

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) "Bona fide practitioner-patient relationship" means a treating or consulting*
7 *relationship, during the course of which the practitioner:*

8 *(a) Has completed an initial in-person examination and assessment of the*
9 *patient's medical history and current medical condition;*

10 *(b) Has consulted with the patient with respect to the possible therapeutic and*
11 *palliative properties of medicinal cannabis;*

12 *(c) Has advised the patient of the possible risks and side effects associated with*
13 *the use of medicinal cannabis including possible interactions between*
14 *medicinal cannabis and any other drug or medication that the patient is*
15 *taking at that time; and*

16 *(d) Has established an expectation he or she will provide follow-up care and*
17 *treatment to the patient;*

18 *(2) "Cannabis business" means a cultivator, dispensary, processor, producer, or a*
19 *safety compliance facility licensed under this chapter;*

20 *(3) "Cannabis business agent" means a principal officer, board member, employee,*
21 *volunteer, or agent of a cannabis business;*

22 *(4) "Cardholder" means:*

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

26 *(b) A visiting qualified patient who has obtained and possesses a valid registry*
27 *identification card, or its equivalent, that was issued pursuant to the laws of*

1 another state, district, territory, commonwealth, insular possession of the
2 United States, or country recognized by the United States that allows the
3 person to use cannabis for medicinal purposes in the jurisdiction of
4 issuance;

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

8 (6) "Cultivator agent" means a principal officer, board member, employee,
9 volunteer, or agent of a cultivator;

10 (7) "Department" means the Department for Public Health as established in KRS
11 12.020;

12 (8) "Designated caregiver" means a person who has registered as such with the
13 department as required by this chapter;

14 (9) "Dispensary" means an entity licensed under this chapter that acquires,
15 possesses, delivers, transfers, transports, sells, supplies, or dispenses medicinal
16 cannabis to cardholders;

17 (10) "Dispensary agent" means a principal officer, board member, employee,
18 volunteer, or agent of a dispensary;

19 (11) "Disqualifying felony offense" means:

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

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

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

27 2. An offense that consisted of conduct for which Sections 1 to 30 of this

1 Act would likely have prevented a conviction, but the conduct either
2 occurred prior to the enactment of Sections 1 to 30 of this Act or was
3 prosecuted by an authority other than the Commonwealth of
4 Kentucky;

5 (12) "Enclosed, locked facility" means an indoor growing space such as a room,
6 greenhouse, building, or other indoor enclosed area that is maintained and
7 operated by a cultivator or producer and is equipped with locks and other security
8 devices that permit access only by agents of the cultivator or producer, as
9 required by the department;

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

12 (14) "Growth area" means the same as an enclosed, locked facility;

13 (15) "Marijuana" means the same as defined in KRS 218A.010;

14 (16) "Medicinal cannabis" means marijuana as defined in KRS 218A.010 when
15 cultivated, harvested, processed, produced, transported, dispensed, distributed,
16 sold, possessed, or used in accordance with Sections 1 to 30 of this Act. The term
17 "medicinal cannabis" includes medicinal cannabis products and raw plant
18 material;

19 (17) "Medicinal cannabis accessories" means any equipment, product, or material of
20 any kind which is used, intended for use, or designed for use in the preparing,
21 storing, using, or consuming medicinal cannabis in accordance with Sections 1
22 to 30 of this Act;

23 (18) "Medicinal cannabis product" means any compound, manufacture, salt,
24 derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds
25 or its resin; or any compound, mixture, or preparation which contains any
26 quantity of these substances when cultivated, harvested, processed, produced,
27 transported, dispensed, distributed, sold, possessed, or used in accordance with

1 Sections 1 to 30 of this Act;

2 (19) "Minor" means a person less than eighteen (18) years of age;

3 (20) "Pharmacist" means the same as in KRS 315.010;

4 (21) "Practitioner" means a physician, dentist, podiatrist, optometrist who is
5 authorized to prescribe controlled substances under KRS 320.240, or an
6 advanced practice registered nurse who is authorized to prescribe controlled
7 substances under KRS 314.042, who is authorized by a state licensing board to
8 provide written certifications pursuant to Section 5 of this Act;

9 (22) "Processor" means an entity licensed under this chapter that acquires raw plant
10 material from a cultivator in order to prepare, trim, manipulate, blend,
11 manufacture, or otherwise modify the raw plant material, and package products
12 containing or derived from the raw plant material for sale to a licensed
13 dispensary;

14 (23) "Processor agent" means a principal officer, board member, employee,
15 volunteer, or agent of a processor;

16 (24) "Producer" means an entity licensed under this chapter that is permitted to
17 operate as and engage in the permitted activities of both a cultivator and
18 processor;

19 (25) "Producer agent" means a principal officer, board member, employee, volunteer,
20 or agent of a producer;

21 (26) "Qualified patient" means a person who has obtained a written certification from
22 a practitioner with whom he or she has a bona fide practitioner-patient
23 relationship;

24 (27) "Qualifying medical condition" means a disease or medical condition that
25 appears on the list of qualifying medical conditions for which a practitioner may
26 provide a patient with a written certification approved by the department
27 pursuant to Sections 3 and 28 of this Act and in accordance with administrative

- 1 regulations promulgated thereunder;
- 2 (28) "Raw plant material" means the trichome-covered part of the female plant
- 3 Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the
- 4 Cannabis sp. plant;
- 5 (29) "Registry identification card" means a document issued by the department that
- 6 identifies a person as a qualified patient, visiting qualified patient, or designated
- 7 caregiver;
- 8 (30) "Registered qualified patient" means a qualified patient who has applied for,
- 9 obtained, and possesses a valid registry identification card or provisional
- 10 licensure receipt issued by the department;
- 11 (31) "Safety compliance facility" means an entity licensed under this chapter that
- 12 provides at least one (1) of the following services:
- 13 (a) Testing medicinal cannabis produced by a cannabis business licensed under
- 14 this chapter; or
- 15 (b) Training cardholders and cannabis business agents;
- 16 (32) "Safety compliance facility agent" means a principal officer, board member,
- 17 employee, volunteer, or agent of a safety compliance facility;
- 18 (33) "Seedling" means a cannabis plant that has no flowers and is taller than eight
- 19 (8) inches;
- 20 (34) "Smoking" means the inhalation of smoke produced from the combustion of raw
- 21 plant material when ignited by a flame;
- 22 (35) "State licensing board" means any of the following:
- 23 (a) The Kentucky Board of Dentistry;
- 24 (b) The Kentucky Board of Medical Licensure;
- 25 (c) The Kentucky Board of Nursing;
- 26 (d) The Kentucky Board of Optometric Examiners; and
- 27 (e) The State Board of Podiatry;

1 (36) "Use of medicinal cannabis" or "medicinal use of cannabis" includes the
 2 acquisition, administration, possession, transfer, transportation, or consumption
 3 of medicinal cannabis or medicinal cannabis accessories by a cardholder in
 4 accordance with Sections 1 to 30 of this Act. The terms "use of medicinal
 5 cannabis" and "medicinal use of cannabis" do not include:

6 (a) Cultivation of marijuana by a cardholder; or

7 (b) The use or consumption of marijuana by smoking;

8 (37) "Visiting qualified patient" means a person who has registered as such through
 9 the department as required under this chapter or who possesses a valid registry
 10 identification card, or an equivalent document, that was issued pursuant to the
 11 laws of another state, district, territory, commonwealth, insular possession of the
 12 United States, or country recognized by the United States that allows the person
 13 to use medicinal cannabis in the jurisdiction of issuance; and

14 (38) "Written certification" means a document dated and signed by a practitioner,
 15 that:

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

18 (b) Specifies the qualifying medical condition or conditions for which the
 19 practitioner believes that the patient may receive therapeutic or palliative
 20 benefit; and

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

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

25 Notwithstanding any provisions to the contrary:

26 (1) The use of medicinal cannabis by a cardholder shall be considered lawful if done
 27 in accordance with Sections 1 to 30 of this Act and any administrative regulations

1 promulgated thereunder;

2 (2) A registered qualified patient or visiting qualified patient shall not be considered
3 to be under the influence of cannabis solely because of the presence of
4 metabolites or components of cannabis that appear in insufficient concentration
5 to cause impairment;

6 (3) The acquisition, blending, cultivation, delivery, distribution, manufacturing,
7 manipulation, packaging for sale, preparation, possession, sale, testing,
8 transportation, or transfer of medicinal cannabis or medicinal cannabis
9 accessories by a cannabis business or cannabis business agent shall be
10 considered lawful if done in accordance with Sections 1 to 30 of this Act and any
11 administrative regulations promulgated thereunder;

12 (4) A practitioner shall not be subject to arrest, prosecution, or penalty in any
13 manner, or denied any right or privilege, including but not limited to a civil
14 penalty or disciplinary action by a state licensing board or by any other
15 occupational or professional licensing board, solely for providing written
16 certifications or for otherwise stating that, in the practitioner's professional
17 opinion, a patient may receive therapeutic or palliative benefit from the use of
18 medicinal cannabis, if done in accordance with Sections 1 to 30 of this Act;

19 (5) An attorney shall not be subject to arrest, prosecution, or penalty in any manner,
20 or denied any right or privilege, including but not limited to a civil penalty or
21 disciplinary action by the Kentucky Bar Association or by any other professional
22 licensing board, for providing an individual or cannabis business with legal
23 assistance related to activity that is no longer subject to criminal penalties under
24 state law pursuant to Sections 1 to 30 of this Act;

25 (6) A pharmacist shall not be subject to arrest, prosecution, or penalty in any
26 manner, or denied any right or privilege, including but not limited to a civil
27 penalty or disciplinary action by the Kentucky Board of Pharmacy or by any

1 other professional licensing board, for consulting with or providing information
2 with respect to the possible risks or side effects of medicinal cannabis, including
3 any potentially harmful or dangerous interactions between medicinal cannabis
4 and any other drug; and

5 (7) No person shall be subject to arrest, prosecution, or penalty in any manner, or
6 denied any right or privilege, including but not limited to a civil penalty or
7 disciplinary action by an occupational or professional licensing board, for
8 providing assistance or services, including but not limited to accounting services,
9 security services, or business consulting services, to any individual or cannabis
10 business related to activity that is no longer subject to criminal penalties under
11 state law pursuant to Sections 1 to 30 of this Act.

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

14 (1) The Department for Public Health is hereby charged with the implementation,
15 operation, oversight, and regulation of the medicinal cannabis program
16 established in Sections 1 to 30 of this Act, and there is hereby created within the
17 department a Division of Medicinal Cannabis. The Division of Medicinal
18 Cannabis shall consist of a director and the necessary staff to fulfill its statewide
19 regulatory responsibilities.

20 (2) The department shall develop and implement a biennial accreditation process
21 based on evolving continuous quality improvement metrics to ensure best-
22 practice standards. The renewal of cannabis business licenses shall be contingent
23 upon successfully demonstrating certain minimal performance standards
24 through the accreditation process.

25 (3) (a) There is hereby established in the Department for Public Health a Board of
26 Physicians and Advisors which for administrative purposes shall be
27 attached to the department.

1 **(b) The board shall consist of:**

2 **1. Eight (8) physicians or surgeons who are knowledgeable about the**
3 **medicinal use of cannabis and certified by the appropriate board in**
4 **one (1) of the following specialties:**

5 **a. Addiction medicine;**

6 **b. Anesthesiology;**

7 **c. Gastroenterology;**

8 **d. Obstetrics and gynecology;**

9 **e. Infectious disease;**

10 **f. Neurology;**

11 **g. Oncology;**

12 **h. Pain management;**

13 **i. Pain medicine;**

14 **j. Pediatrics;**

15 **k. Physical Medicine and Rehabilitation; or**

16 **l. Psychiatry;**

17 **2. One (1) pharmacist licensed by the Kentucky Board of Pharmacy; and**

18 **3. Four (4) patient advocates.**

19 **(c) The commissioner of the department shall appoint members to the board.**

20 **Seven (7) of the members first appointed shall serve for a term of three (3)**
21 **years, and six (6) of the members first appointed shall serve for a term of**
22 **four (4) years. Thereafter, members of the board shall serve for a term of**
23 **four (4) years and shall be eligible for reappointment. A member of the**
24 **board whose term has expired may continue to serve until a successor has**
25 **been appointed. The commissioner and the director of the Division of**
26 **Medicinal Cannabis shall serve as non-voting ex officio members of the**
27 **board. The commissioner shall select a chairperson from among the**

1 physicians and surgeons appointed to the board.

2 (d) The board shall:

3 1. Review and recommend to the department an approved list of
4 qualifying medical conditions for which a practitioner may provide a
5 patient with a written certification;

6 2. Accept and review petitions to add diseases or medical conditions to
7 the list of qualifying medical conditions for which a practitioner may
8 provide a patient with a written certification;

9 3. Convene at least twice per year to conduct public hearings and to
10 evaluate petitions, which shall be maintained as confidential pursuant
11 to paragraph (e) of this subsection, for the purpose of adding diseases
12 or medical conditions to the list of qualifying medical conditions for
13 which a practitioner may provide a patient with a written certification;

14 4. Review and recommend to the department protocols for determining
15 the amount of medicinal cannabis that shall constitute daily supply,
16 an uninterrupted ten (10) day supply, and an uninterrupted thirty (30)
17 day supply as well as the amount of raw plant material that medicinal
18 cannabis products are considered equivalent to;

19 5. Review and recommend to the department protocols, evolving
20 continuous quality improvement metrics, and minimal performance
21 standards for the biennial accreditation process of licensed cannabis
22 businesses;

23 6. Review relevant scientific data related to the delta-9
24 tetrahydrocannabinol content limits established in subsection (2)(b) of
25 Section 19 of this Act and make recommendations to the General
26 Assembly regarding revisions to the limits as the board deems
27 appropriate;

- 1 7. Review relevant scientific data related to the various methods of use
2 and consumption of medicinal cannabis and make recommendations
3 to the General Assembly to approve or restrict certain methods as the
4 board deems appropriate; and
- 5 8. Perform other duties related to the medicinal use of cannabis upon
6 request by the commissioner of the department or the director of the
7 Division of Medicinal Cannabis.
- 8 (e) When considering which diseases and medical conditions to recommend to
9 the department for inclusion on an approved list of qualifying medical
10 conditions for which a practitioner may provide a patient with a written
11 certification and when reviewing petitions to add diseases or medical
12 conditions to the list of qualifying medical conditions for which a
13 practitioner may provide a patient with a written certification, the board
14 shall prioritize consideration of, but not limit their consideration to, end of
15 life conditions and terminal illnesses as defined in KRS 217.5401.
- 16 (f) Any individually identifiable health information contained in a petition
17 received by the department, the division, or the board shall be confidential
18 and shall not be subject to disclosure under the Open Records Act, KRS
19 61.870 to 61.884.
- 20 (g) The department shall promulgate administrative regulations to implement
21 the provisions of this subsection, including but not limited to the process by
22 which petitions shall be received, reviewed, and considered.
- 23 (4) No later than December 1 of each year beginning in 2021, the department, in
24 consultation with the University of Kentucky, College of Medicine shall submit
25 an annual report to the Legislative Research Commission. The report submitted
26 by the department shall, at a minimum, include:
- 27 (a) The number of applications and renewals received by the department for

- 1 registry identification cards for registered qualified patients, visiting
2 qualified patients, and designated caregivers, individually and collectively;
- 3 (b) The number of applications and renewals for registry identification cards
4 that were approved and denied by the department;
- 5 (c) The number of registry identification cards revoked by the department for
6 misconduct and the nature of the misconduct;
- 7 (d) The number of practitioners authorized to provide written certifications;
- 8 (e) The number of pharmacists authorized to provide consultation to
9 cardholders;
- 10 (f) The nature of the qualifying medical conditions for which practitioners
11 have provided written certifications;
- 12 (g) The number of applications and renewals received by the department for
13 cannabis business licenses; the number of cannabis business licenses issued
14 for each business type and tier; and the number of cannabis business
15 license applications and renewals that were denied by the department;
- 16 (h) The number of cannabis business agents employed by each type of cannabis
17 business;
- 18 (i) An assessment of:
- 19 1. The ability of cardholders in all areas of the state to obtain timely
20 affordable access to medicinal cannabis;
- 21 2. The evolving continuous quality improvement metrics and minimal
22 performance standards for the biennial accreditation process of
23 licensed cannabis businesses;
- 24 3. The effectiveness of the cultivators, processors, and producers licensed
25 under this chapter, individually and collectively, in serving the needs
26 of processors, dispensaries, and cardholders, the reasonableness of
27 their fees, whether they are generating any complaints or security

- 1 problems, and the sufficiency of the number operating to serve
2 processors, dispensaries and cardholders in the Commonwealth;
- 3 4. The effectiveness of the dispensaries licensed under this chapter,
4 individually and collectively, in serving the needs of cardholders,
5 including the provision of educational and support services, the
6 reasonableness of their fees, whether they are generating any
7 complaints or security problems, and the sufficiency of the number
8 operating to serve cardholders in the Commonwealth; and
- 9 5. The effectiveness of the licensed safety compliance facilities licensed
10 under this chapter, individually and collectively, in serving the needs
11 of other cannabis businesses including the provision of testing and
12 training services, the reasonableness of their fees, whether they are
13 generating any complaints or security problems, and the sufficiency of
14 the number operating to serve other cannabis businesses and
15 cardholders in the Commonwealth;
- 16 (j) The profits and expenditures by cannabis businesses, individually and
17 collectively;
- 18 (k) The amount of medicinal cannabis sold per month in the Commonwealth;
- 19 (l) The total amount of revenue generated from cannabis business licensure
20 and cardholder fees for each calendar year and aggregated by prior years;
- 21 (m) The total amount of revenue generated by the excise tax established in
22 Section 33 of this Act;
- 23 (n) The total cost of enforcement for the medicinal cannabis program at the
24 time of the report, by city, county, and overall;
- 25 (o) The sufficiency of the regulatory and security safeguards contained in
26 Sections 1 to 30 of this Act and adopted by the department through
27 administrative regulations to ensure that access to and use of medicinal

- 1 cannabis cultivated and processed in this state is provided only to
2 cardholders;
- 3 (p) Any recommended additions or revisions to Sections 1 to 30 of this Act or
4 administrative regulations promulgated thereunder, including those
5 relating to security, safe handling, labeling, and nomenclature;
- 6 (q) The results of any scientific research studies regarding the health effects of
7 cannabis; and
- 8 (r) Any other data requested by the Legislative Research Commission relating
9 to the medicinal cannabis program and Sections 1 to 30 of this Act.
- 10 (5) The department shall provide the University of Kentucky, College of Medicine
11 with all information necessary to allow collaboration with the department on the
12 preparation of this report. The University of Kentucky, College of Medicine may
13 also produce its own report regarding the medicinal cannabis program
14 established in Sections 1 to 30 of this Act which, if produced, shall be submitted
15 to the Legislative Research Commission upon completion.
- 16 (6) The information contained in the report described in subsection (2) of this section
17 shall be presented in a manner that does not disclose any identifying information
18 about cardholders or licensed cannabis businesses.
- 19 (7) Nothing in Sections 1 to 30 of this Act shall require the department to assume
20 duties in relation to the medicinal cannabis program that are more than
21 administrative in nature if federal law or a current and clear directive from the
22 federal government indicates that duties assumed by the department that are
23 more than administrative could result in federal prosecution or invalidation of
24 the medicinal cannabis program established in Sections 1 to 30 of this Act.
- 25 (8) If the department makes a determination that it is required by Sections 1 to 30 of
26 this Act to conduct duties that are more than administrative in nature, then it
27 shall continue to conduct duties that are administrative in nature and designate

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

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

7 (1) A registered qualified patient, except as provided in subsection (2) of this section,
8 shall not be subject to arrest, prosecution, or denial of any right or privilege,
9 including but not limited to a civil penalty or disciplinary action by a court or
10 occupational or professional licensing board, for the use of medicinal cannabis,
11 if the registered qualified patient does not possess more than:

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

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

21 (2) A registered qualified patient who is under eighteen (18) years of age shall not be
22 permitted to possess, purchase, or acquire medicinal cannabis and shall only
23 engage in the use of medicinal cannabis with the assistance of a designated
24 caregiver who is the registered qualified patient's parent or legal guardian
25 responsible for providing consent for medical treatment.

26 (3) A visiting qualified patient shall not be subject to arrest, prosecution, or denial of
27 any right or privilege, including but not limited to civil penalty or disciplinary

1 action by a court or occupational or professional licensing board, for the use of
2 medicinal cannabis, if the visiting qualified patient does not possess more than an
3 amount of medicinal cannabis determined by the department to constitute an
4 uninterrupted ten (10) day supply on his or her person.

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

8 (a) Assisting a registered qualified patient to whom the designated caregiver is
9 connected through the department's registration process with the use of
10 medicinal cannabis if the designated caregiver does not possess more than:

11 1. An amount of medicinal cannabis determined by the department to
12 constitute an uninterrupted thirty (30) day supply at his or her
13 residence for each registered qualified patient to whom the caregiver
14 is connected through the department's registration process; or

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

26 (b) Receiving compensation for reasonable costs associated with assisting a
27 registered qualified patient in the use of medicinal cannabis if the

1 designated caregiver is connected to the registered qualified patient through
2 the department's registration process.

3 (5) (a) All medicinal cannabis possessed by a cardholder in accordance with
4 subsections (1), (3), and (4) of this section shall be kept in the original
5 container in which the cardholder received the medicinal cannabis from a
6 dispensary.

7 (b) The penalty for a violation of paragraph (a) of this subsection shall be a
8 fine of not more than one hundred dollars (\$100) per violation.

9 (6) Notwithstanding subsections (1), (3), and (4) of this section:

10 (a) A registered qualified patient shall not be permitted to purchase more
11 medicinal cannabis than the amount determined by the department to
12 constitute an uninterrupted thirty (30) day supply of medicinal cannabis
13 during a given twenty-five (25) day period;

14 (b) A designated caregiver shall not be permitted to purchase more medicinal
15 cannabis than the amount determined by the department to constitute an
16 uninterrupted thirty (30) day supply of medicinal cannabis for each
17 registered qualified patient to whom the caregiver is connected through the
18 department's registration process during a given twenty-five (25) day
19 period; and

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

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

27 (a) Possession of cannabis that is incidental to the use of medicinal cannabis;

- 1 (b) Possession of medicinal cannabis accessories; or
 2 (c) Transferring medicinal cannabis to a safety facility for testing.
 3 (8) No person shall be subject to arrest, prosecution, or denial of any right or
 4 privilege, including but not limited to a civil penalty or disciplinary action by a
 5 court or occupational or professional licensing board, for:
 6 (a) Selling medicinal cannabis accessories to a cardholder, who is over
 7 eighteen (18) years of age, upon presentation of a valid registry
 8 identification card issued by the department in accordance with Sections 11
 9 to 13 of this Act, or its equivalent issued pursuant to the laws of another
 10 state, district, territory, commonwealth, insular possession of the United
 11 States, or country recognized by the United States that allows the person to
 12 use medicinal cannabis in the jurisdiction of issuance;
 13 (b) Being in the presence or vicinity of the use of medicinal cannabis as
 14 allowed under Sections 1 to 30 of this Act; or
 15 (c) Assisting a registered qualified patient or visiting qualified patient with
 16 using or administering medicinal cannabis. For purposes of illustration and
 17 not limitation, this includes preparing raw plant material or brewing tea for
 18 a registered qualified patient or visiting qualified patient. It does not include
 19 providing medicinal cannabis to a patient that the patient did not already
 20 possess.

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

- 23 (1) (a) Any medicinal cannabis, medicinal cannabis accessories, lawful property,
 24 or interest in lawful property that is possessed, owned, or used in connection
 25 with the medicinal use of cannabis or acts incidental to that use, shall not
 26 be seized or forfeited.
 27 (b) Sections 1 to 30 of this Act shall not prevent the seizure or forfeiture of

1 marijuana exceeding the amounts allowed under Section 4 of this Act nor
2 shall it prevent seizure or forfeiture if the basis for that action is unrelated
3 to the medicinal use of cannabis in accordance with Sections 1 to 30 of this
4 Act and any administrative regulation promulgated thereunder.

5 (2) Possession of, or application for, a registry identification card or cannabis
6 business license shall not constitute probable cause or reasonable suspicion, nor
7 shall it be used to support the search of the person, property, or home of the
8 person possessing or applying for the registry identification card or cannabis
9 business license. The possession of, or application for, a registry identification
10 card or cannabis business license shall not preclude the existence of probable
11 cause if probable cause exists on other grounds.

12 (3) (a) There shall be a presumption that a cardholder is engaged in the medicinal
13 use of cannabis, or in the case of a designated caregiver, assisting with the
14 medicinal use of cannabis, if the cardholder:

15 1. Possesses a valid registry identification card or, in the case of a
16 visiting qualified patient, an equivalent document issued pursuant to
17 the laws of another state, district, territory, commonwealth, insular
18 possession of the United States, or country recognized by the United
19 States that allows the person to use medicinal cannabis in the
20 jurisdiction of issuance; and

21 2. Possesses an amount of medicinal cannabis that does not exceed the
22 amount allowed under Section 4 of this Act.

23 (b) The presumption may be rebutted by evidence that conduct was unrelated to
24 the medicinal use of cannabis or was otherwise in violation of Sections 1 to
25 30 of this Act.

26 (4) No law enforcement officer employed by an agency which receives state or local
27 government funds shall expend any state or local resources, including the

1 officer's time, to effect any arrest or seizure of medicinal cannabis, or conduct
2 any investigation, on the sole basis of activity the officer believes to constitute a
3 violation of the federal Controlled Substances Act, 21 U.S.C. secs. 801 et seq., if
4 the officer should have reason to believe that such activity is in compliance with
5 Sections 1 to 30 of this Act.

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

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

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

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

21 (c) Possessing medicinal cannabis that is within the operator's arm's reach or
22 requires less than a two (2) step process to access while operating,
23 navigating, or being in actual physical control of an aircraft, vehicle, vessel,
24 or any other device known, or hereafter invented, that is powered by
25 machinery and that is or may be used to transport persons or property;

26 (d) Undertaking any task under the influence of medicinal cannabis, when
27 doing so would constitute negligence or professional malpractice;

- 1 (e) Possessing medicinal cannabis, or otherwise engaging in the use of
2 medicinal cannabis:
- 3 1. On a school bus, except as permitted under Section 8 of this Act;
4 2. On the grounds of any preschool or primary or secondary school,
5 except as permitted under Section 8 of this Act;
6 3. In any correctional facility; or
7 4. On any property of the federal government;
- 8 (f) Using marijuana, if that person is not a registered qualified patient or
9 visiting qualified patient;
- 10 (g) Using or consuming marijuana by smoking; or
- 11 (h) Cultivating marijuana unless that person is licensed by the department as a
12 cannabis cultivator or cannabis producer pursuant to Sections 16 to 18 of
13 this Act or is a cultivator or producer agent.
- 14 (2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the
15 same as those established for operating a motor vehicle under the influence of
16 alcohol or any other substance in KRS 189A.010.
- 17 (3) (a) An individual who violates subsection (1)(g) of this section shall not be
18 considered to be in possession of medicinal cannabis or engaged in the use
19 of medicinal cannabis and shall not benefit from the legal protections
20 afforded by Sections 1 to 30 of this Act.
- 21 (b) The odor or smell of cannabis shall not constitute evidence of use or
22 consumption of cannabis by smoking.
- 23 (c) If an individual uses or consumes marijuana by smoking while on any form
24 of public transportation, in any public place as defined in KRS 525.010, or
25 in any place of public accommodation, resort, or amusement as defined in
26 KRS 344.130:
- 27 1. The department may revoke the individual's registry identification

1 card; and

2 2. The individual may be subject to prosecution under Section 38 of this
 3 Act.

4 (d) Notwithstanding paragraph (a) of this subsection, if an individual violates
 5 subsection (1)(g) of this subsection by using or consuming marijuana by
 6 smoking on residential property owned or leased by that individual or with
 7 the permission of the owner or lessee of residential property, the penalty
 8 shall be a fine of not more than one hundred dollars (\$100) per violation.

9 (4) Nothing in Sections 1 to 30 of this Act supersedes statutory laws relating to
 10 driving while under the influence of intoxicants. Sections 1 to 30 of this Act shall
 11 not prevent the enforcement of current laws pertaining to driving while
 12 intoxicated, including KRS 183.061, 189.520, 189A.010, and 235.240.

13 (5) As used in this section:

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

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

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

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

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

20 (a) Require an employer to permit or accommodate the use, consumption,
 21 possession, transfer, display, transportation, distribution, sale, or growing
 22 of medicinal cannabis in the workplace;

23 (b) Prohibit an employer from implementing policies promoting workplace
 24 health and safety by:

25 1. Restricting the use of medicinal cannabis by employees; or

26 2. Restricting or prohibiting the use of equipment, machinery, or power
 27 tools by an employee who is a registered qualified patient, if the

1 employer believes that the use of such equipment, machinery, or
2 power tools by an employee who is a registered qualified patient poses
3 an unreasonable safety risk;

4 (c) Prohibit an employer from including in any contract provisions that
5 prohibit the use of medicinal cannabis by employees;

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

8 (e) Except as provided in Section 8 of this Act, prohibit a person, employer,
9 corporation, or any other entity who occupies, owns, or controls a property
10 from prohibiting or otherwise regulating the use, consumption, possession,
11 transfer, display, transportation, sale, or growing of medicinal cannabis on
12 or in that property; or

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

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

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

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

24 (1) A registered qualified patient or visiting qualified patient who uses medicinal
25 cannabis shall be afforded all the same rights under state and local law,
26 including those guaranteed under KRS Chapter 344, as the individual would
27 have been afforded if he or she were solely prescribed pharmaceutical

1 medications, as they pertain to drug testing required by any state or local law.

2 (2) A cardholder otherwise entitled to custody of, visitation time, or parenting time
3 with a minor child shall not be denied that right, and there shall be no
4 presumption of abuse, neglect or dependency, for conduct permitted under
5 Sections 1 to 30 of this Act unless the person's actions in relation to medicinal
6 cannabis created an unreasonable danger to the safety of the minor child as
7 established by clear and convincing evidence.

8 (3) (a) For the purposes of medical care, including organ transplants, a patient's
9 authorized use of medicinal cannabis is the equivalent of the authorized use
10 of any other medication used at the direction of a practitioner, and shall not
11 constitute the use of an illicit substance or otherwise disqualify a patient
12 from needed medical care.

13 (b) A health facility as defined in KRS 216B.015 may develop regulations to
14 allow a patient who is a registered qualified patient or visiting qualified
15 patient to use medicinal cannabis on the premises of the health facility.

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

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

22 (c) A local school board may develop regulations to permit a pupil who is a
23 cardholder and over eighteen (18) years of age to possess medicinal
24 cannabis on a school bus and to possess and use medicinal cannabis on the
25 premises of a school.

26 (5) (a) No landlord may refuse to lease to, or otherwise penalize, a person solely for
27 his or her status as a cardholder, unless failing to do so would violate

1 *federal law or regulations and cause the landlord to lose a monetary or*
2 *licensing-related benefit under federal law or regulations.*

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

5 *(c) A landlord shall not include in a rental agreement terms and conditions*
6 *that prohibit the use of medicinal cannabis by a cardholder.*

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

9 *(1) Except as provided in subsection (11) of this section, a physician, dentist,*
10 *podiatrist, optometrist who is authorized to prescribe controlled substances under*
11 *KRS 320.240, or an advanced practice registered nurse who is authorized to*
12 *prescribe controlled substances under KRS 314.042 seeking to provide written*
13 *certifications for the use of medicinal cannabis shall apply to the same state*
14 *licensing board that issued his or her professional practice license, on a form*
15 *prescribed by the state licensing board, for authorization to provide written*
16 *certifications for the use of medicinal cannabis.*

17 *(2) (a) A state licensure board shall approve an application for authorization to*
18 *provide written certifications for the use of medicinal cannabis if the*
19 *application is complete and meets the requirements established in*
20 *administrative regulations promulgated by the state licensing board.*

21 *(b) A state licensure board shall not authorize an application for authorization*
22 *to provide written certifications for the use of medicinal cannabis if the*
23 *applicant has an ownership or investment interest in or compensation*
24 *agreement with a cannabis business licensed under this chapter. A state*
25 *licensure board may consult with the department to determine if an*
26 *applicant has an ownership or investment interest in or compensation*
27 *agreement with a cannabis business.*

- 1 (3) Authorization to provide written certifications for the use of medicinal cannabis
2 granted under this section shall expire and may be renewed in accordance with
3 administrative regulations promulgated by a state licensing board.
- 4 (4) A practitioner authorized by a state licensing board to provide written
5 certifications for the use of medicinal cannabis may only provide a patient with a
6 written certification after the practitioner has:
- 7 (a) Established a bona fide practitioner-patient relationship with the patient;
8 (b) Diagnosed the patient with a qualifying medical condition or confirmed a
9 diagnosis for a qualifying medical condition provided by another health
10 care provider;
- 11 (c) Reviewed a report of information from the electronic system for monitoring
12 controlled substances established in KRS 218A.202 related to the patient for
13 a period of time that covers at least the twelve (12) months immediately
14 preceding the date of the report;
- 15 (d) Consulted with the patient, or the patient's custodial parent or legal
16 guardian responsible for providing consent to treatment if the patient is a
17 minor child, with respect to the possible risks and side effects associated
18 with medicinal cannabis, including possible interactions between medicinal
19 cannabis and any other drug or medication that the patient is taking at that
20 time; and
- 21 (e) Obtained the consent of the patient's custodial parent or legal guardian
22 responsible for providing consent to treatment, if the patient is a minor
23 child.
- 24 (5) A bona fide practitioner-patient relationship may be established following a
25 referral from the patient's primary care provider and may be maintained via
26 telehealth. However, a bona fide practitioner-patient relationship shall not be
27 established via telehealth.

1 (6) (a) When issuing a written certification for the use of medicinal cannabis to a
2 patient, the practitioner shall use a form prescribed by the department.

3 (b) An initial written certification for the use of medicinal cannabis shall be
4 provided during the course of an in-person examination of the patient by
5 the practitioner. Subsequent written certifications, including for the purpose
6 of renewing a registry identification card, may be provided electronically or
7 during the course of a telehealth consultation.

8 (c) For the purpose of applying for a registry identification card, a written
9 certification provided under this section shall be valid for a period of not
10 more than ninety (90) days. The practitioner may renew a written
11 certification for not more than three (3) additional periods of not more than
12 ninety (90) days each. Thereafter, the practitioner may issue another
13 certification to the patient only after an in-person examination or an
14 examination conducted via telehealth, as defined in KRS 304.17A-005, of
15 the patient by the practitioner.

16 (d) Within twenty-four (24) hours of providing a patient with a written
17 certification for the use of medicinal cannabis, a practitioner shall record
18 the issuance of the written certification in the electronic system developed
19 by the department pursuant to subsection (1)(a) of Section 28 of this Act.

20 (7) A practitioner shall not:

21 (a) Dispense medicinal cannabis; or

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

24 (8) Nothing in Sections 1 to 30 of this Act shall prevent a practitioner from being
25 sanctioned for:

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

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

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

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

6 **(e) Any other violation of this section.**

7 **(9) A state licensing board may suspend or revoke a practitioner's authorization to**
8 **provide written certification for the use of medicinal cannabis and practice**
9 **license for multiple violations or a serious violation of this section or**
10 **administrative regulations promulgated thereunder.**

11 **(10) The state licensing boards shall:**

12 **(a) No later than January 1, 2021, promulgate administrative regulations to**
13 **carry out the provisions of this section, including but not limited to:**

14 **1. The procedures for applying for authorization to provide written**
15 **certifications;**

16 **2. The conditions that must be met to be eligible for authorization to**
17 **provide written certifications;**

18 **3. The process and procedures for renewing authorization to provide**
19 **written certifications;**

20 **4. Continuing education requirements for practitioners who are**
21 **authorized to provide written certifications;**

22 **5. The reasons for which authorization to provide written certifications**
23 **for the use of medicinal cannabis may be suspended or revoked; and**

24 **6. The minimal standards of care when providing written certifications;**

25 **(b) On a regular basis, provide the department with the names of all**
26 **practitioners authorized by the state licensing board to provide written**
27 **certifications; and**

1 (c) Immediately provide the department with the name of any practitioner
 2 whose authorization to provide written certifications is suspended or
 3 revoked.

4 (11) This section does not apply to a practitioner who recommends treatment with
 5 cannabis or a drug derived from cannabis under any of the following that are
 6 approved by an investigational review board or equivalent entity, the United
 7 States Food and Drug Administration, or the National Institutes for Health or
 8 any of its cooperative groups or centers under the United States Department of
 9 Health and Human Services:

10 (a) A research protocol;

11 (b) A clinical trial;

12 (c) An investigational new drug application; or

13 (d) An expanded access submission.

14 (12) As used in this section, "telehealth" means the same as defined in KRS 304.17A-
 15 005.

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

18 (1) Except as provided in subsection (2) of this section, prior to making an initial
 19 purchase of medicinal cannabis in this state and at least annually thereafter, a
 20 cardholder shall be required to complete a face-to-face consultation with a
 21 pharmacist who is licensed in Kentucky and is authorized by the Kentucky Board
 22 of Pharmacy to provide medicinal cannabis consultation services to cardholders.
 23 The consultation shall at a minimum cover the possible risk and side effects of
 24 medicinal cannabis and any potential drug interactions between medicinal
 25 cannabis and any other drug that the registered qualified patient or visiting
 26 qualified patient is taking.

27 (2) A designated caregiver shall be permitted to complete the consultation required

1 by subsection (1) of this section on behalf of any registered qualified patient to
2 whom the designated caregiver is connected through the department's
3 registration process.

4 (3) A pharmacist who wishes to be authorized by the Kentucky Board of Pharmacy to
5 provide medicinal cannabis consultation services to cardholders or to enter into a
6 collaborative agreement with dispensaries, as required by Section 22 of this Act,
7 shall apply to the board on a form prescribed by the board.

8 (4) The Kentucky Board of Pharmacy shall promulgate administrative regulations
9 to:

10 (a) Establish the application and renewal process and fee for authorization to
11 provide medicinal cannabis consultation services and to enter into a
12 collaborative agreement with dispensaries;

13 (b) Establish continuing education and training requirements for pharmacists
14 who are authorized to provide medicinal cannabis consultation services and
15 to enter into a collaborative agreement with dispensaries;

16 (c) Define the standards of care for medicinal cannabis consultation services;
17 and

18 (d) Define the nature and scope of a collaborative agreement between a
19 pharmacist and a dispensary, including the process by which a pharmacist
20 and dispensary shall establish a collaborative agreement. The nature and
21 scope of the collaborative agreement shall not require a pharmacist to be
22 present at a dispensary.

23 (5) The department shall promulgate administrative regulations to establish:

24 (a) A fee for medicinal cannabis consultation services which shall not exceed
25 forty dollars (\$40) per consultation; and

26 (b) A fee for collaborative agreements between a dispensary and a pharmacist.

27 (6) Members of the Kentucky Board of Pharmacy, its agents, its employees, and any

1 pharmacist authorized by the board to provide medicinal cannabis consultation
2 services to cardholders or to enter into a collaborative agreement with
3 dispensaries shall be immune from suit in any action, civil, or criminal, which is
4 based upon any act that is conducted in accordance with this section and
5 administrative regulations promulgated thereunder.

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

8 (1) Except as provided in subsection (5) of this section, no person shall possess,
9 purchase, acquire, or otherwise engage, or assist, in the use of medicinal
10 cannabis in Kentucky without first applying for and receiving a registry
11 identification card for registered qualified patients, designated caregivers, or
12 visiting qualified patients issued by the department.

13 (2) A person shall be eligible to apply for a registry identification card as a registered
14 qualified patient if he or she is a resident of Kentucky, has been diagnosed with a
15 qualifying medical condition, has obtained a written certification from a
16 practitioner with whom he or she has a bona fide practitioner-patient
17 relationship, and has not been convicted of a disqualifying felony offense.

18 (3) A person shall be eligible to apply for a registry identification card as a
19 designated caregiver if he or she is a resident of Kentucky, is at least twenty-one
20 (21) years of age, has not been convicted of a disqualifying felony offense, and
21 has agreed to assist no more than three (3) registered qualified patients with the
22 use of medicinal cannabis.

23 (4) A person shall be eligible to apply for a registry identification card as a visiting
24 qualified patient if he or she is not a resident of Kentucky or has been a resident
25 of Kentucky for less than thirty (30) days, is at least twenty-one (21) years of age,
26 has not been convicted of a disqualifying felony offense, and possesses a valid
27 registry identification card, or an equivalent document, issued pursuant to the

1 laws of another state, district, territory, commonwealth, insular possession of the
2 United States, or country recognized by the United States, that allows the person
3 to use medicinal cannabis in the jurisdiction of issuance.

4 (5) A person with a valid registry identification card, or its equivalent, that was
5 issued pursuant to the laws of another state, district, territory, commonwealth,
6 insular possession of the United States, or country recognized by the United
7 States that allows the person to use medicinal cannabis in the jurisdiction of
8 issuance may use that registry identification card, or its equivalent, for all
9 purposes established in Sections 1 to 30 of this Act and shall not be required to
10 apply for or receive a visiting qualified patient registry identification card from
11 the department.

12 (6) To apply for or renew a registry identification card, a qualified patient shall
13 submit the following, in accordance with administrative regulations promulgated
14 by the department:

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

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

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

22 (d) The name, address, and date of birth of not more than two (2) individuals
23 chosen by the qualified patient to be designated as a caregiver, if the
24 qualified patient chooses to designate a caregiver;

25 (e) A statement, signed by the qualified patient, pledging not to divert medicinal
26 cannabis to anyone who is not permitted to possess medicinal cannabis
27 pursuant to Sections 1 to 30 of this Act. The statement shall contain a

1 listing of potential penalties, including criminal prosecution, for diverting
2 medicinal cannabis;

3 (f) A statement, signed by the individuals chosen by the qualified patient to be
4 designated as a caregiver, if any, agreeing to be designated as the patient's
5 designated caregiver and pledging not to divert medicinal cannabis to
6 anyone other than the registered qualified patient to whom the caregiver is
7 connected through the department's registration process. The statement
8 shall contain a listing of potential penalties, including criminal prosecution,
9 for diverting medicinal cannabis; and

10 (g) The application or renewal fee for a registry identification card for a
11 qualified patient and the application or renewal fee for a registry
12 identification card for any designated caregiver chosen by the qualified
13 patient.

14 (7) To apply for or renew a registry identification card, a qualified patient who is
15 under eighteen (18) years of age shall, in addition to the information required
16 under subsection (6) of this section, submit a statement signed by the custodial
17 parent or legal guardian with responsibility for health care decisions for the
18 qualified patient attesting to the fact that the custodial parent or legal guardian
19 agrees to:

20 (a) Allow the qualified patient to use medicinal cannabis;

21 (b) Serve as the qualified patient's designated caregiver; and

22 (c) Control the acquisition, dosage, and frequency of use of medicinal cannabis
23 by the qualified patient.

24 (8) To apply for or renew a registry identification card, a visiting qualified patient
25 shall submit the following, in accordance with administrative regulations
26 promulgated by the department:

27 (a) The name, address, and date of birth of the visiting qualified patient, except

1 that if the applicant is homeless an address where the applicant may be
 2 reached shall be provided to the department;

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

5 (c) The application or renewal fee for a registry identification card for a
 6 visiting qualified patient; and

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

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

17 (10) A registered qualified patient applying to renew a registry identification card
 18 issued by the department shall be required to submit to the department a written
 19 certification issued by a practitioner within ninety (90) days immediately
 20 preceding the date of a renewal application.

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

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

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

27 (a) The name of the cardholder;

- 1 (b) A designation of whether the cardholder is a registered qualified patient,
2 visiting qualified patient, or designated caregiver;
- 3 (c) The date of issuance and expiration date of the registry identification card;
- 4 (d) A random alphanumeric identification number of at least ten (10)
5 characters, containing at least four (4) numbers and at least four (4) letters,
6 that is unique to the cardholder;
- 7 (e) A bar code or other marking that can be scanned electronically;
- 8 (f) A photograph of the cardholder, if the department's administrative
9 regulations require one;
- 10 (g) The telephone number and Web site address for the electronic verification
11 system developed by the department pursuant to subsection (1)(a) of Section
12 28 of this Act;
- 13 (h) If the cardholder is a designated caregiver, the random alphanumeric
14 identification number of the registered qualified patient the designated
15 caregiver is receiving the registry identification card to assist; and
- 16 (i) If the cardholder is under eighteen (18) years of age, a clear and obvious
17 designation or identifier indicating that the cardholder is under eighteen
18 (18) years of age.
- 19 (3) (a) Except as provided in this subsection, the expiration date for registry
20 identification cards shall be one (1) year after the date of issuance.
- 21 (b) If a practitioner states in the written certification that the qualified patient
22 would benefit from the use of medicinal cannabis until a specified earlier
23 date, then the registry identification card shall expire on that date.
- 24 (4) The department may, at its discretion, electronically store in the card all of the
25 information listed in subsection (2) of this section, along with the address and
26 date of birth of the cardholder, to allow it to be read electronically by law
27 enforcement agents and licensed cannabis businesses.

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

2 (a) A registry identification card for a qualified patient who is a Kentucky
3 resident shall be sixty dollars (\$60);

4 (b) A registry identification card for a visiting qualified patient shall be sixty
5 dollars (\$60); and

6 (c) A registry identification card for a designated caregiver shall be twenty
7 dollars (\$20) per registered qualified patient to whom the designated
8 caregiver is connected unless the designated caregiver is the parent, legal
9 guardian, spouse or adult child of the qualified patient, in which case there
10 shall be no fee for a registry identification card.

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

19 1. A temporary licensure number;

20 2. A barcode or other marking that can be scanned electronically;

21 3. The name of the applicant;

22 4. A designation of whether the cardholder is a registered qualified
23 patient, visiting qualified patient, or designated caregiver;

24 5. If the cardholder is under eighteen (18) years of age, a clear and
25 obvious designation or identifier indicating that the cardholder is
26 under eighteen (18) years of age;

27 6. The effective date of the receipt;

- 1 7. The expiration date of the receipt;
2 8. An indication that the cardholder fee has been paid;
3 9. An indication that the application has been submitted and is
4 apparently complete; and
5 10. The name of the certifying practitioner.

6 (b) The licensure receipt system shall be designed so that this provisional
7 licensure receipt shall be produced by the application Web site upon
8 completion of an application that includes a practitioner recommendation
9 and payment of the cardholder fee. To reduce application errors and
10 processing time, a recommending practitioner or a dispensary may offer a
11 service that allows an applicant to use a computer and printer on the
12 premises of the practitioner's office or dispensary to complete an
13 application and receive a provisional licensure receipt pursuant to this
14 subsection.

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

21 (7) All registry identification card fees collected by the department pursuant to
22 subsection (5) of this section shall be forwarded to the medicinal cannabis trust
23 fund established in Section 31 of this Act.

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

26 (1) Except as provided in subsections (2) to (4) of this section, the department shall:

27 (a) Acknowledge receipt of an application within fifteen (15) days of receipt,

1 and approve or deny an application or renewal within thirty (30) days of
2 receiving a completed application or renewal application; and

3 (b) Issue registry identification cards to a qualified patient and any individual
4 designated by the qualified patient as a designated caregiver, or a visiting
5 qualified patient within five (5) days of approving the application or
6 renewal. An individual designated as a caregiver shall be issued a
7 designated caregiver registry identification card for each registered
8 qualified patient to whom he or she is connected through the department's
9 registration process.

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

12 (a) The custodial parent or legal guardian with responsibility for health care
13 decisions for the qualified patient consents in writing to:

14 1. Allow the qualified patient's use of medicinal cannabis;

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

16 3. Control the acquisition of the medicinal cannabis, the dosage, and the
17 frequency of the use by the qualified patient; and

18 (b) The designated caregiver application for the custodial parent or legal
19 guardian with responsibility for health care decisions for the qualified
20 patient is approved.

21 (3) The department may deny an application or renewal for a qualified patient's or
22 visiting qualified patient's registry identification card for any reason that the
23 department, in the exercise of sound discretion, deems sufficient, including but
24 not limited to if the applicant:

25 (a) Did not provide the information or materials required by Section 11 of this
26 Act;

27 (b) Previously had a registry identification card revoked;

1 (c) Provided false or falsified information; or

2 (d) Does not meet the eligibility requirements established in Section 11 of this
3 Act.

4 (4) The department may deny an application or renewal for a designated caregiver's
5 registration card for any reason that the department, in the exercise of sound
6 discretion, deems sufficient, including but not limited to if the applicant:

7 (a) Is already registered as a designated caregiver for more than three (3)
8 registered qualified patients;

9 (b) Does not meet the eligibility requirements established in Section 11 of this
10 Act;

11 (c) Did not provide the information or materials required by Section 11 of this
12 Act;

13 (d) Previously had a registry identification card revoked;

14 (e) Provided false or falsified information;

15 (f) Was previously convicted of a disqualifying felony offense; or

16 (g) Has applied as a designated caregiver for a qualified patient whose
17 application or renewal for a registry identification card was denied.

18 (5) The department may deny an application or renewal for a visiting qualified
19 patient's registration card for any reason that the department, in the exercise of
20 sound discretion, deems sufficient, including but not limited to if the applicant:

21 (a) Did not provide the information or materials required by Section 11 of this
22 Act;

23 (b) Previously had a registry identification card revoked;

24 (c) Provided false or falsified information; or

25 (d) Does not meet the eligibility requirements established in Section 11 of this
26 Act.

27 (6) The department may conduct a criminal background check of any applicant if the

1 criminal background check is conducted solely to determine whether the
 2 applicant was previously convicted of a disqualifying felony offense.

3 (7) The department shall notify the registered qualified patient who has designated
 4 someone to serve as his or her designated caregiver if the individual designated as
 5 a caregiver is denied a registry identification card.

6 (8) The department shall notify the applicant in writing of the denial and reasons by
 7 registered or certified mail at the address given in the application or supplement.
 8 The applicant may, within thirty (30) days after the date of the mailing of the
 9 department's notice, file a written request for an administrative hearing on the
 10 application. The hearing shall be conducted on the application in compliance
 11 with the requirements of KRS Chapter 13B.

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

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

17 (1) Cardholders shall be required to make the following notifications to the
 18 department:

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

21 (b) A registered qualified patient shall notify the department within thirty (30)
 22 days if he or she ceases to suffer from the qualifying medical condition for
 23 which a practitioner provided a written certification;

24 (c) A registered qualified patient shall notify the department if he or she wishes
 25 to terminate a designated caregiver relationship with an individual who has
 26 been designated as his or her caregiver;

27 (d) A designated caregiver shall notify the department within thirty (30) days if

- 1 he or she becomes aware that a registered qualified patient to whom the
2 caregiver is connected through the department's registration process has
3 died or has ceased to suffer from the qualified medical condition for which
4 a practitioner provided a written certification; and
- 5 (e) If a cardholder loses his or her registry identification card, he or she shall
6 notify the department within ten (10) days of becoming aware the card has
7 been lost.
- 8 (2) When a cardholder notifies the department of items listed in subsection (1) of this
9 section, but remains eligible under Sections 1 to 30 of this Act, the department
10 shall issue the cardholder a new registry identification card with a new random
11 ten (10) character alphanumeric identification number. If the department issues
12 a new registry identification card to a registered qualified patient, the department
13 shall also issue a new registry identification card with a new ten (10) character
14 alphanumeric number to the registered qualified patient's designated caregiver.
15 New registry identification cards issued under this subsection shall be issued by
16 the department within ten (10) days of receiving the updated information and a
17 twenty dollar (\$20) fee for each new registry identification card to be issued.
- 18 (3) If a registered qualified patient ceases to be a registered qualified patient or
19 changes his or her designated caregiver, the department shall promptly notify the
20 designated caregiver in writing. The designated caregiver's protections under
21 Sections 1 to 30 of this Act as to that registered qualified patient shall expire
22 fifteen (15) days after notification by the department.
- 23 (4) If a practitioner who provided a written certification notifies the department in
24 writing either that the registered qualified patient has died, ceased to suffer from
25 the qualifying medical condition for which a practitioner provided a written
26 certification, or that the practitioner no longer believes the patient might receive
27 therapeutic or palliative benefit from the use of medicinal cannabis, the

1 department shall promptly notify the registered qualified patient in writing. The
2 registered qualified patient's protections under Sections 1 to 30 of this Act shall
3 expire fifteen (15) days after notification by the department, and the registered
4 qualified patient shall have fifteen (15) days to dispose of or donate his or her
5 medicinal cannabis to a dispensary.

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

8 (6) 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 ➔SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
12 TO READ AS FOLLOWS:

13 (1) Any cardholder who sells, distributes, or dispenses medicinal cannabis to a
14 person who is not permitted to possess or use medicinal cannabis under Sections
15 1 to 30 of this Act shall have his or her registry identification card revoked and
16 shall be subject to other penalties, including but not limited to criminal
17 prosecution under this chapter and KRS 138.870 to 138.889.

18 (2) The department may revoke the registry identification card of any cardholder
19 who knowingly commits multiple violations or a serious violation of Sections 1 to
20 30 of this Act.

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

27 (4) Final orders of the department after administrative hearings shall be subject to

1 judicial review. Jurisdiction and venue for judicial review are vested in the
2 Circuit Court of the county in which the appealing party resides.

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

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

8 (2) The department shall create separate licenses allowing persons to operate a
9 cannabis business, pursuant to Sections 1 to 30 of this Act and any administrative
10 regulations promulgated thereunder, as:

11 (a) A cannabis cultivator, for which the license shall be tiered as follows:

12 1. Tier I, for which the initial licensing fee shall be five thousand dollars
13 (\$5,000);

14 2. Tier II, for which the initial licensing fee shall be ten thousand dollars
15 (\$10,000);

16 3. Tier III, for which the initial licensing fee shall be twenty-five
17 thousand dollars (\$25,000); and

18 4. Tier IV, for which the initial licensing fee shall be fifty thousand
19 dollars (\$50,000);

20 (b) A cannabis dispensary, for which the initial licensing fee shall be ten
21 thousand dollars (\$10,000);

22 (c) A cannabis processor, for which the initial licensing fee shall be twenty
23 thousand dollars (\$20,000);

24 (d) A cannabis producer, for which the initial licensing fee shall be seventy-five
25 thousand dollars (\$75,000); or

26 (e) A cannabis safety compliance facility, for which the initial licensing fee
27 shall be two thousand five hundred dollars (\$2,500).

1 (3) (a) Except as provided in paragraph (b) of this subsection, a cannabis business
2 shall be required to apply for and obtain from the department a separate
3 license for each location it intends to operate.

4 (b) A cannabis business licensed as a producer may operate cultivation and
5 processing activities at separate locations, but shall not operate more than
6 one (1) cultivation and one (1) processing facility.

7 (4) (a) A cannabis business license issued under this section and Sections 17 and
8 18 of this Act shall be valid for one (1) year from the date of issuance. The
9 department shall notify each licensee ninety (90) days prior to the date the
10 license expires to allow the licensee to begin the renewal procedure
11 promulgated by the department pursuant to Section 28 of this Act.

12 (b) The renewal of a cannabis business license shall be contingent upon
13 successful achievement of minimal performance standards established by
14 the department as part of the biennial accreditation process established by
15 the department pursuant to Section 3 of this Act.

16 (c) Cannabis business licensure renewal fees shall be:

17 1. Five hundred dollars (\$500) plus one percent (1%) of all gross receipts
18 during the previous calendar year for a cannabis business that, upon
19 applying for renewal of a cannabis business license, had no more than
20 two million dollars (\$2,000,000) of gross receipts during the previous
21 calendar year;

22 2. Two thousand dollars (\$2,000) plus one and one-half percent (1.5%)
23 of all gross receipts during the previous calendar year for a cannabis
24 business that, upon applying for renewal of a cannabis business
25 license, had more than two million dollars (\$2,000,000) but not more
26 than eight million dollars (\$8,000,000) of gross receipts during the
27 previous calendar year; and

1 3. Four thousand dollars (\$4,000) plus two percent (2%) of all gross
 2 receipts during the previous calendar year for a cannabis business
 3 that, upon applying for renewal of a cannabis business license, had
 4 over eight million dollars (\$8,000,000) of gross receipts during the
 5 previous calendar year.

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

8 (6) The department shall approve a license holder's sale of a license issued pursuant
 9 to this section and Sections 17 and 18 of this Act if the purchaser and any new
 10 facilities meet the requirements of Sections 1 to 30 of this Act.

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

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

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

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

18 (b) The proposed physical address of the cannabis business and the global
 19 positioning system coordinates for any proposed cultivation activities;

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

22 (d) Any instances in which a business or not-for-profit entity that any of the
 23 prospective board members managed or served on the board of was
 24 convicted, fined, censured, or had a registration or license suspended or
 25 revoked in any administrative or judicial proceeding;

26 (e) Any information required by the department to evaluate the applicant
 27 pursuant to the competitive application process described in Section 18 of

1 this Act; and

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

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

6 (4) If a cannabis business license application is approved:

7 (a) The cannabis business shall, before it begins operations:

8 1. Submit the initial license fee established in Section 16 of this Act,
 9 minus the one hundred dollars (\$100) application fee, to the
 10 department; and

11 2. If a physical address or the global positioning system coordinates for
 12 any cultivation activities had not been finalized when it applied, it
 13 shall submit its complete physical address and the global positioning
 14 system coordinates for any cultivation activities; and

15 (b) The department shall issue a copy of the license that includes the business's
 16 identification number. The department shall also provide each licensed
 17 dispensary with contact and access information for the cardholder
 18 verification system.

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

21 (1) The department shall:

22 (a) Acknowledge receipt of an application for a cannabis business license
 23 within fifteen (15) days of receipt; and

24 (b) Provide notification to the cannabis business license applicant as to whether
 25 the application for a cannabis business license has been approved or denied
 26 within forty-five (45) days of receiving a completed application.

27 (2) The department may deny an application for a cannabis business license for any

1 reason that the department, in the exercise of sound discretion, deems sufficient,
2 including but not limited to:

3 (a) The applicant failed to submit the materials required by Section 17 of this
4 Act, including if the applicant's plans do not satisfy the security, oversight,
5 or recordkeeping administrative regulations promulgated by the
6 department;

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

8 (c) The applicant would not be in compliance with local cannabis business
9 prohibitions enacted pursuant to Section 26 of this Act;

10 (d) The applicant does not meet the requirements of Section 19 of this Act;

11 (e) One (1) or more of the prospective principal officers or board members:

12 1. Has been convicted of a disqualifying felony offense, the provisions of
13 KRS 335B.020 and 335B.030 notwithstanding;

14 2. Has served as a principal officer or board member for a cannabis
15 business that has had its license revoked;

16 3. Is younger than twenty-one (21) years of age; or

17 4. Is a practitioner who has been authorized by a state licensing board to
18 provide patients with a written certification; or

19 (f) 1. For a safety compliance facility, one (1) or more of the prospective
20 principal officers or board members is a principal officer or board
21 member of a cultivator, processor, producer, or dispensary licensed to
22 operate in Kentucky; or

23 2. For a cultivator, processor, producer, or dispensary, one (1) or more
24 of the prospective principal officers or board members is a principal
25 officer or board member of a safety compliance facility licensed to
26 operate in Kentucky.

27 (3) (a) The department shall not be required to issue more cannabis business

1 licenses than market pressures dictate, except that the department shall not
2 place a limit on the number of licenses issued for safety compliance
3 facilities.

4 (b) If the department receives a greater number of cannabis business license
5 applications in any cannabis business category than it deems necessary to
6 meet the demonstrated or anticipated needs for current or anticipated
7 cardholders, the department shall use an impartial and numerically scored
8 competitive application process developed by the department to evaluate
9 cannabis business license applications. The competitive application process
10 shall, at a minimum, consider the following criteria:

11 1. The suitability of the proposed location or locations, including
12 compliance with any local zoning laws and the geographic
13 convenience to patients throughout the Commonwealth should the
14 applicant be approved;

15 2. The principal officers' and board members' relevant experience,
16 including any training or professional licensing related to medicine,
17 pharmaceuticals, natural treatments, botany, or medicinal cannabis
18 cultivation and preparation, and their experience running any other
19 business or not-for-profit entity;

20 3. The proposed cannabis business's plan for operations and services,
21 including:

22 a. Staffing and training plans;

23 b. A plan to provide employees with a safe, healthy, and
24 economically sustainable working environment;

25 c. Whether it has sufficient capital to operate; and

26 d. The ability to assist with the provision of an adequate supply of
27 medicinal cannabis to the cardholders in its locality, area

- 1 development district, or the state;
- 2 4. The sufficiency of the applicant's plans for recordkeeping;
- 3 5. The sufficiency of the applicant's plans for safety, security, and the
- 4 prevention of diversion, including proposed locations and security
- 5 devices employed;
- 6 6. The applicant's plan for making medicinal cannabis available on an
- 7 affordable basis to registered qualified patients who are veterans, or
- 8 who are enrolled in Medicaid or receiving Supplemental Security
- 9 Income or Social Security disability insurance;
- 10 7. The applicant's plan for safe and accurate packaging and labeling of
- 11 medicinal cannabis, including the applicant's plan for ensuring that
- 12 all medicinal cannabis is free of contaminants; and
- 13 8. The absence of violations by the applicant or one (1) or more of its
- 14 principal officers of any local, state, or federal tax, criminal, public
- 15 safety, food safety, discrimination, workplace safety, employment, or
- 16 other laws relevant to the operation of its business.
- 17 (4) Notwithstanding subsection (1)(b) of this section, if the department utilizes the
- 18 competitive application process described in subsection (3) of this section, the
- 19 department shall provide notification to the cannabis business license applicant
- 20 as to whether the application for a cannabis business license has been approved
- 21 or denied within ninety (90) days of receiving a completed application.
- 22 (5) Notwithstanding subsection (3)(a) of this section:
- 23 (a) No later than one (1) year after the effective date of this section, if a
- 24 sufficient number of cannabis business license applications has been
- 25 submitted to the department, the department shall:
- 26 1. Approve and issue at least:
- 27 a. Fifteen (15) cannabis cultivator licenses;

- 1 **b. Twenty-five (25) cannabis dispensary licenses;**
 2 **c. Five (5) cannabis processor licenses; and**
 3 **d. Three (3) cannabis producer licenses; and**
 4 **2. Approve and issue a cannabis business license for at least one (1)**
 5 **cannabis dispensary in each of the area development districts as**
 6 **established in KRS 147A.050 on the effective date of this section.**
 7 **(b) After reviewing a report issued pursuant to Section 3 of this Act, if the**
 8 **department determines that additional cannabis businesses are needed to**
 9 **meet the needs of cardholders either within an area development district or**
 10 **throughout the state, the department shall expand the number of cannabis**
 11 **business licenses issued within an area development district, city, or county**
 12 **and shall issue an appropriate number of cannabis business licenses to**
 13 **ensure that the needs of cardholders can be adequately met.**
 14 **(6) The department shall notify the applicant in writing of a license denial and**
 15 **reasons by registered or certified mail at the address given in the application or**
 16 **supplement. Except for license denials based upon subsection (3)(a) of this**
 17 **section, the applicant may, within thirty (30) days after the mailing of the**
 18 **department's notice, file a written request for an administrative hearing on the**
 19 **application. The hearing shall be conducted on the application in compliance**
 20 **with the requirements of KRS Chapter 13B.**
 21 **(7) Final orders of the department after administrative hearings shall be subject to**
 22 **judicial review as provided in KRS 13B.140. Jurisdiction and venue for judicial**
 23 **review are vested in the Circuit Court of the county in which the applicant**
 24 **business would be located.**

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

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

- 1 (a) Comply with Sections 1 to 30 of this Act and any administrative regulations
2 promulgated thereunder by the department;
- 3 (b) Conduct a criminal background check into the criminal history of each
4 person seeking to become a principal officer, board member, agent,
5 volunteer, or employee before that person begins work. A cannabis business
6 shall not employ, accept as a volunteer, or have as a board member,
7 principal officer, or agent any person who:
- 8 1. Was convicted of a disqualifying felony offense; or
9 2. Is under twenty-one (21) years of age;
- 10 (c) Implement appropriate security measures to deter and prevent the theft of
11 medicinal cannabis and unauthorized entrance into areas containing
12 medicinal cannabis;
- 13 (d) Demonstrate sufficient capital such that it can establish its business and
14 meet the needs for its type of cannabis business;
- 15 (e) Display their license on the premises at all times; and
- 16 (f) Only acquire, possess, cultivate, manufacture, deliver, transfer, transport,
17 supply, or dispense medicinal cannabis:
- 18 1. For the purposes of distributing medicinal cannabis to cardholders
19 who possess a valid registry identification card issued by the
20 department, or for visiting qualified patients, an equivalent document
21 issued in another jurisdiction; and
- 22 2. From a cannabis business licensed under this chapter.
- 23 (2) A cannabis business licensed under this chapter shall not:
- 24 (a) Be located within one thousand (1,000) feet of an existing elementary or
25 secondary school or a day-care center;
- 26 (b) Acquire, possess, cultivate, process, manufacture, deliver, transfer,
27 transport, supply, dispense, or sell:

- 1 1. Raw plant material with a delta-9 tetrahydrocannabinol content of
2 more than thirty-five percent (35%);
- 3 2. Medicinal cannabis products intended for oral consumption as an
4 edible, oil, or tincture with more than ten (10) milligrams of delta-9
5 tetrahydrocannabinol per serving;
- 6 3. Any medicinal cannabis product not described in subparagraph 1. or
7 2. of this paragraph with a delta-9 tetrahydrocannabinol content of
8 more than seventy percent (70%); or
- 9 4. Any medicinal cannabis product that contains vitamin E acetate;
- 10 (c) Permit a person under eighteen (18) years of age to enter or remain on the
11 premises of a cannabis business;
- 12 (d) Permit a person who is not a cardholder to enter or remain on the premises
13 of a cannabis business, except in accordance with subsection (6) of this
14 section; or
- 15 (e) Employ, have as a board member, or be owned by, in part or in whole, a
16 practitioner who has been authorized by a state licensing board to provide
17 patients with a written certification.
- 18 (3) The operating documents of a cannabis business shall include procedures for its
19 oversight and procedures to ensure accurate recordkeeping and inventory
20 control.
- 21 (4) When transporting medicinal cannabis on behalf of a cannabis business that is
22 permitted to transport it, a cannabis business agent shall have:
- 23 (a) A copy of the cannabis business license for the business that employs the
24 agent;
- 25 (b) Documentation that specifies the amount of medicinal cannabis being
26 transported and the date on which it is being transported; and
- 27 (c) The cannabis business license number and telephone number of any other

1 cannabis business receiving or otherwise involved in the transportation of
 2 the medicinal cannabis.

3 (5) The cultivation of medicinal cannabis for cannabis businesses licensed in this
 4 state shall only be done by cultivators and producers licensed under this chapter
 5 and shall only take place in an enclosed, locked facility which can only be
 6 accessed by cultivator agents working on behalf of the cultivator or producer at
 7 the physical address or global positioning system coordinates provided to the
 8 department during the license application process.

9 (6) A person who is at least eighteen (18) years of age but not a cardholder may be
 10 allowed to enter and remain on the premises of a cannabis business if:

11 (a) The person is present at the cannabis business to perform contract work,
 12 including but not limited to electrical, plumbing, or security maintenance,
 13 that does not involve handling medicinal cannabis; or

14 (b) The person is a government employee and is at the cannabis business in the
 15 course of his or her official duties.

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

18 (1) Cannabis businesses shall be subject to reasonable inspection by the department
 19 pursuant to the department's procedures or administrative regulations. The
 20 department may inspect any licensed cannabis business premises without having
 21 to first obtain a search warrant.

22 (2) Except as provided in Section 22 of this Act, the department may issue a civil fine
 23 of up to three thousand dollars (\$3,000) to a cannabis business for a violation of
 24 Sections 1 to 30 of this Act or any administrative regulations promulgated
 25 thereunder. All fines collected pursuant to this section shall be forwarded to the
 26 medicinal cannabis trust fund established in Section 31 of this Act.

27 (3) The department may, on its own motion or on complaint, after investigation and

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

1 its existing medicinal cannabis inventory during a suspension, but it shall not
2 acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal
3 cannabis during a suspension.

4 (10) A safety compliance facility may continue to possess medicinal cannabis during a
5 suspension, but it shall not receive any new medicinal cannabis, test or otherwise
6 analyze medicinal cannabis, or transfer or transport medicinal cannabis during a
7 suspension.

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

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

17 (a) Acquiring, possessing, planting, cultivating, raising, harvesting, trimming,
18 or storing cannabis seeds, seedlings, plants, or raw plant material;

19 (b) Delivering, transporting, transferring, supplying, or selling raw plant
20 material or related supplies to other licensed cannabis businesses in this
21 state; or

22 (c) Selling cannabis seeds or seedlings to similar entities that are licensed to
23 cultivate cannabis in this state or in any other jurisdiction.

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

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

1 (b) Only deliver raw plant material to a licensed dispensary, processor, or
2 producer after it has been checked by a safety compliance facility agent for
3 cannabinoid contents and contaminants in accordance with administrative
4 regulations promulgated by the department;

5 (c) Not supply a dispensary with more than the amount of raw plant material
6 reasonably required by a dispensary; and

7 (d) Not deliver, transfer, or sell raw plant material with a delta-9
8 tetrahydrocannabinol content of more than thirty-five percent (35%) to a
9 licensed dispensary, processor, or producer.

10 (3) (a) A Tier I cultivator shall not exceed an indoor growth area of two thousand
11 five hundred (2,500) square feet.

12 (b) A Tier II cultivator shall not exceed an indoor growth area of ten thousand
13 (10,000) square feet.

14 (c) A Tier III cultivator shall not exceed an indoor growth area of twenty-five
15 thousand (25,000) square feet.

16 (d) A Tier IV cultivator shall not exceed an growth area of fifty thousand
17 (50,000) square feet.

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

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

27 (a) Acquiring or possessing medicinal cannabis from a cultivator, processor, or

1 producer in this state;

2 (b) Acquiring or possessing medicinal cannabis accessories or educational
3 material;

4 (c) Supplying, selling, dispensing, distributing, or delivering medicinal
5 cannabis, medicinal cannabis accessories, and educational material to
6 cardholders or other dispensaries;

7 (d) Selling cannabis seeds to similar entities that are licensed to cultivate
8 cannabis in this state or in any other jurisdiction; or

9 (e) Acquiring, accepting, or receiving medicinal cannabis products from a
10 cardholder, except that a dispensary may not offer anything of monetary
11 value in return for medicinal cannabis received from a cardholder. Any
12 medicinal cannabis received by a dispensary under this paragraph shall be
13 destroyed by the dispensary or its agents and shall not be sold, dispensed, or
14 distributed to another cardholder.

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

16 (a) Maintain records that include specific notations of the amount of medicinal
17 cannabis being dispensed to a cardholder and whether it was dispensed
18 directly to a registered qualified patient or visiting qualified patient, or to a
19 registered qualified patient's designated caregiver. Each entry shall include
20 the date and time the medicinal cannabis was dispensed. The data required
21 to be recorded by this paragraph shall be entered into the electronic system
22 developed by the department pursuant to subsection (1)(a) of Section 28 of
23 this Act in accordance with administrative regulations promulgated by the
24 department for the record of medicinal cannabis dispensing;

25 (b) Only dispense or sell medicinal cannabis after it has been checked by a
26 safety compliance facility agent for cannabinoid contents and contaminants
27 in accordance with administrative regulations promulgated by the

1 department;

2 (c) Only dispense or sell medicinal cannabis to a registered qualified patient,
3 visiting qualified patient, or designated caregiver after making a diligent
4 effort to verify:

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

9 2. That the person presenting the registry identification card, or its
10 equivalent for a visiting qualified patient, is at least eighteen (18)
11 years of age and is the person identified on the registry identification
12 card, or its equivalent, by examining at least one (1) other form of
13 government-issued photo identification;

14 3. That the person presenting the registry identification card, or its
15 equivalent for a visiting qualified patient, has consulted with a
16 pharmacist as required by Section 10 of this Act; and

17 4. The amount of medicinal cannabis the person is legally permitted to
18 purchase at the time of verification pursuant to subsection (4) of
19 Section 4 of this Act by checking the electronic system developed by
20 the department pursuant to subsection (1)(a) of Section 28 of this Act,
21 if it is operational, or other department-designated databases;

22 (d) Not acquire, possess, dispense, sell, offer for sale, transfer, or transport:

23 1. Raw plant material with a delta-9 tetrahydrocannabinol content of
24 more than thirty-five percent (35%);

25 2. Medicinal cannabis products intended for oral consumption as an
26 edible, oil, or tincture with more than ten (10) milligrams of delta-9
27 tetrahydrocannabinol per serving;

- 1 3. Any medicinal cannabis product not described in subparagraph 1. or
2 2. of this paragraph with a delta-9 tetrahydrocannabinol content of
3 more than seventy percent (70%); or
4 4. Any medicinal cannabis product that contains vitamin E acetate;
5 (e) Not acquire medicinal cannabis from any person other than a cannabis
6 business licensed under this chapter, or an agent thereof, a registered
7 qualified patient, or a designated caregiver; and
8 (f) Not rent office space to a practitioner.
9 (3) A dispensary shall be required to establish and maintain a collaborative
10 agreement, as described in Section 10 of this Act, with a pharmacist authorized
11 by the Kentucky Board of Pharmacy to engage in a collaborative agreement with
12 a dispensary.
13 (4) (a) A dispensary may operate a delivery service for cardholders and may deliver
14 medicinal cannabis, medicinal cannabis accessories, and educational
15 material to cardholders at the address identified on the cardholder's registry
16 identification.
17 (b) All delivery services operated or offered by a dispensary shall comply with
18 administrative regulations promulgated by the department pursuant to this
19 section and Section 28 of this Act.
20 (5) If a dispensary fails to comply with subsection (2)(c) of this section, the
21 department may issue the dispensary a civil fine of up to fifty thousand dollars
22 (\$50,000), except that the fine shall be one hundred thousand dollars (\$100,000)
23 if the person purchasing or attempting to purchase medicinal cannabis is a
24 minor. All fines collected pursuant to this subsection shall be forwarded to the
25 medicinal cannabis trust fund established in Section 31 of this Act.

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

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

8 (a) Acquiring or purchasing raw plant material from a cultivator, processor, or
9 producer in this state;

10 (b) Possessing, processing, preparing, manufacturing, manipulating, blending,
11 preparing, or packaging medicinal cannabis;

12 (c) Transferring, transporting, supplying, or selling medicinal cannabis and
13 related supplies to other cannabis businesses in this state; or

14 (d) Selling cannabis seeds or seedlings to similar entities that are licensed to
15 cultivate cannabis in this state or in any other jurisdiction.

16 (2) A processor licensed under this section shall not possess, process, produce, or
17 manufacture:

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

20 (b) Medicinal cannabis products intended for oral consumption as an edible,
21 oil, or tincture with more than ten (10) milligrams of delta-9
22 tetrahydrocannabinol per serving;

23 (c) Any medicinal cannabis product not described in paragraph (a) or (b) of
24 this subsection with a delta-9 tetrahydrocannabinol content of more than
25 seventy percent (70%) or

26 (d) Any medicinal cannabis product that contains vitamin E acetate.

27 ➔SECTION 24. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

1 TO READ AS FOLLOWS:

2 (1) A producer or producer agent acting on behalf of a producer shall not be subject
3 to prosecution under state or local law, to search or inspection except by the
4 department pursuant to Sections 20 of this Act, to seizure or penalty in any
5 manner, or be denied any right or privilege, including but not limited to civil
6 penalty or disciplinary action by a court or business licensing board, for acting
7 pursuant to Sections 1 to 30 of this Act and the department's administrative
8 regulations for:

9 (a) Acquiring, possessing, planting, cultivating, raising, harvesting, trimming,
10 or storing cannabis seeds, seedlings, plants, or raw plant material;

11 (b) Delivering, transporting, transferring, supplying, or selling raw plant
12 material, medicinal cannabis products, or related supplies to other licensed
13 cannabis businesses in this state;

14 (c) Selling cannabis seeds or seedlings to similar entities that are licensed to
15 cultivate cannabis in this state or in any other jurisdiction;

16 (d) Acquiring or purchasing raw plant material from a cultivator in this state;
17 or

18 (e) Possessing, processing, preparing, manufacturing, manipulating, blending,
19 preparing, or packaging medicinal cannabis;

20 (2) Producers and producer agents acting on behalf of a producer shall:

21 (a) Only deliver raw plant material to a licensed processor, licensed producer,
22 licensed safety compliance facility, or licensed dispensary for fair market
23 value;

24 (b) Only deliver raw plant material to a licensed dispensary, processor, or
25 producer after it has been checked by a safety compliance facility agent for
26 cannabinoid contents and contaminants in accordance with administrative
27 regulations promulgated by the department;

1 (c) Not supply a dispensary with more than the amount of raw plant material
 2 reasonably required by a dispensary; and

3 (d) Be limited to an indoor cannabis growth area of fifty thousand (50,000)
 4 square feet.

5 (3) A producer licensed under this section shall not possess, process, produce, or
 6 manufacture:

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

9 (b) Medicinal cannabis products intended for oral consumption as an edible,
 10 oil, or tincture with more than ten (10) milligrams of delta-9
 11 tetrahydrocannabinol per serving;

12 (c) Any medicinal cannabis product not described in paragraph (a) or (b) of
 13 this subsection with a delta-9 tetrahydrocannabinol content of more than
 14 seventy percent (70%); or

15 (d) Any medicinal cannabis product that contains vitamin E acetate.

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

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

25 (1) Acquiring or possessing medicinal cannabis obtained from cardholders or
 26 cannabis businesses in this state;

27 (2) Returning the medicinal cannabis to cardholders or cannabis businesses in this

1 state;

2 (3) Transporting medicinal cannabis that was produced by cannabis businesses in
3 this state;

4 (4) The production or sale of approved educational materials related to the use of
5 medicinal cannabis;

6 (5) The production, sale, or transportation of equipment or materials other than
7 medicinal cannabis, including but not limited to lab equipment and packaging
8 materials that are used by cannabis businesses and cardholders, to cardholders or
9 cannabis businesses licensed under this chapter;

10 (6) Testing of medicinal cannabis produced in this state, including testing for
11 cannabinoid content, pesticides, mold, contamination, vitamin E acetate, and
12 other prohibited additives;

13 (7) Training cardholders and cannabis business agents. Training may include but
14 need not be limited to:

15 (a) The safe and efficient cultivation, harvesting, packaging, labeling, and
16 distribution of medicinal cannabis;

17 (b) Security and inventory accountability procedures; and

18 (c) Up-to-date scientific and medical research findings related to medicinal use
19 of cannabis;

20 (8) Receiving compensation for actions allowed under this section; and

21 (9) Engaging in any non-cannabis related business activities that are not otherwise
22 prohibited or restricted by state law.

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

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

- 1 (2) A local government may:
- 2 (a) Enact ordinances, not in conflict with Sections 1 to 30 of this Act or with
- 3 the department's administrative regulations, regulating the time, place, and
- 4 manner of cannabis business operations, except that a local government
- 5 shall not enact ordinances that impose an undue burden or make cannabis
- 6 business operations unreasonable or impractical;
- 7 (b) Prohibit all cannabis business operations within its territory through the
- 8 passage of an ordinance; or
- 9 (c) Enact resolutions directing that the question of prohibiting cannabis
- 10 businesses from operating within its territory be submitted to the voters of
- 11 its territory at the next regular election pursuant to subsection (5)(j) of this
- 12 section.
- 13 (3) If a county, consolidated local government, charter county government, or
- 14 unified local government prohibits all cannabis business operations, the
- 15 legislative body of a city located within the county, consolidated local
- 16 government, charter county government, or unified local government may:
- 17 (a) Approve cannabis business operations within the limits of the city through
- 18 the passage of an ordinance; or
- 19 (b) Enact resolutions directing that the question of allowing cannabis
- 20 businesses to operate within the limits of the city be submitted to the voters
- 21 who are eligible to vote in that city's elections at the next regular election
- 22 pursuant to subsection (5)(j) of this section.
- 23 (4) If a local government legislative body with jurisdiction prohibits cannabis
- 24 business operations through the passage of an ordinance, a public question that
- 25 is initiated by petition and that proposes allowing a cannabis business to operate
- 26 within the affected territory is authorized.
- 27 (5) A public question that is initiated by petition and is authorized by subsection (4)

1 of this section shall be submitted to the voters within the affected territory at the
2 next regular election by complying with the following requirements:

3 (a) Before a petition for submission of the proposal may be presented for
4 signatures, an intent to circulate the petition, including a copy of the
5 unsigned petition, shall be filed with the county clerk of the affected
6 territory by any person or group of persons seeking the submission of the
7 public question. The statement of intent shall include the addresses of the
8 person or group of persons and shall specify the person or group of persons,
9 as well as the address, to whom all notices are to be sent. Within ten (10)
10 days after the intent to circulate the petition is filed, the county clerk shall
11 deliver a copy of the intent to circulate the petition, including a copy of the
12 unsigned petition, to the legislative body of the affected territory;

13 (b) The petition shall set out in full the following question: "Are you in favor of
14 the sale of medicinal cannabis at a licensed dispensary and the operation of
15 other cannabis businesses in (affected territory)?";

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

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

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

25 (f) After a petition for the submission of the proposal has received no fewer
26 than the number of qualifying signatures required by paragraph (c) of this
27 subsection, the signed petition shall be filed with the county clerk. When it

1 is filed, each sheet of the petition shall have an affidavit executed by the
2 circulator stating that he or she personally circulated the sheet, the number
3 of signatures thereon, that all signatures were affixed in his or her
4 presence, that he or she believes them to be the genuine signatures of
5 registered voters within the affected territory, and that each signer had an
6 opportunity before signing to read the full text of the proposal;

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

17 (h) Within thirty (30) days after the petition is filed, the county clerk shall
18 complete a certificate as to its sufficiency or, if it is insufficient, specifying
19 the particulars of the insufficiency, and shall send a copy to the person or
20 persons specified in the statement of intent to receive all notices and to the
21 legislative body of the affected territory, all by registered mail. A petition
22 certified insufficient for lack of the required number of valid signatures
23 may be amended once by filing a supplemental petition upon additional
24 sheets within thirty (30) days after receiving the certificate of insufficiency.
25 The supplemental petition shall comply with the requirements applicable to
26 the original petition and, within ten (10) days after it is filed, the county
27 clerk shall complete a certificate as to the sufficiency of the petition as

1 amended and promptly send a copy of the certificate to the person or
2 persons specified to receive all notices and to the legislative body of the
3 affected territory by registered mail;

4 (i) A final determination as to the sufficiency of a petition shall be subject to
5 review in the Circuit Court of the county of the affected territory and shall
6 be limited to the validity of the county clerk's determination. A final
7 determination of insufficiency shall not prejudice the filing of a new
8 petition for the same purpose; and

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

21 (6) If the question submitted to the voters under subsection (3) or (5) of this section
22 fails to pass, three (3) years shall elapse before the question of medicinal
23 cannabis sales and cannabis business operations may be included on a regular
24 election ballot for the affected territory.

25 (7) If the question submitted to the voters under subsection (3) or (5) of this section
26 passes, medicinal cannabis sales and cannabis business operations may be
27 conducted in the affected territory, notwithstanding any local government

1 ordinances which prohibit all cannabis business operations within its territory.

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

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

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

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

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

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

27 (1) The department shall maintain a confidential list of the persons to whom the

1 department has issued registry identification cards and their addresses, telephone
2 numbers, and registry identification numbers.

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

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

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

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

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

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

1 Data subject to this section shall not be combined or linked in any manner with
2 any other list or database maintained by the department or the Public Protection
3 Cabinet and shall not be used for any purpose not provided for in Sections 1 to 30
4 of this Act.

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

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

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

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

21 (d) Verification by the department of registry identification cards issued
22 pursuant to Sections 11 to 13 of this Act; and

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

25 (5) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in
26 jail and a one thousand dollar (\$1,000) fine for any person, including an
27 employee or official of the department or another state agency or local

1 government, to knowingly breach the confidentiality of information obtained
2 pursuant to Sections 1 to 30 of this Act.

3 →SECTION 28. A NEW SECTION OF KRS CHAPTER 218A IS CREATED
4 TO READ AS FOLLOWS:

5 (1) No later than January 1, 2021, the department shall:

6 (a) Establish, maintain, and operate an electronic system for monitoring the
7 medicinal cannabis program. The electronic system established pursuant to
8 this paragraph shall be designed to enable:

9 1. Practitioners to record the issuance of written certifications to
10 qualified patients, as required by Section 11 of this Act;

11 2. Pharmacists to perform and record the completion of consultations
12 with cardholders as required under Section 10 of this Act;

13 3. The department and state licensing board to monitor the issuance of
14 written certifications by practitioners to qualified patients;

15 4. Department personnel, law enforcement personnel, and dispensary
16 agents to verify the validity of registry identification cards issued by
17 the department by entering a registry identification number to
18 determine whether or not the identification number corresponds with
19 a current, valid registry identification card. The system shall only
20 disclose whether the identification card is valid and whether the
21 cardholder is a registered qualified patient, visiting qualified patient,
22 or designated caregiver;

23 5. Dispensary agents to record the amount of medicinal cannabis that is
24 dispensed to a cardholder during each transaction as required by
25 Section 22 of this Act; and

26 6. The sharing of dispensing data recorded by dispensary agents
27 pursuant to Section 22 of this Act with all dispensaries in real time;

1 **(b) Establish, maintain, and operate an electronic inventory tracking system**
2 **that is capable of tracking medicinal cannabis from the point of cultivation**
3 **to the point of sale to cardholders; and**

4 **(c) Promulgate administrative regulations to establish:**

5 **1. A list of qualifying medical conditions for which practitioners may**
6 **provide a patient with a written certification for the use of medicinal**
7 **cannabis, pursuant to Section 3 of this Act.**

8 **2. Procedures for the issuance, renewal, suspension, and revocation of**
9 **registry identification cards, including the creation of a standardized**
10 **written certification form and a uniform application form;**

11 **3. Procedures for the issuance and revocation of registry identification**
12 **cards;**

13 **4. Procedures for the issuance, renewal, suspension, and revocation of**
14 **cannabis business licenses, including the creation of a uniform**
15 **licensure application form and the competitive application process**
16 **described in Section 18 of this Act, with all such procedures subject to**
17 **the requirements of KRS Chapters 13A and 13B;**

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

1 6. A definition of the amount of medicinal cannabis or delta-9
2 tetrahydrocannabinol that constitutes a daily supply, a ten (10) day
3 supply, and a thirty (30) day supply as well as the amount of raw plant
4 material that medicinal cannabis products are considered to be
5 equivalent to, in collaboration with the Board of Physicians in
6 accordance with Section 3 of this Act;

7 7. Provisions governing the following matters related to cannabis
8 businesses with the goal of protecting against diversion and theft,
9 without imposing any undue burden that would make cannabis
10 business operations unreasonable or impractical on cannabis
11 businesses or compromising the confidentiality of cardholders:

12 a. Recordkeeping and inventory control requirements including the
13 use of the electronic systems developed by the department
14 pursuant to paragraphs (a) and (b) of this subsection;

15 b. Procedures for the verification and validation of a registry
16 identification card, or its equivalent, that was issued pursuant to
17 the laws of another state, district, territory, commonwealth,
18 insular possession of the United States, or country recognized by
19 the United States that allows for the use of medicinal cannabis in
20 the jurisdiction of issuance;

21 c. Security requirements for safety compliance facilities,
22 processors, producers, dispensaries, and cultivators, which shall
23 include at a minimum lighting, video security, alarm
24 requirements, on-site parking, and measures to prevent loitering;

25 d. Procedures for the secure transportation, including delivery
26 services provided by dispensaries, and storage of medicinal
27 cannabis by cannabis business licensees and their employees or

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

- 1 include:
- 2 a. Requirements for equipment;
- 3 b. Personnel qualifications; and
- 4 c. Requiring facilities to be accredited by a relevant certifying
- 5 entity;
- 6 13. Standards for the packaging and labeling of medicinal cannabis sold
- 7 or distributed by cannabis businesses which shall comply with 15
- 8 U.S.C. secs. 1471 to 1476 and shall include:
- 9 a. Standards for packaging that requires at least a two (2) step
- 10 process of initial opening;
- 11 b. A warning label which may include the length of time it typically
- 12 takes for the product to take effect, how long the effects of the
- 13 product typically last, and any other information deemed
- 14 appropriate or necessary by the department;
- 15 c. The amount of medicinal cannabis the product is considered the
- 16 equivalent to;
- 17 d. Disclosing ingredients, possible allergens, and certain bioactive
- 18 components, including cannabinoids and terpenoids, as
- 19 determined by the department;
- 20 e. A nutritional fact panel;
- 21 f. Opaque, child-resistant packaging;
- 22 g. A requirement that all raw plant material packaged or sold in
- 23 this state be marked or labeled as "NOT INTENDED FOR
- 24 CONSUMPTION BY SMOKING";
- 25 h. A requirement that medicinal cannabis products be clearly
- 26 marked with an identifiable and standardized symbol indicating
- 27 that the product contains cannabis;

- 1 i. A requirement that all medicinal cannabis product packaging
2 include an expiration date; and
- 3 j. A requirement that medicinal cannabis products and their
4 packaging not be visually reminiscent of major brands of edible
5 noncannabis products or otherwise present an attractive
6 nuisance to minors;
- 7 14. Health and safety requirements for the processing of medicinal
8 cannabis and the indoor cultivation of medicinal cannabis by
9 licensees;
- 10 15. Restrictions on:
- 11 a. Additives to medicinal cannabis that are toxic, including vitamin
12 E acetate, or increase the likelihood of addiction; and
- 13 b. Pesticides, fertilizers, and herbicides used during medicinal
14 cannabis cultivation which pose a threat to human health and
15 safety;
- 16 16. Standards for the safe processing of medicinal cannabis products
17 created by extracting or concentrating compounds from raw plant
18 material;
- 19 17. Standards for determining the amount of unprocessed raw plant
20 material that medicinal cannabis products are considered the
21 equivalent to;
- 22 18. Restrictions on advertising, marketing, and signage in regard to
23 operations or establishments owned by licensees necessary to prevent
24 the targeting of minors;
- 25 19. The requirement that evidence-based educational materials regarding
26 dosage and impairment be disseminated to registered qualified
27 patients, visiting qualified patients, and designated caregivers who

- 1 *purchase medicinal cannabis products;*
- 2 *20. Policies governing insurance requirements for cultivators,*
- 3 *dispensaries, processors, producers, and safety compliance facilities;*
- 4 *21. The process by which the board will consider adding additional*
- 5 *diseases and medical conditions to the list of qualifying medical*
- 6 *conditions established in Section 1 of this Act; and*
- 7 *22. Standards, procedures, or restrictions that the department deems*
- 8 *necessary to ensure the efficient, transparent, and safe operation of*
- 9 *the medicinal cannabis program, except that the department shall not*
- 10 *promulgate any administrative regulation that would impose an undue*
- 11 *burden or make cannabis business operations unreasonable or*
- 12 *impractical.*
- 13 *(2) The department shall perform all acts necessary or advisable for the purpose of*
- 14 *contracting with a third party for the development and maintenance of the*
- 15 *electronic systems described in subsection (1)(a) and (b) of this section.*
- 16 *(3) Except as provided in subsection (1)(g) of Section 5 of this Act, subsection (2)(b)*
- 17 *of Section 19 of this Act, subsection (2)(d) of Section 22 of this Act, subsection (2)*
- 18 *of Section 23 of this Act, subsection (3) of Section 24 of this Act, and paragraph*
- 19 *(c)10., 13., 15., and 16. of this section, the department shall not restrict or limit*
- 20 *methods of delivery, use, or consumption of medicinal cannabis or the types of*
- 21 *products that may be acquired, produced, processed, possessed, sold, or*
- 22 *distributed by a cannabis business.*
- 23 *(4) If a need for additional cannabis cultivation in this state is demonstrated by*
- 24 *cannabis businesses or the department's own analysis, the department may*
- 25 *through the promulgation of administrative regulations increase the cultivation*
- 26 *area square footage limits for either cultivators or producers, or both by up to*
- 27 *three (3) times the limits established in Sections 21 and 24 of this Act. Any*

1 increase in the cultivation square footage limits adopted by the department
 2 pursuant to this section shall not result in an increase in the licensure application
 3 or renewal fees established in Section 16 of this Act.

4 (5) When promulgating administrative regulations under this section, the
 5 department shall consider standards, procedures, and restrictions that have been
 6 found to be best practices relative to the use and regulation of medicinal
 7 cannabis.

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

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

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

16 The provisions of KRS 138.870 to 138.889 shall not apply to any individual or entity
 17 for:

18 (1) Any amount of medicinal cannabis that is necessary or reasonably necessary for
 19 use of a license or registry identification card issued pursuant to Sections 1 to 30
 20 of this Act; or

21 (2) Any use of medicinal cannabis that complies with Sections 1 to 30 of this Act and
 22 any administrative regulations promulgated thereunder.

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

25 (1) The medicinal cannabis trust fund is hereby created within the State Treasury.
 26 The fund shall consist of funds collected from registration fees, licensing fees,
 27 finer, and penalties established pursuant to Sections 1 to 26 and Section 28 of

1 this Act and any administrative regulations promulgated thereunder, a portion of
2 the excise taxes imposed under Section 33 of this Act, and any proceeds from
3 grants, contributions, appropriations, or other moneys made available for
4 purposes of this fund.

5 (2) The medicinal cannabis trust fund shall be administered by the Finance and
6 Administration Cabinet.

7 (3) The Finance and Administration Cabinet shall, no later than the fifteenth
8 calendar day of each calendar quarter, distribute the funds deposited into the
9 medicinal cannabis trust fund during the previous calendar quarter. Trust fund
10 moneys shall be distributed as follows:

11 (a) Sixty percent (60%) shall be transferred to the Department for Public
12 Health to offset the department's actual cost and expenses for operating the
13 medicinal cannabis program and enforcement activities established in
14 Sections 1 to 30 of this Act;

15 (b) Two and one-half percent (2.5%) shall be transferred to the Department for
16 Public Health for the purpose of developing, implementing, and
17 administering a grant program to further education and scientific and
18 clinical research on the medicinal use of cannabis;

19 (c) Thirteen and three-quarters percent (13.75%) shall be transferred to the
20 Office of Drug Control Policy, as established in KRS 15A.020, for the
21 purpose of developing, implementing, and administering a grant program
22 for city and county law enforcement agencies to enforce medicinal cannabis
23 laws, hire and train additional drug recognition experts (DRE), and provide
24 advanced roadside impaired driving enforcement (ARIDE) training;

25 (d) Thirteen and three-quarters percent (13.75%) shall be returned equally to
26 dispensaries for the use of indigent persons who are registered qualified
27 patients enrolled in Medicaid, receiving Supplemental Security Income or

1 Social Security disability insurance, or veterans of the United States Armed
 2 Forces; and

3 (e) The remaining ten percent (10%) shall be retained by the Finance and
 4 Administration Cabinet in the fund to cover any additional administrative
 5 costs that the Department for Public Health may incur related to its
 6 operational and enforcement responsibilities as established in Sections 1 to
 7 30 of this Act. If the department is able to demonstrate to the Finance and
 8 Administration Cabinet a need for any portion of the retained funds, the
 9 Finance and Administration Cabinet shall distribute the additional funds
 10 for which the department has demonstrated need no later than the fifteenth
 11 calendar day of the next calendar quarter. If the department cannot
 12 demonstrate a need for the additional funding described in this paragraph,
 13 the retained funds shall be equally divided between the grant programs and
 14 the indigent patient program described in paragraphs (b), (c), and (d) of
 15 subsection (3) of this section at the close of each fiscal year.

16 (4) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the
 17 fiscal year shall not lapse but shall be equally divided between the grant
 18 programs and the indigent patient program described in paragraphs (b), (c), and
 19 (d) of subsection (3) of this section.

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

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

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

26 (1) The local medicinal cannabis trust fund is hereby created within the State
 27 Treasury. The fund shall consist of funds collected from a portion of the excise

1 taxes imposed under Section 33 of this Act.

2 (2) The local medicinal cannabis trust fund shall be administered by the Finance
3 and Administration Cabinet.

4 (3) The Finance and Administration Cabinet shall, no later than the fifteenth
5 calendar day of each calendar quarter, distribute the funds deposited into the
6 local medicinal cannabis trust fund during the calendar quarter immediately
7 preceding the most recent calendar quarter. Funds shall be distributed among
8 those cities and counties in which at least one (1) cannabis business licensed as a
9 cultivator, dispensary, processor, or producer operated during the calendar
10 quarter immediately preceding the most recent calendar quarter as follows:

11 (a) 1. The funds deposited into the local medicinal cannabis trust fund
12 during the calendar quarter immediately preceding the most recent
13 calendar quarter shall be divided into two (2) equal parts;

14 2. Half of the funds deposited into the local medicinal cannabis trust
15 fund during the calendar quarter immediately preceding the most
16 recent calendar quarter shall be distributed to cities and counties in
17 which at least one (1) cannabis business licensed as a cultivator,
18 processor, or producer operated during the calendar quarter
19 immediately preceding the most recent calendar quarter as follows:

20 a. i. A city in which at least one (1) cannabis business licensed
21 as a cultivator, processor, or producer operated during the
22 calendar quarter immediately preceding the most recent
23 calendar quarter shall receive an amount equal to seven
24 and one-half percent (7.5%) of the total excise tax revenue
25 collected from all cannabis businesses licensed to operate
26 inside the territory of the city during the calendar quarter
27 immediately preceding the most recent calendar quarter; or

1 ii. If the county in which the city is located has prohibited the
2 operation of cannabis businesses, then the city shall receive
3 an amount equal to ten percent (10%) of the total excise tax
4 revenue collected from all cannabis businesses licensed to
5 operate inside the territory of the city during the calendar
6 quarter immediately preceding the most recent calendar
7 quarter; and

8 b. A county that has not prohibited the operation of cannabis
9 businesses, pursuant to Section 26 of this Act, and in which at
10 least one (1) cannabis business licensed as a cultivator,
11 processor, or producer operated during the calendar quarter
12 immediately preceding the most recent calendar quarter shall
13 receive an amount equal to ten percent (10%) of the total excise
14 tax revenue collected from all cannabis businesses licensed to
15 operate within the territory of the county, but outside the
16 territory of any city in that county, during the calendar quarter
17 immediately preceding the most recent calendar quarter plus two
18 and one-half percent (2.5%) of the total excise tax revenue
19 collected from all cannabis businesses licensed to operate inside
20 the territory of an incorporated municipality inside the territory
21 of the county during the calendar quarter immediately preceding
22 the most recent calendar quarter; and

23 3. The other half of the funds deposited into the local medicinal
24 cannabis trust fund during the calendar quarter immediately
25 preceding the most recent calendar quarter shall be distributed to
26 cities and counties in which at least one (1) cannabis business licensed
27 as a dispensary was operated during the calendar quarter immediately

1 preceding the most recent calendar quarter as follows:

2 a. i. A city in which at least one (1) cannabis business licensed
3 as a dispensary operated during the calendar quarter
4 immediately preceding the most recent calendar quarter
5 shall receive a percentage of the funds described in this
6 subparagraph equal to seventy-five percent (75%) of the
7 city's proportionate share of gross receipts derived from the
8 retail sales of medicinal cannabis products by licensed
9 dispensaries in the territory of that city divided by the total
10 statewide retail sales of medicinal cannabis products by all
11 licensed dispensaries in the state during the calendar
12 quarter immediately preceding the most recent calendar
13 quarter; or

14 ii. If the county in which the city is located has prohibited the
15 operation of cannabis businesses, then the city shall receive
16 a percentage of the funds described in this subparagraph
17 equal to one hundred percent (100%) of the city's
18 proportionate share of gross receipts derived from the retail
19 sales of medicinal cannabis products by licensed
20 dispensaries in the territory of that city divided by the total
21 statewide retail sales of medicinal cannabis products by all
22 licensed dispensaries in the state during the calendar
23 quarter immediately preceding the most recent calendar
24 quarter; and

25 b. A county that has not prohibited the operation of cannabis
26 businesses, pursuant to Section 26 of this Act, and in which at
27 least one (1) cannabis business licensed as a dispensary operated

1 during the calendar quarter immediately preceding the most
2 recent calendar quarter shall receive a percentage of the funds
3 described in this subparagraph equal to one hundred percent
4 (100%) of the county's proportionate share of gross receipts
5 derived from the retail sales of medicinal cannabis products by
6 licensed dispensaries within the territory of that county, but
7 outside the territory of any city in that county, divided by the total
8 statewide retail sales of medicinal cannabis products by all
9 licensed dispensaries in the state during the calendar quarter
10 immediately preceding the most recent calendar quarter plus a
11 percentage of the funds described in this subparagraph equal to
12 twenty-five percent (25%) of the proportionate share of gross
13 receipts derived from the retail sales of medicinal cannabis
14 products by licensed dispensaries within the territory of all cities
15 in the county divided by the total statewide retail sales of
16 medicinal cannabis products by all licensed dispensaries in the
17 state during the calendar quarter immediately preceding the
18 most recent calendar quarter.

19 (4) Trust fund moneys may be used for the purposes of local enforcement of
20 medicinal cannabis laws by local law enforcement agencies, local medicinal
21 cannabis licensing, the hiring or training of additional drug recognition experts
22 (DRE), advanced roadside impaired driving enforcement (ARIDE) training, local
23 evidence-based drug addiction rehabilitation projects, or educational activities
24 within local jails.

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

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

1 not lapse.

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

4 (8) As used in this section, "county" has the same meaning as in KRS 65A.010.

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

7 (1) As used in this section:

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

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

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

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

12 (e) "Processor" has the same meaning as in Section 1 of this Act; and

13 (f) "Producer" has the same meaning as in Section 1 of this Act.

14 (2) Effective January 1, 2021:

15 (a) An excise tax is hereby imposed on the gross receipts of a cultivator,
16 processor, or producer received from the sale of medicinal cannabis by a
17 cultivator, processor, or producer to a dispensary, to be paid by the
18 cultivator, processor, or producer at a rate of twelve percent (12%) of the
19 actual price for which a cultivator, processor, or producer sells medicinal
20 cannabis to a dispensary in this state.

21 (b) The tax shall be charged against and be paid by the cultivator, processor, or
22 producer and shall not be added as a separate charge or line item on any
23 sales slip, invoice, receipt, or other statement or memorandum of the price
24 paid by the dispensary.

25 (3) (a) Eighty percent (80%) of the revenue from the excise tax established in this
26 paragraph shall be deposited in the medicinal cannabis trust fund
27 established in Section 31 of this Act for the purpose of administration of the

1 medicinal cannabis program and for the purposes established in that
2 section.

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

8 (4) Cultivators, processors, and producers licensed under KRS Chapter 218A 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 cannabis was sold. A tax return shall be filed for each reporting
13 period whether or not tax is due; and

14 (c) Identify the county and city, if any, in which the medicinal cannabis
15 business is located.

16 (5) 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 (6) (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 (7) 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 (8) Every cultivator, processor, and producer 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 342.815 is amended to read as follows:

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

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

14 (a) The employer owes undisputed premiums to a previous workers'
 15 compensation carrier or to a workers' compensation residual market
 16 mechanism; or

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

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

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

21 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
 22 state of, tangible personal property or digital property which this state is prohibited
 23 from taxing under the Constitution or laws of the United States, or under the
 24 Constitution of this state;

25 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
 26 of:

27 (a) Nonreturnable and returnable containers when sold without the contents to

1 persons who place the contents in the container and sell the contents together
2 with the container; and

3 (b) Returnable containers when sold with the contents in connection with a retail
4 sale of the contents or when resold for refilling;

5 As used in this section the term "returnable containers" means containers of a kind
6 customarily returned by the buyer of the contents for reuse. All other containers are
7 "nonreturnable containers";

8 (3) Gross receipts from occasional sales of tangible personal property or digital
9 property and the storage, use, or other consumption in this state of tangible personal
10 property or digital property, the transfer of which to the purchaser is an occasional
11 sale;

12 (4) Gross receipts from sales of tangible personal property to a common carrier,
13 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
14 freight is paid in advance or the shipment is made freight charges collect, to a point
15 outside this state and the property is actually transported to the out-of-state
16 destination for use by the carrier in the conduct of its business as a common carrier;

17 (5) Gross receipts from sales of tangible personal property sold through coin-operated
18 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
19 retailer is primarily engaged in making the sales and maintains records satisfactory
20 to the department. As used in this subsection, "bulk vending machine" means a
21 vending machine containing unsorted merchandise which, upon insertion of a coin,
22 dispenses the same in approximately equal portions, at random and without
23 selection by the customer;

24 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or
25 other statutory or constitutional agency of the state and gross receipts from sales to
26 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
27 apply only to purchases of tangible personal property, digital property, or services

1 for use solely in the government function. A purchaser not qualifying as a
2 governmental agency or unit shall not be entitled to the exemption even though the
3 purchaser may be the recipient of public funds or grants;

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

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

- 12 1. Classified as "residential" by a utility company as defined by applicable
13 tariffs filed with and accepted by the Public Service Commission;
- 14 2. Classified as "residential" by a municipally owned electric distributor
15 which purchases its power at wholesale from the Tennessee Valley
16 Authority;
- 17 3. Classified as "residential" by the governing body of a municipally owned
18 electric distributor which does not purchase its power from the
19 Tennessee Valley Authority, if the "residential" classification is
20 reasonably consistent with the definitions of "residential" contained in
21 tariff filings accepted and approved by the Public Service Commission
22 with respect to utilities which are subject to Public Service Commission
23 regulation.

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

26 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
27 billed to an owner or operator of a multi-unit residential rental facility or

1 mobile home and recreational vehicle park other than residential
2 classification; and

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

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

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

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

18 2. Other tangible personal property which is directly used in the
19 manufacturing or industrial processing process, if the property has a
20 useful life of less than one (1) year. Specifically these items are
21 categorized as follows:

22 a. Materials. This refers to the raw materials which become an
23 ingredient or component part of supplies or industrial tools exempt
24 under subdivisions b. and c. below;

25 b. Supplies. This category includes supplies such as lubricating and
26 compounding oils, grease, machine waste, abrasives, chemicals,
27 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,

- 1 dyes, refrigerants, and explosives. The supplies indicated above
2 need not come in direct contact with a manufactured product to be
3 exempt. "Supplies" does not include repair, replacement, or spare
4 parts of any kind; and
- 5 c. Industrial tools. This group is limited to hand tools such as jigs,
6 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
7 and to tools attached to a machine such as molds, grinding balls,
8 grinding wheels, dies, bits, and cutting blades. Normally, for
9 industrial tools to be considered directly used in the manufacturing
10 or industrial processing process, they shall come into direct contact
11 with the product being manufactured or processed; and
- 12 3. Materials and supplies that are not reusable in the same manufacturing
13 or industrial processing process at the completion of a single
14 manufacturing or processing cycle. A single manufacturing cycle shall
15 be considered to be the period elapsing from the time the raw materials
16 enter into the manufacturing process until the finished product emerges
17 at the end of the manufacturing process.
- 18 (b) The property described in paragraph (a) of this subsection shall be regarded as
19 having been purchased for resale.
- 20 (c) For purposes of this subsection, a manufacturer or industrial processor
21 includes an individual or business entity that performs only part of the
22 manufacturing or industrial processing activity, and the person or business
23 entity need not take title to tangible personal property that is incorporated into,
24 or becomes the product of, the activity.
- 25 (d) The exemption provided in this subsection does not include repair,
26 replacement, or spare parts;
- 27 (10) Any water use fee paid or passed through to the Kentucky River Authority by

1 facilities using water from the Kentucky River basin to the Kentucky River
2 Authority in accordance with KRS 151.700 to 151.730 and administrative
3 regulations promulgated by the authority;

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

11 (a) As used in this subsection:

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

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

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

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

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

- 1 (a) As used in this subsection, "metal retail fixtures" means check stands and
2 belted and nonbelted checkout counters, whether made in bulk or pursuant to
3 specific purchaser specifications, that are to be used directly by the purchaser
4 or to be distributed by the purchaser.
- 5 (b) The retailer shall be responsible for establishing that delivery was made to a
6 non-Kentucky location through shipping documents or other credible evidence
7 as determined by the department;
- 8 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
9 ultimate storage, use, or other consumption outside this state and delivered to a
10 common carrier in this state for delivery outside this state, regardless of whether the
11 carrier is selected by the purchaser or retailer, or is an agent or representative of the
12 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
13 purchaser's destination;
- 14 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
15 means an agreement whereby an amount, whether paid in money, credit, or
16 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
17 the quantity and unit price of tobacco products sold at retail that requires the retailer
18 to reduce the selling price of the product to the purchaser without the use of a
19 manufacturer's or wholesaler's coupon or redemption certificate;
- 20 (16) Gross receipts from the sale of tangible personal property or digital property
21 returned by a purchaser when the full sales price is refunded either in cash or credit.
22 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
23 required to purchase other tangible personal property or digital property at a price
24 greater than the amount charged for the property that is returned;
- 25 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
26 Chapter 138;
- 27 (18) The amount of any tax imposed by the United States upon or with respect to retail

- 1 sales, whether imposed on the retailer or the consumer, not including any
2 manufacturer's excise or import duty;
- 3 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
4 is:
- 5 (a) Sold to a Kentucky resident, registered for use on the public highways, and
6 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 7 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
8 vehicle in a state that:
- 9 1. Allows residents of Kentucky to purchase motor vehicles without
10 payment of that state's sales tax at the time of sale; or
- 11 2. Allows residents of Kentucky to remove the vehicle from that state
12 within a specific period for subsequent registration and use in Kentucky
13 without payment of that state's sales tax;
- 14 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
15 trailer as defined in KRS 189.010(17);
- 16 (21) Gross receipts from the collection of:
- 17 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 18 (b) The charge imposed by KRS 65.7629(3);
- 19 (c) The fee imposed by KRS 65.7634; and
- 20 (d) The service charge imposed by KRS 65.7636;
- 21 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
22 maintain tangible personal property directly used in manufacturing or industrial
23 processing process, and that is not otherwise exempt under subsection (9) of this
24 section or KRS 139.480(10), if the charges for labor or services are separately stated
25 on the invoice, bill of sale, or similar document given to purchaser;
- 26 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to
27 January 1, 2019, gross receipts derived from the sale of those services if the

1 gross receipts were less than six thousand dollars (\$6,000) during calendar
 2 year 2018. When gross receipts from these services exceed six thousand
 3 dollars (\$6,000) in a calendar year:

- 4 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 5 calendar year; and
- 6 2. All gross receipts are subject to tax in subsequent calendar years.

7 (b) The exemption provided in this subsection shall not apply to a person also
 8 engaged in the business of selling tangible personal property, digital property,
 9 or services included in KRS 139.200(2)(a) to (f);~~and~~

10 (24) (a) For persons that first begin making sales of services included in KRS
 11 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from
 12 the sale of those services if the gross receipts are less than six thousand dollars
 13 (\$6,000) within the first calendar year of operation. When gross receipts from
 14 these services exceed six thousand dollars (\$6,000) in a calendar year:

- 15 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
 16 calendar year; and
- 17 2. All gross receipts are subject to tax in subsequent calendar years.

18 (b) The exemption provided in this subsection shall not apply to a person that is
 19 also engaged in the business of selling tangible personal property, digital
 20 property, or services included in KRS 139.200(2)(a) to (f); **and**

21 **(25) Gross receipts from the sale of medicinal cannabis as defined in Section 1 of this**
 22 **Act and subject to tax under Section 33 of this Act.**

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

24 As used in this chapter:

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

- 1 (a) A practitioner or by his or her authorized agent under his or her immediate
2 supervision and pursuant to his or her order; or
- 3 (b) The patient or research subject at the direction and in the presence of the
4 practitioner;
- 5 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
6 pharmacologically related to testosterone that promotes muscle growth and includes
7 those substances classified as Schedule III controlled substances pursuant to KRS
8 218A.020 but does not include estrogens, progestins, and antisteroids;
- 9 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 10 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of
11 its salts, isomers, or salts of isomers;
- 12 (5) "Certified community based palliative care program" means a palliative care
13 program which has received certification from the Joint Commission;
- 14 (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- 15 (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical
16 and geometric isomers, and salts of isomers;
- 17 (8) "Controlled substance" means methamphetamine, or a drug, substance, or
18 immediate precursor in Schedules I through V and includes a controlled substance
19 analogue;
- 20 (9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
21 subsection, means a substance:
- 22 1. The chemical structure of which is substantially similar to the structure
23 of a controlled substance in Schedule I or II; and
- 24 2. Which has a stimulant, depressant, or hallucinogenic effect on the
25 central nervous system that is substantially similar to or greater than the
26 stimulant, depressant, or hallucinogenic effect on the central nervous
27 system of a controlled substance in Schedule I or II; or

- 1 3. With respect to a particular person, which such person represents or
2 intends to have a stimulant, depressant, or hallucinogenic effect on the
3 central nervous system that is substantially similar to or greater than the
4 stimulant, depressant, or hallucinogenic effect on the central nervous
5 system of a controlled substance in Schedule I or II.
- 6 (b) Such term does not include:
- 7 1. Any substance for which there is an approved new drug application;
- 8 2. With respect to a particular person, any substance if an exemption is in
9 effect for investigational use for that person pursuant to federal law to
10 the extent conduct with respect to such substance is pursuant to such
11 exemption; or
- 12 3. Any substance to the extent not intended for human consumption before
13 the exemption described in subparagraph 2. of this paragraph takes
14 effect with respect to that substance;
- 15 (10) "Counterfeit substance" means a controlled substance which, or the container or
16 labeling of which, without authorization, bears the trademark, trade name, or other
17 identifying mark, imprint, number, or device, or any likeness thereof, of a
18 manufacturer, distributor, or dispenser other than the person who in fact
19 manufactured, distributed, or dispensed the substance;
- 20 (11) "Dispense" means to deliver a controlled substance to an ultimate user or research
21 subject by or pursuant to the lawful order of a practitioner, including the packaging,
22 labeling, or compounding necessary to prepare the substance for that delivery;
- 23 (12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
24 controlled substance to or for the use of an ultimate user;
- 25 (13) "Distribute" means to deliver other than by administering or dispensing a controlled
26 substance;
- 27 (14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of

1 administration available as a single unit;

2 (15) "Drug" means:

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

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

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

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

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

13 (16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts,
14 isomers, or salts of isomers;

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

19 (a) By substitution:

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

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

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

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

27 2. By substitution on the piperadine ring to any extent with alkyl, allyl,

- 1 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
2 positions;
- 3 3. By substitution on the piperadine ring to any extent with a phenyl,
4 alkoxy, or carboxylate ester substituent at the 4- position; or
- 5 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
6 hydroxy substituents;
- 7 (18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
8 prosecution only, means an in-person medical examination of the patient conducted
9 by the prescribing practitioner or other health-care professional routinely relied
10 upon in the ordinary course of his or her practice, at which time the patient is
11 physically examined and a medical history of the patient is obtained. "In-person"
12 includes telehealth examinations. This subsection shall not be applicable to hospice
13 providers licensed pursuant to KRS Chapter 216B;
- 14 (19) "Hazardous chemical substance" includes any chemical substance used or intended
15 for use in the illegal manufacture of a controlled substance as defined in this section
16 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
17 which:
- 18 (a) Poses an explosion hazard;
- 19 (b) Poses a fire hazard; or
- 20 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- 21 (20) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
22 isomers, or salts of isomers;
- 23 (21) "Hydrocodone combination product" means a drug with:
- 24 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
25 its salts, per one hundred (100) milliliters or not more than fifteen (15)
26 milligrams per dosage unit, with a fourfold or greater quantity of an
27 isoquinoline alkaloid of opium; or

- 1 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
2 its salts, per one hundred (100) milliliters or not more than fifteen (15)
3 milligrams per dosage unit, with one (1) or more active, nonnarcotic
4 ingredients in recognized therapeutic amounts;
- 5 (22) "Immediate precursor" means a substance which is the principal compound
6 commonly used or produced primarily for use, and which is an immediate chemical
7 intermediary used or likely to be used in the manufacture of a controlled substance
8 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
9 manufacture;
- 10 (23) "Industrial hemp" has the same meaning as in KRS 260.850;
- 11 (24) "Industrial hemp products" has the same meaning as in KRS 260.850;
- 12 (25) "Intent to manufacture" means any evidence which demonstrates a person's
13 conscious objective to manufacture a controlled substance or methamphetamine.
14 Such evidence includes but is not limited to statements and a chemical substance's
15 usage, quantity, manner of storage, or proximity to other chemical substances or
16 equipment used to manufacture a controlled substance or methamphetamine;
- 17 (26) "Isomer" means the optical isomer, except the Cabinet for Health and Family
18 Services may include the optical, positional, or geometric isomer to classify any
19 substance pursuant to KRS 218A.020;
- 20 (27) "Manufacture," except as provided in KRS 218A.1431, means the production,
21 preparation, propagation, compounding, conversion, or processing of a controlled
22 substance, either directly or indirectly by extraction from substances of natural
23 origin or independently by means of chemical synthesis, or by a combination of
24 extraction and chemical synthesis, and includes any packaging or repackaging of the
25 substance or labeling or relabeling of its container except that this term does not
26 include activities:
- 27 (a) By a practitioner as an incident to his or her administering or dispensing of a

1 controlled substance in the course of his or her professional practice;

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

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

7 (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
8 seeds thereof; the resin extracted from any part of the plant; and every compound,
9 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
10 or any compound, mixture, or preparation which contains any quantity of these
11 substances. The term "marijuana" does not include:

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

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

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

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

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

26 (f) A cannabidiol product approved as a prescription medication by the United
27 States Food and Drug Administration; **or**

1 **(g) Medicinal cannabis as defined in Section 1 of this Act;**

- 2 (29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
3 means an accounting of a patient's medical background, including but not limited to
4 prior medical conditions, prescriptions, and family background;
- 5 (30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,
6 means a lawful order of a specifically identified practitioner for a specifically
7 identified patient for the patient's health-care needs. "Medical order" may or may
8 not include a prescription drug order;
- 9 (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
10 means a record, other than for financial or billing purposes, relating to a patient,
11 kept by a practitioner as a result of the practitioner-patient relationship;
- 12 (32) "Methamphetamine" means any substance that contains any quantity of
13 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 14 (33) "Narcotic drug" means any of the following, whether produced directly or indirectly
15 by extraction from substances of vegetable origin, or independently by means of
16 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 17 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
18 opium or opiate;
- 19 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
20 chemically equivalent or identical with any of the substances referred to in
21 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
22 of opium;
- 23 (c) Opium poppy and poppy straw;
- 24 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
25 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
26 removed;
- 27 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

- 1 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 2 (g) Any compound, mixture, or preparation which contains any quantity of any of
- 3 the substances referred to in paragraphs (a) to (f) of this subsection;
- 4 (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining
- 5 liability similar to morphine or being capable of conversion into a drug having
- 6 addiction-forming or addiction-sustaining liability. It does not include, unless
- 7 specifically designated as controlled under KRS 218A.020, the dextrorotatory
- 8 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
- 9 include its racemic and levorotatory forms;
- 10 (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
- 11 seeds;
- 12 (36) "Person" means individual, corporation, government or governmental subdivision
- 13 or agency, business trust, estate, trust, partnership or association, or any other legal
- 14 entity;
- 15 (37) "Physical injury" has the same meaning it has in KRS 500.080;
- 16 (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 17 (39) "Pharmacist" means a natural person licensed by this state to engage in the practice
- 18 of the profession of pharmacy;
- 19 (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
- 20 investigator, optometrist as authorized in KRS 320.240, advanced practice
- 21 registered nurse as authorized under KRS 314.011, or other person licensed,
- 22 registered, or otherwise permitted by state or federal law to acquire, distribute,
- 23 dispense, conduct research with respect to, or to administer a controlled substance
- 24 in the course of professional practice or research in this state. "Practitioner" also
- 25 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered
- 26 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
- 27 a state other than Kentucky and who is licensed and has prescriptive authority for

1 controlled substances under the professional licensing laws of another state, unless
2 the person's Kentucky license has been revoked, suspended, restricted, or probated,
3 in which case the terms of the Kentucky license shall prevail;

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

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

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

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

24 (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
25 of a controlled substance;

26 (46) "Recovery program" means an evidence-based, nonclinical service that assists
27 individuals and families working toward sustained recovery from substance use and

- 1 other criminal risk factors. This can be done through an array of support programs
2 and services that are delivered through residential and nonresidential means;
- 3 (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant
4 presently classified botanically as *Salvia divinorum*, whether growing or not, the
5 seeds thereof, any extract from any part of that plant, and every compound,
6 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
7 extracts, including salts, isomers, and salts of isomers whenever the existence of
8 such salts, isomers, and salts of isomers is possible within the specific chemical
9 designation of that plant, its seeds, or extracts. The term shall not include any other
10 species in the genus *salvia*;
- 11 (48) "Second or subsequent offense" means that for the purposes of this chapter an
12 offense is considered as a second or subsequent offense, if, prior to his or her
13 conviction of the offense, the offender has at any time been convicted under this
14 chapter, or under any statute of the United States, or of any state relating to
15 substances classified as controlled substances or counterfeit substances, except that
16 a prior conviction for a nontrafficking offense shall be treated as a prior offense
17 only when the subsequent offense is a nontrafficking offense. For the purposes of
18 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
19 constitute a conviction under this chapter;
- 20 (49) "Sell" means to dispose of a controlled substance to another person for
21 consideration or in furtherance of commercial distribution;
- 22 (50) "Serious physical injury" has the same meaning it has in KRS 500.080;
- 23 (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is
24 not approved by the United States Food and Drug Administration or, if approved,
25 which is not dispensed or possessed in accordance with state and federal law, that
26 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
27 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-

1 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
2 compound in the following structural classes:

- 3 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
4 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
5 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
6 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
7 substituted in the indole ring to any extent and whether or not substituted in
8 the naphthyl ring to any extent. Examples of this structural class include but
9 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,
10 JWH-122, JWH-200, and AM-2201;
- 11 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
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 phenyl ring to any extent. Examples of this structural class include but are
17 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 18 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
19 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
20 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
21 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
22 indole ring to any extent and whether or not substituted in the phenyl ring to
23 any extent. Examples of this structural class include but are not limited to
24 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- 25 (d) Cyclohexylphenols: Any compound containing a 2-(3-
26 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
27 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,

- 1 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
2 group whether or not substituted in the cyclohexyl ring to any extent.
3 Examples of this structural class include but are not limited to CP 47,497 and
4 its C8 homologue (cannabicyclohexanol);
- 5 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
6 naphthyl)methane structure with substitution at the nitrogen atom of the indole
7 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
8 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
9 further substituted in the indole ring to any extent and whether or not
10 substituted in the naphthyl ring to any extent. Examples of this structural class
11 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 12 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole
13 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
14 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
15 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
16 substituted in the pyrrole ring to any extent and whether or not substituted in
17 the naphthyl ring to any extent. Examples of this structural class include but
18 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 19 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
20 naphthylmethyl)indene structure with substitution at the 3-position of the
21 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
22 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
23 or not further substituted in the indene ring to any extent and whether or not
24 substituted in the naphthyl ring to any extent. Examples of this structural class
25 include but are not limited to JWH-176;
- 26 (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-
27 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen

1 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,
2 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
3 group, whether or not further substituted in the indole ring to any extent and
4 whether or not further substituted in the tetramethylcyclopropyl ring to any
5 extent. Examples of this structural class include but are not limited to UR-144
6 and XLR-11;

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

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

17 (52) "Synthetic cathinones" means any chemical compound which is not approved by the
18 United States Food and Drug Administration or, if approved, which is not dispensed
19 or possessed in accordance with state and federal law (not including bupropion or
20 compounds listed under a different schedule) structurally derived from 2-
21 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or
22 thiophene ring systems, whether or not the compound is further modified in one (1)
23 or more of the following ways:

24 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
25 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
26 substituted in the ring system by one (1) or more other univalent substituents.
27 Examples of this class include but are not limited to 3,4-

- 1 Methylenedioxycathinone (bk-MDA);
- 2 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of
3 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one
4 (buphedrone);
- 5 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
6 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
7 cyclic structure. Examples of this class include but are not limited to
8 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
9 or
- 10 (d) Any other synthetic cathinone which is not approved by the United States
11 Food and Drug Administration or, if approved, is not dispensed or possessed
12 in accordance with state or federal law;
- 13 (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
14 cathinones;
- 15 (54) "Telehealth" has the same meaning it has in KRS 311.550;
- 16 (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
17 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
18 substances, derivatives, and their isomers with similar chemical structure and
19 pharmacological activity such as the following:
- 20 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 21 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 22 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- 23 (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
24 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
25 or sell a controlled substance;
- 26 (57) "Transfer" means to dispose of a controlled substance to another person without
27 consideration and not in furtherance of commercial distribution; and

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

5 ➔Section 37. KRS 218A.1421 is amended to read as follows:

6 (1) A person is guilty of trafficking in marijuana when he or she knowingly and
7 unlawfully traffics in marijuana, and the trafficking is not in compliance with, or
8 otherwise authorized by, Sections 1 to 30 of this Act.

9 (2) Unless authorized by Sections 1 to 30 of this Act, trafficking in less than eight (8)
10 ounces of marijuana is:

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

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

13 (3) Unless authorized by Sections 1 to 30 of this Act, trafficking in eight (8) or more
14 ounces but less than five (5) pounds of marijuana is:

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

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

17 (4) Unless authorized by Sections 1 to 30 of this Act, trafficking in five (5) or more
18 pounds of marijuana is:

19 (a) For a first offense a Class C felony.

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

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

24 (6) This section does not apply to:

25 (a) A cannabis business or a cannabis business agent, as defined in Section 1
26 of this Act, when acting in compliance with Sections 1 to 30 of this Act; or

27 (b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of

1 **cannabis is in compliance with Sections 1 to 30 of this Act.**

2 ➔Section 38. KRS 218A.1422 is amended to read as follows:

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

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

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

10 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
11 **of this Act, when acting in compliance with Sections 1 to 30 of this Act; or**

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

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

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

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

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

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

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

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

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

27 (4) **Unless authorized by Sections 1 to 30 of this Act,** the planting, cultivating, or

1 harvesting of five (5) or more marijuana plants shall be prima facie evidence that
2 the marijuana plants were planted, cultivated, or harvested for the purpose of sale or
3 transfer.

4 **(5) This section does not apply to a cannabis business or a cannabis business agent,**
5 **as defined in Section 1 of this Act, when acting in compliance with Sections 1 to**
6 **30 of this Act.**

7 ➔Section 40. KRS 218A.500 is amended to read as follows:

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

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

15 **The term "drug paraphernalia" does not include medicinal cannabis accessories,**
16 **as defined in Section 1 of this Act.** It includes but is not limited to:

17 (a) Kits used, intended for use, or designed for use in planting, propagating,
18 cultivating, growing, or harvesting of any species of plant which is a
19 controlled substance or from which a controlled substance can be derived;

20 (b) Kits used, intended for use, or designed for use in manufacturing,
21 compounding, converting, producing, processing, or preparing controlled
22 substances;

23 (c) Isomerization devices used, intended for use, or designed for use in increasing
24 the potency of any species of plant which is a controlled substance;

25 (d) Testing equipment used, intended for use, or designed for use in identifying,
26 or in analyzing the strength, effectiveness or purity of controlled substances;

27 (e) Scales and balances used, intended for use, or designed for use in weighing or

- 1 measuring controlled substances;
- 2 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
3 dextrose and lactose, used, intended for use, or designed for use in cutting
4 controlled substances;
- 5 (g) Separation gins and sifters used, intended for use, or designed for use in
6 removing twigs and seeds from, or in otherwise cleaning or refining
7 marijuana;
- 8 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
9 use, or designed for use in compounding controlled substances;
- 10 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
11 designed for use in packaging small quantities of controlled substances;
- 12 (j) Containers and other objects used, intended for use, or designed for use in
13 storing or concealing controlled substances;
- 14 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
15 designed for use in parenterally injecting controlled substances into the human
16 body; and
- 17 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
18 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the
19 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
20 pipes with or without screens, permanent screens, hashish heads, or punctured
21 metal bowls; water pipes; carburetion tubes and devices; smoking and
22 carburetion masks; roach clips which mean objects used to hold burning
23 material, such as marijuana cigarettes, that have become too small or too short
24 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber
25 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
26 pipes or chillers.
- 27 (2) It is unlawful for any person to use, or to possess with intent to use, drug

1 paraphernalia for the purpose of planting, propagating, cultivating, growing,
2 harvesting, manufacturing, compounding, converting, producing, processing,
3 preparing, testing, analyzing, packing, repacking, storing, containing, concealing,
4 injecting, ingesting, inhaling, or otherwise introducing into the human body a
5 controlled substance in violation of this chapter.

6 (3) It is unlawful for any person to deliver, possess with intent to deliver, or
7 manufacture with intent to deliver, drug paraphernalia, knowing, or under
8 circumstances where one reasonably should know, that it will be used to plant,
9 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
10 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
11 inhale, or otherwise introduce into the human body a controlled substance in
12 violation of this chapter.

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

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

20 (b) To operate a substance abuse treatment outreach program under this
21 subsection, the local health department shall have the consent, which may be
22 revoked at any time, of the local board of health and:

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

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

27 (c) Items exchanged at the program shall not be deemed drug paraphernalia under

1 this section while located at the program.

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

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

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

17 ➔Section 41. Section 2, Sections 4 to 8, Section 11, Sections 13 to 15, Sections
18 18 to 25, Section 30, and Sections 37 to 39 of this Act take effect July 1, 2021.