

1 AN ACT relating to marijuana possession.

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

3 ➔Section 1. KRS 218A.1422 is amended to read as follows:

4 (1) A person is guilty of possession of marijuana when he or she knowingly and
5 unlawfully possesses marijuana.

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

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

12 ***(1) A person twenty-one (21) years of age or older shall not be subject to prosecution***
13 ***for possession of a personal use quantity of marijuana.***

14 ***(2) A person under twenty-one (21) years of age who knowingly and unlawfully***
15 ***possesses a personal use amount of marijuana shall pay a civil penalty of one***
16 ***hundred dollars (\$100).***

17 ***(3) An offense under this section shall not be considered a criminal offense.***

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

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

23 ➔Section 3. 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;

1 (29) "Marijuana accessory" means drug paraphernalia for the ingestion, inhalation,
2 or storage of a personal use quantity of marijuana;

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

6 (31)~~(30)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution
7 only, means a lawful order of a specifically identified practitioner for a specifically
8 identified patient for the patient's health-care needs. "Medical order" may or may
9 not include a prescription drug order;

10 (32)~~(31)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution
11 only, means a record, other than for financial or billing purposes, relating to a
12 patient, kept by a practitioner as a result of the practitioner-patient relationship;

13 (33)~~(32)~~ "Methamphetamine" means any substance that contains any quantity of
14 methamphetamine, or any of its salts, isomers, or salts of isomers;

15 (34)~~(33)~~ "Narcotic drug" means any of the following, whether produced directly or
16 indirectly by extraction from substances of vegetable origin, or independently by
17 means of chemical synthesis, or by a combination of extraction and chemical
18 synthesis:

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

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

25 (c) Opium poppy and poppy straw;

26 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
27 cocaine, ecgonine, and derivatives of ecgonine or their salts have been

1 removed;

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

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

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

6 ~~(35)~~~~[(34)]~~ "Opiate" means any substance having an addiction-forming or addiction-
7 sustaining liability similar to morphine or being capable of conversion into a drug
8 having addiction-forming or addiction-sustaining liability. It does not include,
9 unless specifically designated as controlled under KRS 218A.020, the
10 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
11 (dextromethorphan). It does include its racemic and levorotatory forms;

12 ~~(36)~~~~[(35)]~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except
13 its seeds;

14 ~~(37)~~~~[(36)]~~ "Person" means individual, corporation, government or governmental
15 subdivision or agency, business trust, estate, trust, partnership or association, or any
16 other legal entity;

17 ~~(38)~~~~[(37)]~~ **"Personal use quantity of marijuana" means one hundred (100) grams or**
18 **less of marijuana.**

19 ~~(39)~~ "Physical injury" has the same meaning it has in KRS 500.080;

20 ~~(40)~~~~[(38)]~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after
21 mowing;

22 ~~(41)~~~~[(39)]~~ "Pharmacist" means a natural person licensed by this state to engage in the
23 practice of the profession of pharmacy;

24 ~~(42)~~~~[(40)]~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
25 investigator, optometrist as authorized in KRS 320.240, advanced practice
26 registered nurse as authorized under KRS 314.011, or other person licensed,
27 registered, or otherwise permitted by state or federal law to acquire, distribute,

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

9 ~~(43)~~~~((41))~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for
10 criminal prosecution only, means a medical relationship that exists between a
11 patient and a practitioner or the practitioner's designee, after the practitioner or his
12 or her designee has conducted at least one (1) good faith prior examination;

13 ~~(44)~~~~((42))~~ "Prescription" means a written, electronic, or oral order for a drug or
14 medicine, or combination or mixture of drugs or medicines, or proprietary
15 preparation, signed or given or authorized by a medical, dental, chiropody,
16 veterinarian, optometric practitioner, or advanced practice registered nurse, and
17 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
18 disease in man or other animals;

19 ~~(45)~~~~((43))~~ "Prescription blank," with reference to a controlled substance, means a
20 document that meets the requirements of KRS 218A.204 and 217.216;

21 ~~(46)~~~~((44))~~ "Presumptive probation" means a sentence of probation not to exceed the
22 maximum term specified for the offense, subject to conditions otherwise authorized
23 by law, that is presumed to be the appropriate sentence for certain offenses
24 designated in this chapter, notwithstanding contrary provisions of KRS Chapter
25 533. That presumption shall only be overcome by a finding on the record by the
26 sentencing court of substantial and compelling reasons why the defendant cannot be
27 safely and effectively supervised in the community, is not amenable to community-

1 based treatment, or poses a significant risk to public safety;

2 ~~(47)~~~~((45))~~ "Production" includes the manufacture, planting, cultivation, growing, or
3 harvesting of a controlled substance;

4 ~~(48)~~~~((46))~~ "Recovery program" means an evidence-based, nonclinical service that assists
5 individuals and families working toward sustained recovery from substance use and
6 other criminal risk factors. This can be done through an array of support programs
7 and services that are delivered through residential and nonresidential means;

8 ~~(49)~~~~((47))~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the
9 plant presently classified botanically as *Salvia divinorum*, whether growing or not,
10 the seeds thereof, any extract from any part of that plant, and every compound,
11 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
12 extracts, including salts, isomers, and salts of isomers whenever the existence of
13 such salts, isomers, and salts of isomers is possible within the specific chemical
14 designation of that plant, its seeds, or extracts. The term shall not include any other
15 species in the genus *salvia*;

16 ~~(50)~~~~((48))~~ "Second or subsequent offense" means that for the purposes of this chapter an
17 offense is considered as a second or subsequent offense, if, prior to his or her
18 conviction of the offense, the offender has at any time been convicted under this
19 chapter, or under any statute of the United States, or of any state relating to
20 substances classified as controlled substances or counterfeit substances, except that
21 a prior conviction for a nontrafficking offense shall be treated as a prior offense
22 only when the subsequent offense is a nontrafficking offense. For the purposes of
23 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
24 constitute a conviction under this chapter;

25 ~~(51)~~~~((49))~~ "Sell" means to dispose of a controlled substance to another person for
26 consideration or in furtherance of commercial distribution;

27 ~~(52)~~~~((50))~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

1 ~~(53)~~~~(54)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which
2 is not approved by the United States Food and Drug Administration or, if approved,
3 which is not dispensed or possessed in accordance with state and federal law, that
4 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
5 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
6 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
7 compound in the following structural classes:

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

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

23 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
24 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
25 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
26 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
27 indole ring to any extent and whether or not substituted in the phenyl ring to

1 any extent. Examples of this structural class include but are not limited to
2 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

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

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

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

24 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
25 naphthylmethyl)indene structure with substitution at the 3-position of the
26 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
27 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether

1 or not further substituted in the indene ring to any extent and whether or not
2 substituted in the naphthyl ring to any extent. Examples of this structural class
3 include but are not limited to JWH-176;

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

12 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole
13 structure with substitution at the nitrogen atom of the indole 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 indole ring to any extent and whether or not substituted in
17 the adamantyl ring system to any extent. Examples of this structural class
18 include but are not limited to AB-001 and AM-1248; or

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

22 ~~(54)~~~~(52)~~ "Synthetic cathinones" means any chemical compound which is not approved
23 by the United States Food and Drug Administration or, if approved, which is not
24 dispensed or possessed in accordance with state and federal law (not including
25 bupropion or compounds listed under a different schedule) structurally derived from
26 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,
27 or thiophene ring systems, whether or not the compound is further modified in one

1 (1) or more of the following ways:

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

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

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

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

18 ~~(55)~~~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any
19 synthetic cathinones;

20 ~~(56)~~~~(54)~~ "Telehealth" has the same meaning it has in KRS 311.550;

21 ~~(57)~~~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances
22 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or
23 synthetic substances, derivatives, and their isomers with similar chemical structure
24 and pharmacological activity such as the following:

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

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

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

1 ~~(58)~~~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,
2 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,
3 dispense, or sell a controlled substance;

4 ~~(59)~~~~(57)~~ "Transfer" means to dispose of a controlled substance to another person
5 without consideration and not in furtherance of commercial distribution; and

6 ~~(60)~~~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance
7 for his or her own use or for the use of a member of his or her household or for
8 administering to an animal owned by him or her or by a member of his or her
9 household.

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

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

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

18 It includes but is not limited to:

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

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

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

27 (d) Testing equipment used, intended for use, or designed for use in identifying,

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

1 pipes or chillers.

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

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

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

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

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

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

27 2. The legislative body of the county, urban-county government, or

1 consolidated local government in which the program would operate.

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

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

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

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

19 ➔Section 5. KRS 431.450 is amended to read as follows:

20 (1) The Department of Kentucky State Police in consultation with the Transportation
21 Cabinet shall design, print, and distribute to all law enforcement agencies in the
22 Commonwealth a uniform citation.

23 (2) The citation shall:

24 (a) Be approved by the Supreme Court;

25 (b) Consist of an original document and five (5) copies;

26 (c) Be serially numbered in such a manner that the year of issue and the
27 individual citation number may be readily ascertained; and

1 (d) Contain such other information as may be required by the Supreme Court.

2 (3) The Circuit Court clerk shall maintain a system of accountability for all citations
3 issued in accordance with rules and regulations issued by the Supreme Court to
4 assure that citations are not wrongfully destroyed, tampered with, or otherwise
5 compromised in any manner.

6 (4) All peace officers in the Commonwealth shall use the uniform citation for all
7 violations of the traffic laws, offenses under Section 2 of this Act, and for all
8 felonies, misdemeanors, and violations.

9 ➔Section 6. KRS 500.080 is amended to read as follows:

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

11 (1) "Actor" means any natural person and, where relevant, a corporation or an
12 unincorporated association;

13 (2) "Crime" means a misdemeanor or a felony;

14 (3) "Dangerous instrument" means any instrument, including parts of the human body
15 when a serious physical injury is a direct result of the use of that part of the human
16 body, article, or substance which, under the circumstances in which it is used,
17 attempted to be used, or threatened to be used, is readily capable of causing death or
18 serious physical injury;

19 (4) "Deadly weapon" means any of the following:

20 (a) A weapon of mass destruction;

21 (b) Any weapon from which a shot, readily capable of producing death or other
22 serious physical injury, may be discharged;

23 (c) Any knife other than an ordinary pocket knife or hunting knife;

24 (d) Billy, nightstick, or club;

25 (e) Blackjack or slapjack;

26 (f) Nunchaku karate sticks;

27 (g) Shuriken or death star; or

- 1 (h) Artificial knuckles made from metal, plastic, or other similar hard material;
- 2 (5) "Felony" means an offense for which a sentence to a term of imprisonment of at
3 least one (1) year in the custody of the Department of Corrections may be imposed;
- 4 (6) "Government" means the United States, any state, county, municipality, or other
5 political unit, or any department, agency, or subdivision of any of the foregoing, or
6 any corporation or other association carrying out the functions of government;
- 7 (7) "He" means any natural person and, where relevant, a corporation or an
8 unincorporated association;
- 9 (8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions.
10 Unless the context otherwise clearly requires, "law" also includes the common law;
- 11 (9) "Minor" means any person who has not reached the age of majority as defined in
12 KRS 2.015;
- 13 (10) "Misdemeanor" means an offense, other than a traffic infraction, for which a
14 sentence to a term of imprisonment of not more than twelve (12) months can be
15 imposed;
- 16 (11) "Offense" means conduct for which a sentence to a term of imprisonment or to a
17 fine is provided by any law of this state or by any law, local law, or ordinance of a
18 political subdivision of this state or by any law, order, rule, or regulation of any
19 governmental instrumentality authorized by law to adopt the same;
- 20 (12) "Person" means a human being, and where appropriate, a public or private
21 corporation, an unincorporated association, a partnership, a government, or a
22 governmental authority;
- 23 (13) "Physical injury" means substantial physical pain or any impairment of physical
24 condition;
- 25 (14) "Possession" means to have actual physical possession or otherwise to exercise
26 actual dominion or control over a tangible object;
- 27 (15) "Serious physical injury" means physical injury which creates a substantial risk of

1 death, or which causes serious and prolonged disfigurement, prolonged impairment
2 of health, or prolonged loss or impairment of the function of any bodily organ. For a
3 child twelve (12) years of age or less at the time of the injury, a serious physical
4 injury includes but is not limited to the following:

- 5 (a) Bruising near the eyes, or on the head, neck, or lower back overlying the
6 kidneys;
- 7 (b) Any bruising severe enough to cause underlying muscle damage as
8 determined by elevated creatine kinase levels in the blood;
- 9 (c) Any bruising or soft tissue injury to the genitals that affects the ability to
10 urinate or defecate;
- 11 (d) Any testicular injury sufficient to put fertility at risk;
- 12 (e) Any burn near the eyes or involving the mouth, airway, or esophagus;
- 13 (f) Any burn deep enough to leave scarring or dysfunction of the body;
- 14 (g) Any burn requiring hospitalization, debridement in the operating room, IV
15 fluids, intubation, or admission to a hospital's intensive care unit;
- 16 (h) Rib fracture;
- 17 (i) Scapula or sternum fractures;
- 18 (j) Any broken bone that requires surgery;
- 19 (k) Head injuries that result in intracranial bleeding, skull fracture, or brain injury;
- 20 (l) A concussion that results in the child becoming limp, unresponsive, or results
21 in seizure activity;
- 22 (m) Abdominal injuries that indicate internal organ damage regardless of whether
23 surgery is required;
- 24 (n) Any injury requiring surgery;
- 25 (o) Any injury that requires a blood transfusion; and
- 26 (p) Any injury requiring admission to a hospital's critical care unit;
- 27 (16) "Unlawful" means contrary to law or, where the context so requires, not permitted

1 by law. It does not mean wrongful or immoral;

2 (17) "Violation" means an offense, other than a traffic infraction or an offense under
3 Section 2 of this Act, for which a sentence to a fine only can be imposed; and

4 (18) "Weapon of mass destruction" means:

5 (a) Any destructive device as defined in KRS 237.030, but not fireworks as
6 defined in KRS 227.700;

7 (b) Any weapon that is designed or intended to cause death or serious physical
8 injury through the release, dissemination, or impact of toxic or poisonous
9 chemicals or their precursors;

10 (c) Any weapon involving a disease organism; or

11 (d) Any weapon that is designed to release radiation or radioactivity at a level
12 dangerous to human life.

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

14 (1) A tax is hereby levied on each offender engaging in a taxable activity in this state.
15 The tax shall be paid at the following rates:

16 (a) One thousand dollars (\$1,000) per plant, whether growing or detached from
17 the soil, on each marijuana plant with foliage;

18 (b) Three dollars and fifty cents (\$3.50) on each gram, or portion thereof, of
19 marijuana which has been detached from the plant on which it grew and
20 which exceeds a personal use quantity of marijuana as defined in Section 3
21 of this Act;

22 (c) Two hundred dollars (\$200) on each gram, or portion thereof, of controlled
23 substances; and

24 (d) Two thousand dollars (\$2,000) on each fifty (50) dosage units, or portion
25 thereof, of a controlled substance that is not sold by weight.

26 (2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c),
27 and (1)(d) of this section, the quantity shall be measured by the weight of the

1 marijuana or controlled substance, whether pure, impure, or diluted, or by dosage
2 units when a controlled substance is not sold by weight.

3 (3) An offender lawfully engaged in a taxable activity shall be exempt from the tax
4 imposed by this section if the offender is not in violation of any law which
5 authorizes him to engage in the activity.

6 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
7 READ AS FOLLOWS:

8 (1) Any person who has been convicted of possession of a personal use amount of
9 marijuana or of possession, delivery, or manufacture of marijuana accessories,
10 may petition the court in which he or she was convicted for expungement of his
11 or her record, including a record of any charges for misdemeanors, violations, or
12 traffic infractions that were dismissed or amended in the criminal action.

13 (2) For a petition brought under this section, the court shall order expunged all
14 records in the custody of the court and any records in the custody of any other
15 agency or official, including law enforcement records, if the court finds that the
16 offense was possession of a personal use amount of marijuana or marijuana
17 accessories, or the delivery or manufacture of marijuana accessories.

18 (3) Upon the entry of an order to expunge the records:

19 (a) The proceedings in the case shall be deemed never to have occurred;

20 (b) The court and other agencies shall cause records to be deleted or removed
21 from their computer systems so that the matter shall not appear on official
22 state-performed background checks;

23 (c) The persons and the court may properly reply that no record exists with
24 respect to the persons upon any inquiry in the matter; and

25 (d) The person whose record is expunged shall not have to disclose the fact of
26 the record or any matter relating thereto on an application for employment,
27 credit, or other type of application.

1 **(4) There shall be no filing fee or court costs for a petition under this section.**

2 **(5) Copies of the order shall be sent to The Department of Kentucky State Police**
3 **Criminal Identification and Records Branch, and to each agency or official**
4 **named in the order.**

5 **(6) Inspection of the records included in the order may thereafter be permitted by the**
6 **court only upon petition by the person who is the subject of the records and only**
7 **to those persons named in the petition.**

8 **(7) This section shall be deemed to be retroactive.**

9 ➔Section 9. KRS 431.079 is amended to read as follows:

10 (1) Every petition or application filed seeking expungement of a conviction, **except for**
11 **a petition filed under Section 8 of this Act,** shall include a certification of eligibility
12 for expungement. The Department of Kentucky State Police and the Administrative
13 Office of the Courts shall certify that the agencies have conducted a criminal
14 background check on the petitioner and whether or not the petitioner is eligible to
15 have the requested record expunged. The Department of Kentucky State Police shall
16 promulgate administrative regulations to implement this section, in consultation
17 with the Administrative Office of the Courts.

18 (2) Nothing in this section shall be construed to prohibit the expungement of a case
19 ordered by a court of competent jurisdiction.

20 (3) For the purposes of this section, KRS 431.073, 431.076, and 431.078,
21 "expungement" means the removal or deletion of records by the court and other
22 agencies which prevents the matter from appearing on official state-performed
23 background checks.