation, this includes preparing a vaporizer or brewing tea for a
17 qualified patient or visiting qualified patient. It does not include providing
18 medicinal marijuana to a patient that the patient did not already possess.
- 19 (8) The provisions of KRS 138.870 to 138.889 do not apply to any individual or entity
20 for:
- 21 (a) Any amount of medicinal marijuana that is necessary or reasonably
22 necessary for use of a license issued pursuant to Sections 1 to 30 of this Act
23 and any administrative regulations promulgated thereunder; or
- 24 (b) Any use of medicinal marijuana that complies with Sections 1 to 30 of this
25 Act and any administrative regulations promulgated thereunder.

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

1 (1) A practitioner shall not be subject to arrest, prosecution, or penalty in any
2 manner, or denied any right or privilege, including but not limited to a civil
3 penalty or disciplinary action by the Kentucky Board of Medical Licensure or by
4 any other occupational or professional licensing board, solely for providing
5 written certifications or for otherwise stating that, in the practitioner's
6 professional opinion, a patient may receive therapeutic or palliative benefit from
7 the use of medicinal marijuana, if:

8 (a) The practitioner has notified the department and the Kentucky Board of
9 Medical Licensure that he or she intends to or is willing to provide patients
10 with a written certification for a debilitating medical condition; and

11 (b) Such written certifications or recommendations are made in the course of a
12 bona fide practitioner-patient relationship.

13 (2) Nothing in Sections 1 to 30 of this Act shall prevent a practitioner from being
14 sanctioned for:

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

17 (b) Failing to properly evaluate a patient's medical history and current medical
18 condition; or

19 (c) Otherwise failing to use good faith in his or her treatment of the patient.

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

22 (1) An attorney shall not be subject to disciplinary action by the Kentucky Bar
23 Association or other professional licensing association for providing legal
24 assistance to any individual or cannabis business related to activity that is no
25 longer subject to criminal penalties under state law pursuant to Sections 1 to 30
26 of this Act.

27 (2) No person shall be subject to arrest, prosecution, or penalty in any manner, or

1 denied any right or privilege, including but not limited to a civil penalty or
2 disciplinary action by an occupational or professional licensing board, for
3 providing assistance or services, including but not limited to accounting services,
4 security services, or business consulting services to any individual or cannabis
5 business related to activity that is no longer subject to criminal penalties under
6 state law pursuant to Sections 1 to 30 of this Act.

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

9 (1) (a) Any medicinal marijuana, medicinal marijuana supplies, medicinal
10 marijuana related products, marijuana paraphernalia, lawful property, or
11 interest in lawful property that is possessed, owned, or used in connection
12 with the medicinal use of marijuana or acts incidental to that use, shall not
13 be seized or forfeited.

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

19 (2) Possession of, or application for, a registry identification card or registration
20 certificate shall not constitute probable cause or reasonable suspicion, nor shall it
21 be used to support the search of the person, property, or home of the person
22 possessing or applying for the registry identification card or registration
23 certificate. The possession of, or application for, a registry identification card or
24 registration certificate shall not preclude the existence of probable cause if
25 probable cause exists on other grounds.

26 (3) (a) There shall be a presumption that a cardholder is engaged in the medicinal
27 use of marijuana, or in the case of a designated caregiver, assisting with the

1 medicinal use of marijuana, if the cardholder:

2 1. Possesses a valid registry identification card issued by the department
 3 in accordance with Sections 10 to 12 of this Act or, in the case of a
 4 visiting qualified patient, an equivalent document issued pursuant to
 5 the laws of another state, district, territory, commonwealth, insular
 6 possession of the United States, or country recognized by the United
 7 States that allows the person to use medicinal marijuana in the
 8 jurisdiction of issuance; and

9 2. Possesses an amount of medicinal marijuana that does not exceed the
 10 amount allowed under Section 4 of this Act.

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

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

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

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

27 (a) Undertaking any task under the influence of medicinal marijuana, when

1 doing so would constitute negligence or professional malpractice, except
2 that a qualified patient or visiting qualified patient shall not be considered
3 to be under the influence of medicinal marijuana solely because of the
4 presence of metabolites or components of marijuana that appear in
5 insufficient concentration to cause impairment;

6 (b) Possessing medicinal marijuana, or otherwise engaging in the medicinal
7 use of marijuana:

8 1. On a school bus, except as permitted under Section 9 of this Act;

9 2. On the grounds of any preschool or primary or secondary school,
10 except as permitted under Section 9 of this Act;

11 3. In any correctional facility; or

12 4. On any property of the federal government;

13 (c) Possessing medicinal marijuana that is within the operator's arm's reach or
14 requires less than a two (2) step process to access while operating a vehicle
15 as defined in KRS 189.010, an aircraft as defined in KRS 183.011, or a
16 vessel as defined in 235.010;

17 (d) Operating, navigating, or being in actual physical control of any motor
18 vehicle, aircraft, or motorboat or personal watercraft while under the
19 influence of medicinal marijuana, except that a qualified patient or visiting
20 qualified patient shall not be considered to be under the influence of
21 medicinal marijuana solely because of the presence of metabolites or
22 components of marijuana that appear in insufficient concentration to cause
23 impairment;

24 (e) Using marijuana, if that person does not possess a valid registry
25 identification card issued by the department or an equivalent document
26 issued pursuant to the laws of another state, district, territory,
27 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; or

3 (f) Smoking medicinal marijuana:

4 1. On any form of public transportation;

5 2. In any public place as defined in KRS 525.010; or

6 3. In any place of public accommodation, resort, or amusement as
 7 defined in KRS 344.130.

8 (2) Nothing in Sections 1 to 30 of this Act requires any person or establishment in
 9 lawful possession of property to allow a guest, client, customer, or other visitor to
 10 consume medicinal marijuana on or in that property, except as provided in
 11 Section 9 of this Act.

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

14 (1) A qualified patient or visiting qualified patient who uses medicinal marijuana
 15 shall be afforded all the same rights under state and local law, including those
 16 guaranteed under KRS Chapter 344, as the individual would have been afforded
 17 if he or she were solely prescribed pharmaceutical medications, as they pertain
 18 to:

19 (a) Any interaction with a person's employer;

20 (b) Drug testing by one's employer; or

21 (c) Drug testing required by any state or local law, agency, or government
 22 official.

23 (2) A qualified patient or visiting qualified patient shall not be considered to be
 24 under the influence of medicinal marijuana solely because of the presence of
 25 metabolites or components of marijuana that appear in insufficient concentration
 26 to cause impairment.

27 (3) No employer may be penalized or denied any benefit under state law for

1 employing a cardholder.

2 (4) The rights provided by this section do not apply to the extent that they conflict
3 with an employer's obligations under federal law or regulations or to the extent
4 that they would disqualify an employer from a monetary or licensing-related
5 benefit under federal law or regulations.

6 (5) It shall be an unlawful practice for an employer:

7 (a) To fail or refuse to hire, or to discharge any individual, or otherwise to
8 discriminate against an individual with respect to compensation, terms,
9 conditions, or privileges of employment, because the individual is a
10 cardholder or is otherwise permitted to use medicinal marijuana pursuant
11 to Sections 1 to 30 of this Act;

12 (b) To limit, segregate, or classify employees in any way which would deprive or
13 tend to deprive an individual of employment opportunities or otherwise
14 adversely affect status as an employee, because the individual is a
15 cardholder or is otherwise permitted to use medicinal marijuana pursuant
16 to Sections 1 to 30 of this Act; or

17 (c) To require as a condition of employment that any employee or applicant for
18 employment abstain from using medicinal marijuana outside the course of
19 employment, as long as the person complies with any workplace policy
20 concerning the use of medicinal marijuana.

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

22 (a) Require an employer to permit or accommodate the use, consumption,
23 possession, display, transfer, sale, or cultivation of medicinal marijuana in
24 the workplace;

25 (b) Require an employer to permit an employee to work while under the
26 influence of medicinal marijuana or prohibit an employer from disciplining
27 an employee for being impaired in the workplace from the use of medicinal

- 1 marijuana or working while intoxicated from the use of medicinal
2 marijuana, except that a qualified patient or visiting qualified patient shall
3 not be considered to be under the influence of medicinal marijuana solely
4 because of the presence of metabolites or components of marijuana that
5 appear in insufficient concentration to cause impairment; or
6 (c) Prohibit an employer from including in any employment contract or
7 personnel policy provisions that would prohibit the use, consumption,
8 possession, display, transfer, sale, or cultivation of medicinal marijuana in
9 the workplace.
- 10 (7) An employee who is discharged from employment for consuming medicinal
11 marijuana in the workplace, working while impaired or intoxicated from the use
12 of medicinal marijuana, or testing positive for a controlled substance other than
13 marijuana, if the employee is a qualified patient or visiting qualified patient, shall
14 not be eligible to receive benefits under KRS Chapter 341 if such actions are in
15 violation of an employment contract or established personnel policy.
- 16 (8) (a) For the purposes of medical care, including organ transplants, a patient's
17 authorized use of medicinal marijuana, is the equivalent of the authorized
18 use of any other medication used at the direction of a practitioner, and shall
19 not constitute the use of an illicit substance or otherwise disqualify a patient
20 from needed medical care.
- 21 (b) A health facility as defined in KRS 216B.015 may develop regulations to
22 allow a patient who is a registered cardholder to use medicinal marijuana
23 on the premises of the health facility. However, any use allowed pursuant to
24 this subsection shall not include smoking.
- 25 (9) (a) No school may refuse to enroll, or otherwise penalize, a person solely for his
26 or her status as a cardholder, unless failing to do so would violate federal
27 law or regulations and cause the school to lose a monetary or licensing-

1 related benefit under federal law or regulations.

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

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

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

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

15 (c) A landlord may include in a rental agreement terms and conditions that
16 restrict or prohibit the cultivation of medicinal marijuana by a tenant who
17 is otherwise authorized by the department to cultivate medicinal marijuana
18 pursuant to Sections 10 and 11 of this Act.

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

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

24 (1) The department shall establish, implement, and operate a registry identification
25 card program for qualified patients, visiting qualified patients, designated
26 caregivers, and cannabis business agents.

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

- 1 (a) The name of the cardholder;
- 2 (b) A designation of whether the cardholder is a qualified patient, visiting
- 3 qualified patient, designated caregiver, or cannabis business agent;
- 4 (c) The date of issuance and expiration date of the registry identification card;
- 5 (d) A random alphanumeric identification number of at least ten (10)
- 6 characters, containing at least four (4) numbers and at least four (4) letters,
- 7 that is unique to the cardholder;
- 8 (e) If the cardholder is a designated caregiver, the random alphanumeric
- 9 identification number of at least ten (10) characters of the qualified patient
- 10 the designated caregiver is receiving the registry identification card to
- 11 assist;
- 12 (f) A clear designation as to whether the cardholder is authorized to possess
- 13 and cultivate mature marijuana plants and seedlings for use by a qualified
- 14 patient;
- 15 (g) A photograph of the cardholder, if the department's administrative
- 16 regulations require one; and
- 17 (h) The telephone number or Web 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 medicinal use of 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.
- 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);
- 5 (c) A registry identification card for a designated caregiver shall be twenty
6 dollars (\$20) per qualified patient to whom the designated caregiver is
7 connected unless the designated caregiver is the spouse or adult child of the
8 qualified patient, in which case there shall be no fee for a registry
9 identification card; and
- 10 (d) A registry identification card for a cannabis business agent shall be one
11 hundred dollars (\$100).
- 12 (6) An additional fee of twenty dollars (\$20) shall be applied to the registry
13 identification card fee for any qualified patient or designated caregiver who is
14 authorized by the department pursuant to Section 11 of this Act and
15 administrative regulations to cultivate medicinal marijuana for a qualified
16 patient's personal use.
- 17 (7) (a) All registry identification card fees collected by the department pursuant to
18 subsection (5) of this section shall be forwarded to the medicinal marijuana
19 trust fund established in Section 31 of this Act.
- 20 (b) All fees collected pursuant to subsection (6) of this section shall be
21 forwarded to the sheriff's department for the county in which the qualified
22 patient or designated caregiver who is authorized by the department to
23 cultivate medicinal marijuana resides. The department shall, on a monthly
24 basis, also provide each local sheriff's department with a list of all qualified
25 patients or designated caregivers currently authorized by the department to
26 cultivate medicinal marijuana within that sheriff's department's
27 jurisdiction. This list shall only contain the name, address, and registry

1 identification card number of the individuals who are currently authorized
2 by the department to cultivate medicinal marijuana for personal use by a
3 qualified patient.

4 (8) An individual may apply for and receive a cannabis business agent card to work
5 in the cannabis business field regardless of whether he or she currently works for
6 a cannabis business. An individual shall apply for and receive a cannabis
7 business agent card before beginning work in a cannabis business.

8 (9) (a) The department shall operate a provisional licensure receipt system for
9 registered qualified patients, designated caregivers, and visiting qualified
10 patients that shall be accepted for forty-five (45) days or until a permanent
11 card can be issued as if it is a card issued pursuant to this section and
12 Sections 11 and 12 of this Act. This program shall be implemented and
13 operational simultaneously with the department's implementation of the
14 registry identification card program established in this section. A
15 provisional licensure receipt shall contain the following:

16 1. A watermark designed or approved by the department;

17 2. A temporary licensure number;

18 3. A barcode or other marking that can be scanned electronically;

19 4. The name of the applicant;

20 5. The effective date of the receipt;

21 6. The expiration date of the receipt;

22 7. An indication that the cardholder fee has been paid;

23 8. An indication that the application has been submitted and is
24 apparently complete; and

25 9. The name of the certifying practitioner.

26 (b) The licensure receipt system shall be designed so that this provisional
27 licensure receipt shall be produced by the application Web site upon

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

8 (c) A provisional license shall not be used to purchase seedlings or mature
9 marijuana plants for cultivation by the qualified patient or designated
10 caregiver.

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

13 (1) Except as provided in subsection (2) of this section, no qualified patient, visiting
14 qualified patient, or designated caregiver shall possess, purchase, acquire, or
15 otherwise engage, or assist, in the medicinal use of marijuana in Kentucky
16 without first applying for and receiving a registry identification card or
17 provisional license receipt issued by the department.

18 (2) A visiting qualified patient with a valid registry identification card, or its
19 equivalent, that was issued pursuant to the laws of another state, district,
20 territory, commonwealth, insular possession of the United States, or country
21 recognized by the United States that allows the person to use medicinal
22 marijuana in the jurisdiction of issuance may use that registry identification
23 card, or its equivalent, for all purposes established in Sections 1 to 30 of this Act
24 and shall not be required to apply for or receive a visiting qualified patient
25 registry identification card from the department.

26 (3) The department shall issue registry identification cards to qualified patients and
27 their designated caregivers, if any, who submit the following, in accordance with

1 administrative regulations promulgated by the department:

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

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

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

9 (d) The application or renewal fee;

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

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

16 (g) A signed statement from the designated caregiver, if any, agreeing to be
17 designated as the patient's designated caregiver and pledging not to divert
18 medicinal marijuana to anyone who is not permitted to possess marijuana
19 pursuant to Sections 1 to 30 of this Act. The statement shall contain a
20 listing of potential penalties, including criminal prosecution, for diverting
21 marijuana.

22 (4) (a) The department may, through the promulgation of administrative
23 regulations, require an applicant who wishes to possess and cultivate
24 mature marijuana plants and seedlings for the personal use of a qualified
25 patient to submit additional application materials or information.

26 (b) The department shall only authorize cultivation of mature marijuana plants
27 and seedlings for the personal use of a qualified patient if the qualified

1 patient is indigent or experiencing other extenuating circumstances that
2 may make it difficult for the qualified patient to obtain medicinal marijuana
3 from a licensed dispensary.

4 (c) The department shall not authorize more than one (1) person to possess and
5 cultivate mature marijuana plants and seedlings for the personal use of a
6 qualified patient and shall not authorize a designated caregiver to possess
7 and cultivate mature marijuana plants and seedlings for more than two (2)
8 qualified patients.

9 (5) The department shall issue registry identification cards to visiting qualified
10 patients who submit the following, in accordance with administrative regulations
11 promulgated by the department:

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

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

17 (c) The application or renewal fee; and

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

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

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

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

4 (a) Verify the information contained in an application or renewal submitted
5 pursuant to Section 11 of this Act, acknowledge receipt of an application
6 within fifteen (15) days of receipt, and approve or deny an application or
7 renewal within thirty (30) days of receiving a completed application or
8 renewal application; and

9 (b) Issue registry identification cards to a qualified patient and his or her
10 designated caregiver, if any, or a visiting qualified patient within five (5)
11 days of approving the application or renewal. A designated caregiver shall
12 be issued a registry identification card for each qualified patient to whom he
13 or she is connected through the department.

14 (2) The department shall not issue a registry identification card to a qualified patient
15 who is younger than eighteen (18) years of age unless:

16 (a) The qualified patient's practitioner has explained the potential risks and
17 benefits of the medicinal use of marijuana to the custodial parent or legal
18 guardian with responsibility for health care decisions for the qualified
19 patient; and

20 (b) The custodial parent or legal guardian with responsibility for health care
21 decisions for the qualified patient consents in writing to:

22 1. Allow the qualified patient's use of medicinal marijuana;

23 2. Serve as the qualified patient's designated caregiver; and

24 3. Control the acquisition of the medicinal marijuana, the dosage, and
25 the frequency of the use by the qualified patient.

26 (3) The department may deny an application or renewal of a qualified patient's or
27 visiting qualified patient's registry identification card only if the applicant:

- 1 (a) Did not provide the information or materials required by Section 11 of this
2 Act;
- 3 (b) Previously had a registry identification card revoked;
- 4 (c) Provided false or falsified information; or
- 5 (d) Was previously convicted of a disqualifying felony offense.
- 6 (4) The department may deny an application or renewal for a designated caregiver
7 chosen by a qualified patient whose registry identification card was granted only
8 if the applicant:
- 9 (a) Does not meet the definitional requirements of a designated caregiver in
10 Section 1 of this Act;
- 11 (b) Did not provide the information or materials required by Section 11 of this
12 Act;
- 13 (c) Previously had a registry identification card revoked;
- 14 (d) Provided false or falsified information; or
- 15 (e) Was previously convicted of a disqualifying felony offense.
- 16 (5) The department may conduct a criminal background check of any applicant if the
17 criminal background check is conducted solely to determine whether the
18 applicant was previously convicted of a disqualifying felony offense.
- 19 (6) The department shall notify the qualified patient who has designated someone to
20 serve as his or her designated caregiver if the designated caregiver is denied a
21 registry identification card.
- 22 (7) Denial of an application or renewal is considered a final department action,
23 subject to judicial review. Jurisdiction and venue for judicial review are vested in
24 the Circuit Court of the county in which the appealing party resides.

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

27 (1) Cardholders shall be required to make the following notifications to the

1 department:

2 (a) A cardholder shall notify the department of any change in his or her name
3 or address;

4 (b) A qualified patient shall notify the department within thirty (30) days if he
5 or she ceases to suffer from the medical condition for which a practitioner
6 recommended the medicinal use of marijuana;

7 (c) A designated caregiver shall notify the department if he or she becomes
8 aware that the qualified patient has died within thirty (30) days of becoming
9 aware of the qualified patient's death;

10 (d) Before a qualified patient changes his or her designated caregiver, the
11 qualified patient shall notify the department of the change;

12 (e) When a qualified patient changes his or her preference as to who may
13 cultivate mature marijuana plants and seedlings for his or her personal use,
14 the qualified patient shall notify the department of the change;

15 (f) A cardholder authorized by the department to cultivate mature marijuana
16 plants and seedlings for personal use by a qualified patient shall notify the
17 department before changing the location in which the mature marijuana
18 plants and seedlings are possessed and cultivated; and

19 (g) If a cardholder loses his or her registry identification card, he or she shall
20 notify the department within ten (10) days of becoming aware the card has
21 been lost.

22 (2) When a cardholder notifies the department of items listed in subsection (1) of this
23 section, but remains eligible under Sections 1 to 30 of this Act, the department
24 shall issue the cardholder a new registry identification card with a new random
25 ten (10) character alphanumeric identification number within ten (10) days of
26 receiving the updated information and a twenty dollar (\$20) fee. If the person
27 notifying the department is a qualified patient, the department shall also issue his

1 or her designated caregiver, if any, a new registry identification card within ten
2 (10) days of receiving the updated information and a twenty dollar (\$20) fee.

3 (3) If a qualified patient ceases to be a qualified patient or changes his or her
4 designated caregiver, the department shall promptly notify the designated
5 caregiver in writing. The designated caregiver's protections under Sections 1 to
6 30 of this Act as to that qualified patient shall expire fifteen (15) days after
7 notification by the department.

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

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

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

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

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

1 sale, distribution, or dispensing of marijuana.

2 (2) The department may revoke the registry identification card of any cardholder
 3 who knowingly commits multiple violations or a serious violation of Sections 1 to
 4 30 of this Act.

5 (3) The department shall provide notice of revocation, fine, or other sanction by
 6 mailing, via certified mail, the same in writing to the cardholder.

7 (4) The revocation of a registry identification card is a final department action,
 8 subject to judicial review. Jurisdiction and venue for judicial review are vested in
 9 the Circuit Court of the county in which the appealing party resides.

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

12 (1) No person shall cultivate, process, produce, possess, test, transfer, transport, or
 13 sell medicinal marijuana or products derived from medicinal marijuana, or
 14 otherwise operate a cannabis business in this state without first obtaining a
 15 license under this section, except for personal use as provided in Section 4 of this
 16 Act.

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

19 (a) A cannabis cultivator;

20 (b) A cannabis dispensary;

21 (c) A cannabis processor; or

22 (d) A cannabis safety compliance facility.

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

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

1 renewal procedure promulgated by the department pursuant to Section 28 of this
2 Act.

3 (5) The department shall approve a license holder's sale of a license issued pursuant
4 to this section and Section 18 of this Act if the purchaser and any new facilities
5 meet the requirements of Sections 1 to 30 of this Act.

6 (6) The cannabis business licensure categories established in subsection (1) of this
7 section shall be further tiered by business size pursuant to Section 16 of this Act.

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

10 (1) The department shall establish three (3) licensure tiers for each of the licensure
11 categories established in Section 15 of this Act.

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

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

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

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

27 (b) The licensure renewal fee for a second tier cannabis business license shall

1 be two thousand dollars (\$2,000) plus one and one-half percent (1.5%) of
2 all gross receipts during the previous calendar year.

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

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

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

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

14 (1) The department shall create a uniform application form for licenses issued to
15 operate a cannabis business pursuant to Sections 1 to 30 of this Act.

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

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

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

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

26 (d) Any instances in which a business or not-for-profit entity that any of the
27 prospective board members managed or served on the board of was

1 convicted, fined, censured, or had a registration or license suspended or
 2 revoked in any administrative or judicial proceeding;

3 (e) Any information required by the department to evaluate the applicant
 4 pursuant to the competitive bid process described in Section 18 of this Act;
 5 and

6 (f) A nonrefundable licensure application fee of one hundred dollars (\$100).

7 (3) The application fee required under subsection (2) of this section shall be applied
 8 to the licensing fee if the license is issued; otherwise it shall be retained by the
 9 department for administrative purposes.

10 (4) After a cannabis business is approved, but before it begins operations, it shall
 11 submit the license fee established in Section 16 of this Act, minus the one
 12 hundred dollars (\$100) application fee, to the department and, if a physical
 13 address had not been finalized when it applied, it shall submit its complete
 14 physical address.

15 (5) The department shall issue each cannabis business one (1) copy of its registration
 16 certificate for each business location. Registration certificates shall include the
 17 business's identification number. The department shall also provide each
 18 business with the contact information for the cardholder verification system.

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

21 (1) The department shall deny an application for a cannabis business license only if:

22 (a) The applicant failed to submit the materials required by this section and
 23 Section 17 of this Act, including if the applicant's plans do not satisfy the
 24 security, oversight, or recordkeeping administrative regulations
 25 promulgated by the department;

26 (b) The applicant falsifies information on the licensure application;

27 (c) The applicant would not be in compliance with local zoning regulations

- 1 issued in accordance with Section 19 of this Act;
- 2 (d) The applicant does not meet the requirements of Section 20 of this Act;
- 3 (e) One (1) or more of the prospective principal officers or board members:
- 4 1. Has been convicted of a disqualifying felony offense;
- 5 2. Has served as a principal officer or board member for a cannabis
- 6 business that has had its license revoked;
- 7 3. Is younger than twenty-one (21) years of age; or
- 8 4. Is a practitioner who has notified the department and the Kentucky
- 9 Board of Medical Licensure that he or she intends to or is willing to
- 10 provide patients with a written certification for a debilitating medical
- 11 condition; 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) Notwithstanding subsection (1) of this section, the department shall not be
- 24 required to issue more cannabis business licenses than market pressures dictate,
- 25 except that the department shall not place a limit on the number of licenses
- 26 issued for safety compliance facilities.
- 27 (4) If the department receives a greater number of cannabis business license

1 applications in any cannabis business category than it deems necessary to meet
2 the demonstrated or anticipated needs for current or anticipated cardholders, the
3 department shall use an impartial and numerically scored competitive bid process
4 developed by the department to evaluate cannabis business license applications.

5 The competitive bid process shall consider the following criteria:

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

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

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

16 1. Staffing and training plans;

17 2. A plan to provide employees with a safe, healthy, and economically
18 sustainable working environment;

19 3. Whether it has sufficient capital to operate; and

20 4. The ability to assist with the provision of an adequate supply of
21 medicinal marijuana to the cardholders in its locality, area
22 development district, or the state;

23 (d) The sufficiency of the applicant's plans for recordkeeping;

24 (e) The sufficiency of the applicant's plans for safety, security, and the
25 prevention of diversion, including proposed locations and security devices
26 employed;

27 (f) The applicant's plan for making medicinal marijuana available on an

1 affordable basis to qualified patients who are veterans, or who are enrolled
2 in Medicaid or receiving Supplemental Security Income or Social Security
3 disability insurance;

4 (g) The applicant's plan for safe and accurate packaging and labeling of
5 medicinal marijuana, including the applicant's plan for ensuring that all
6 medicinal marijuana is free of contaminants; and

7 (h) The absence of violations by the applicant or one (1) or more of its principal
8 officers of any local, state, or federal tax, criminal, public safety, food
9 safety, discrimination, workplace safety, employment, or other laws relevant
10 to the operation of its business.

11 (5) Notwithstanding subsection (3) of this section:

12 (a) 1. No later than one (1) year after the effective date of this section, if a
13 sufficient number of cannabis business license applications has been
14 submitted to the department, the department shall issue a cannabis
15 business license to at least the fifteen (15) highest-scoring applicants
16 within each cannabis business category, except that the need to ensure
17 an adequate geographic distribution of cannabis businesses may
18 supersede the requirement that the department approve license
19 applications based solely on the competitive bid process described in
20 subsection (4) of this section, and the department may divide the state
21 into geographical areas and grant a license to the highest-scoring
22 applicant within each cannabis business category in each geographic
23 area.

24 2. If the department decides to divide the state into geographic areas,
25 pursuant to this subsection, the department is encouraged to use the
26 area development district counties as they existed on the effective date
27 of this section;

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

6 (c) After reviewing a report issued pursuant to Section 3 of this Act, if the
 7 department determines that additional cannabis businesses are needed to
 8 meet the needs of cardholders either within an area development district or
 9 throughout the state, the department shall have the authority to expand the
 10 number of cannabis business licenses issued within any area development
 11 district, city, or county and shall issue an appropriate number of cannabis
 12 business licenses to ensure that the needs of cardholders can be adequately
 13 met.

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

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

19 (2) A local government may:

20 (a) Enact ordinances, not in conflict with Sections 1 to 30 of this Act or with
 21 the department's administrative regulations, regulating the time, place, and
 22 manner of cannabis business operations;

23 (b) Prohibit cannabis business operations within its territory through the
 24 passage of an ordinance; or

25 (c) Direct that the question of prohibiting cannabis businesses from operating
 26 within its territory be submitted to the voters of its territory at the next
 27 regular election.

- 1 (3) If a county, consolidated local government, charter county government, or
2 unified local government prohibits cannabis business operations, the legislative
3 body of a city located within the county, consolidated local government, charter
4 county government, or unified local government may:
- 5 (a) Approve cannabis business operations within the limits of the city through
6 the passage of an ordinance; or
- 7 (b) Direct that the question of allowing cannabis businesses to operate within
8 the limits of the city be submitted to the voters who are eligible to vote in
9 that city's elections at the next regular election;
- 10 (4) If a local government legislative body with jurisdiction prohibits cannabis
11 business operations through the passage of an ordinance, a public question that
12 is initiated by petition and that proposes allowing a cannabis business to operate
13 within the affected territory is authorized.
- 14 (5) A public question that is initiated by petition and is authorized by subsection (4)
15 of this section shall be submitted to the voters within the affected territory at the
16 next regular election by complying with the following requirements:
- 17 (a) Before a petition for submission of the proposal may be presented for
18 signatures, an intent to circulate the petition, including a copy of the
19 unsigned petition, shall be filed with the county clerk of the affected
20 territory by any person or group of persons seeking the submission of the
21 public question. The statement of intent shall include the addresses of the
22 person or group of persons and shall specify the person or group of persons,
23 as well as the address, to whom all notices are to be sent. Within ten (10)
24 days after the intent to circulate the petition is filed, the county clerk shall
25 deliver a copy of the intent to circulate the petition, including a copy of the
26 unsigned petition, to the legislative body of the affected territory;
- 27 (b) The petition shall set out in full the following question: "Are you in favor of

1 the sale of medicinal marijuana at a dispensary and the operation of
2 cannabis businesses in (affected territory)?";

3 (c) The petition for the submission of the proposal shall be signed by a number
4 of constitutionally qualified voters of the territory to be affected equal to five
5 percent (5%) of registered voters for the affected territory;

6 (d) Each signature shall be executed in ink or indelible pencil and shall be
7 followed by the legibly printed name of each voter, followed by the voter's
8 residence address, year of birth, and the correct date upon which the voter's
9 name was signed;

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

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

21 (g) No signer of the petition may withdraw his or her name or have it taken
22 from the petition after the petition has been filed. If the name of any person
23 has been placed on the petition for submission of the public question
24 without that person's authority, the person may, at any time prior to
25 certification of sufficiency of the petition by the county clerk as required by
26 paragraph (h) of this subsection, request the removal of his or her name by
27 the county board of elections and, upon proof that the person's name was

1 placed on the petition without his or her authority, the person's name and
2 personal information shall be eliminated, and he or she shall not be
3 counted as a petitioner;

4 (h) Within thirty (30) days after the petition is filed, the county clerk shall
5 complete a certificate as to its sufficiency, specifying, if it is insufficient, the
6 particulars of the insufficiency, and shall send a copy to the person or
7 persons specified in the statement of intent to receive all notices and to the
8 legislative body of the affected territory, all by registered mail. A petition
9 certified insufficient for lack of the required number of valid signatures
10 may be amended once by filing a supplemental petition upon additional
11 sheets within thirty (30) days after receiving the certificate of insufficiency.
12 The supplemental petition shall comply with the requirements applicable to
13 the original petition and, within ten (10) days after it is filed, the county
14 clerk shall complete a certificate as to the sufficiency of the petition as
15 amended and promptly send a copy of the certificate to the person or
16 persons specified to receive all notices and to the legislative body of the
17 affected territory by registered mail;

18 (i) A final determination as to the sufficiency of a petition shall be subject to
19 review in the Circuit Court of the county of the affected territory and shall
20 be limited to the validity of the county clerk's determination. A final
21 determination of insufficiency shall not prejudice the filing of a new
22 petition for the same purpose; and

23 (j) If, not later than the second Tuesday in August preceding the day
24 established for a regular election, the county clerk has certified that a
25 petition is sufficient, the county clerk shall have prepared to place before
26 the voters of the affected territory at the next regular election the question,
27 which shall be "Are you in favor of the sale of medicinal marijuana at a

1 dispensary and the operation of cannabis businesses in (affected territory)?
2 Yes....No....". The county clerk shall cause to be published in accordance
3 with KRS Chapter 424, at the same time as the remaining voter
4 information, the full text of the proposal. The county clerk shall cause to be
5 posted in each polling place one (1) copy of the full text of the proposal.

6 (6) If the question submitted to the voters under subsection (3) or (5) of this section
7 fails to pass, two (2) years shall elapse before the question of medicinal
8 marijuana sales and cannabis business operations may be included on a regular
9 election ballot for the affected territory.

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

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

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

24 (8) In circumstances where neither a city or the county, urban-county government,
25 consolidated local government, charter county government, or unified local
26 government in which the city is located prohibit cannabis business operations, a
27 cannabis business that is located within the jurisdiction of both the city and the

1 county shall only pay the reasonable established local fees of either the city or the
2 county. The fee shall be established, assessed, collected, and shared between the
3 city and the county, in a manner to be negotiated between the city and the county.

4 (9) The provisions of general election law shall apply to public questions submitted to
5 voters under this section.

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

8 (1) A cannabis business licensed to operate pursuant to Sections 15 to 18 of this Act
9 shall:

10 (a) Comply with Sections 1 to 30 of this Act and any administrative regulations
11 promulgated thereunder by the department;

12 (b) Conduct a criminal background check into the criminal history of each
13 person seeking to become a principal officer, board member, agent,
14 volunteer, or employee before that person begins work. A cannabis business
15 shall not employ, accept as a volunteer, or have as a board member,
16 principal officer, or agent any person who:

17 1. Was convicted of a disqualifying felony offense; or

18 2. Is under twenty-one (21) years of age;

19 (c) Implement appropriate security measures to deter and prevent the theft of
20 medicinal marijuana and unauthorized entrance into areas containing
21 medicinal marijuana;

22 (d) Demonstrate sufficient capital such that it can establish its business and
23 meet the needs for its type of cannabis business;

24 (e) Display their registration certificate on the premises at all times; and

25 (f) Be subject to reasonable inspection pursuant to the department's
26 administrative regulations. The department shall give reasonable notice of
27 an inspection under this subsection.

- 1 (2) At least sixty percent (60%) of the board and at least sixty percent (60%) of the
2 owners of each cannabis business licensed pursuant to Sections 15 to 18 of this
3 Act shall be composed of individuals who can demonstrate at least three (3) years
4 of continuous residency in Kentucky.
- 5 (3) A practitioner who has notified the department and the Kentucky Board of
6 Medical Licensure that he or she intends to or is willing to provide patients with a
7 written certification shall not be permitted to be a board member of any cannabis
8 business or to own any portion of a cannabis business.
- 9 (4) The operating documents of a cannabis business shall include procedures for its
10 oversight and procedures to ensure accurate recordkeeping and inventory
11 control.
- 12 (5) A cannabis business shall not be located within one thousand (1,000) feet of an
13 existing elementary or secondary school or a day-care center.
- 14 (6) A cannabis business agent shall have documentation when transporting
15 medicinal marijuana on behalf of a cannabis business that it is permitted to
16 transport medicinal marijuana, that specifies the amount of medicinal marijuana
17 being transported, the date the medicinal marijuana is being transported, the
18 registry identification certificate number of the involved cannabis businesses, and
19 the telephone number of each cannabis business involved in the transport in
20 order to verify that the medicinal marijuana is being transported on behalf of the
21 cannabis business or businesses.
- 22 (7) A cannabis business is prohibited from acquiring, possessing, cultivating,
23 manufacturing, delivering, transferring, transporting, supplying, or dispensing
24 medicinal marijuana for the purposes of distributing medicinal marijuana to any
25 person except qualified patients directly or through their designated caregivers
26 and visiting qualified patients who possess a valid registry identification card
27 issued by the department, or for visiting qualified patients an equivalent

1 document issued in another jurisdiction.

2 (8) A cannabis business is prohibited from acquiring, possessing, delivering,
 3 transferring, transporting, supplying, dispensing, or selling any product that
 4 contains or is derived from marijuana unless that product was manufactured or
 5 otherwise produced by a cannabis business located in and licensed to operate in
 6 Kentucky.

7 (9) All cultivation of medicinal marijuana for cannabis businesses in this state shall
 8 be done by cultivators licensed by the department in accordance with Sections 15
 9 to 18 of this Act and shall take place in an enclosed, locked facility which can
 10 only be accessed by cultivator agents working on behalf of the cultivator at the
 11 physical address or addresses provided to the department during the registration
 12 process.

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

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

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

24 (b) Acquiring, possessing, cultivating, manufacturing, delivering, transferring,
 25 transporting, supplying, or selling usable marijuana and related supplies to
 26 other licensed cannabis businesses in this state.

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

- 1 (a) Only deliver usable marijuana to a licensed cultivator, licensed processor,
2 licensed safety compliance facility, or licensed dispensary for fair market
3 value and subject to applicable taxes for the transfer of agricultural
4 products;
- 5 (b) Not supply a dispensary with more than the amount of medicinal marijuana
6 reasonably required by a dispensary; and
- 7 (c) Only deliver usable marijuana to a licensed dispensary or processor after it
8 has been checked by a safety compliance facility agent for cannabinoid
9 contents and contaminants.
- 10 (3) The following square footage limits shall apply to cultivators licensed within each
11 of the tier levels established in Section 16 of this Act:
- 12 (a) A cultivator operating within the first tier shall not exceed a growth area of
13 two thousand five hundred (2,500) square feet for an indoor growth area or
14 three (3) times that amount for an outdoor crop;
- 15 (b) A cultivator operating within the second tier shall not exceed a growth area
16 of ten thousand (10,000) square feet for an indoor growth area or three (3)
17 times that amount for an outdoor crop; and
- 18 (c) A cultivator operating within the third tier shall not exceed a growth area of
19 twenty-five thousand (25,000) square feet for an indoor growth area or
20 three (3) times that amount for an outdoor crop.
- 21 (4) If a need for additional marijuana cultivation in this state is demonstrated by
22 cannabis businesses or the department's own analysis, the department may
23 increase the cultivation area square footage limits for either indoor or outdoor
24 cultivation, or both, in any or all three (3) licensure tiers by up to three (3) times
25 the limits established in this section. Any increase in cultivation area square
26 footage limits authorized by the department, pursuant to this subsection, shall not
27 result in an increase in the licensure application and renewal fees established in

1 Sections 15 and 16 of this Act.

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

4 (1) A dispensary or dispensary agent acting on behalf of a dispensary shall not be
5 subject to prosecution under state or local law, to search or inspection except by
6 the Department for Public Health and the department pursuant to Section 25 of
7 this Act, to seizure or penalty in any manner, or be denied any right or privilege,
8 including but not limited to a civil penalty or disciplinary action by a court or
9 business licensing board, for acting pursuant to Sections 1 to 30 of this Act and
10 the department's administrative regulations for:

11 (a) Selling cannabis seeds to similar entities that are licensed to cultivate
12 cannabis in other jurisdictions;

13 (b) Acquiring medicinal marijuana from a processor or cultivator; or

14 (c) Supplying, selling, or dispensing medicinal marijuana, usable marijuana,
15 marijuana-related supplies, or educational materials to qualified patients,
16 visiting qualified patients, designated caregivers on behalf of a qualified
17 patient, or to other dispensaries.

18 (2) A dispensary or dispensary agent acting on behalf of a dispensary shall:

19 (a) Maintain records that include specific notations of the amount of medicinal
20 marijuana being dispensed to a cardholder and whether it was dispensed
21 directly to a registered qualified patient or visiting qualified patient, or to a
22 qualified patient's designated caregiver. Each entry shall include the date
23 and time the medicinal marijuana was dispensed;

24 (b) Only dispense or sell medicinal marijuana after it has been checked by a
25 safety compliance facility agent for cannabinoid contents and
26 contaminants;

27 (c) Only dispense or sell medicinal marijuana to a qualified patient, visiting

1 qualified patient, or designated caregiver after making a diligent effort to
2 verify:

3 1. That the registry identification card, or its equivalent for a visiting
4 qualified patient, presented to the dispensary is valid, including by
5 checking the verification system, if it is operational, or other
6 department-designated databases;

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

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

15 (d) Not acquire medicinal marijuana from any person other than a cultivator
16 or processor licensed to operate in Kentucky, or an agent thereof, a
17 qualified patient, or a designated caregiver; and

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

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

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

27 A safety compliance facility or safety compliance facility agent acting on behalf of a

- 1 safety compliance facility shall not be subject to prosecution, search except by the
2 department pursuant to Section 25 of this Act, seizure, or penalty in any manner, or be
3 denied any right or privilege, including but not limited to civil penalty or disciplinary
4 action by a court or business licensing board, for acting in accordance with Sections 1
5 to 30 of this Act and the department's administrative regulations to provide the
6 following services:
- 7 (1) Acquiring or possessing medicinal marijuana obtained from cardholders or
8 cultivators, other safety compliance facilities, processors, or dispensaries licensed
9 to operate in Kentucky;
- 10 (2) Returning the medicinal marijuana to cardholders or cultivators, other safety
11 compliance facilities, processors, or dispensaries licensed to operate in Kentucky;
- 12 (3) Transporting medicinal marijuana that was produced by cardholders or
13 cultivators, processors, or dispensaries to or from those cardholders or cannabis
14 businesses licensed to operate in Kentucky;
- 15 (4) The production or sale of approved educational materials related to the medicinal
16 use of marijuana;
- 17 (5) The production, sale, or transportation of equipment or materials other than
18 medicinal marijuana, including but not limited to lab equipment and packaging
19 materials that are used by cannabis businesses and cardholders, to cardholders or
20 dispensaries, cultivators, or processors licensed to operate in Kentucky;
- 21 (6) Testing of marijuana samples, including for potency, pesticides, mold, and
22 contamination;
- 23 (7) Providing training to cardholders, prospective cultivator agents, and prospective
24 dispensary agents, except that only cardholders may be allowed to possess or
25 cultivate marijuana and any possession or cultivation of marijuana must occur
26 on the location registered with the department; and
- 27 (8) Receiving compensation for actions allowed under this section.

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

3 (1) A processor or processor agent acting on behalf of a processor shall not be
4 subject to prosecution under state or local law, to search or inspection except by
5 the Department for Public Health and the department pursuant to Section 25 of
6 this Act, to seizure or penalty in any manner, or be denied any right or privilege,
7 including but not limited to civil penalty or disciplinary action by a court or
8 business licensing board, for acting pursuant to Sections 1 to 30 of this Act and
9 the department's administrative regulations for:

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

12 (b) Acquiring, purchasing, possessing, processing, manufacturing,
13 manipulating, blending, preparing, packaging, delivering, transferring,
14 transporting, supplying, or selling usable marijuana, medicinal marijuana
15 products, and related supplies to other licensed cannabis businesses in this
16 state.

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

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

24 (1) Cannabis businesses shall be subject to reasonable inspection by the Department
25 for Public Health and the department pursuant to the administrative regulations
26 promulgated by the department. The department shall give reasonable notice of
27 an inspection conducted under this subsection.

- 1 (2) Except as provided in Section 22 of this Act, the department may issue a civil fine
2 of up to three thousand dollars (\$3,000) to a cannabis business for violations of
3 Sections 1 to 30 of this Act. All fines collected pursuant to this section shall be
4 forwarded to the medicinal marijuana trust fund established in Section 31 of this
5 Act.
- 6 (3) The department may, on its own motion or on complaint, after investigation and
7 opportunity for a public hearing at which the cannabis business has been
8 afforded an opportunity to appear and be heard pursuant to KRS Chapter 13B,
9 suspend or revoke a cannabis business license for multiple violations or a serious
10 violation of Sections 1 to 30 of this Act or any administrative regulations
11 promulgated thereunder by the licensee or any of its agents. A suspension shall
12 not be for a period of time longer than six (6) months.
- 13 (4) The department shall provide notice of suspension, revocation, fine, or other
14 sanction, as well as the required notice of the hearing, by mailing, via certified
15 mail, the same in writing to the cannabis business at the address on the licensure
16 certificate.
- 17 (5) The suspension or revocation of a certificate is a final department action, subject
18 to judicial review. Jurisdiction and venue for judicial review are vested in the
19 Circuit Court of the county in which the appealing party resides.
- 20 (6) A cultivator may continue to cultivate and possess marijuana plants during a
21 suspension, but it shall not transfer or sell medicinal marijuana during a
22 suspension.
- 23 (7) A dispensary may continue to possess its existing medicinal marijuana inventory
24 during a suspension, but it shall not acquire additional medicinal marijuana, or
25 dispense, transfer, or sell medicinal marijuana or products that contain
26 medicinal marijuana during a suspension.
- 27 (8) A safety compliance facility may possess medicinal marijuana during a

1 suspension, but it shall not transfer or receive any new medicinal marijuana
2 during a suspension.

3 (9) A processor may continue to process and possess its existing medicinal marijuana
4 inventory during a suspension, but it shall not acquire additional medicinal
5 marijuana, or dispense, transfer, or sell medicinal marijuana or products that
6 contain medicinal marijuana during a suspension.

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

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

16 (a) Applications and renewals, their contents, and supporting information
17 submitted by qualified patients, visiting qualified patients, designated
18 caregivers, and cannabis business agents in compliance with Section 11 of
19 this Act, including information regarding their designated caregivers and
20 practitioners;

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

23 (c) Any dispensing information required to be kept under Section 22 of this Act
24 or the department's administrative regulations which shall only identify
25 cardholders by their registry identification numbers and shall not contain
26 names or other personal identifying information; and

27 (d) Any department hard drives or other data-recording media that are no

1 longer in use and that contain cardholder information. These hard drives
2 and other media shall be destroyed after a reasonable time or after the data
3 is otherwise stored.

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

7 (2) Nothing in this section shall preclude the following:

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

14 (b) Notification by the department's employees to the Kentucky Board of
15 Medical Licensure or other appropriate licensure board if the department
16 has reasonable suspicion to believe a practitioner did not have a bona fide
17 practitioner-patient relationship with a patient for whom he or she signed a
18 written certification, if the department has reasonable suspicion to believe
19 the practitioner violated the standard of care, or for other suspected
20 violations of Sections 1 to 30 of this Act by a practitioner;

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

24 (d) Verification by the department of registry identification cards issued
25 pursuant to Sections 10 to 12 of this Act; and

26 (e) The submission of the report required by Section 3 of this Act to the
27 General Assembly.

1 (3) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in
 2 jail and a one thousand dollar (\$1,000) fine for any person, including an
 3 employee or official of the department or another state agency or local
 4 government, to breach the confidentiality of information obtained pursuant to
 5 Sections 1 to 30 of this Act.

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

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

13 (2) Within one hundred twenty (120) days of the effective date of this section, the
 14 department shall establish a verification system. The verification system shall
 15 allow law enforcement personnel and cannabis business agents that need access
 16 to the verification system to enter a registry identification number to determine
 17 whether or not the number corresponds with a current, valid registry
 18 identification card. The system shall only disclose whether the identification card
 19 is valid, whether the cardholder is a qualified patient, visiting qualified patient, or
 20 designated caregiver, whether the cardholder is permitted to cultivate medicinal
 21 marijuana for personal use under Sections 10 to 12 of this Act, and the amount
 22 of medicinal marijuana the individual is legally allowed to purchase at the time
 23 of verification pursuant to subsection (4) of Section 4 of this Act.

24 (3) The department shall, only at a cardholder's request, confirm his or her status as
 25 a qualified patient, visiting qualified patient, or designated caregiver to a third
 26 party, such as a landlord, employer, school, medical professional, or court.

27 ➔SECTION 28. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

1 TO READ AS FOLLOWS:

2 Within one hundred twenty (120) days after the effective date of this section, the
3 department shall:

4 (1) Establish a computer database that shall share data with all dispensaries to
5 monitor amounts of medicinal marijuana purchased by cardholders in real time;
6 and

7 (2) Promulgate administrative regulations, including but not limited to the following:

8 (a) Establishing continuing education or training requirements for
9 practitioners who wish to provide patients with written certifications to
10 engage in the medicinal use of marijuana;

11 (b) Establishing procedures for maintaining a publicly available list of
12 practitioners who have notified the department and the Kentucky Board of
13 Medical Licensure that they intend to or are willing to provide patients with
14 a written certification;

15 (c) The manner in which the department shall consider applications for and
16 renewals of registry identification cards which may include creating a
17 standardized written certification form and standardized registry
18 identification card application form;

19 (d) Procedures for the issuance and revocation of registry identification cards;

20 (e) The definition of indigent and the extenuating circumstances under which
21 the department shall approve a cardholder to possess and cultivate mature
22 marijuana plants and seedlings for the personal use of a qualified patient;

23 (f) Procedures for the issuance, renewal, suspension, and revocation of
24 cannabis business licenses, including the creation of a uniform licensure
25 application form and the competitive bid process described in Section 18 of
26 this Act, with all such procedures subject to the requirements of KRS
27 Chapters 13A and 13B;

1 (g) A convenience fee to be assessed and collected by dispensaries for visiting
2 qualified patients who do not possess a valid registry identification card
3 issued by the department and who purchase medicinal marijuana with a
4 registry identification card or its equivalent issued pursuant to the laws of
5 another state, district, territory, commonwealth, insular possession of the
6 United States, or country recognized by the United States that allows the
7 person to use medicinal marijuana in the jurisdiction of issuance. The
8 convenience fee established pursuant to this subsection shall not exceed
9 fifteen dollars (\$15);

10 (h) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes
11 a daily supply, a ten (10) day supply, and a thirty (30) day supply;

12 (i) Governing the following matters related to cannabis businesses with the
13 goal of protecting against diversion and theft, without imposing any undue
14 burden on cannabis businesses or compromising the confidentiality of
15 cardholders:

16 1. Recordkeeping and inventory control requirements, including the
17 implementation of an inventory tracking program that is capable of
18 tracking medicinal marijuana from the point of cultivation to the
19 point of sale;

20 2. Procedures for the verification and validation of a registry
21 identification card, or its equivalent, that was issued pursuant to the
22 laws of another state, district, territory, commonwealth, insular
23 possession of the United States, or country recognized by the United
24 States that allows for the use of medicinal marijuana in the
25 jurisdiction of issuance;

26 3. Security requirements for safety compliance facilities, processors,
27 dispensaries, and cultivators, which shall include at a minimum

- 1 lighting, video security, alarm requirements, on-site parking, and
2 measures to prevent loitering;
- 3 4. Procedures for the secure transportation and storage of medicinal
4 marijuana and products containing medicinal marijuana by cannabis
5 business licensees and their employees or agents;
- 6 5. Employment and training requirements for licensees, their agents, or
7 their employees, including requiring each licensee to create an
8 identification badge for each of the licensee's agents or employees;
9 and
- 10 6. Restrictions on visits to medicinal marijuana cultivation and
11 processing facilities, including requiring the use of visitor logs;
- 12 (j) Establishing, publishing, and annually updating a list of varieties of
13 marijuana that possess a low but effective level of tetrahydrocannabinol,
14 including the substance cannabidiol, by comparing percentages of chemical
15 compounds within a given variety against other varieties of marijuana;
- 16 (k) A rating system that tracks the terpene content of at least the twelve (12)
17 major terpenoids within each strain of marijuana available for medicinal
18 use within the Commonwealth;
- 19 (l) Requirements for random sample testing of medicinal marijuana and
20 medicinal marijuana products to ensure quality control, including testing
21 for cannabinoids, terpenoids, residual solvents, pesticides, poisons, toxins,
22 mold, mildew, insects, bacteria, and any other dangerous adulterant;
- 23 (m) Requiring medicinal marijuana cultivators and processors to contract with
24 an independent safety compliance facility to test the medicinal marijuana
25 before it is sold at a dispensary. The department may approve the safety
26 compliance facility chosen by a cultivator or processor and require that the
27 safety compliance facility report test results for a designated quantity of

1 medicinal marijuana to the cultivator or processor and department;

2 (n) Standards for the operation of safety compliance facilities which may
3 include:

4 1. Requirements for equipment;

5 2. Personnel qualifications; and

6 3. Requiring facilities to be accredited by a relevant certifying entity;

7 (o) Standards for the packaging and labeling of medicinal marijuana and
8 medicinal marijuana products sold or distributed by cannabis business
9 licensees, including:

10 1. Standards for packaging that requires at least a two (2) step process of
11 initial opening;

12 2. A warning label which may include the length of time it typically takes
13 for the product to take effect, how long the effects of the product
14 typically last, and any other information deemed appropriate or
15 necessary by the department;

16 3. The amount of medicinal marijuana the product is considered the
17 equivalent to;

18 4. Disclosing ingredients and possible allergens;

19 5. A nutritional fact panel;

20 6. Opaque, child-resistant packaging;

21 7. A requirement that edible medicinal marijuana products be clearly
22 marked with an identifiable and standardized symbol indicating that
23 the product contains marijuana; and

24 8. A requirement that edible medicinal marijuana products not be
25 visually reminiscent of major brands of edible noncannabis products
26 or otherwise present an attractive nuisance to minors;

27 (p) Health and safety requirements for the processing of medicinal marijuana

1 and medicinal marijuana products and both the indoor and outdoor
2 cultivation of medicinal marijuana by licensees;

3 (q) Restrictions on:

4 1. Additives to medicinal marijuana and medicinal marijuana products
5 that are toxic or increase the likelihood of addiction; and

6 2. Pesticides used during medicinal marijuana cultivation which pose a
7 threat to human health and safety;

8 (r) Standards for the safe processing of medicinal marijuana products created
9 by extracting or concentrating compounds from plant materials;

10 (s) Standards for determining the amount of unprocessed medicinal marijuana
11 that medicinal marijuana products are considered the equivalent to and
12 requiring that produced or processed medicinal marijuana products
13 intended for oral consumption as an edible, oil, or tincture not exceed ten
14 (10) milligrams of delta-9 tetrahydrocannabinol per serving, except that oils
15 intended for consumption as a vaping product shall not be limited to ten
16 (10) milligrams of delta-9 tetrahydrocannabinol per serving;

17 (t) Restrictions on advertising, marketing, and signage in regard to operations
18 or establishments owned by licensees necessary to prevent the targeting of
19 minors;

20 (u) Requiring that evidence-based educational materials regarding dosage and
21 impairment be disseminated to consumers who purchase medicinal
22 marijuana products; and

23 (v) Governing insurance requirements for safety compliance facilities,
24 processors, dispensaries, and cultivators.

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

27 (1) If the department fails to issue a valid registry identification card in response to a

1 valid application or renewal submitted pursuant to Sections 10 to 12 of this Act
 2 within sixty (60) days of its submission, the registry identification card shall be
 3 deemed granted, and a copy of the registry identification application or renewal
 4 and proof of receipt of the mailing shall be deemed a valid registry identification
 5 card.

6 (2) If, at any time after the effective date of this section, the department has not
 7 established a process for accepting and approving or denying applications, a
 8 notarized statement by a qualified patient containing the information required in
 9 an application pursuant to Section 11 of this Act, together with a written
 10 certification issued by a practitioner within ninety (90) days immediately
 11 preceding the notarized statement, shall be deemed a valid registry identification
 12 card for all purposes under Sections 1 to 30 of this Act.

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

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

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

21 (1) The medicinal marijuana trust fund is hereby created within the State Treasury.
 22 The fund shall consist of funds collected from registration fees, licensing fees,
 23 finances, and penalties established pursuant to Sections 1 to 25 and Sections 27 to 30
 24 of this Act, a portion of the excise taxes imposed under Section 33 of this Act, and
 25 any proceeds from grants, contributions, appropriations, or other moneys made
 26 available for purposes of this fund.

27 (2) The medicinal marijuana trust fund shall be administered by the Finance and

1 Administration Cabinet.

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

3 (a) Five percent (5%) shall be used to create a grant program that allows public
 4 and private universities or other research institutions located in Kentucky to
 5 apply for funds, conduct research and studies, and develop technologies or
 6 techniques that produce more reliable methods of determining when a
 7 driver is impaired by medicinal marijuana or other uses of marijuana;

8 (b) No less than ten percent (10%) shall be returned equally to the dispensaries
 9 for the use of indigent persons who are qualified patients enrolled in
 10 Medicaid, receiving Supplemental Security Income or Social Security
 11 disability insurance, or veterans of the United States Armed Forces; and

12 (c) No more than eighty-five percent (85%) shall be used to offset the actual
 13 cost and expenses of operating the medicinal marijuana program and
 14 enforcement activities established in Sections 1 to 30 of this Act.

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

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

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

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

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

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

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

10 (b) 1. A city in which at least one (1) cannabis business licensed as a
11 cultivator, processor, or dispensary operated during the fiscal quarter
12 immediately preceding the most recent fiscal quarter shall receive an
13 amount equal to seventy-five percent (75%) of the total excise tax
14 revenue collected from all cannabis businesses licensed to operate
15 inside the territory of the city and deposited into the trust fund during
16 the fiscal quarter immediately preceding the most recent fiscal quarter
17 unless the county, consolidated local government, charter county
18 government, or unified local government in which the city is located
19 has, pursuant to Section 19 of the Act, prohibited the operation of
20 cannabis businesses.

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

1

quarter.

2

(c) A county that has not prohibited the operation of cannabis businesses,

3

pursuant to Section 19 of this Act, and in which at least one (1) cannabis

4

business licensed as a cultivator, processor, or dispensary was operated

5

during the fiscal quarter immediately preceding the most recent fiscal

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quarter shall receive an amount equal to one hundred percent (100%) of the

7

total excise tax revenue collected from all cannabis businesses licensed to

8

operated inside the territory of the county but outside the territory of any

9

city and deposited into the trust fund during the fiscal quarter immediately

10

preceding the most recent fiscal quarter plus twenty-five percent (25%) of

11

the total excise tax revenue collected from all cannabis businesses licensed

12

to operate inside the territory of an incorporated municipality inside the

13

territory of the county and deposited into the trust fund during the fiscal

14

quarter immediately preceding the most recent fiscal quarter.

15

(4) Trust fund moneys may be used for the purposes of local enforcement of

16

medicinal marijuana laws, local medicinal marijuana licensing, the hiring of

17

extra drug recognition experts, local evidence-based drug addiction rehabilitation

18

projects, or educational activities within local jails.

19

(5) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the

20

fiscal year shall not lapse but shall be carried forward to the next fiscal year.

21

(6) Any interest earnings of the trust fund shall become part of the fund and shall

22

not lapse.

23

(7) Moneys transferred to the fund are hereby appropriated for the purposes set forth

24

in this section.

25

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO

26

READ AS FOLLOWS:

27

(1) As used in this section:

- 1 (a) "Cultivator" has the same meaning as in Section 1 of this Act;
2 (b) "Department" means the Department of Revenue;
3 (c) "Dispensary" has the same meaning as in Section 1 of this Act; and
4 (d) "Processor" has the same meaning as in Section 1 of this Act.

5 (2) Effective January 1, 2020:

- 6 (a) 1. An excise tax is hereby imposed upon every cultivator and processor
7 for the privilege of selling medicinal marijuana products to a licensed
8 dispensary at the rate of ten percent (10%) of the actual price for
9 which the cultivator or processor sells the medicinal marijuana
10 products in this state.
- 11 2. Eighty percent (80%) of the revenue from the excise tax established in
12 this paragraph shall be deposited in the medicinal marijuana trust
13 fund established in Section 31 of this Act for the purpose of
14 administration of the medicinal marijuana program and for the
15 purposes established in that section.
- 16 3. Twenty percent (20%) of the revenue from the excise tax established in
17 this paragraph shall be deposited in the local medicinal marijuana
18 trust fund established in Section 32 of this Act for the purposes of
19 distributing tax proceeds among participating local governments and
20 for the purposes established in that section; and
- 21 (b) 1. An excise tax is hereby imposed upon every dispensary for the
22 privilege of selling medicinal marijuana products to a cardholder at
23 the rate of ten percent (10%) of the actual price for which the
24 dispensary sells the medicinal marijuana products in this state.
- 25 2. Eighty percent (80%) of the revenue from the excise tax established in
26 this paragraph shall be deposited in the medicinal marijuana trust
27 fund established in Section 31 of this Act for the purpose of

1 administration of the medicinal marijuana program and for the
2 purposes established in that section.

3 3. Twenty percent (20%) of the revenue from the excise tax established in
4 this paragraph shall be deposited in the local medicinal marijuana
5 trust fund established in Section 32 of this Act for the purposes of
6 distributing tax proceeds among participating local governments and
7 for the purposes established in that section.

8 (3) Dispensaries, cultivators, and processors of medicinal marijuana products shall:

9 (a) Register with the department;

10 (b) Report and pay the tax levied under this section on or before the twentieth
11 day of the calendar month immediately following the month in which the
12 medicinal marijuana products are sold. A tax return shall be filed for each
13 reporting period whether or not tax is due; and

14 (c) The taxpayer shall identify the area development district in which the
15 medicinal marijuana business is located.

16 (4) Any person who violates any provision of this section shall be subject to the
17 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax
18 interest rate as defined in KRS 131.010(6) from the date due until the date of
19 payment.

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

25 (b) Corporate dissolution, withdrawal of the corporation from the state, or the
26 cessation of holding any corporate office shall not discharge the liability of
27 any person. The personal and individual liability shall apply to every person

1 holding a corporate office at the time the tax becomes or became due.

2 (c) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-
3 306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of
4 a limited liability company, the partners of a limited liability partnership,
5 and the general partners of a limited liability limited partnership, or any
6 other person holding any equivalent office of a limited liability company,
7 limited liability partnership, or limited liability limited partnership subject to
8 the provisions of this section shall be personally and individually liable,
9 both jointly and severally, for the tax imposed under this section.

10 (d) Dissolution, withdrawal of the limited liability company, limited liability
11 partnership, or limited liability limited partnership from the state, or the
12 cessation of holding any office shall not discharge the liability of any
13 person. The personal and individual liability shall apply to every manager
14 of a limited liability company, partner of a limited liability partnership, or
15 general partner of a limited liability limited partnership at the time the tax
16 becomes or became due.

17 (e) No person shall be personally and individually liable under this section who
18 had no authority to truthfully account for, or pay over, any tax imposed by
19 this section at the time the tax imposed becomes or became due.

20 (f) "Taxes" as used in this section includes interest accrued at the rate
21 provided by KRS 131.183, all applicable penalties imposed under the
22 provisions of this chapter, and all applicable penalties imposed under KRS
23 131.180, 131.410 to 131.445, and 131.990.

24 (6) The department shall administer the provisions of this chapter and shall have all
25 of the powers, rights, duties, and authority with respect to the assessment,
26 collection, refunding, and administration of the taxes levied by this section,
27 conferred generally upon the department by the Kentucky Revised Statutes,

1 including KRS Chapters 131, 134, and 135.

2 (7) Every cultivator, dispensary, and processor shall keep records, receipts, invoices,
3 and other pertinent papers in such form as the department may require for not
4 less than four (4) years from the making of such records, receipts, invoices, and
5 other pertinent papers.

6 ➔Section 34. KRS 218A.010 is amended to read as follows:

7 As used in this chapter:

- 8 (1) "Administer" means the direct application of a controlled substance, whether by
9 injection, inhalation, ingestion, or any other means, to the body of a patient or
10 research subject by:
- 11 (a) A practitioner or by his or her authorized agent under his or her immediate
12 supervision and pursuant to his or her order; or
 - 13 (b) The patient or research subject at the direction and in the presence of the
14 practitioner;
- 15 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
16 pharmacologically related to testosterone that promotes muscle growth and includes
17 those substances classified as Schedule III controlled substances pursuant to KRS
18 218A.020 but does not include estrogens, progestins, and anticosteroids;
- 19 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 20 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of
21 its salts, isomers, or salts of isomers;
- 22 (5) "Child" means any person under the age of majority as specified in KRS 2.015;
- 23 (6) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical
24 and geometric isomers, and salts of isomers;
- 25 (7) "Controlled substance" means methamphetamine, or a drug, substance, or
26 immediate precursor in Schedules I through V and includes a controlled substance
27 analogue;

- 1 (8) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
2 subsection, means a substance:
- 3 1. The chemical structure of which is substantially similar to the structure
4 of a controlled substance in Schedule I or II; and
 - 5 2. Which has a stimulant, depressant, or hallucinogenic effect on the
6 central nervous system that is substantially similar to or greater than the
7 stimulant, depressant, or hallucinogenic effect on the central nervous
8 system of a controlled substance in Schedule I or II; or
 - 9 3. With respect to a particular person, which such person represents or
10 intends to have a stimulant, depressant, or hallucinogenic effect on the
11 central nervous system that is substantially similar to or greater than the
12 stimulant, depressant, or hallucinogenic effect on the central nervous
13 system of a controlled substance in Schedule I or II.
- 14 (b) Such term does not include:
- 15 1. Any substance for which there is an approved new drug application;
 - 16 2. With respect to a particular person, any substance if an exemption is in
17 effect for investigational use for that person pursuant to federal law to
18 the extent conduct with respect to such substance is pursuant to such
19 exemption; or
 - 20 3. Any substance to the extent not intended for human consumption before
21 the exemption described in subparagraph 2. of this paragraph takes
22 effect with respect to that substance;
- 23 (9) "Counterfeit substance" means a controlled substance which, or the container or
24 labeling of which, without authorization, bears the trademark, trade name, or other
25 identifying mark, imprint, number, or device, or any likeness thereof, of a
26 manufacturer, distributor, or dispenser other than the person who in fact
27 manufactured, distributed, or dispensed the substance;

- 1 (10) "Dispense" means to deliver a controlled substance to an ultimate user or research
2 subject by or pursuant to the lawful order of a practitioner, including the packaging,
3 labeling, or compounding necessary to prepare the substance for that delivery;
- 4 (11) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
5 controlled substance to or for the use of an ultimate user;
- 6 (12) "Distribute" means to deliver other than by administering or dispensing a controlled
7 substance;
- 8 (13) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
9 administration available as a single unit;
- 10 (14) "Drug" means:
- 11 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
12 official Homeopathic Pharmacopoeia of the United States, or official National
13 Formulary, or any supplement to any of them;
- 14 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
15 prevention of disease in man or animals;
- 16 (c) Substances (other than food) intended to affect the structure or any function of
17 the body of man or animals; and
- 18 (d) Substances intended for use as a component of any article specified in this
19 subsection.
- 20 It does not include devices or their components, parts, or accessories;
- 21 (15) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts,
22 isomers, or salts of isomers;
- 23 (16) "Fentanyl derivative" means a substance containing any quantity of any chemical
24 compound, except compounds specifically scheduled as controlled substances by
25 statute or by administrative regulation pursuant to this chapter, which is structurally
26 derived from 1-ethyl-4-(N-phenylamido) piperadine:
- 27 (a) By substitution:

- 1 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
- 2 ethyloxotetrazole ring system; and
- 3 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
- 4 or furanyl group; and
- 5 (b) Which may be further modified in one (1) or more of the following ways:
- 6 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
- 7 haloalkyl, hydroxyl, or halide substituents;
- 8 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
- 9 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
- 10 positions;
- 11 3. By substitution on the piperadine ring to any extent with a phenyl,
- 12 alkoxy, or carboxylate ester substituent at the 4- position; or
- 13 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
- 14 hydroxy substituents;
- 15 (17) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
- 16 prosecution only, means an in-person medical examination of the patient conducted
- 17 by the prescribing practitioner or other health-care professional routinely relied
- 18 upon in the ordinary course of his or her practice, at which time the patient is
- 19 physically examined and a medical history of the patient is obtained. "In-person"
- 20 includes telehealth examinations. This subsection shall not be applicable to hospice
- 21 providers licensed pursuant to KRS Chapter 216B;
- 22 (18) "Hazardous chemical substance" includes any chemical substance used or intended
- 23 for use in the illegal manufacture of a controlled substance as defined in this section
- 24 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
- 25 which:
- 26 (a) Poses an explosion hazard;
- 27 (b) Poses a fire hazard; or

- 1 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- 2 (19) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
3 isomers, or salts of isomers;
- 4 (20) "Hydrocodone combination product" means a drug with:
- 5 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
6 its salts, per one hundred (100) milliliters or not more than fifteen (15)
7 milligrams per dosage unit, with a fourfold or greater quantity of an
8 isoquinoline alkaloid of opium; or
- 9 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
10 its salts, per one hundred (100) milliliters or not more than fifteen (15)
11 milligrams per dosage unit, with one (1) or more active, nonnarcotic
12 ingredients in recognized therapeutic amounts;
- 13 (21) "Immediate precursor" means a substance which is the principal compound
14 commonly used or produced primarily for use, and which is an immediate chemical
15 intermediary used or likely to be used in the manufacture of a controlled substance
16 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
17 manufacture;
- 18 (22) "Industrial hemp" has the same meaning as in KRS 260.850;
- 19 (23) "Industrial hemp products" has the same meaning as in KRS 260.850;
- 20 (24) "Intent to manufacture" means any evidence which demonstrates a person's
21 conscious objective to manufacture a controlled substance or methamphetamine.
22 Such evidence includes but is not limited to statements and a chemical substance's
23 usage, quantity, manner of storage, or proximity to other chemical substances or
24 equipment used to manufacture a controlled substance or methamphetamine;
- 25 (25) "Isomer" means the optical isomer, except the Cabinet for Health and Family
26 Services may include the optical, positional, or geometric isomer to classify any
27 substance pursuant to KRS 218A.020;

- 1 (26) "Manufacture," except as provided in KRS 218A.1431, means the production,
2 preparation, propagation, compounding, conversion, or processing of a controlled
3 substance, either directly or indirectly by extraction from substances of natural
4 origin or independently by means of chemical synthesis, or by a combination of
5 extraction and chemical synthesis, and includes any packaging or repackaging of the
6 substance or labeling or relabeling of its container except that this term does not
7 include activities:
- 8 (a) By a practitioner as an incident to his or her administering or dispensing of a
9 controlled substance in the course of his or her professional practice;
 - 10 (b) By a practitioner, or by his or her authorized agent under his supervision, for
11 the purpose of, or as an incident to, research, teaching, or chemical analysis
12 and not for sale; or
 - 13 (c) By a pharmacist as an incident to his or her dispensing of a controlled
14 substance in the course of his or her professional practice;
- 15 (27) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
16 seeds thereof; the resin extracted from any part of the plant; and every compound,
17 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
18 or any compound, mixture, or preparation which contains any quantity of these
19 substances. The term "marijuana" does not include:
- 20 (a) Industrial hemp that is in the possession, custody, or control of a person who
21 holds a license issued by the Department of Agriculture permitting that person
22 to cultivate, handle, or process industrial hemp;
 - 23 (b) Industrial hemp products that do not include any living plants, viable seeds,
24 leaf materials, or floral materials;
 - 25 (c) The substance cannabidiol, when transferred, dispensed, or administered
26 pursuant to the written order of a physician practicing at a hospital or
27 associated clinic affiliated with a Kentucky public university having a college

- 1 or school of medicine;
- 2 (d) For persons participating in a clinical trial or in an expanded access program,
3 a drug or substance approved for the use of those participants by the United
4 States Food and Drug Administration;
- 5 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
6 260.850;~~[-or]~~
- 7 (f) A cannabidiol product approved as a prescription medication by the United
8 States Food and Drug Administration; or
- 9 **(g) The use of medicinal marijuana pursuant to Sections 1 to 30 of this Act.**
- 10 (28) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
11 means an accounting of a patient's medical background, including but not limited to
12 prior medical conditions, prescriptions, and family background;
- 13 (29) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,
14 means a lawful order of a specifically identified practitioner for a specifically
15 identified patient for the patient's health-care needs. "Medical order" may or may
16 not include a prescription drug order;
- 17 (30) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
18 means a record, other than for financial or billing purposes, relating to a patient,
19 kept by a practitioner as a result of the practitioner-patient relationship;
- 20 (31) "Methamphetamine" means any substance that contains any quantity of
21 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 22 (32) "Narcotic drug" means any of the following, whether produced directly or indirectly
23 by extraction from substances of vegetable origin, or independently by means of
24 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 25 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
26 opium or opiate;
- 27 (b) Any salt, compound, isomer, derivative, or preparation thereof which is

- 1 chemically equivalent or identical with any of the substances referred to in
2 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
3 of opium;
- 4 (c) Opium poppy and poppy straw;
- 5 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
6 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
7 removed;
- 8 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 9 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 10 (g) Any compound, mixture, or preparation which contains any quantity of any of
11 the substances referred to in paragraphs (a) to (f) of this subsection;
- 12 (33) "Opiate" means any substance having an addiction-forming or addiction-sustaining
13 liability similar to morphine or being capable of conversion into a drug having
14 addiction-forming or addiction-sustaining liability. It does not include, unless
15 specifically designated as controlled under KRS 218A.020, the dextrorotatory
16 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
17 include its racemic and levorotatory forms;
- 18 (34) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
19 seeds;
- 20 (35) "Person" means individual, corporation, government or governmental subdivision
21 or agency, business trust, estate, trust, partnership or association, or any other legal
22 entity;
- 23 (36) "Physical injury" has the same meaning it has in KRS 500.080;
- 24 (37) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 25 (38) "Pharmacist" means a natural person licensed by this state to engage in the practice
26 of the profession of pharmacy;
- 27 (39) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific

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

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

16 (41) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
17 combination or mixture of drugs or medicines, or proprietary preparation, signed or
18 given or authorized by a medical, dental, chiropody, veterinarian, optometric
19 practitioner, or advanced practice registered nurse, and intended for use in the
20 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
21 animals;

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

24 (43) "Presumptive probation" means a sentence of probation not to exceed the maximum
25 term specified for the offense, subject to conditions otherwise authorized by law,
26 that is presumed to be the appropriate sentence for certain offenses designated in
27 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That

1 presumption shall only be overcome by a finding on the record by the sentencing
2 court of substantial and compelling reasons why the defendant cannot be safely and
3 effectively supervised in the community, is not amenable to community-based
4 treatment, or poses a significant risk to public safety;

5 (44) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
6 of a controlled substance;

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

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

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

- 1 (48) "Sell" means to dispose of a controlled substance to another person for
2 consideration or in furtherance of commercial distribution;
- 3 (49) "Serious physical injury" has the same meaning it has in KRS 500.080;
- 4 (50) "Synthetic cannabinoids or piperazines" means any chemical compound which is
5 not approved by the United States Food and Drug Administration or, if approved,
6 which is not dispensed or possessed in accordance with state and federal law, that
7 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
8 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
9 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
10 compound in the following structural classes:
- 11 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
12 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
13 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
14 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
15 substituted in the indole ring to any extent and whether or not substituted in
16 the naphthyl ring to any extent. Examples of this structural class include but
17 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,
18 JWH-122, JWH-200, and AM-2201;
- 19 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
20 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
21 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
22 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
23 substituted in the indole ring to any extent and whether or not substituted in
24 the phenyl ring to any extent. Examples of this structural class include but are
25 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 26 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
27 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,

1 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
2 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
3 indole ring to any extent and whether or not substituted in the phenyl ring to
4 any extent. Examples of this structural class include but are not limited to
5 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

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

13 (e) Naphthylmethylindeles: Any compound containing a 1H-indol-3-yl-(1-
14 naphthyl)methane structure with substitution at the nitrogen atom of the indole
15 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
16 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
17 further substituted in the indole ring to any extent and whether or not
18 substituted in the naphthyl ring to any extent. Examples of this structural class
19 include but are not limited to JWH-175, JWH-184, and JWH-185;

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

27 (g) Naphthylmethylindenes: Any compound containing a 1-(1-

1 naphthylmethyl)indene structure with substitution at the 3-position of the
2 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
3 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
4 or not further substituted in the indene ring to any extent and whether or not
5 substituted in the naphthyl ring to any extent. Examples of this structural class
6 include but are not limited to JWH-176;

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

15 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole
16 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
17 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
18 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
19 substituted in the indole ring to any extent and whether or not substituted in
20 the adamantyl ring system to any extent. Examples of this structural class
21 include but are not limited to AB-001 and AM-1248; or

22 (j) Any other synthetic cannabinoid or piperazine which is not approved by the
23 United States Food and Drug Administration or, if approved, which is not
24 dispensed or possessed in accordance with state and federal law;

25 (51) "Synthetic cathinones" means any chemical compound which is not approved by the
26 United States Food and Drug Administration or, if approved, which is not dispensed
27 or possessed in accordance with state and federal law (not including bupropion or

1 compounds listed under a different schedule) structurally derived from 2-
2 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or
3 thiophene ring systems, whether or not the compound is further modified in one (1)
4 or more of the following ways:

5 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
6 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
7 substituted in the ring system by one (1) or more other univalent substituents.
8 Examples of this class include but are not limited to 3,4-
9 Methylenedioxcathinone (bk-MDA);

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

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

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

21 (52) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
22 cathinones;

23 (53) "Telehealth" has the same meaning it has in KRS 311.550;

24 (54) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
25 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
26 substances, derivatives, and their isomers with similar chemical structure and
27 pharmacological activity such as the following:

- 1 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 2 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 3 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- 4 (55) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
- 5 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
- 6 or sell a controlled substance;
- 7 (56) "Transfer" means to dispose of a controlled substance to another person without
- 8 consideration and not in furtherance of commercial distribution; and
- 9 (57) "Ultimate user" means a person who lawfully possesses a controlled substance for
- 10 his or her own use or for the use of a member of his or her household or for
- 11 administering to an animal owned by him or her or by a member of his or her
- 12 household.

13 ➔Section 35. KRS 218A.1421 is amended to read as follows:

- 14 (1) A person is guilty of trafficking in marijuana when he or she knowingly and
- 15 unlawfully traffics in marijuana, and the trafficking is not in compliance with, or
- 16 otherwise authorized by, Sections 1 to 30 of this Act.
- 17 (2) Unless authorized by Sections 1 to 30 of this Act, trafficking in less than eight (8)
- 18 ounces of marijuana is:
- 19 (a) For a first offense a Class A misdemeanor.
- 20 (b) For a second or subsequent offense a Class D felony.
- 21 (3) Unless authorized by Sections 1 to 30 of this Act, trafficking in eight (8) or more
- 22 ounces but less than five (5) pounds of marijuana is:
- 23 (a) For a first offense a Class D felony.
- 24 (b) For a second or subsequent offense a Class C felony.
- 25 (4) Unless authorized by Sections 1 to 30 of this Act, trafficking in five (5) or more
- 26 pounds of marijuana is:
- 27 (a) For a first offense a Class C felony.

1 (b) For a second or subsequent offense a Class B felony.

2 (5) **Unless authorized by Sections 1 to 30 of this Act,** the unlawful possession by any
3 person of eight (8) or more ounces of marijuana shall be prima facie evidence that
4 the person possessed the marijuana with the intent to sell or transfer it.

5 **(6) This section does not apply to:**

6 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
7 **of this Act, when acting in compliance with a license issued pursuant to**
8 **Sections 1 to 30 of this Act; or**

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

11 ➔Section 36. KRS 218A.1422 is amended to read as follows:

12 (1) A person is guilty of possession of marijuana when he or she knowingly and
13 unlawfully possesses marijuana, **and the possession is not in compliance with, or**
14 **otherwise authorized by, Sections 1 to 30 of this Act.**

15 (2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532
16 to the contrary notwithstanding, the maximum term of incarceration shall be no
17 greater than forty-five (45) days.

18 **(3) This section does not apply to:**

19 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
20 **of this Act, when acting in compliance with a license issued pursuant to**
21 **Sections 1 to 30 of this Act; or**

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

24 ➔Section 37. KRS 218A.1423 is amended to read as follows:

25 (1) A person is guilty of marijuana cultivation when he **or she** knowingly and
26 unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer
27 it, **and the cultivation is not in compliance with, or otherwise authorized by,**

1 **Sections 1 to 30 of this Act.**

- 2 (2) **Unless authorized by Sections 1 to 30 of this Act,** marijuana cultivation of five (5)
 3 or more plants of marijuana is:
 4 (a) For a first offense a Class D felony.
 5 (b) For a second or subsequent offense a Class C felony.
- 6 (3) **Unless authorized by Sections 1 to 30 of this Act,** marijuana cultivation of fewer
 7 than five (5) plants is:
 8 (a) For a first offense a Class A misdemeanor.
 9 (b) For a second or subsequent offense a Class D felony.
- 10 (4) **Unless authorized by Sections 1 to 30 of this Act,** the planting, cultivating, or
 11 harvesting of five (5) or more marijuana plants shall be prima facie evidence that
 12 the marijuana plants were planted, cultivated, or harvested for the purpose of sale or
 13 transfer.
- 14 (5) **This section does not apply to:**
 15 (a) **A cannabis business or a cannabis business agent, as defined in Section 1**
 16 **of this Act, when acting in compliance with a license issued pursuant to**
 17 **Sections 1 to 30 of this Act; or**
 18 (b) **A cardholder, as defined in Section 1 of this Act, whose medicinal use of**
 19 **marijuana is in compliance with Sections 1 to 30 of this Act.**

20 ➔Section 38. KRS 12.020 is amended to read as follows:

21 Departments, program cabinets and their departments, and the respective major
 22 administrative bodies that they include are enumerated in this section. It is not intended
 23 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
 24 bureau, interstate compact, commission, committee, conference, council, office, or any
 25 other form of organization shall be included in or attached to the department or program
 26 cabinet in which they are included or to which they are attached by statute or statutorily
 27 authorized executive order; except in the case of the Personnel Board and where the

1 attached department or administrative body is headed by a constitutionally elected officer,
2 the attachment shall be solely for the purpose of dissemination of information and
3 coordination of activities and shall not include any authority over the functions,
4 personnel, funds, equipment, facilities, or records of the department or administrative
5 body.

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

7 (1) The Governor.

8 (2) Lieutenant Governor.

9 (3) Department of State.

10 (a) Secretary of State.

11 (b) Board of Elections.

12 (c) Registry of Election Finance.

13 (4) Department of Law.

14 (a) Attorney General.

15 (5) Department of the Treasury.

16 (a) Treasurer.

17 (6) Department of Agriculture.

18 (a) Commissioner of Agriculture.

19 (b) Kentucky Council on Agriculture.

20 (7) Auditor of Public Accounts.

21 II. Program cabinets headed by appointed officers:

22 (1) Justice and Public Safety Cabinet:

23 (a) Department of Kentucky State Police.

24 (b) Department of Criminal Justice Training.

25 (c) Department of Corrections.

26 (d) Department of Juvenile Justice.

27 (e) Office of the Secretary.

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

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

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

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

- 1 2. Division of Malt Beverages.
- 2 3. *Division of Medicinal Marijuana.*
- 3 4. Division of Enforcement.
- 4 (f) Department of Charitable Gaming.
 - 5 1. Division of Licensing and Compliance.
 - 6 2. Division of Enforcement.
- 7 (g) Department of Financial Institutions.
 - 8 1. Division of Depository Institutions.
 - 9 2. Division of Non-Depository Institutions.
 - 10 3. Division of Securities.
- 11 (h) Department of Housing, Buildings and Construction.
 - 12 1. Division of Fire Prevention.
 - 13 2. Division of Plumbing.
 - 14 3. Division of Heating, Ventilation, and Air Conditioning.
 - 15 4. Division of Building Code Enforcement.
- 16 (i) Department of Insurance.
 - 17 1. Division of Insurance Product Regulation.
 - 18 2. Division of Administrative Services.
 - 19 3. Division of Financial Standards and Examination.
 - 20 4. Division of Agent Licensing.
 - 21 5. Division of Insurance Fraud Investigation.
 - 22 6. Division of Consumer Protection.
 - 23 7. Division of Kentucky Access.
- 24 (j) Department of Professional Licensing.
 - 25 1. Real Estate Authority.
- 26 (5) Labor Cabinet.
 - 27 (a) Office of the Secretary.

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

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

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

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

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

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

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

- 1 (e) Office of Administrative Services.
- 2 (f) Office of Legal Services.
- 3 (g) Governmental Services Center.
- 4 (h) Department of Employee Insurance.
- 5 (i) Office of Diversity, Equality, and Training.
- 6 (j) Office of Public Affairs.

7 III. Other departments headed by appointed officers:

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

18 ➔Section 39. KRS 12.252 is amended to read as follows:

- 19 (1) There is established within the Public Protection Cabinet a Department of Financial
20 Institutions, a Department of Insurance, a Department of Housing, Buildings and
21 Construction, a Department of Charitable Gaming, a Department of Professional
22 Licensing, and a Department of Alcoholic Beverage and Cannabis Control. Each
23 department shall be headed by a commissioner appointed by the Governor as
24 required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and
25 304.2-020. Commissioners shall be directly responsible to the secretary and shall
26 perform the functions, powers, and duties provided by law and prescribed by the
27 secretary.

- 1 (2) The secretary of the Public Protection Cabinet shall be appointed by the Governor
2 in accordance with KRS 12.255. The Office of the Secretary shall contain the
3 following entities:
- 4 (a) The Office of Communications and Public Outreach, which shall be headed
5 by an executive director appointed by the secretary with the approval of the
6 Governor in accordance with KRS 12.050;
- 7 (b) The Office of Legal Services, which shall be headed by an executive director
8 appointed by the secretary with the approval of the Governor in accordance
9 with KRS 12.050 and 12.210;
- 10 (c) The Office of Administrative Hearings, which shall be headed by an executive
11 director appointed by the secretary with the approval of the Governor in
12 accordance with KRS 12.050 and 12.210; and
- 13 (d) The Office of Administrative Services, which shall be headed by an executive
14 director appointed by the secretary with the approval of the Governor in
15 accordance with KRS 12.050.
- 16 (3) There is established within the Public Protection Cabinet the Kentucky Claims
17 Commission pursuant to KRS 49.010.
- 18 (4) The Kentucky Horse Racing Commission is attached to the Public Protection
19 Cabinet for administrative purposes only, except as provided in KRS 131.330.
- 20 (5) There is established within the Public Protection Cabinet the Kentucky Boxing and
21 Wrestling Commission, which shall be headed by an executive director appointed
22 by the secretary with the approval of the Governor as required by KRS 12.050. The
23 executive director shall be directly responsible to the secretary and shall perform the
24 functions, powers, and duties provided by law and prescribed by the secretary.
- 25 ➔Section 40. KRS 15.300 is amended to read as follows:
- 26 (1) As used in this section, "consent order" means the consent order of December 21,
27 1998, agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket

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

1 the agencies specified in paragraph (a) of this subsection for any compliance
2 activity that they perform; and

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

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

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

11 (b) Determine eligible compliance training costs and seek reimbursement for the
12 costs; and

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

19 ➔Section 41. KRS 15.380 is amended to read as follows:

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

22 (a) Department of Kentucky State Police officers, but for the commissioner of the
23 Department of Kentucky State Police;

24 (b) City, county, and urban-county police officers;

25 (c) Court security officers and deputy sheriffs, except those identified in KRS
26 70.045 and 70.263(3);

27 (d) State or public university police officers appointed pursuant to KRS 164.950;

- 1 (e) School security officers employed by local boards of education who are
2 special law enforcement officers appointed under KRS 61.902;
- 3 (f) Airport safety and security officers appointed under KRS 183.880;
- 4 (g) Department of Alcoholic Beverage and Cannabis Control investigators
5 appointed under KRS 241.090;
- 6 (h) Division of Insurance Fraud Investigation investigators appointed under KRS
7 304.47-040;
- 8 (i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and
- 9 (j) County detectives appointed in a county containing a consolidated local
10 government with the power of arrest in the county and the right to execute
11 process statewide in accordance with KRS 69.360.
- 12 (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state
13 peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be
14 incorporated by the Personnel Cabinet for job specifications.
- 15 (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for
16 all peace officers possessing arrest powers who have specialized law enforcement
17 responsibilities shall be the responsibility of the employing agency.
- 18 (4) The following officers may, upon request of the employing agency, be certified by
19 the council:
- 20 (a) Deputy coroners;
- 21 (b) Deputy constables;
- 22 (c) Deputy jailers;
- 23 (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
- 24 (e) Officers appointed under KRS 61.360;
- 25 (f) Officers appointed under KRS 61.902, except those who are school security
26 officers employed by local boards of education;
- 27 (g) Private security officers;

- 1 (h) Employees of a correctional services division created pursuant to KRS
2 67A.028 and employees of a metropolitan correctional services department
3 created pursuant to KRS 67B.010 to 67B.080; and
- 4 (i) Investigators employed by the Department of Charitable Gaming in
5 accordance with KRS 238.510; and
- 6 (j) Commonwealth detectives employed under KRS 69.110 and county detectives
7 employed under KRS 69.360.
- 8 (5) The following officers shall be exempted from the certification requirements but
9 may upon their request be certified by the council:
- 10 (a) Sheriffs;
- 11 (b) Coroners;
- 12 (c) Constables;
- 13 (d) Jailers;
- 14 (e) Kentucky Horse Racing Commission security officers employed under KRS
15 230.240; and
- 16 (f) Commissioner of the State Police.
- 17 (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.
- 18 ➔Section 42. KRS 15.398 is amended to read as follows:
- 19 The following Kentucky Revised Statutes and any administrative regulations promulgated
20 thereunder affecting those peace officers required to be certified pursuant to KRS 15.380
21 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all
22 instances the provisions of all statutes specified below shall prevail:
- 23 (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- 24 (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- 25 (3) KRS Chapter 78, relating to county police;
- 26 (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county
27 police;

- 1 (5) KRS Chapter 183, relating to airport safety and security officers;
- 2 (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education
3 and Archaeology officers;
- 4 (7) KRS Chapter 18A, relating to all state peace officers;
- 5 (8) KRS 241.090, relating to Department of Alcoholic Beverage and Cannabis Control
6 investigators;
- 7 (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- 8 (10) Any other statutes affecting peace officers not specifically cited herein.

9 ➔Section 43. KRS 15.420 is amended to read as follows:

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

11 (1) "Cabinet" means the Justice and Public Safety Cabinet;

12 (2) (a) "Police officer" means:

13 1. A local officer, limited to:

14 a. A full-time:

15 i. Member of a lawfully organized police department of county,
16 urban-county, or city government; or

17 ii. Sheriff or full-time deputy sheriff, including any sheriff
18 providing court security or appointed under KRS 70.030; or

19 b. A school security officer; and

20 2. A state officer, limited to:

21 a. A public university police officer;

22 b. A Kentucky state trooper;

23 c. A Kentucky State Police arson investigator;

24 d. A Kentucky State Police hazardous device investigator;

25 e. A Kentucky State Police legislative security specialist;

26 f. A Kentucky vehicle enforcement officer;

27 g. A Kentucky Horse Park mounted patrol officer, subject to KRS

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

1 ➔Section 44. KRS 15A.340 is amended to read as follows:

- 2 (1) As used in this section and KRS 15A.342 and 15A.344, "KY-ASAP" means the
3 Kentucky Agency for Substance Abuse Policy.
- 4 (2) The Office of Drug Control Policy shall administer an endowment from interest
5 generated through funds appropriated or gifts, donations, or funds received from
6 any source. The Office of Drug Control Policy may expend endowment principal, if
7 necessary in its discretion, to carry out the purposes of this section and KRS
8 15A.342 and 15A.344. These expenditures from the endowment principal are
9 hereby appropriated for this purpose.
- 10 (3) (a) The Office of Drug Control Policy shall oversee the activities specified in this
11 section and KRS 15A.342 and 15A.344 and provide administrative support to
12 the seventeen (17) member KY-ASAP Board, which is created to oversee the
13 activities of KY-ASAP. Membership of the board shall be appointed by the
14 Governor and shall consist of the following:
- 15 1. One (1) member representing the Kentucky Family Resource Youth
16 Services Coalition, or a designee;
 - 17 2. One (1) member representing the Kentucky Health Department
18 Association, or a designee;
 - 19 3. The secretary of the Cabinet for Health and Family Services, or
20 designee;
 - 21 4. The secretary of the Justice and Public Safety Cabinet, or a designee;
 - 22 5. One (1) member representing the Division of Behavioral Health within
23 the Department for Behavioral Health, Developmental and Intellectual
24 Disabilities, Cabinet for Health and Family Services, or a designee;
 - 25 6. The commissioner of the Department for Public Health, Cabinet for
26 Health and Family Services, or a designee;
 - 27 7. The commissioner of the Department of Alcoholic Beverage ***and***

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

- 1 endowment funds;
- 2 3. Receive quarterly reports from the commissioner of the Department of
- 3 Alcoholic Beverage and Cannabis Control regarding KY-ASAP's
- 4 activities;
- 5 4. Progress toward development and implementation of the strategic plan;
- 6 5. Recommend to KY-ASAP the most efficient means for using public
- 7 funds to coordinate, supplement, and support high quality and ongoing
- 8 programs of all public agencies and private service providers related to
- 9 smoking cessation and prevention and alcohol and substance abuse
- 10 prevention and treatment;
- 11 6. Recommend matters for review and analysis by KY-ASAP; and
- 12 7. Perform other duties as necessary for the oversight of KY-ASAP.

13 (4) The Office of Drug Control Policy and KY-ASAP shall promote the

14 implementation of research-based strategies that target Kentucky's youth and adult

15 populations.

16 (5) The Office of Drug Control Policy and KY-ASAP shall vigorously pursue the

17 philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem

18 because of the addictive qualities of nicotine, and because tobacco is the most

19 prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

20 ➔Section 45. KRS 61.592 is amended to read as follows:

21 (1) (a) "Hazardous position" for employees participating in the Kentucky Employees

22 Retirement System, and for employees who begin participating in the County

23 Employees Retirement System before September 1, 2008, means:

- 24 1. Any position whose principal duties involve active law enforcement,
- 25 including the positions of probation and parole officer and
- 26 Commonwealth detective, active fire suppression or prevention, or other
- 27 positions, including, but not limited to, pilots of the Transportation

- 1 Cabinet and paramedics and emergency medical technicians, with duties
2 that require frequent exposure to a high degree of danger or peril and
3 also require a high degree of physical conditioning;
- 4 2. Positions in the Department of Corrections in state correctional
5 institutions and the Kentucky Correctional Psychiatric Center with
6 duties that regularly and routinely require face-to-face contact with
7 inmates; and
- 8 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2.
9 and who continue to provide educational services and support to inmates
10 as a Department of Corrections employee.
- 11 (b) "Hazardous position" for employees who begin participating in the County
12 Employees Retirement System on or after September 1, 2008, means police
13 officers and firefighters as defined in KRS 61.315(1), paramedics, correctional
14 officers with duties that routinely and regularly require face-to-face contact
15 with inmates, and emergency medical technicians if:
- 16 1. The employee's duties require frequent exposure to a high degree of
17 danger or peril and a high degree of physical conditioning; and
- 18 2. The employee's duties are not primarily clerical or administrative.
- 19 (c) The effective date of participation under hazardous duty coverage for
20 positions in the Department of Alcoholic Beverage and Cannabis Control
21 shall be April 1, 1998. The employer and employee contributions shall be paid
22 by the employer and forwarded to the retirement system for the period not
23 previously reported.
- 24 (2) (a) Each employer may request of the board hazardous duty coverage for those
25 positions as defined in subsection (1) of this section. Upon request, each
26 employer shall certify to the system, in the manner prescribed by the board,
27 the names of all employees working in a hazardous position as defined in

1 subsection (1) of this section for which coverage is requested. The
2 certification of the employer shall bear the approval of the agent or agency
3 responsible for the budget of the department or county indicating that the
4 required employer contributions have been provided for in the budget of the
5 employing department or county. The system shall determine whether the
6 employees whose names have been certified by the employer are working in
7 positions meeting the definition of a hazardous position as provided by
8 subsection (1) of this section. This process shall not be required for employees
9 who elect coverage under KRS 196.167(3)(b)2.

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

1 coverage if the board determines the employee is not working in a hazardous
2 duty position or if the employee is classified in a hazardous duty position but
3 has individual job duties that do not meet the definition of a hazardous duty
4 position or are not accurately reflected in the job descriptions filed by the
5 employer with the system.

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

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

21 (c) If the employer participated in the system prior to electing hazardous duty
22 coverage, the employer may pay to the system the cost of converting the
23 nonhazardous service to hazardous service from the date of participation to
24 the date the payment is made, or the employer may establish a payment
25 schedule for payment of the cost of the hazardous service above that which
26 would be funded within the existing employer contribution rate. The employer
27 may extend the payment schedule to a maximum of thirty (30) years.

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

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

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

23 (6) If doubt exists regarding the benefits payable to a hazardous position employee
24 under this section, the board shall determine the benefits payable under KRS 61.510
25 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

26 ➔Section 46. KRS 62.160 is amended to read as follows:

27 (1) The state officers elected by the voters of the state at large, except the Governor and

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

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

12	Secretary of State	\$10,000
13	Attorney General	10,000
14	State Treasurer	300,000
15	Secretary for economic development	10,000
16	Commissioner of Agriculture	10,000
17	Secretary for education	10,000
18	Auditor of Public Accounts	25,000
19	Adjutant general	10,000
20	Secretary of finance and administration	100,000
21	Commissioner of revenue	50,000
22	Secretary of transportation	50,000
23	Commissioner of highways	50,000
24	Secretary of justice and public safety	50,000
25	Secretary of corrections	25,000
26	Commissioner for public health services	10,000
27	Secretary of labor	5,000

1 Commissioner for natural resources50,000

2 State librarian5,000

3 Commissioner of alcoholic beverage and cannabis control10,000

4 Commissioner of financial institutions25,000

5 Secretary for energy and environment50,000

6 Commissioner of insurance50,000

7 Commissioner of vehicle regulation10,000

8 Commissioner of fish and wildlife resources5,000

9 Secretary for health and family services20,000

10 Commissioner of environmental protection10,000

11 Secretary of public protection10,000

12 Secretary of tourism, arts and heritage25,000

13 Commissioner for community based services20,000

14 Member of the Public Service Commission10,000

15 Member of State Fair Board10,000

16 Member of Fish and Wildlife Resources Commission1,000

17 Member of Kentucky Claims Commission.....10,000

18 Associate member of Alcoholic Beverage Control Board5,000

19 Commissioner of local government100,000

20 ➔Section 47. KRS 131.1815 is amended to read as follows:

21 (1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter
 22 243, is a delinquent taxpayer as defined in subsection (2) of this section, the
 23 department may, after giving notice as provided in subsection (3) of this section,
 24 submit the name of the taxpayer to the Department of Alcoholic Beverage and
 25 Cannabis Control for revocation of any license issued under KRS Chapter 243.

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

- 1 (a) When a taxpayer has an overdue state tax liability arising directly or indirectly
2 from the manufacture, sale, transportation, or distribution of alcoholic
3 beverages, for which all protest and appeal rights granted by law have expired,
4 and the taxpayer has been contacted by the department concerning the overdue
5 tax liability. This does not include a taxpayer who is making current timely
6 installment payments on the overdue tax liability under agreement with the
7 department;
- 8 (b) When a taxpayer has not filed a required tax return as of ninety (90) days after
9 the due date or after the extended due date, and the taxpayer has been
10 contacted by the department concerning the delinquent return; or
- 11 (c) When an owner, partner, or corporate officer of a proprietorship, partnership,
12 or corporation holding a license under KRS Chapter 243 held a similar
13 position in a business whose license was revoked as a "delinquent taxpayer,"
14 and the tax liability remains unpaid as of ninety (90) days after the due date.
- 15 (3) At least twenty (20) days before submitting a taxpayer's name to the Department of
16 Alcoholic Beverage and Cannabis Control as provided in subsection (1) of this
17 section, the department shall notify the taxpayer by certified mail that the action is
18 to be taken. The notice shall state the reason for the action and shall set out the
19 amount of any tax liability including any applicable penalties and interest and any
20 other area of noncompliance that must be satisfied in order to prevent the
21 submission of his name to the Department of Alcoholic Beverage and Cannabis
22 Control as a delinquent taxpayer.
- 23 ➔Section 48. KRS 211.285 is amended to read as follows:
- 24 (1) There is hereby created the malt beverage educational fund which shall provide
25 moneys on a matching basis for educational information and materials that deter or
26 eliminate underage drinking. The fund shall consist of moneys generated from one
27 percent (1%) of the excise tax collected from the sale and distribution of malt

1 beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected
2 from distributors of malt beverages and microbreweries under KRS 243.884.

3 (2) The malt beverage educational fund shall be established in the State Treasury as a
4 trust and revolving account under KRS 45.253. Moneys in the account shall be
5 distributed by the State Treasurer to the Malt Beverage Educational Corporation, a
6 nonprofit organization that is organized under the laws of this state, upon the
7 authorization of the secretary of the Cabinet for Health and Family Services. The
8 moneys shall be awarded to the corporation solely to fund educational programs to
9 deter or eliminate underage drinking.

10 (3) The secretary of the Cabinet for Health and Family Services shall authorize that
11 moneys from the fund be disbursed to the corporation upon the secretary's receipt of
12 a certification from the corporation showing the moneys the corporation has
13 received from malt beverage distributors, microbreweries, and other private sources
14 since the last certification. The moneys disbursed from the fund shall be equal to the
15 contributions that the corporation has received from its members and other private
16 sources during that period. The moneys in the fund shall be disbursed in accordance
17 with a schedule established by the secretary, and shall be disbursed until the moneys
18 in the fund are exhausted or until the moneys in the fund lapse in accordance with
19 subsection (4) of this section, whichever comes first.

20 (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at
21 the end of the fiscal year and shall be returned to the general fund.

22 (5) As a condition of receiving the governmental funds, the corporation's board of
23 directors shall include the following among its directors:

- 24 (a) The Governor or his or her designee;
- 25 (b) The Attorney General or his or her designee;
- 26 (c) The President of the Senate or his or her designee;
- 27 (d) The Speaker of the House or his or her designee;

- 1 (e) The secretary of the Cabinet for Health and Family Services or his or her
2 designee; and
- 3 (f) The commissioner of the Department of Alcoholic and Cannabis Beverage
4 Control or his or her designee.
- 5 (6) All expenditures of moneys from the fund shall be approved by a majority of those
6 persons set out in subsection (5)(a) to (f) of this section. If the moneys from the
7 fund are not expended in their entirety, any moneys that remain unused by the
8 corporation at the end of the fiscal year shall be returned to the general fund.
- 9 (7) Any moneys from the fund that are not expended shall be returned to the general
10 fund upon the dissolution of the corporation.
- 11 (8) Any high school in the Commonwealth of Kentucky that was registered with the
12 Department of Education as of July 1, 1997, may make an application to the Malt
13 Beverage Education Corporation by February 28 of each year and shall be granted a
14 minimum of five hundred dollars (\$500) annually from the funds contributed by the
15 malt beverage educational fund for the single purpose of supporting "Project
16 Graduation" events.

17 ➔Section 49. KRS 241.010 is amended to read as follows:

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

- 19 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
20 whatever source or by whatever process it is produced;
- 21 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether
22 patented or not, containing alcohol in an amount in excess of more than one percent
23 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every
24 spurious or imitation liquor sold as, or under any name commonly used for,
25 alcoholic beverages, whether containing any alcohol or not. It does not include the
26 following products:
- 27 (a) Medicinal preparations manufactured in accordance with formulas prescribed

- 1 by the United States Pharmacopoeia, National Formulary, or the American
2 Institute of Homeopathy;
- 3 (b) Patented, patent, and proprietary medicines;
- 4 (c) Toilet, medicinal, and antiseptic preparations and solutions;
- 5 (d) Flavoring extracts and syrups;
- 6 (e) Denatured alcohol or denatured rum;
- 7 (f) Vinegar and preserved sweet cider;
- 8 (g) Wine for sacramental purposes; and
- 9 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
10 use;
- 11 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,
12 or process that mixes liquor, spirits, or any other alcohol product with pure
13 oxygen or by any other means produces a vaporized alcoholic product used for
14 human consumption;
- 15 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,
16 nebulizer, atomizer, or other device that is designed and intended by the
17 manufacturer to dispense a prescribed or over-the-counter medication or a
18 device installed and used by a licensee under this chapter to demonstrate the
19 aroma of an alcoholic beverage;
- 20 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a
21 seating capacity of at least thirty thousand (30,000) people;
- 22 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 23 (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are
24 occupied for sleeping purposes by persons not members of the single-family
25 unit;
- 26 (b) Holds a permit under KRS Chapter 219; and
- 27 (c) Has an innkeeper who resides on the premises or property adjacent to the

- 1 premises during periods of occupancy;
- 2 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
3 241.030;
- 4 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
5 use and sale of alcoholic beverages at retail;
- 6 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
7 carries on, works, or conducts any brewery, either alone or through an agent;
- 8 (9) "Brewery" means any place or premises where malt beverages are manufactured for
9 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
10 and storerooms connected with the premises; or where any part of the process of the
11 manufacture of malt beverages is carried on; or where any apparatus connected with
12 manufacture is kept or used; or where any of the products of brewing or
13 fermentation are stored or kept;
- 14 (10) "Building containing licensed premises" means the licensed premises themselves
15 and includes the land, tract of land, or parking lot in which the premises are
16 contained, and any part of any building connected by direct access or by an entrance
17 which is under the ownership or control of the licensee by lease holdings or
18 ownership;
- 19 (11) "Caterer" means a person operating a food service business that prepares food in a
20 licensed and inspected commissary, transports the food and alcoholic beverages to
21 the caterer's designated and inspected banquet hall or to an agreed location, and
22 serves the food and alcoholic beverages pursuant to an agreement with another
23 person;
- 24 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
25 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
26 501(c)) or any organization having been established and continuously operating
27 within the Commonwealth of Kentucky for charitable purposes for three (3) years

- 1 and which expends at least sixty percent (60%) of its gross revenue exclusively for
2 religious, educational, literary, civic, fraternal, or patriotic purposes;
- 3 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or
4 more alcohol by volume and includes hard cider and perry cider;
- 5 (14) "City administrator" means city alcoholic beverage control administrator;
- 6 (15) "Commercial airport" means an airport through which more than five hundred
7 thousand (500,000) passengers arrive or depart annually;
- 8 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)
9 pairs of fully operative pedals for propulsion by means of human muscular power
10 exclusively and which:
- 11 (a) Has four (4) wheels;
- 12 (b) Is operated in a manner similar to that of a bicycle;
- 13 (c) Is equipped with a minimum of thirteen (13) seats for passengers;
- 14 (d) Has a unibody design;
- 15 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
- 16 (f) Is used for commercial tour purposes; and
- 17 (g) Is operated by the vehicle owner or an employee of the owner;
- 18 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
19 and Cannabis Control;
- 20 (18) "Convention center" means any facility which, in its usual and customary business,
21 provides seating for a minimum of one thousand (1,000) people and offers
22 convention facilities and related services for seminars, training and educational
23 purposes, trade association meetings, conventions, or civic and community events
24 or for plays, theatrical productions, or cultural exhibitions;
- 25 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
26 guilty, the decision of a court, or the finding of a jury, irrespective of a
27 pronouncement of judgment or the suspension of the judgment;

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

1 242;

2 (29) "Election" means:

3 (a) An election held for the purpose of taking the sense of the people as to the
4 application or discontinuance of alcoholic beverage sales under KRS Chapter
5 242; or

6 (b) Any other election not pertaining to alcohol;

7 (30) "Horse racetrack" means a facility licensed to conduct a horse race meeting under
8 KRS Chapter 230;

9 (31) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,
10 designed primarily to serve transient patrons;

11 (32) "Investigator" means any employee or agent of the department who is regularly
12 employed and whose primary function is to travel from place to place for the
13 purpose of visiting licensees, and any employee or agent of the department who is
14 assigned, temporarily or permanently, by the commissioner to duty outside the main
15 office of the department at Frankfort, in connection with the administration of
16 alcoholic beverage statutes;

17 (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;

18 (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS
19 Chapters 241 to 244;

20 (35) "Limited restaurant" means:

21 (a) A facility where the usual and customary business is the preparation and
22 serving of meals to consumers, which has a bona fide kitchen facility, which
23 receives at least seventy percent (70%) of its food and alcoholic beverage
24 receipts from the sale of food, which maintains a minimum seating capacity of
25 fifty (50) persons for dining, which has no open bar, which requires that
26 alcoholic beverages be sold in conjunction with the sale of a meal, and which
27 is located in a wet or moist territory under KRS 242.1244; or

- 1 (b) A facility where the usual and customary business is the preparation and
2 serving of meals to consumers, which has a bona fide kitchen facility, which
3 receives at least seventy percent (70%) of its food and alcoholic beverage
4 receipts from the sale of food, which maintains a minimum seating capacity of
5 one hundred (100) persons of dining, and which is located in a wet or moist
6 territory under KRS 242.1244;
- 7 (36) "Local administrator" means a city alcoholic beverage administrator, county
8 alcoholic beverage administrator, or urban-county alcoholic beverage control
9 administrator;
- 10 (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or
11 description, manufactured from malt wholly or in part, or from any substitute for
12 malt, and includes weak cider;
- 13 (38) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- 14 (39) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person
15 engaged in the production or bottling of alcoholic beverages;
- 16 (40) "Minor" means any person who is not twenty-one (21) years of age or older;
- 17 (41) "Moist" means a territory in which a majority of the electorate voted to permit
18 limited alcohol sales by any one (1) or a combination of special limited local option
19 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,
20 242.1243, 242.1244, or 242.1292;
- 21 (42) "Population" means the population figures established by the federal decennial
22 census for a census year or the current yearly population estimates prepared by the
23 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
24 Louisville, Kentucky, for all other years;
- 25 (43) "Premises" means the land and building in and upon which any business regulated
26 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
27 as a single unit two (2) or more separate businesses of one (1) owner on the same

1 lot or tract of land, in the same or in different buildings if physical and permanent
2 separation of the premises is maintained, excluding employee access by keyed entry
3 and emergency exits equipped with crash bars, and each has a separate public
4 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
5 an alcoholic beverage license on July 15, 1998, shall not, by reason of this
6 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
7 of the license;

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

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

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

21 (47) "Qualified historic site" means:

22 (a) A contributing property with dining facilities for at least fifty (50) persons at
23 tables, booths, or bars where food may be served within a commercial district
24 listed in the National Register of Historic Places;

25 (b) A site that is listed as a National Historic Landmark or in the National
26 Register of Historic Places with dining facilities for at least fifty (50) persons
27 at tables, booths, or bars where food may be served;

- 1 (c) A distillery which is listed as a National Historic Landmark and which
2 conducts souvenir retail package sales under KRS 243.0305; or
- 3 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
4 Places;
- 5 (48) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
6 wine by any process other than as provided for on distillery premises, and every
7 person who, without rectifying, purifying, or refining distilled spirits by mixing
8 alcoholic beverages with any materials, manufactures any imitations of or
9 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
10 spirits, cordials, bitters, or any other name;
- 11 (49) "Repackaging" means the placing of alcoholic beverages in any retail container
12 irrespective of the material from which the container is made;
- 13 (50) "Restaurant" means a facility where the usual and customary business is the
14 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
15 and that receives at least fifty percent (50%) of its food and alcoholic beverage
16 receipts from the sale of food at the premises;
- 17 (51) "Retail container" means any bottle, can, barrel, or other container which, without a
18 separable intermediate container, holds alcoholic beverages and is suitable and
19 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer
20 or not;
- 21 (52) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- 22 (53) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
23 consumers, except for producers with limited retail sale privileges;
- 24 (54) "Riverboat" means any boat or vessel with a regular place of mooring in this state
25 that is licensed by the United States Coast Guard to carry one hundred (100) or
26 more passengers for hire on navigable waters in or adjacent to this state;
- 27 (55) "Sale" means any transfer, exchange, or barter for consideration, and includes all

- 1 sales made by any person, whether principal, proprietor, agent, servant, or
2 employee, of any alcoholic beverage;
- 3 (56) "Service bar" means a bar, counter, shelving, or similar structure used for storing or
4 stocking supplies of alcoholic beverages that is a workstation where employees
5 prepare alcoholic beverage drinks to be delivered to customers away from the
6 service bar;
- 7 (57) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with
8 intent to sell, and the delivery of any alcoholic beverage;
- 9 (58) "Small farm winery" means a winery whose wine production is not less than two
10 hundred fifty (250) gallons and not greater than one hundred thousand (100,000)
11 gallons in a calendar year;
- 12 (59) "Souvenir package" means a special package of distilled spirits available from a
13 licensed retailer that is:
- 14 (a) Available for retail sale at a licensed Kentucky distillery where the distilled
15 spirits were produced or bottled; or
- 16 (b) Available for retail sale at a licensed Kentucky distillery but produced or
17 bottled at another of that distiller's licensed distilleries in Kentucky;
- 18 (60) "State administrator" or "administrator" means the distilled spirits administrator or
19 the malt beverages administrator, or both, as the context requires;
- 20 (61) "State park" means a state park that has a:
- 21 (a) Nine (9) or eighteen (18) hole golf course; or
22 (b) Full-service lodge and dining room;
- 23 (62) "Supplemental bar" means a bar, counter, shelving, or similar structure used for
24 serving and selling distilled spirits or wine by the drink for consumption on the
25 licensed premises to guests and patrons from additional locations other than the
26 main bar;
- 27 (63) "Territory" means a county, city, district, or precinct;

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

1 volume. It does not include weak cider; and
2 (73) "Winery" means any place or premises in which wine is manufactured from any
3 fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are
4 compounded, except a place or premises that manufactures wine for sacramental
5 purposes exclusively.

6 ➔Section 50. KRS 241.015 is amended to read as follows:

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

16 ➔Section 51. KRS 241.030 is amended to read as follows:

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

24 ➔Section 52. KRS 243.025 is amended to read as follows:

25 (1) All of the fees paid into the State Treasury for state licenses shall be credited to a
26 revolving trust and agency account, as provided in KRS 45.253, for the Department
27 of Alcoholic Beverage and Cannabis Control.

1 (2) All fees associated with the department's server training program shall be collected
2 on a cost recovery basis and shall be credited to the revolving trust and agency
3 account established under subsection (1) of this section.

4 (3) These moneys shall be used solely for the administration and enforcement of KRS
5 Chapters 241 to 244. The moneys in the account shall not lapse at the close of the
6 fiscal year.

7 ➔Section 53. KRS 243.0307 is amended to read as follows:

8 (1) A sampling license may be issued to the holder of:

- 9 (a) A quota retail drink license;
10 (b) A quota retail package license;
11 (c) An NQ1 license;
12 (d) An NQ2 license; or
13 (e) A distiller's license.

14 (2) A sampling license shall authorize the licensee to allow customers to sample, free of
15 charge, distilled spirits and wine under the following conditions:

- 16 (a) Sampling shall be permitted only on licensed premises and by licensees
17 holding a sampling license, during regular business hours;
18 (b) A distillery shall provide samples as authorized by KRS 243.0305; and
19 (c) All other licensees shall limit a customer to:
20 1. One (1) ounce of distilled spirits samples per day; and
21 2. Six (6) ounces of wine samples per day.

22 (3) Retailers holding a sampling license shall:

- 23 (a) Notify the Department of Alcoholic Beverage and Cannabis Control at least
24 seven (7) days in advance of conducting a free sampling event; and
25 (b) Limit a sampling event to a period not to exceed four (4) consecutive hours
26 between 12 noon and 8 p.m.

27 (4) In addition to free sampling, a quota retail package licensee holding a sampling

1 license may also sell sample distilled spirits and wine under the following
2 conditions:

3 (a) Paid samples may be sold only on licensed premises and by licensees holding
4 a sampling license, during regular business hours; and

5 (b) A licensee shall limit a customer to purchased samples totaling no more than:

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

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

8 (5) A quota retail package licensee holding both a sampling license and a nonquota
9 retail malt beverage package license may also sell samples of malt beverages under
10 the following conditions:

11 (a) Paid samples may be sold only on licensed premises and by licensees holding
12 a sampling license, during regular business hours;

13 (b) A licensee shall limit a customer to no more than sixteen (16) ounces of malt
14 beverages per day;

15 (c) Nothing in this subsection shall allow a quota retail package licensee to
16 provide a customer samples of malt beverages free of charge;

17 (d) The retail price of a sample shall not be less than a licensee's purchase cost of
18 the sample; and

19 (e) A licensee, supplier, or individual shall not request, require, or allow a
20 distributor to provide malt beverages free of charge or participate in any
21 activity allowed under this subsection.

22 (6) No customer shall be allowed to receive a combination of free and purchased
23 samples totaling more than:

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

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

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

27 ➔Section 54. KRS 243.038 is amended to read as follows:

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

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

11 ➔Section 55. KRS 243.090 is amended to read as follows:

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

19 (2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses
20 issued after January 1, 2017, by a local administrator shall be valid for a
21 period of no more than a year and shall be renewable upon the date
22 established by the department for the expiration of state licenses issued for
23 premises located in that county or city. During the first year following July 15,
24 2016, if the new date for renewal for the licensee does not occur on the date
25 established by the department for the expiration of the licensee's state license,
26 the local administrator shall either:

27 1. Prorate the cost of the renewed license by proportionally reducing the

- 1 cost of the renewed license if the new date for the renewal occurs prior
2 to the expiration of a previous license; or
- 3 2. Provide a prorated provisional local license to cover any period of time
4 between the expiration of the previous license and the new date for
5 renewal if the new date for renewal occurs after the expiration of the
6 licensee's previous license.
- 7 (b) Paragraph (a) of this subsection shall not apply to licenses issued by a
8 consolidated local government, special event licenses, temporary licenses, or
9 licenses listed in subsection (5) of this section.
- 10 (3) When any person applies for a new license authorized under KRS Chapters 241 to
11 244, the person shall be charged, if the license is issued, the full fee for the
12 respective license if six (6) months or more remain before the license is due to be
13 renewed and one-half (1/2) the fee if less than six (6) months remain before the
14 license is due to be renewed. No abatement of license fees shall be permitted to any
15 person who held a license of the same kind for the same premises in the preceding
16 license period and who was actually doing business under the license during the last
17 month of the preceding license period.
- 18 (4) The renewal by the department of any alcoholic beverage license shall not be
19 construed to waive or condone any violation that occurred prior to the renewal and
20 shall not prevent subsequent proceedings against the licensee.
- 21 (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew
22 their licenses for either a one (1) year term or a two (2) year term.
- 23 (6) The department may deny license renewal if the licensee is a delinquent taxpayer as
24 defined in KRS 131.1815.
- 25 ➔Section 56. KRS 243.360 is amended to read as follows:
- 26 (1) All persons, except an applicant for the same license for the same premises, or an
27 applicant for an out-of-state malt beverage supplier's license, limited out-of-state

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

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

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

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

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

23 (3) Any protest received after the thirty (30) day period has expired shall not be
24 considered a valid legal protest by the board.

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

27 ➔Section 57. KRS 438.310 is amended to read as follows:

- 1 (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine
2 product, or vapor product at retail to any person under the age of eighteen (18), or
3 solicit any person under the age of eighteen (18) to purchase any tobacco product,
4 alternative nicotine product, or vapor product at retail.
- 5 (2) Any person who sells tobacco products, alternative nicotine products, or vapor
6 products at retail shall cause to be posted in a conspicuous place in his
7 establishment a notice stating that it is illegal to sell tobacco products, alternative
8 nicotine products, or vapor products to persons under age eighteen (18).
- 9 (3) Any person selling tobacco products, alternative nicotine products, or vapor
10 products shall require proof of age from a prospective buyer or recipient if the
11 person has reason to believe that the prospective buyer or recipient is under the age
12 of eighteen (18).
- 13 (4) A person who violates subsection (1) or (2) of this section shall be subject to a fine
14 of not less than one hundred dollars (\$100) nor more than five hundred dollars
15 (\$500) for a first violation and a fine of not less than five hundred dollars (\$500) nor
16 more than one thousand dollars (\$1,000) for any subsequent violation. The fine
17 shall be administered by the Department of Alcoholic Beverage and Cannabis
18 Control using a civil enforcement procedure.
- 19 ➔Section 58. KRS 438.311 is amended to read as follows:
- 20 (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has
21 not attained the age of eighteen (18) years to purchase or accept receipt of or to
22 attempt to purchase or accept receipt of a tobacco product, alternative nicotine
23 product, or vapor product, or to present or offer to any person any purported proof
24 of age which is false, fraudulent, or not actually his or her own, for the purpose of
25 purchasing or receiving any tobacco product, alternative nicotine product, or vapor
26 product. It shall not be unlawful for such a person to accept receipt of a tobacco
27 product, alternative nicotine product, or vapor product from an employer when

1 required in the performance of the person's duties.

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

4 (3) 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 not make an arrest or take a child into custody, for a violation of this
7 section. If a child fails to appear in court in response to a uniform citation issued
8 pursuant to the section, the court may compel the attendance of the defendant in the
9 manner specified by law.

10 ➔Section 59. KRS 438.313 is amended to read as follows:

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

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

20 (3) Any person who violates the provisions of this section shall be fined not less than
21 one thousand dollars (\$1,000) nor more than two thousand five hundred dollars
22 (\$2,500) for each offense. The fine shall be administered by the Department of
23 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for
24 persons eighteen (18) years of age or older. For persons under the age of eighteen
25 (18) years, the offense shall be deemed a status offense and shall be under the
26 jurisdiction of the juvenile session of the District Court.

27 (4) All peace officers with general law enforcement authority and employees of the

1 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
2 citation, but may not make an arrest, or take a child into custody, for a violation of
3 this section. If a child fails to appear in court in response to a uniform citation
4 issued pursuant to this section, the court may compel the attendance of the
5 defendant in the manner specified by law.

6 ➔Section 60. KRS 438.315 is amended to read as follows:

- 7 (1) The sale of tobacco products, alternative nicotine products, or vapor products
8 dispensed through a vending machine is prohibited to any person under the age of
9 eighteen (18) years.
- 10 (2) The purchase of tobacco products, alternative nicotine products, or vapor products
11 dispensed through a vending machine is prohibited to any person under the age of
12 eighteen (18) years.
- 13 (3) Except for vending machines located in factories or vending machines located in
14 bars or taverns to which minors are not permitted access, any vending machine from
15 which tobacco products, alternative nicotine products, or vapor products are
16 dispensed shall be located in the line of sight of the cashier for the retail
17 establishment.
- 18 (4) Any owner of a retail establishment violating this section shall be subject to a fine
19 of not less than one hundred dollars (\$100) nor more than five hundred dollars
20 (\$500) for each violation. The fine shall be administered by the Department of
21 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for
22 persons eighteen (18) years of age or older. For persons under the age of eighteen
23 (18) years, the offense shall be deemed a status offense and shall be under the
24 jurisdiction of the juvenile session of the District Court.
- 25 (5) All peace officers with general law enforcement authority and employees of the
26 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
27 citation, but may not make an arrest, or take a child into custody, for a violation of

1 this section. If a child fails to appear in court in response to a uniform citation
2 issued pursuant to this section, the court may compel the attendance of the
3 defendant in the manner specified by law.

4 ➔Section 61. KRS 438.317 is amended to read as follows:

- 5 (1) No person shall sell or cause to be sold at retail cigarettes packaged in units of
6 fewer than twenty (20) cigarettes.
- 7 (2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available
8 to a retail establishment cigarettes packaged for retail sale in units of less than
9 twenty (20) cigarettes.
- 10 (3) Any person violating subsection (1) of this section shall be subject to a fine of not
11 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
12 Any person violating subsection (2) of this section shall be fined not less than one
13 thousand dollars (\$1,000) nor more than two thousand five hundred dollars
14 (\$2,500). These penalties shall be enforced by the Department of Alcoholic
15 Beverage and Cannabis Control through civil enforcement procedures.

16 ➔Section 62. KRS 438.320 is amended to read as follows:

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

22 ➔Section 63. KRS 438.325 is amended to read as follows:

- 23 (1) Each owner of a retail establishment selling or distributing tobacco products,
24 alternative nicotine products, or vapor products shall notify each individual
25 employed in the retail establishment as a retail sales clerk that the sale of tobacco
26 products, alternative nicotine products, or vapor products to any person under the
27 age of eighteen (18) years and the purchase of tobacco products, alternative nicotine

1 products, or vapor products by any person under the age of eighteen (18) years are
2 prohibited.

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

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

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

18 (4) The owner of the retail establishment shall maintain the signed notice that is
19 required pursuant to subsection (3) of this section in a place and in a manner so as
20 to be easily accessible to any employee of the Department of Alcoholic Beverage
21 and Cannabis Control or the Department of Agriculture conducting an inspection
22 of the retail establishment for the purpose of monitoring compliance in limiting the
23 sale or distribution of tobacco products, alternative nicotine products, or vapor
24 products to persons under the age of eighteen (18) as provided in KRS 438.305 to
25 438.340.

26 (5) Any owner of the retail establishment violating subsections (1) to (4) of this section
27 shall be subject to a fine of not less than one hundred dollars (\$100) nor more than

1 five hundred dollars (\$500) for each violation. The fine shall be administered by the
2 Department of Alcoholic Beverage and Cannabis Control in a civil enforcement
3 procedure.

4 ➔Section 64. KRS 438.330 is amended to read as follows:

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

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

27 ➔Section 65. KRS 438.337 is amended to read as follows:

- 1 (1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a
2 juvenile, which shall be under the jurisdiction of the juvenile session of the District
3 Court, the Department of Alcoholic Beverage and Cannabis Control shall carry out
4 the enforcement provisions of KRS 438.305 to 438.340.
- 5 (2) The Department of Alcoholic Beverage and Cannabis Control shall be entitled to
6 the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent
7 (\$0.03) per pack revenue collected by the Finance and Administration Cabinet from
8 the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be
9 deposited in a trust and agency account created in the State Treasury, and to keep
10 fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset
11 the costs of enforcement of KRS 438.305 to 438.340.
- 12 (3) The Department of Alcoholic Beverage and Cannabis Control shall be responsible
13 for maintaining statistics for compilation of required reports to be submitted to the
14 United States Department of Health and Human Services.
- 15 (4) The Department of Alcoholic Beverage and Cannabis Control shall devise a plan
16 and time frame for enforcement to determine by random inspection if the percentage
17 of retailers or distributors making illegal sales to minors does or does not exceed
18 federal guidelines preventing tobacco sales to minors.

19 ➔Section 66. KRS 438.340 is amended to read as follows:

20 The Department of Alcoholic Beverage and Cannabis Control and the Department of
21 Agriculture are authorized to promulgate administrative regulations pursuant to KRS
22 Chapter 13A as necessary to implement and carry out the provisions of KRS 438.305 to
23 438.340.

24 ➔Section 67. Section 2, Sections 4 to 9, Sections 11 to 14, Sections 17 and 18,
25 Sections 20 to 25, Sections 29 and 30, and Section 34 to 37 of this Act take effect January
26 1, 2020.