

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 treatment or consulting*  
7 *relationship, during the course of which the practitioner:*

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

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

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

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

15 *The relationship may be established via telehealth as defined by KRS 304.17A-*  
16 *005;*

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

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

21 *(4) "Cardholder" means:*

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

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

1 United States, or country recognized by the United States that allows the  
2 person to use marijuana for medicinal purposes in the jurisdiction of  
3 issuance;

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

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

9 (7) "Department" means the Department of Alcoholic Beverage and Cannabis  
10 Control or its successor agency;

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

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

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

18 (11) "Disqualifying felony offense" means:

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

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

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

26 2. An offense that consisted of conduct for which Sections 1 to 30 of this  
27 Act would likely have prevented a conviction, but the conduct either

1                   occurred prior to the enactment of Sections 1 to 30 of this Act or was  
2                   prosecuted by an authority other than the Commonwealth of  
3                   Kentucky;

4                   (12) "Enclosed, locked facility" means:

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

9                   (b) An outdoor growing space that is maintained and operated by a cultivator  
10                   and is secured and electronically monitored to permit access only by agents  
11                   of the cultivator, as required by the department;

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

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

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

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

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

25                   (18) "Medicinal marijuana product" means any compound, manufacture, salt,  
26                   derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds  
27                   or its resin; or any compound, mixture, or preparation which contains any

1 quantity of these substances when cultivated, harvested, processed, produced,  
2 transported, dispensed, distributed, sold, possessed, or used in accordance with  
3 Sections 1 to 30 of this Act;

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

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

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

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

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

20 (24) "Qualifying medical condition" means:

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

22 (b) Acquired immune deficiency syndrome;

23 (c) Autism spectrum disorder;

24 (d) Chronic pain;

25 (e) Crohn's disease;

26 (f) Epilepsy or another seizure disorder;

27 (g) Glaucoma;

- 1        (h) Inflammatory bowel disease;
- 2        (i) Intractable spasticity;
- 3        (j) Multiple sclerosis;
- 4        (k) Opioid use disorder;
- 5        (l) Parkinson's disease;
- 6        (m) Positive status for human immunodeficiency virus;
- 7        (n) Post-traumatic stress disorder;
- 8        (o) Any chronic or debilitating disease, any medical condition, or the treatment
- 9                thereof that produces one (1) or more of the following:
- 10                1. Cachexia or wasting syndrome;
- 11                2. Severe, debilitating pain;
- 12                3. Severe nausea;
- 13                4. Seizures; or
- 14                5. Severe and persistent muscle spasms or muscle weakness;
- 15        (p) Any other disease or medical condition approved by the department;
- 16        (q) Any other disease or medical condition that a practitioner, in his or her
- 17                professional judgment, determines to be severe and resistant to conventional
- 18                medication;
- 19        (r) Any other disease or medical condition for which a practitioner, in his or
- 20                her professional judgment, believes a patient may receive therapeutic or
- 21                palliative relief from the use of medicinal marijuana; and
- 22        (s) Any other disease or medical condition for which a patient is admitted into
- 23                a hospice program or residential hospice facility licensed under KRS
- 24                Chapter 216B;
- 25        (25) "Raw plant material" means the trichome-covered part of the female plant
- 26                Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the
- 27                Cannabis sp. plant;

- 1 (26) "Registry identification card" means a document issued by the department that  
2 identifies a person as a qualified patient, visiting qualified patient, or designated  
3 caregiver;
- 4 (27) "Registered qualified patient" means a qualified patient who has applied for,  
5 obtained, and possesses a valid registry identification card or provisional  
6 licensure receipt issued by the department;
- 7 (28) "Safety compliance facility" means an entity licensed under this chapter that  
8 provides at least one (1) of the following services:
- 9 (a) Testing medicinal marijuana produced by a cannabis business licensed  
10 under this chapter; or
- 11 (b) Training cardholders and cannabis business agents;
- 12 (29) "Safety compliance facility agent" means a principal officer, board member,  
13 employee, volunteer, or agent of a safety compliance facility;
- 14 (30) "Seedling" means a marijuana plant that has no flowers and is taller than eight  
15 (8) inches;
- 16 (31) "Smoking" means the inhalation of smoke produced from the combustion of raw  
17 plant material when ignited by a flame. The term "smoking" does not include  
18 vaporizing;
- 19 (32) "State licensing board" means any of the following:
- 20 (a) The Kentucky Board of Dentistry;
- 21 (b) The Kentucky Board of Medical Licensure;
- 22 (c) The Kentucky Board of Nursing;
- 23 (d) The Kentucky Board of Optometric Examiners; and
- 24 (e) The State Board of Podiatry;
- 25 (33) "Use of medicinal marijuana" or "medicinal use of marijuana" includes the  
26 acquisition, administration, possession, transfer, transportation, or consumption  
27 of medicinal marijuana or medicinal marijuana accessories by a cardholder in

1 accordance with Sections 1 to 30 of this Act. The terms "use of medicinal  
2 marijuana" and "medicinal use of marijuana" do not include:

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

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

5 (34) "Vaporizing" means the inhalation of vapors produced from applying heat, at a  
6 temperature lower than the point of combustion, to medicinal marijuana;

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

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

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

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

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

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

24 Notwithstanding any provisions to the contrary:

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

1 (2) The acquisition, blending, cultivation, delivery, distribution, manufacturing,  
2 manipulation, packaging for sale, preparation, possession, sale, testing,  
3 transportation, or transfer of medicinal marijuana or medicinal marijuana  
4 accessories to the use of medicinal marijuana by a cannabis business or cannabis  
5 business agent shall be considered lawful if done in accordance with Sections 1  
6 to 30 of this Act and any administrative regulations promulgated thereunder.

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

11 (4) A registered qualified patient or visiting qualified patient shall not be considered  
12 to be under the influence of marijuana solely because of the presence of  
13 metabolites or components of marijuana that appear in insufficient concentration  
14 to cause impairment.

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

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

23 (2) No later than December 1 of each year beginning in 2020, 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 nature of the qualifying medical conditions for which practitioners**  
9           **have provided written certifications;**
- 10           **(f) The number of applications and renewals received by the department for**  
11           **cannabis business licenses; the number of cannabis business licenses issued**  
12           **for each business type and tier; and the number of cannabis business**  
13           **license applications and renewals that were denied by the department;**
- 14           **(g) The number of cannabis business agents employed by each type of cannabis**  
15           **business;**
- 16           **(h) An assessment of:**
- 17           **1. The ability of cardholders in all areas of the state to obtain timely**  
18           **affordable access to medicinal marijuana;**
- 19           **2. The effectiveness of the cultivators licensed under this chapter,**  
20           **individually and collectively, in serving the needs of processors,**  
21           **dispensaries and cardholders, the reasonableness of their fees,**  
22           **whether they are generating any complaints or security problems, and**  
23           **the sufficiency of the number operating to serve processors,**  
24           **dispensaries and cardholders in the Commonwealth;**
- 25           **3. The effectiveness of the processors licensed under this chapter,**  
26           **individually and collectively, in serving the needs of dispensaries and**  
27           **cardholders, the reasonableness of their fees, whether they are**

1 generating any complaints or security problems, and the sufficiency of  
2 the number operating to serve dispensaries and cardholders in the  
3 Commonwealth;

4 4. The effectiveness of the dispensaries licensed under this chapter,  
5 individually and collectively, in serving the needs of cardholders,  
6 including the provision of educational and support services, the  
7 reasonableness of their fees, whether they are generating any  
8 complaints or security problems, and the sufficiency of the number  
9 operating to serve cardholders in the Commonwealth; and

10 5. The effectiveness of the licensed safety compliance facilities licensed  
11 under this chapter, individually and collectively, in serving the needs  
12 of other cannabis businesses including the provision of testing and  
13 training services, the reasonableness of their fees, whether they are  
14 generating any complaints or security problems, and the sufficiency of  
15 the number operating to serve other cannabis businesses and  
16 cardholders in the Commonwealth;

17 (i) The profits and expenditures by cannabis businesses, individually and  
18 collectively;

19 (j) The amount of medicinal marijuana sold per month in the Commonwealth;

20 (k) The total amount of revenue generated from cannabis business licensure  
21 and cardholder fees for each calendar year and aggregated by prior years;

22 (l) The total amount of revenue generated by the excise tax established in  
23 Section 33 of this Act;

24 (m) The total cost of enforcement for the medicinal marijuana program at the  
25 time of the report, by city, county, and overall;

26 (n) The sufficiency of the regulatory and security safeguards contained in  
27 Sections 1 to 30 of this Act and adopted by the department through

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

1 the medicinal marijuana program established in Sections 1 to 30 of this Act.

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

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

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

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

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

25 (2) A visiting qualified patient shall not be subject to arrest, prosecution, or denial of  
26 any right or privilege, including but not limited to civil penalty or disciplinary  
27 action by a court or occupational or professional licensing board, for the use of

1 medicinal marijuana, if the visiting qualified patient does not possess more than  
2 an amount of medicinal marijuana determined by the department to constitute an  
3 uninterrupted ten (10) day supply on his or her person.

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

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

11 1. An amount of medicinal marijuana 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 marijuana 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 marijuana 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 marijuana if the

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

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

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

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

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

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

21 (a) Possession of marijuana that is incidental to the use of medicinal  
22 marijuana;

23 (b) Possession of medicinal marijuana accessories; or

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

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

1 (a) Selling medicinal marijuana accessories to a cardholder upon presentation  
2 of a valid registry identification card issued by the department in  
3 accordance with Sections 11 to 13 of this Act, or its equivalent issued  
4 pursuant to the laws of another state, district, territory, commonwealth,  
5 insular possession of the United States, or country recognized by the United  
6 States that allows the person to use medicinal marijuana in the jurisdiction  
7 of issuance;

8 (b) Being in the presence or vicinity of the use of medicinal marijuana as  
9 allowed under Sections 1 to 30 of this Act; or

10 (c) Assisting a registered qualified patient or visiting qualified patient with  
11 using or administering medicinal marijuana. For purposes of illustration  
12 and not limitation, this includes preparing a vaporizer or brewing tea for a  
13 registered qualified patient or visiting qualified patient. It does not include  
14 providing medicinal marijuana to a patient that the patient did not already  
15 possess.

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

18 (1) Except as provided in subsection (11) of this section, a physician, dentist,  
19 podiatrist, optometrist who is authorized to prescribe controlled substances under  
20 KRS 320.240, or an advanced practice registered nurse who is authorized to  
21 prescribe controlled substances under KRS 314.042 seeking to provide written  
22 certifications for the use of medicinal marijuana shall apply to the same state  
23 licensing board that issued his or her professional practice license, on a form  
24 prescribed by the state licensing board, for authorization to provide written  
25 certifications for the use of medicinal marijuana.

26 (2) (a) A state licensure board shall authorize an application for authorization to  
27 provide written certifications for the use of medicinal marijuana if the

1           application is complete and meets the requirements established in  
2           administrative regulations promulgated by the state licensing board; and

3           (b) A state licensure board shall not authorize an application for authorization  
4           to provide written certifications for the use of medicinal marijuana if the  
5           applicant has an ownership or investment interest in or compensation  
6           agreement with a cannabis business licensed under this chapter. A state  
7           licensure board may consult with the department to determine if an  
8           applicant has an ownership or investment interest in or compensation  
9           agreement with a cannabis business.

10          (3) Authorization to provide written certifications for the use of medicinal marijuana  
11          granted under this section shall expire in accordance with administrative  
12          regulations promulgated by a state licensing board.

13          (4) A practitioner authorized by a state licensing board to provide written  
14          certifications for the use of medicinal marijuana may provide a patient with a  
15          written certification only after:

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

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

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

25                  3. An expectation of providing care and receiving care on an ongoing  
26                  basis;

27          (b) The practitioner has reviewed a report of information from the electronic



1 system for monitoring controlled substances established in KRS 218A.202  
2 related to the patient for a period of time that covers at least the twelve (12)  
3 months immediately preceding the date of the report;

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

7 (d) The practitioner has consulted with the patient's custodial parent or legal  
8 guardian responsible for providing consent to treatment with respect to the  
9 potential benefits of medicinal marijuana as well as the possible risks and  
10 side effects and obtained the consent of the patient's parent or other person  
11 responsible for providing consent to treatment, if the patient is a minor  
12 child.

13 (5) (a) When issuing a written certification for the use of medicinal marijuana to a  
14 patient, the practitioner shall use a form prescribed by the department.

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

22 (c) Within twenty-four (24) hours of providing a patient with a written  
23 certification for the use of medicinal marijuana, a practitioner shall record  
24 the issuance of the written certification in the electronic system developed  
25 by the department pursuant to subsection (1)(a) of Section 28 of this Act.

26 (6) A practitioner shall not:

27 (a) Dispense medicinal marijuana; or

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

3       **(7) A practitioner shall not be subject to arrest, prosecution, or penalty in any**  
4       **manner, or denied any right or privilege, including but not limited to a civil**  
5       **penalty or disciplinary action by a state licensing board or by any other**  
6       **occupational or professional licensing board, solely for providing written**  
7       **certifications or for otherwise stating that, in the practitioner's professional**  
8       **opinion, a patient may receive therapeutic or palliative benefit from the use of**  
9       **medicinal marijuana, if done in accordance with this section.**

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

12       **(a) Issuing a written certification without first obtaining authorization to**  
13       **provide written certifications from a state licensing board;**

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

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

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

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

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

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

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

- 1           1. The procedures for applying for authorization to provide written
- 2                           certifications;
- 3           2. The conditions that must be met to be eligible for authorization to
- 4                           provide written certifications;
- 5           3. The process and procedures for renewing authorization to provide
- 6                           written certifications;
- 7           4. Continuing education requirements for practitioners who are
- 8                           authorized to provide written certifications;
- 9           5. The reasons for which authorization to provide written certifications
- 10                          for the use of medicinal marijuana may be suspended or revoked; and
- 11           6. The minimal standards of care when providing written certifications;
- 12           (b) On a regular basis, provide the department with the names of all
- 13                          practitioners authorized by the state licensing board to provide written
- 14                          certifications; and
- 15           (c) Immediately provide the department with the name of any practitioner
- 16                          whose authorization to provide written certifications is suspended or
- 17                          revoked.
- 18           (11) This section does not apply to a practitioner who recommends treatment with
- 19                          marijuana or a drug derived from marijuana under any of the following that are
- 20                          approved by an investigational review board or equivalent entity, the United
- 21                          States Food and Drug Administration, or the National Institutes for Health or
- 22                          any of its cooperative groups or centers under the United States Department of
- 23                          Health and Human Services:
- 24                          (a) A research protocol;
- 25                          (b) A clinical trial;
- 26                          (c) An investigational new drug application; or
- 27                          (d) An expanded access submission.

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

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

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

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

17 (1) (a) Any medicinal marijuana, medicinal marijuana accessories, lawful  
18 property, or interest in lawful property that is possessed, owned, or used in  
19 connection with the medicinal use of marijuana or acts incidental to that  
20 use, shall not be seized or forfeited.

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

26 (2) Possession of, or application for, a registry identification card or cannabis  
27 business license shall not constitute probable cause or reasonable suspicion, nor

1 shall it be used to support the search of the person, property, or home of the  
2 person possessing or applying for the registry identification card or cannabis  
3 business license. The possession of, or application for, a registry identification  
4 card or cannabis business license shall not preclude the existence of probable  
5 cause if probable cause exists on other grounds.

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

9 1. Possesses a valid registry identification card or, in the case of a  
10 visiting qualified patient, an equivalent document issued pursuant to  
11 the laws of another state, district, territory, commonwealth, insular  
12 possession of the United States, or country recognized by the United  
13 States that allows the person to use medicinal marijuana in the  
14 jurisdiction of issuance; and

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

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

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

27 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO

1 READ AS FOLLOWS:

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

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

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

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

20 (d) Undertaking any task under the influence of medicinal marijuana, when  
21 doing so would constitute negligence or professional malpractice;

22 (e) Possessing medicinal marijuana, or otherwise engaging in the use of  
23 medicinal marijuana:

24 1. On a school bus, except as permitted under Section 10 of this Act;

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

27 3. In any correctional facility; or

- 1           4. On any property of the federal government;
- 2           (f) Using marijuana, if that person is not a register qualified patient or visiting
- 3           qualified patient;
- 4           (g) Using or consuming marijuana by smoking; or
- 5           (h) Cultivating marijuana unless that person is licensed by the department as a
- 6           cannabis cultivator pursuant to Sections 16 to 19 of this Act or is a
- 7           cultivator agent.
- 8           (2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the
- 9           same as those established for operating a motor vehicle under the influence of
- 10           alcohol or any other substance in KRS 189A.010.
- 11           (3) (a) An individual who violates subsection (1)(g) of this section shall not be
- 12           considered to be in possession of medicinal marijuana or engaged in the use
- 13           of medicinal marijuana and shall not benefit from the legal protections
- 14           afforded by Sections 1 to 30 of this Act.
- 15           (b) The odor or smell of marijuana shall not constitute evidence of use or
- 16           consumption of marijuana by smoking.
- 17           (c) If an individual uses or consumes marijuana by smoking while on any form
- 18           of public transportation, in any public place as defined in KRS 525.010, or
- 19           in any place of public accommodation, resort, or amusement as defined in
- 20           KRS 344.130:
- 21           1. The department may revoke the individual's registry identification
- 22           card; and
- 23           2. The individual may be subject to prosecution under Section 38 of this
- 24           Act.
- 25           (d) Notwithstanding paragraph (a) of this subsection, if an individual violates
- 26           subsection (1)(g) of this subsection by using or consuming marijuana by
- 27           smoking on residential property owned or leased by that individual, the

1 penalty shall be a fine of not more than one hundred dollars (\$100) per  
 2 violation.

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

7 (5) As used in this section:

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

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

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

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

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

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

17 (b) Prohibit an employer from implementing policies promoting workplace  
 18 health and safety by restricting the use of medicinal marijuana by  
 19 employees;

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

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

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



1 on or in that property; or

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

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

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

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

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

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

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

1 from needed medical care.

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

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

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

11 (c) A local school board may develop regulations to permit a pupil who is a  
12 cardholder to possess on a school bus and to possess and use medicinal  
13 marijuana on the premises of a school.

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

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

20 (c) A landlord shall not include in a rental agreement terms and conditions  
21 that prohibit the use of medicinal marijuana by a cardholder.

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

24 (1) Except as provided in subsection (5) of this section, no person shall possess,  
25 purchase, acquire, or otherwise engage, or assist, in the use of medicinal  
26 marijuana in Kentucky without first applying for and receiving a registry  
27 identification card for registered qualified patients, designated caregivers, or

- 1 visiting qualified patients issued by the department.
- 2 (2) A person shall be eligible to apply for a registry identification card as a registered  
3 qualified patient if he or she is a resident of Kentucky, has been diagnosed with a  
4 qualifying medical condition, has obtained a written certification from a  
5 practitioner with whom he or she has a bona fide practitioner-patient  
6 relationship, and has not been convicted of a disqualifying felony offense.
- 7 (3) A person shall be eligible to apply for a registry identification card as a  
8 designated caregiver if he or she is a resident of Kentucky, is at least twenty-one  
9 (21) years of age, has not been convicted of a disqualifying felony offense, and  
10 has agreed to assist no more than three (3) registered qualified patients with the  
11 use of medicinal marijuana.
- 12 (4) A person shall be eligible to apply for a registry identification card as a visiting  
13 qualified patient if he or she is not a resident of Kentucky or has been a resident  
14 of Kentucky for less than thirty (30) days, is at least twenty-one (21) years of age,  
15 has not been convicted of a disqualifying felony offense, and possesses a valid  
16 registry identification card, or an equivalent document, issued pursuant to the  
17 laws of another state, district, territory, commonwealth, insular possession, of the  
18 United States, or country recognized by the United States, that allows the person  
19 to use medicinal marijuana in the jurisdiction of issuance.
- 20 (5) A person with a valid registry identification card, or its equivalent, that was  
21 issued pursuant to the laws of another state, district, territory, commonwealth,  
22 insular possession of the United States, or country recognized by the United  
23 States that allows the person to use medicinal marijuana in the jurisdiction of  
24 issuance may use that registry identification card, or its equivalent, for all  
25 purposes established in Sections 1 to 30 of this Act and shall not be required to  
26 apply for or receive a visiting qualified patient registry identification card from  
27 the department.

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

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

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

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

11 (d) The application or renewal fee;

12 (e) The name, address, and date of birth of not more than two (2) individuals  
13 chosen by the qualified patient to be designated as a caregiver, if the  
14 qualified patient chooses to designate a caregiver;

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

19 (g) A statement, signed by the individuals chosen by the qualified patient to be  
20 designated as a caregiver, if any, agreeing to be designated as the patient's  
21 designated caregiver and pledging not to divert medicinal marijuana to  
22 anyone other than the registered qualified patient to whom the caregiver is  
23 connected through the department's registration process. The statement  
24 shall contain a listing of potential penalties, including criminal prosecution,  
25 for diverting marijuana.

26 (7) To apply for a registry identification card a visiting qualified patient shall submit  
27 the following, in accordance with administrative regulations promulgated by the

1 department:

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

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

7 (c) The application or renewal fee; and

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

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

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

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

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

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

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

1 enforcement agents and licensed cannabis businesses.

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

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

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

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

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

20 1. A temporary licensure number;

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

22 3. The name of the applicant;

23 4. The effective date of the receipt;

24 5. The expiration date of the receipt;

25 6. An indication that the cardholder fee has been paid;

26 7. An indication that the application has been submitted and is  
27 apparently complete; and

1           8. The name of the certifying practitioner.

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

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

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

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

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

23           (a) Acknowledge receipt of an application within fifteen (15) days of receipt,  
24           and approve or deny an application or renewal within thirty (30) days of  
25           receiving a completed application or renewal application; and

26           (b) Issue registry identification cards to a qualified patient and any individual  
27           designated by the qualified patient as a designated caregiver, or a visiting



1           qualified patient within five (5) days of approving the application or  
2           renewal. An individual designated as a caregiver shall be issued a  
3           designated caregiver registry identification card for each registered  
4           qualified patient to whom he or she is connected through the department's  
5           registration process.

6           (2) The department shall not issue a registry identification card to a qualified patient  
7           who is younger than eighteen (18) years of age unless the custodial parent or  
8           legal guardian with responsibility for health care decisions for the qualified  
9           patient consents in writing to:

10           (a) Allow the qualified patient's use of medicinal marijuana;

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

12           (c) Control the acquisition of the medicinal marijuana, the dosage, and the  
13           frequency of the use by the qualified patient.

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

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

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

21           (c) Provided false or falsified information; or

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

24           (4) The department may deny an application or renewal for a designated caregiver  
25           chosen by a qualified patient whose registry identification card was granted for  
26           any reason that the department, in the exercise of sound discretion, deems  
27           sufficient, including but not limited to if the applicant:

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

27       ➔SECTION 14. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

1 TO READ AS FOLLOWS:

2 (1) Cardholders shall be required to make the following notifications to the  
3 department:

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

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

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

12 (d) A designated caregiver shall notify the department within thirty (30) days if  
13 he or she becomes aware that a registered qualified to whom the caregiver is  
14 connected through the department's registration process has died or has  
15 ceased to suffer from the qualified medical condition for which a  
16 practitioner provided a written certification; and

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

20 (2) When a cardholder notifies the department of items listed in subsection (1) of this  
21 section, but remains eligible under Sections 1 to 30 of this Act, the department  
22 shall issue the cardholder a new registry identification card with a new random  
23 ten (10) character alphanumeric identification number. If the department issues  
24 a new registry identification card to a registered qualified patient, the department  
25 shall also issue a new registry identification card with a new ten (10) character  
26 alphanumeric number to the registered qualified patient's designated caregivers.  
27 New registry identification cards issued under this subsection shall be issued by

1 the department within ten (10) days of receiving the updated information and a  
2 twenty dollar (\$20) fee for each new registry identification card to be issued.

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

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

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

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

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

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

1 penalties, including but not limited to criminal prosecution under this chapter  
 2 and KRS 138.870 to 138.889.

3 (2) The department may revoke the registry identification card of any cardholder  
 4 who knowingly commits multiple violations or a serious violation of Sections 1 to  
 5 30 of this Act.

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

12 (4) 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 16. A NEW SECTION OF KRS CHAPTER 218A IS CREATED  
 16 TO READ AS FOLLOWS:

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

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

22 (a) A cannabis cultivator;

23 (b) A cannabis dispensary;

24 (c) A cannabis processor; or

25 (d) A cannabis safety compliance facility.

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

1 (4) A cannabis business license issued under this section and Sections 17 to 19 of  
 2 this Act shall be valid for one (1) year from the date of issuance. The department  
 3 shall notify each licensee ninety (90) days prior to the date the license expires to  
 4 allow the licensee to begin the renewal procedure promulgated by the department  
 5 pursuant to Section 28 of this Act.

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

9 (6) The cannabis business licensure categories established in subsection (2) of this  
 10 section shall be further tiered by business size pursuant to Section 17 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 establish three (3) licensure tiers for each of the licensure  
 14 categories established in Section 16 of this Act.

15 (2) (a) A first tier cannabis business license shall be issued to:

16 1. A Person or entity applying for an initial cannabis business license for  
 17 the first time; or

18 2. A cannabis business who, upon applying for renewal of a cannabis  
 19 business license, had no more than two million dollars (\$2,000,000) of  
 20 gross receipts during the previous calendar year.

21 (b) The initial license fee for a cannabis business license issued under  
 22 subparagraph 1. of paragraph (a) of this subsection shall be five thousand  
 23 dollars (\$5,000).

24 (c) The licensure renewal fee for a first tier cannabis business license renewed  
 25 under subparagraph 2. of paragraph (a) of this subsection shall be five  
 26 hundred dollars (\$500) plus one percent (1%) of all gross receipts during  
 27 the previous calendar year.

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

6 (b) The licensure renewal fee for a second tier cannabis business license shall  
 7 be two thousand dollars (\$2,000) plus one and one-half percent (1.5%) of  
 8 all gross receipts during the previous calendar year.

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

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

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

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

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

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

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

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

27 (c) The name, address, and date of birth of each principal officer and board

- 1           member of the cannabis business;
- 2           (d) Any instances in which a business or not-for-profit entity that any of the
- 3           prospective board members managed or served on the board of was
- 4           convicted, fined, censured, or had a registration or license suspended or
- 5           revoked in any administrative or judicial proceeding;
- 6           (e) Any information required by the department to evaluate the applicant
- 7           pursuant to the competitive bid process described in Section 19 of this Act;
- 8           and
- 9           (f) A nonrefundable licensure application fee of one hundred dollars (\$100).
- 10          (3) The application fee required under subsection (2) of this section shall be applied
- 11          to the initial licensing fee if the license is approved; otherwise it shall be retained
- 12          by the department for administrative purposes.
- 13          (4) If a cannabis business license application is approved:
- 14               (a) The cannabis business shall, before it begins operations, submit the initial
- 15               license fee established in Section 17 of this Act, minus the one hundred
- 16               dollars (\$100) application fee, to the department and, if a physical address
- 17               had not been finalized when it applied, it shall submit its complete physical
- 18               address; and
- 19               (b) The department shall issue a copy of the license that includes the business's
- 20               identification number. The department shall also provide each licensed
- 21               dispensary with the contact information for the cardholder verification
- 22               system.

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

- 25          (1) The department may deny an application for a cannabis business license for any
- 26          reason that the department, in the exercise of sound discretion, deems sufficient,
- 27          including but not limited to:



- 1        (a) The applicant failed to submit the materials required by this section and  
2        Section 18 of this Act, including if the applicant's plans do not satisfy the  
3        security, oversight, or recordkeeping administrative regulations  
4        promulgated by the department;
- 5        (b) The applicant falsifies information on the licensure application;
- 6        (c) The applicant would not be in compliance with local cannabis business  
7        prohibitions enacted pursuant to Section 26 of this Act;
- 8        (d) The applicant does not meet the requirements of Section 20 of this Act;
- 9        (e) One (1) or more of the prospective principal officers or board members:
- 10        1. Has been convicted of a disqualifying felony offense, the provisions of  
11        KRS 335B.020 and 335B.030 notwithstanding;
- 12        2. Has served as a principal officer or board member for a cannabis  
13        business that has had its license revoked;
- 14        3. Is younger than twenty-one (21) years of age; or
- 15        4. Is a practitioner who has been authorized by a state licensing board to  
16        provide patients with a written certification; or
- 17        (f) 1. For a safety compliance facility, one (1) or more of the prospective  
18        principal officers or board members is a principal officer or board  
19        member of a cultivator, processor, or dispensary licensed to operate in  
20        Kentucky; or
- 21        2. For a cultivator, processor, or dispensary, one (1) or more of the  
22        prospective principal officers or board members is a principal officer  
23        or board member of a safety compliance facility licensed to operate in  
24        Kentucky.
- 25        (2) The department shall acknowledge receipt of an application for a cannabis  
26        business license within fifteen (15) days of receipt, and approve or deny the  
27        application within forty-five (45) days of receiving a completed application.

- 1 (3) The department shall notify the applicant in writing of a license denial and  
2 reasons by registered or certified mail at the address given in the application or  
3 supplement. Except for license denials based upon subsections (5) and (6) of this  
4 section, the applicant may, within thirty (30) days after the mailing of the  
5 department's notice, file a written request for an administrative hearing on the  
6 application. The hearing shall be conducted on the application in compliance  
7 with the requirements of KRS Chapter 13B.
- 8 (4) Final orders of the department after administrative hearings shall be subject to  
9 judicial review as provided in KRS 13B.140. Jurisdiction and venue for judicial  
10 review are vested in the Circuit Court of the county in which the applicant  
11 business would be located.
- 12 (5) Notwithstanding subsection (1) of this section, the department shall not be  
13 required to issue more cannabis business licenses than market pressures dictate,  
14 except that the department shall not place a limit on the number of licenses  
15 issued for safety compliance facilities.
- 16 (6) If the department receives a greater number of cannabis business license  
17 applications in any cannabis business category than it deems necessary to meet  
18 the demonstrated or anticipated needs for current or anticipated cardholders, the  
19 department shall use an impartial and numerically scored competitive bid process  
20 developed by the department to evaluate cannabis business license applications.  
21 The competitive bid process shall consider the following criteria:
- 22 (a) The suitability of the proposed location or locations, including compliance  
23 with any local zoning laws and the geographic convenience to patients  
24 throughout the Commonwealth should the applicant be approved;
- 25 (b) The principal officers' and board members' relevant experience, including  
26 any training or professional licensing related to medicine, pharmaceuticals,  
27 natural treatments, botany, or medicinal marijuana cultivation and

1           preparation, and their experience running any other business or not-for-  
2           profit entity;

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

5           1. Staffing and training plans;

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

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

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

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

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

16           (f) The applicant's plan for making medicinal marijuana available on an  
17           affordable basis to registered qualified patients who are veterans, or who  
18           are enrolled in Medicaid or receiving Supplemental Security Income or  
19           Social Security disability insurance;

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

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

27           (7) Notwithstanding subsection (5) of this section:

1        (a) 1. No later than one (1) year after the effective date of this Act, if a  
2        sufficient number of cannabis business license applications has been  
3        submitted to the department, the department shall issue a cannabis  
4        business license to at least the fifteen (15) highest-scoring applicants  
5        within each cannabis business category, except that the need to ensure  
6        an adequate geographic distribution of cannabis businesses may  
7        supersede the requirement that the department approve license  
8        applications based solely on the competitive bid process described in  
9        subsection (4) of this section, and the department may divide the state  
10       into geographical areas and grant a license to the highest-scoring  
11       applicant within each cannabis business category in each geographic  
12       area.

13       2. If the department decides to divide the state into geographic areas,  
14       pursuant to this subsection, the department is encouraged to use the  
15       area development district counties as established in KRS 147A.050 on  
16       the effective date of this Act;

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

22       (c) After reviewing a report issued pursuant to Section 3 of this Act, if the  
23       department determines that additional cannabis businesses are needed to  
24       meet the needs of cardholders either within an area development district or  
25       throughout the state, the department shall expand the number of cannabis  
26       business licenses issued within an area development district, city, or county  
27       and shall issue an appropriate number of cannabis business licenses to

1           ensure that the needs of cardholders can be adequately met.

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

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

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

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

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

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

14           (c) Implement appropriate security measures to deter and prevent the theft of  
15           medicinal marijuana and unauthorized entrance into areas containing  
16           medicinal marijuana;

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

19           (e) Display their license on the premises at all times; and

20           (f) Be subject to reasonable inspection by the department and the Department  
21           for Public Health pursuant to the department's procedures or  
22           administrative regulations. The department and the Department for Public  
23           Health may inspect any licensed premises without having to first obtain a  
24           search warrant.

25           (2) A practitioner who has been authorized by a state licensing board to provide  
26           patients with a written certification shall not be permitted to be a board member  
27           of any cannabis business or to own any portion of a cannabis business.

- 1 (3) The operating documents of a cannabis business shall include procedures for its  
2 oversight and procedures to ensure accurate recordkeeping and inventory  
3 control.
- 4 (4) A cannabis business shall not be located within one thousand (1,000) feet of an  
5 existing elementary or secondary school or a day-care center.
- 6 (5) When transporting medicinal marijuana on behalf of a cannabis business that is  
7 permitted to transport medicinal marijuana, a cannabis business agent shall  
8 have:
- 9 (a) A copy of the cannabis business license for the business that employs the  
10 agent;
- 11 (b) Documentation that specifies the amount of medicinal marijuana being  
12 transported and the date on which the medicinal marijuana is being  
13 transported; and
- 14 (c) The cannabis business license number and telephone number of any other  
15 cannabis business receiving or otherwise involved in the transportation of  
16 the medicinal marijuana.
- 17 (6) A cannabis business shall only acquire, possess, cultivate, manufacture, deliver,  
18 transfer, transport, supply, or dispense medicinal marijuana for the purposes of  
19 distributing medicinal marijuana to cardholders who possess a valid registry  
20 identification card issued by the department, or for visiting qualified patients, an  
21 equivalent document issued in another jurisdiction.
- 22 (7) A cannabis business is prohibited from acquiring, possessing, delivering,  
23 transferring, transporting, supplying, dispensing, or selling any product that  
24 contains or is derived from marijuana unless that product was manufactured or  
25 otherwise produced by a cannabis business licensed under this chapter.
- 26 (8) All cultivation of medicinal marijuana for cannabis businesses licensed in this  
27 state shall be done by cultivators licensed under this chapter and shall take place

1 in an enclosed, locked facility which can only be accessed by cultivator agents  
2 working on behalf of the cultivator at the physical address provided to the  
3 department during the registration process.

4 (9) A cannabis business shall not acquire, possess, cultivate, process, manufacture,  
5 deliver, transfer, transport, supply, dispense, or sell:

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

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

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

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

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

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

26 (b) Delivering, transporting, transferring, supplying, or selling raw plant  
27 material and related supplies to other licensed cannabis businesses in this

1 state; or

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

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

5 (a) Only deliver raw plant material to a licensed cultivator, licensed processor,  
6 licensed safety compliance facility, or licensed dispensary for fair market  
7 value;

8 (b) Only deliver raw plant material to a licensed dispensary or processor after it  
9 has been checked by a safety compliance facility agent for cannabinoid  
10 contents and contaminants; and

11 (c) Not supply a dispensary with more than the amount of medicinal marijuana  
12 reasonably required by a dispensary.

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

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

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

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

24 (4) If a need for additional marijuana cultivation in this state is demonstrated by  
25 cannabis businesses or the department's own analysis, the department may  
26 increase the cultivation area square footage limits for either indoor or outdoor  
27 cultivation, or both, in any or all three (3) licensure tiers by up to three (3) times



1 the limits established in this section. Any increase in cultivation area square  
2 footage limits authorized by the department, pursuant to this subsection, shall not  
3 result in an increase in the licensure application and renewal fees established in  
4 Sections 17 and 18 of this Act.

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

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

14 (a) Acquiring or possessing medicinal marijuana from a cultivator or processor  
15 in this state;

16 (b) Acquiring or possessing medicinal marijuana accessories or educational  
17 material;

18 (c) Supplying, selling, dispensing, or distributing medicinal marijuana,  
19 medicinal marijuana accessories, or educational material to cardholders or  
20 other dispensaries;

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

23 (e) Acquiring, accepting, or receiving medicinal marijuana products from a  
24 cardholder, except that a dispensary may not offer anything of monetary  
25 value in return for medicinal marijuana received from a cardholder. Any  
26 medicinal marijuana received by a dispensary under this paragraph shall be  
27 destroyed by the dispensary or its agents and shall not be sold, dispensed, or

1 distributed to another cardholder.

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

3 (a) Maintain records that include specific notations of the amount of medicinal  
4 marijuana being dispensed to a cardholder and whether it was dispensed  
5 directly to a registered qualified patient or visiting qualified patient, or to a  
6 registered qualified patient's designated caregiver. Each entry shall include  
7 the date and time the medicinal marijuana was dispensed. The data  
8 required to be recorded by this paragraph shall be entered into the  
9 electronic system developed by the department pursuant to subsection (1)(a)  
10 of Section 28 of this Act in accordance with administrative regulations  
11 promulgated by the department for the record of medicinal marijuana  
12 dispensing;

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

16 (c) Only dispense or sell medicinal marijuana to a registered qualified patient,  
17 visiting qualified patient, or designated caregiver after making a diligent  
18 effort to verify:

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

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

27 3. The amount of medicinal marijuana the person is legally permitted to

1                   purchase at the time of verification pursuant to subsection (4) of  
 2                   Section 4 of this Act by checking the electronic system developed by  
 3                   the department pursuant to subsection (1)(a) of Section 28 of this Act,  
 4                   if it is operational, or other department-designated databases;

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

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

9                   (3) If a dispensary fails to comply with subsection (2)(c) of this section, the  
 10                   department may issue the dispensary a civil fine of up to fifty thousand dollars  
 11                   (\$50,000), except that the fine shall be one hundred thousand dollars (\$100,000)  
 12                   if the person purchasing or attempting to purchase medicinal marijuana is a  
 13                   minor. All fines collected pursuant to this subsection shall be forwarded to the  
 14                   medicinal marijuana trust fund established in Section 31 of this Act.

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

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

24                   (a) Acquiring or purchasing raw plant material from a cultivator or processor  
 25                   in this state;

26                   (b) Possessing, processing, preparing, manufacturing, manipulating, blending,  
 27                   preparing, or packaging medicinal marijuana;

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

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

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

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

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

19 (1) Acquiring or possessing medicinal marijuana obtained from cardholders or  
20 cannabis businesses in this state;

21 (2) Returning the medicinal marijuana to cardholders or cannabis businesses in this  
22 state;

23 (3) Transporting medicinal marijuana that was produced by cannabis businesses in  
24 this state;

25 (4) The production or sale of approved educational materials related to the use of  
26 medicinal marijuana;

27 (5) The production, sale, or transportation of equipment or materials other than

1 medicinal marijuana, including but not limited to lab equipment and packaging  
 2 materials that are used by cannabis businesses and cardholders, to cardholders or  
 3 cannabis businesses licensed under this chapter;

4 (6) Testing of medicinal marijuana produced in this state, including testing for  
 5 cannabinoid content, pesticides, mold, and contamination;

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

8 (a) The safe and efficient cultivation, harvesting, packaging, labeling, and  
 9 distribution of medicinal marijuana;

10 (b) Security and inventory accountability procedures;

11 (c) Up-to-date scientific and medical research findings related to medicinal use  
 12 of marijuana; and

13 (8) Receiving compensation for actions allowed under this section.

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

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

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

26 (3) The department may, on its own motion or on complaint, after investigation and  
 27 opportunity for a public hearing at which the cannabis business has been

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

1 otherwise analyze medicinal marijuana, or transfer or transport medicinal  
2 marijuana during a suspension.

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

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

8 (2) A local government may:

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

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

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

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

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

26 (b) Enact resolutions directing that the question of allowing cannabis  
27 businesses to operate within the limits of the city be submitted to the voters

1 who are eligible to vote in that city's elections at the next regular election  
2 pursuant to subsection (5)(j) of this section.

3 (4) If a local government legislative body with jurisdiction prohibits cannabis  
4 business operations through the passage of an ordinance, a public question that  
5 is initiated by petition and that proposes allowing a cannabis business to operate  
6 within the affected territory is authorized.

7 (5) A public question that is initiated by petition and is authorized by subsection (4)  
8 of this section shall be submitted to the voters within the affected territory at the  
9 next regular election by complying with the following requirements:

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

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

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

26 (d) Each signature shall be executed in ink or indelible pencil and shall be  
27 followed by the legibly printed name of each voter, followed by the voter's



1           residence address, year of birth, and the correct date upon which the voter's  
2           name was signed;

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

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

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

24           (h) Within thirty (30) days after the petition is filed, the county clerk shall  
25           complete a certificate as to its sufficiency or, if it is insufficient, specifying  
26           the particulars of the insufficiency, and shall send a copy to the person or  
27           persons specified in the statement of intent to receive all notices and to the

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

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

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

- 1 (6) If the question submitted to the voters under subsection (3) or (5) of this section  
2 fails to pass, three (3) years shall elapse before the question of medicinal  
3 marijuana sales and cannabis business operations may be included on a regular  
4 election ballot for the affected territory.
- 5 (7) If the question submitted to the voters under subsection (3) or (5) of this section  
6 passes, medicinal marijuana sales and cannabis business operations may be  
7 conducted in the affected territory, notwithstanding any local government  
8 ordinances which prohibit all cannabis business operations within its territory.
- 9 (8) In circumstances where a county, consolidated local government, charter county  
10 government, or unified local government prohibits cannabis business operations  
11 but a city within that county, consolidated local government, charter county  
12 government, or unified local government approves cannabis business operations  
13 either through the adoption of an ordinance or following the affirmative vote of a  
14 public question allowing cannabis business operations, then:
- 15 (a) The cannabis business operations may proceed within the limits of the city;  
16 and
- 17 (b) The county, consolidated local government, charter county government, or  
18 unified local government may assess an additional reasonable fee to  
19 compensate for any additional corrections impact caused by the approval of  
20 cannabis business operations. Any additional fees collected pursuant to this  
21 subsection shall not exceed the additional corrections impact caused by the  
22 approval of cannabis business operations.
- 23 (9) In circumstances where neither a city or the county, urban-county government,  
24 consolidated local government, charter county government, or unified local  
25 government in which the city is located prohibit cannabis business operations, a  
26 cannabis business that is located within the jurisdiction of both the city and the  
27 county shall only pay the reasonable established local fees of either the city or the

1       county. The fee shall be established, assessed, collected, and shared between the  
2       city and the county, in a manner to be negotiated between the city and the county.

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

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

7       (1) The department shall maintain a confidential list of the persons to whom the  
8       department has issued registry identification cards and their addresses, telephone  
9       numbers, and registry identification numbers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (1) Within one hundred twenty (120) days after the effective date of this Act, the  
 13 department shall:

14 (a) Establish, maintain, and operate an electronic system for monitoring the  
 15 medicinal marijuana program. The electronic system established pursuant  
 16 to this paragraph shall be designed to enable:

17 1. Practitioners to record the issuance of written certifications to  
 18 qualified patients, as required by Section 5 of this Act;

19 2. The department and state licensing board to monitor the issuance of  
 20 written certifications by practitioners to qualified patients;

21 3. Department personnel, law enforcement personnel, and dispensary  
 22 agents to verify the validity of registry identification cards issued by  
 23 the department by entering a registry identification number to  
 24 determine whether or not the identification number corresponds with  
 25 a current, valid registry identification card. The system shall only  
 26 disclose whether the identification card is valid and whether the  
 27 cardholder is a registered qualified patient, visiting qualified patient,

- 1                   or designated caregiver;
- 2                   4. Dispensary agents to record the amount of medicinal marijuana that
- 3                   is dispensed to a cardholder during each transaction as required by
- 4                   Section 22 of this Act; and
- 5                   5. The sharing of dispensing data recorded by dispensary agents
- 6                   pursuant to Section 22 of this Act with all dispensaries in real time;
- 7                   (b) Establish, maintain, and operate an electronic inventory tracking system
- 8                   that is capable of tracking medicinal marijuana from the point of
- 9                   cultivation to the point of sale to cardholders; and
- 10                  (c) Promulgate administrative regulations to establish:
- 11                  1. Procedures for the issuance, renewal, suspension, and revocation of
- 12                  registry identification cards, including the creation of a standardized
- 13                  written certification form and a uniform application form;
- 14                  2. Procedures for the issuance and revocation of registry identification
- 15                  cards;
- 16                  3. Procedures for the issuance, renewal, suspension, and revocation of
- 17                  cannabis business licenses, including the creation of a uniform
- 18                  licensure application form and the competitive bid process described
- 19                  in Section 19 of this Act, with all such procedures subject to the
- 20                  requirements of KRS Chapters 13A and 13B;
- 21                  4. A convenience fee to be assessed and collected by dispensaries for
- 22                  visiting qualified patients who do not possess a valid registry
- 23                  identification card issued by the department and who purchase
- 24                  medicinal marijuana with a registry identification card or its
- 25                  equivalent issued pursuant to the laws of another state, district,
- 26                  territory, commonwealth, insular possession of the United States, or
- 27                  country recognized by the United States that allows the person to use

1 medicinal marijuana in the jurisdiction of issuance. The convenience  
2 fee established pursuant to this subparagraph shall not exceed fifteen  
3 dollars (\$15) per transaction;

4 5. A definition of the amount of medicinal marijuana or delta-9  
5 tetrahydrocannabinol that constitutes a daily supply, a ten (10) day  
6 supply, and a thirty (30) day supply as well as the amount of raw plant  
7 material that medicinal marijuana products are considered to be  
8 equivalent to;

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

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

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

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

27 d. Procedures for the secure transportation and storage of



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

- 1            11. Standards for the operation of safety compliance facilities which may  
2            include:  
3            a. Requirements for equipment;  
4            b. Personnel qualifications; and  
5            c. Requiring facilities to be accredited by a relevant certifying  
6            entity;
- 7            12. Standards for the packaging and labeling of medicinal marijuana sold  
8            or distributed by cannabis businesses, including:  
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 marijuana the product is considered  
16           the equivalent to;  
17           d. Disclosing ingredients and possible allergens;  
18           e. A nutritional fact panel;  
19           f. Opaque, child-resistant packaging;  
20           g. A requirement that all raw plant material packaged or sold in  
21           this state be marked or labeled as "NOT INTENDED FOR  
22           CONSUMPTION BY SMOKING";  
23           h. A requirement that medicinal marijuana products be clearly  
24           marked with an identifiable and standardized symbol indicating  
25           that the product contains marijuana; and  
26           i. A requirement that medicinal marijuana products not be visually  
27           reminiscent of major brands of edible noncannabis products or

- 1 otherwise present an attractive nuisance to minors;
- 2 13. Health and safety requirements for the processing of medicinal
- 3 marijuana and both the indoor and outdoor cultivation of medicinal
- 4 marijuana by licensees;
- 5 14. Restrictions on:
- 6 a. Additives to medicinal marijuana that are toxic or increase the
- 7 likelihood of addiction; and
- 8 b. Pesticides, fertilizers, and herbicides used during medicinal
- 9 marijuana cultivation which pose a threat to human health and
- 10 safety;
- 11 15. Standards for the safe processing of medicinal marijuana products
- 12 created by extracting or concentrating compounds from raw plant
- 13 material;
- 14 16. Standards for determining the amount of unprocessed raw plant
- 15 material that medicinal marijuana products are considered the
- 16 equivalent to;
- 17 17. Restrictions on advertising, marketing, and signage in regard to
- 18 operations or establishments owned by licensees necessary to prevent
- 19 the targeting of minors;
- 20 18. The requirement that evidence-based educational materials regarding
- 21 dosage and impairment be disseminated to registered qualified
- 22 patients, visiting qualified patients, and designated caregivers who
- 23 purchase medicinal marijuana products;
- 24 19. Policies governing insurance requirements for cultivators,
- 25 dispensaries, processors, and safety compliance facilities;
- 26 20. The process by which the board will consider adding additional
- 27 diseases and medical conditions to the list of qualifying medical

1                   conditions established in Section 1 of this Act; and  
 2                   21. Standards, procedures, or restrictions that the department deems  
 3                   necessary to ensure the efficient, transparent, and safe operation of  
 4                   the medicinal marijuana program, except that the department shall  
 5                   not promulgate any administrative regulation that would impose an  
 6                   undue burden or make cannabis business operations unreasonable or  
 7                   impractical.

8                   (2) The department shall perform all acts necessary or advisable for the purpose of  
 9                   contracting with a third party for the development and maintenance of the  
 10                   electronic systems described in subsection (1)(a) and (b) of this section.

11                   (3) When promulgating administrative regulations under this section, the  
 12                   department shall consider standards, procedures, and restrictions that have been  
 13                   found to be best practices relative to the use and regulation of medicinal  
 14                   marijuana.

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

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

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

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

25                   (1) Any amount of medicinal marijuana that is necessary or reasonably necessary  
 26                   for use of a license or registry identification card issued pursuant to Sections 1 to  
 27                   30 of this Act; or

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

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

5 (1) The medicinal marijuana trust fund is hereby created within the State Treasury.  
6 The fund shall consist of funds collected from registration fees, licensing fees,  
7 finances, and penalties established pursuant to Sections 1 to 26 and Sections 28 and  
8 30 of this Act, a portion of the excise taxes imposed under Section 33 of this Act,  
9 and any proceeds from grants, contributions, appropriations, or other moneys  
10 made available for purposes of this fund.

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

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

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

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

23 (c) No more than seventy percent (70%) shall be used to offset the department's  
24 actual cost and expenses of operating the medicinal marijuana program  
25 and enforcement activities established in Sections 1 to 30 of this Act.

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

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

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

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

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

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

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

21 (b) 1. A city in which at least one (1) cannabis business licensed as a  
22 cultivator, processor, or dispensary operated during the fiscal quarter  
23 immediately preceding the most recent fiscal quarter shall receive an  
24 amount equal to seventy-five percent (75%) of the total excise tax  
25 revenue collected from all cannabis businesses licensed to operate  
26 inside the territory of the city and deposited into the trust fund during  
27 the fiscal quarter immediately preceding the most recent fiscal quarter

1 unless the county, consolidated local government, charter county  
2 government, or unified local government in which the city is located  
3 has, pursuant to Section 26 of the Act, prohibited the operation of  
4 cannabis businesses.

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

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

26 (4) Trust fund moneys may be used for the purposes of local enforcement of  
27 medicinal marijuana laws by local law enforcement agencies, local medicinal

1 marijuana licensing, the hiring or training of additional Drug Recognition  
 2 Experts (DRE), Advanced Roadside Impaired Driving Enforcement (ARIDE)  
 3 training, local evidence-based drug addiction rehabilitation projects, or  
 4 educational activities within local jails.

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

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

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

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

13 (1) As used in this section:

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

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

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

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

18 and

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

20 (2) Effective January 1, 2021:

21 (a) An excise tax is hereby imposed on the gross receipts of a cultivator or  
 22 processor received from the sale of medicinal marijuana by a cultivator or  
 23 processor to a dispensary, to be paid by the cultivator or processor at a rate  
 24 of twelve percent (12%) of the actual price for which a cultivator or  
 25 processor sells medicinal marijuana to a dispensary in this state.

26 (b) The tax shall be charged against and be paid by the cultivator or processor  
 27 and shall not be added as a separate charge or line item on any sales slip,



1 invoice, receipt, or other statement or memorandum of the price paid by the  
2 dispensary.

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

8 (b) Twenty percent (20%) of the revenue from the excise tax established in this  
9 paragraph shall be deposited in the local medicinal marijuana trust fund  
10 established in Section 32 of this Act for the purposes of distributing tax  
11 proceeds among participating local governments and for the purposes  
12 established in that section.

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

14 (a) Register with the department;

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

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

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

25 (6) (a) Notwithstanding any other provision of this section, the president, vice  
26 president, secretary, treasurer, or any other person holding any equivalent  
27 corporate office of any corporation subject to the provisions of this section

1           shall be personally and individually liable, both jointly and severally, for the  
2           taxes imposed under this section.

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

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

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

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

25           (f) "Taxes" as used in this section includes interest accrued at the rate  
26           provided by KRS 131.183, all applicable penalties imposed under the  
27           provisions of this chapter, and all applicable penalties imposed under KRS

1                   131.180, 131.410 to 131.445, and 131.990.

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

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

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

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

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

19       **(a)** The employer owes undisputed premiums to a previous workers'  
 20       compensation carrier or to a workers' compensation residual market  
 21       mechanism; **or**

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

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

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

26     (1) Gross receipts from the sale of, and the storage, use, or other consumption in this  
 27       state of, tangible personal property or digital property which this state is prohibited

1 from taxing under the Constitution or laws of the United States, or under the  
2 Constitution of this state;

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

5 (a) Nonreturnable and returnable containers when sold without the contents to  
6 persons who place the contents in the container and sell the contents together  
7 with the container; and

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

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

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

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

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

1 selection by the customer;

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

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

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

17 1. Classified as "residential" by a utility company as defined by applicable  
18 tariffs filed with and accepted by the Public Service Commission;

19 2. Classified as "residential" by a municipally owned electric distributor  
20 which purchases its power at wholesale from the Tennessee Valley  
21 Authority;

22 3. Classified as "residential" by the governing body of a municipally owned  
23 electric distributor which does not purchase its power from the  
24 Tennessee Valley Authority, if the "residential" classification is  
25 reasonably consistent with the definitions of "residential" contained in  
26 tariff filings accepted and approved by the Public Service Commission  
27 with respect to utilities which are subject to Public Service Commission

1 regulation.

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

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

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

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

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

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

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

27 a. Materials. This refers to the raw materials which become an

1 ingredient or component part of supplies or industrial tools exempt  
2 under subdivisions b. and c. below;

3 b. Supplies. This category includes supplies such as lubricating and  
4 compounding oils, grease, machine waste, abrasives, chemicals,  
5 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,  
6 dyes, refrigerants, and explosives. The supplies indicated above  
7 need not come in direct contact with a manufactured product to be  
8 exempt. "Supplies" does not include repair, replacement, or spare  
9 parts of any kind; and

10 c. Industrial tools. This group is limited to hand tools such as jigs,  
11 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns  
12 and to tools attached to a machine such as molds, grinding balls,  
13 grinding wheels, dies, bits, and cutting blades. Normally, for  
14 industrial tools to be considered directly used in the manufacturing  
15 or industrial processing process, they shall come into direct contact  
16 with the product being manufactured or processed; and

17 3. Materials and supplies that are not reusable in the same manufacturing  
18 or industrial processing process at the completion of a single  
19 manufacturing or processing cycle. A single manufacturing cycle shall  
20 be considered to be the period elapsing from the time the raw materials  
21 enter into the manufacturing process until the finished product emerges  
22 at the end of the manufacturing process.

23 (b) The property described in paragraph (a) of this subsection shall be regarded as  
24 having been purchased for resale.

25 (c) For purposes of this subsection, a manufacturer or industrial processor  
26 includes an individual or business entity that performs only part of the  
27 manufacturing or industrial processing activity, and the person or business

1           entity need not take title to tangible personal property that is incorporated into,  
2           or becomes the product of, the activity.

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

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

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

16       (a) As used in this subsection:

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

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

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

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

26       (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and  
27           purchased for storage, use, or other consumption outside this state and delivered by



1 the retailer's own vehicle to a location outside this state, or delivered to the United  
2 States Postal Service, a common carrier, or a contract carrier for delivery outside  
3 this state, regardless of whether the carrier is selected by the purchaser or retailer or  
4 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the  
5 retailer's shipping point or the purchaser's destination.

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

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

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

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

25 (16) Gross receipts from the sale of tangible personal property or digital property  
26 returned by a purchaser when the full sales price is refunded either in cash or credit.  
27 This exclusion shall not apply if the purchaser, in order to obtain the refund, is

- 1 required to purchase other tangible personal property or digital property at a price  
2 greater than the amount charged for the property that is returned;
- 3 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS  
4 Chapter 138;
- 5 (18) The amount of any tax imposed by the United States upon or with respect to retail  
6 sales, whether imposed on the retailer or the consumer, not including any  
7 manufacturer's excise or import duty;
- 8 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which  
9 is:
- 10 (a) Sold to a Kentucky resident, registered for use on the public highways, and  
11 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 12 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor  
13 vehicle in a state that:
- 14 1. Allows residents of Kentucky to purchase motor vehicles without  
15 payment of that state's sales tax at the time of sale; or
- 16 2. Allows residents of Kentucky to remove the vehicle from that state  
17 within a specific period for subsequent registration and use in Kentucky  
18 without payment of that state's sales tax;
- 19 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and  
20 trailer as defined in KRS 189.010(17);
- 21 (21) Gross receipts from the collection of:
- 22 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 23 (b) The charge imposed by KRS 65.7629(3);
- 24 (c) The fee imposed by KRS 65.7634; and
- 25 (d) The service charge imposed by KRS 65.7636;
- 26 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or  
27 maintain tangible personal property directly used in manufacturing or industrial

1 processing process, and that is not otherwise exempt under subsection (9) of this  
2 section or KRS 139.480(10), if the charges for labor or services are separately stated  
3 on the invoice, bill of sale, or similar document given to purchaser;

4 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to  
5 January 1, 2019, gross receipts derived from the sale of those services if the  
6 gross receipts were less than six thousand dollars (\$6,000) during calendar  
7 year 2018. When gross receipts from these services exceed six thousand  
8 dollars (\$6,000) in a calendar year:

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

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

15 (24) (a) For persons that first begin making sales of services included in KRS  
16 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from  
17 the sale of those services if the gross receipts are less than six thousand dollars  
18 (\$6,000) within the first calendar year of operation. When gross receipts from  
19 these services exceed six thousand dollars (\$6,000) in a calendar year:

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

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

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

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

2   As used in this chapter:

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

- 1 of a controlled substance in Schedule I or II; and
- 2 2. Which has 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; or
- 6 3. With respect to a particular person, which such person represents or
- 7 intends to have a stimulant, depressant, or hallucinogenic effect on the
- 8 central nervous system that is substantially similar to or greater than the
- 9 stimulant, depressant, or hallucinogenic effect on the central nervous
- 10 system of a controlled substance in Schedule I or II.

11 (b) Such term does not include:

- 12 1. Any substance for which there is an approved new drug application;
- 13 2. With respect to a particular person, any substance if an exemption is in
- 14 effect for investigational use for that person pursuant to federal law to
- 15 the extent conduct with respect to such substance is pursuant to such
- 16 exemption; or
- 17 3. Any substance to the extent not intended for human consumption before
- 18 the exemption described in subparagraph 2. of this paragraph takes
- 19 effect with respect to that substance;

20 (10) "Counterfeit substance" means a controlled substance which, or the container or

21 labeling of which, without authorization, bears the trademark, trade name, or other

22 identifying mark, imprint, number, or device, or any likeness thereof, of a

23 manufacturer, distributor, or dispenser other than the person who in fact

24 manufactured, distributed, or dispensed the substance;

25 (11) "Dispense" means to deliver a controlled substance to an ultimate user or research

26 subject by or pursuant to the lawful order of a practitioner, including the packaging,

27 labeling, or compounding necessary to prepare the substance for that delivery;

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

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

5 (14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of  
6 administration available as a single unit;

7 (15) "Drug" means:

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

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

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

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

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

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

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

24 (a) By substitution:

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

27 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,

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

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



1 origin or independently by means of chemical synthesis, or by a combination of  
2 extraction and chemical synthesis, and includes any packaging or repackaging of the  
3 substance or labeling or relabeling of its container except that this term does not  
4 include activities:

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

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

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

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

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

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

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

26 (d) For persons participating in a clinical trial or in an expanded access program,  
27 a drug or substance approved for the use of those participants by the United

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

- 1 (c) Opium poppy and poppy straw;
- 2 (d) Coca leaves, except coca leaves and extracts of coca leaves from which  
3 cocaine, ecgonine, and derivatives of ecgonine or their salts have been  
4 removed;
- 5 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 6 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 7 (g) Any compound, mixture, or preparation which contains any quantity of any of  
8 the substances referred to in paragraphs (a) to (f) of this subsection;
- 9 (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining  
10 liability similar to morphine or being capable of conversion into a drug having  
11 addiction-forming or addiction-sustaining liability. It does not include, unless  
12 specifically designated as controlled under KRS 218A.020, the dextrorotatory  
13 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does  
14 include its racemic and levorotatory forms;
- 15 (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its  
16 seeds;
- 17 (36) "Person" means individual, corporation, government or governmental subdivision  
18 or agency, business trust, estate, trust, partnership or association, or any other legal  
19 entity;
- 20 (37) "Physical injury" has the same meaning it has in KRS 500.080;
- 21 (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 22 (39) "Pharmacist" means a natural person licensed by this state to engage in the practice  
23 of the profession of pharmacy;
- 24 (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 (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal  
10 prosecution only, means a medical relationship that exists between a patient and a  
11 practitioner or the practitioner's designee, after the practitioner or his or her  
12 designee has conducted at least one (1) good faith prior examination;

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

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

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

- 1 treatment, or poses a significant risk to public safety;
- 2 (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting  
3 of a controlled substance;
- 4 (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 (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant  
9 presently classified botanically as *Salvia divinorum*, whether growing or not, the  
10 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 (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 (49) "Sell" means to dispose of a controlled substance to another person for  
26 consideration or in furtherance of commercial distribution;
- 27 (50) "Serious physical injury" has the same meaning it has in KRS 500.080;

1 (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is  
2 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 (52) "Synthetic cathinones" means any chemical compound which is not approved by the  
23 United States Food and Drug Administration or, if approved, which is not dispensed  
24 or possessed in accordance with state and federal law (not including bupropion or  
25 compounds listed under a different schedule) structurally derived from 2-  
26 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or  
27 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  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -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 (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic  
19 cathinones;

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

21 (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in  
22 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic  
23 substances, derivatives, and their isomers with similar chemical structure and  
24 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 (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,  
2 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,  
3 or sell a controlled substance;

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

6 (58) "Ultimate user" means a person who lawfully possesses a controlled substance for  
7 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 37. KRS 218A.1421 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

26 (5) Unless authorized by Sections 1 to 30 of this Act, the unlawful possession by any  
27 person of eight (8) or more ounces of marijuana shall be prima facie evidence that

1 the person possessed the marijuana with the intent to sell or transfer it.

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

- 3 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**  
 4 **of this Act, when acting in compliance with Sections 1 to 30 of this Act; or**  
 5 **(b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of**  
 6 **marijuana is in compliance with Sections 1 to 30 of this Act.**

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

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

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

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

- 15 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**  
 16 **of this Act, when acting in compliance with Sections 1 to 30 of this Act; or**  
 17 **(b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of**  
 18 **marijuana is in compliance with Sections 1 to 30 of this Act.**

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

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

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

- 26 (a) For a first offense a Class D felony.  
 27 (b) For a second or subsequent offense a Class C felony.

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

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

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

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

9 (5) This section does not apply to a cannabis business or a cannabis business agent,  
10 as defined in Section 1 of this Act, when acting in compliance with Sections 1 to  
11 30 of this Act.

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

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

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

20 The term "drug paraphernalia" does not include medicinal marijuana  
21 accessories, as defined in Section 1 of this Act. It includes but is not limited to:

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

25 (b) Kits used, intended for use, or designed for use in manufacturing,  
26 compounding, converting, producing, processing, or preparing controlled  
27 substances;

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

1 material, such as marijuana cigarettes, that have become too small or too short  
2 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber  
3 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice  
4 pipes or chillers.

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

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

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

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

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

- 1           1. The legislative body of the first or home rule class city in which the  
2           program would operate if located in such a city; and  
3           2. The legislative body of the county, urban-county government, or  
4           consolidated local government in which the program would operate.
- 5           (c) Items exchanged at the program shall not be deemed drug paraphernalia under  
6           this section while located at the program.
- 7       (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace  
8           officer may inquire as to the presence of needles or other sharp objects in the  
9           areas to be searched that may cut or puncture the officer and offer to not  
10          charge a person with possession of drug paraphernalia if the person declares to  
11          the officer the presence of the needle or other sharp object. If, in response to  
12          the offer, the person admits to the presence of the needle or other sharp object  
13          prior to the search, the person shall not be charged with or prosecuted for  
14          possession of drug paraphernalia for the needle or sharp object or for  
15          possession of a controlled substance for residual or trace drug amounts present  
16          on the needle or sharp object.
- 17          (b) The exemption under this subsection shall not apply to any other drug  
18          paraphernalia that may be present and found during the search or to controlled  
19          substances present in other than residual or trace amounts.
- 20       (7) Any person who violates any provision of this section shall be guilty of a Class A  
21          misdemeanor.

22           ➔Section 41. KRS 12.020 is amended to read as follows:

23       Departments, program cabinets and their departments, and the respective major  
24       administrative bodies that they include are enumerated in this section. It is not intended  
25       that this enumeration of administrative bodies be all-inclusive. Every authority, board,  
26       bureau, interstate compact, commission, committee, conference, council, office, or any  
27       other form of organization shall be included in or attached to the department or program

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

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

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

23 II. Program cabinets headed by appointed officers:

- 24 (1) Justice and Public Safety Cabinet:
- 25 (a) Department of Kentucky State Police.
- 26 (b) Department of Criminal Justice Training.
- 27 (c) Department of Corrections.



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

- 1 (h) Board of the Kentucky Center for Statistics.
- 2 (i) Board of Directors for the Center for School Safety.
- 3 (j) Department of Education.
- 4 1. Kentucky Board of Education.
- 5 2. Kentucky Technical Education Personnel Board.
- 6 (k) Department for Libraries and Archives.
- 7 (l) Department of Workforce Investment.
- 8 1. Office of Vocational Rehabilitation.
- 9 a. Division of Kentucky Business Enterprise.
- 10 b. Division of the Carl D. Perkins Vocational Training Center.
- 11 c. Division of Blind Services.
- 12 d. Division of Field Services.
- 13 e. Statewide Council for Vocational Rehabilitation.
- 14 2. Office of Unemployment Insurance.
- 15 3. Office of Employer and Apprenticeship Services.
- 16 a. Division of Apprenticeship.
- 17 4. Office of Career Development.
- 18 5. Office of Adult Education.
- 19 6. Unemployment Insurance Commission.
- 20 7. Kentucky Apprenticeship Council.
- 21 (m) Foundation for Workforce Development.
- 22 (n) Kentucky Workforce Investment Board.
- 23 (o) Education Professional Standards Board.
- 24 1. Division of Educator Preparation.
- 25 2. Division of Certification.
- 26 3. Division of Professional Learning and Assessment.
- 27 4. Division of Legal Services.

- 1 (p) Kentucky Commission on the Deaf and Hard of Hearing.
- 2 (q) Kentucky Educational Television.
- 3 (r) Kentucky Environmental Education Council.
- 4 (3) Energy and Environment Cabinet:
- 5 (a) Office of the Secretary.
- 6 1. Office of Legislative and Intergovernmental Affairs.
- 7 2. Office of Legal Services.
- 8 a. Legal Division I.
- 9 b. Legal Division II.
- 10 3. Office of Administrative Hearings.
- 11 4. Office of Communication.
- 12 5. Mine Safety Review Commission.
- 13 6. Office of Kentucky Nature Preserves.
- 14 7. Kentucky Public Service Commission.
- 15 (b) Department for Environmental Protection.
- 16 1. Office of the Commissioner.
- 17 2. Division for Air Quality.
- 18 3. Division of Water.
- 19 4. Division of Environmental Program Support.
- 20 5. Division of Waste Management.
- 21 6. Division of Enforcement.
- 22 7. Division of Compliance Assistance.
- 23 (c) Department for Natural Resources.
- 24 1. Office of the Commissioner.
- 25 2. Division of Mine Permits.
- 26 3. Division of Mine Reclamation and Enforcement.
- 27 4. Division of Abandoned Mine Lands.

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

- 1 (d) Kentucky Horse Racing Commission.
- 2 1. Office of Executive Director.
- 3 a. Division of Pari-mutuel Wagering and Compliance.
- 4 b. Division of Stewards.
- 5 c. Division of Licensing.
- 6 d. Division of Enforcement.
- 7 e. Division of Incentives and Development.
- 8 f. Division of Veterinary Services.
- 9 (e) Department of Alcoholic Beverage *and Cannabis* Control.
- 10 1. Division of Distilled Spirits.
- 11 2. Division of Malt Beverages.
- 12 3. *Division of Medicinal Marijuana.*
- 13 *4.* Division of *Alcohol and Cannabis* Enforcement.
- 14 (f) Department of Charitable Gaming.
- 15 1. Division of Licensing and Compliance.
- 16 2. Division of Enforcement.
- 17 (g) Department of Financial Institutions.
- 18 1. Division of Depository Institutions.
- 19 2. Division of Non-Depository Institutions.
- 20 3. Division of Securities.
- 21 (h) Department of Housing, Buildings and Construction.
- 22 1. Division of Fire Prevention.
- 23 2. Division of Plumbing.
- 24 3. Division of Heating, Ventilation, and Air Conditioning.
- 25 4. Division of Building Code Enforcement.
- 26 (i) Department of Insurance.
- 27 1. Division of Insurance Product Regulation.

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

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

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



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

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

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

- 1                   9.    Division of Sales.
- 2                   10.   Division of Security and Traffic Control.
- 3                   11.   Division of Information Technology.
- 4                   12.   Division of the Louisville Arena.
- 5                   13.   Division of Fiscal and Contract Management.
- 6                   14.   Division of Access Control.
- 7           (f)   Office of the Secretary.
- 8                   1.    Office of Finance.
- 9                   2.    Office of Government Relations and Administration.
- 10                  3.    Office of Film and Tourism Development.
- 11           (g)   Office of Legal Affairs.
- 12           (h)   Office of Human Resources.
- 13           (i)   Office of Public Affairs and Constituent Services.
- 14           (j)   Office of Arts and Cultural Heritage.
- 15           (k)   Kentucky African-American Heritage Commission.
- 16           (l)   Kentucky Foundation for the Arts.
- 17           (m)   Kentucky Humanities Council.
- 18           (n)   Kentucky Heritage Council.
- 19           (o)   Kentucky Arts Council.
- 20           (p)   Kentucky Historical Society.
- 21                  1.    Division of Museums.
- 22                  2.    Division of Oral History and Educational Outreach.
- 23                  3.    Division of Research and Publications.
- 24                  4.    Division of Administration.
- 25           (q)   Kentucky Center for the Arts.
- 26                  1.    Division of Governor's School for the Arts.
- 27           (r)   Kentucky Artisans Center at Berea.

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

14 III. Other departments headed by appointed officers:

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

25 ➔Section 42. KRS 12.252 is amended to read as follows:

- 26 (1) There is established within the Public Protection Cabinet a Department of Financial
- 27 Institutions, a Department of Insurance, a Department of Housing, Buildings and

1 Construction, a Department of Charitable Gaming, a Department of Professional  
2 Licensing, and a Department of Alcoholic Beverage and Cannabis Control. Each  
3 department shall be headed by a commissioner appointed by the Governor as  
4 required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and  
5 304.2-020. Commissioners shall be directly responsible to the secretary and shall  
6 perform the functions, powers, and duties provided by law and prescribed by the  
7 secretary.

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

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

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

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

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

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

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

27 (5) There is established within the Public Protection Cabinet the Kentucky Boxing and

1 Wrestling Commission, which shall be headed by an executive director appointed  
2 by the secretary with the approval of the Governor as required by KRS 12.050. The  
3 executive director shall be directly responsible to the secretary and shall perform the  
4 functions, powers, and duties provided by law and prescribed by the secretary.

5 ➔Section 43. KRS 15.300 is amended to read as follows:

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

- 1 (6) The Office of the Attorney General shall:
- 2 (a) Enter into a memorandum of agreement with the Department of Public Health  
3 of the Cabinet for Health and Family Services, the Department of Alcoholic  
4 Beverage and Cannabis Control in the Public Protection Cabinet, and the  
5 Department of Agriculture to identify and report possible violations of the  
6 consent order;
- 7 (b) Attempt to secure funding under the master settlement agreement to reimburse  
8 the agencies specified in paragraph (a) of this subsection for any compliance  
9 activity that they perform; and
- 10 (c) Provide necessary funding and staff for administrative expenses related to the  
11 operation of the board. The board may request assistance from other state  
12 agencies.
- 13 (7) The Tobacco Master Settlement Agreement Compliance Advisory Board shall:
- 14 (a) Identify activities for which training is required for personnel of the state  
15 agencies specified in paragraph (a) of subsection (6) of this section that are  
16 responsible for identifying and reporting possible violations of the consent  
17 order;
- 18 (b) Determine eligible compliance training costs and seek reimbursement for the  
19 costs; and
- 20 (c) Notify the appropriate tobacco manufacturer, in writing, of any alleged  
21 violation of the consent order and request a response and, if applicable, a  
22 corrective action plan within thirty (30) days from the date of the notice. If the  
23 manufacturer fails to respond or to satisfactorily resolve the matter, the board  
24 shall review the matter at its next meeting and may refer the matter to the  
25 Office of the Attorney General for enforcement action, if warranted.

26 ➔Section 44. KRS 15.380 is amended to read as follows:

- 27 (1) The following officers employed or appointed as full-time, part-time, or auxiliary



- 1 officers, whether paid or unpaid, shall be certified:
- 2 (a) Department of Kentucky State Police officers, but for the commissioner of the  
3 Department of Kentucky State Police;
- 4 (b) City, county, and urban-county police officers;
- 5 (c) Court security officers and deputy sheriffs, except those identified in KRS  
6 70.045 and 70.263(3);
- 7 (d) State or public university police officers appointed pursuant to KRS 164.950;
- 8 (e) School resource officers as defined in KRS 158.441 and employed or  
9 appointed under KRS 158.4414;
- 10 (f) Airport safety and security officers appointed under KRS 183.880;
- 11 (g) Department of Alcoholic Beverage and Cannabis Control investigators  
12 appointed under KRS 241.090;
- 13 (h) Division of Insurance Fraud Investigation investigators appointed under KRS  
14 304.47-040;
- 15 (i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and
- 16 (j) County detectives appointed in accordance with KRS 69.360 after July 1,  
17 2019.
- 18 (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state  
19 peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be  
20 incorporated by the Personnel Cabinet for job specifications.
- 21 (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for  
22 all peace officers possessing arrest powers who have specialized law enforcement  
23 responsibilities shall be the responsibility of the employing agency.
- 24 (4) The following officers may, upon request of the employing agency, be certified by  
25 the council:
- 26 (a) Deputy coroners;
- 27 (b) Deputy constables;

- 1 (c) Deputy jailers;
- 2 (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
- 3 (e) Officers appointed under KRS 61.360;
- 4 (f) Officers appointed under KRS 61.902, except those who are school resource
- 5 officers as defined in KRS 158.441 and who shall be certified under
- 6 subsection (1)(e) of this section;
- 7 (g) Private security officers;
- 8 (h) Employees of a correctional services division created pursuant to KRS
- 9 67A.028 and employees of a metropolitan correctional services department
- 10 created pursuant to KRS 67B.010 to 67B.080; and
- 11 (i) Investigators employed by the Department of Charitable Gaming in
- 12 accordance with KRS 238.510; and
- 13 (j) Commonwealth detectives employed under KRS 69.110 and county detectives
- 14 employed under KRS 69.360.
- 15 (5) The following officers shall be exempted from the certification requirements but
- 16 may upon their request be certified by the council:
- 17 (a) Sheriffs;
- 18 (b) Coroners;
- 19 (c) Constables;
- 20 (d) Jailers;
- 21 (e) Kentucky Horse Racing Commission security officers employed under KRS
- 22 230.240; and
- 23 (f) Commissioner of the State Police.
- 24 (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.
- 25 (7) Local alcoholic beverage control investigators appointed under KRS Chapter 241
- 26 on or after April 1, 2019, shall be certified by the council if all minimum standards
- 27 set forth in KRS 15.380 to 15.404 have been met. Local alcoholic beverage control

1 investigators appointed under KRS Chapter 241 before April 1, 2019, shall be  
2 exempt from this requirement.

3 ➔Section 45. KRS 15.398 is amended to read as follows:

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

- 8 (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- 9 (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- 10 (3) KRS Chapter 78, relating to county police;
- 11 (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county  
12 police;
- 13 (5) KRS Chapter 183, relating to airport safety and security officers;
- 14 (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education  
15 and Archaeology officers;
- 16 (7) KRS Chapter 18A, relating to all state peace officers;
- 17 (8) KRS 241.090, relating to Department of Alcoholic Beverage and Cannabis Control  
18 investigators;
- 19 (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- 20 (10) Any other statutes affecting peace officers not specifically cited herein.

21 ➔Section 46. KRS 15.420 is amended to read as follows:

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

- 23 (1) "Cabinet" means the Justice and Public Safety Cabinet;
- 24 (2) (a) "Police officer" means:
  - 25 1. A local officer, limited to:
    - 26 a. A full-time:
      - 27 i. Member of a lawfully organized police department of county,

- 1 urban-county, or city government; or
- 2 ii. Sheriff or full-time deputy sheriff, including any sheriff
- 3 providing court security or appointed under KRS 70.030; or
- 4 b. A school resource officer as defined in KRS 158.441; and
- 5 2. A state officer, limited to:
- 6 a. A public university police officer;
- 7 b. A Kentucky state trooper;
- 8 c. A Kentucky State Police arson investigator;
- 9 d. A Kentucky State Police hazardous device investigator;
- 10 e. A Kentucky State Police legislative security specialist;
- 11 f. A Kentucky vehicle enforcement officer;
- 12 g. A Kentucky Horse Park mounted patrol officer, subject to KRS
- 13 15.460(1)(f);
- 14 h. A Kentucky state park ranger, subject to KRS 15.460(1)(f);
- 15 i. An agriculture investigator;
- 16 j. A charitable gaming investigator;
- 17 k. An alcoholic beverage and cannabis control investigator;
- 18 l. An insurance fraud investigator;
- 19 m. An Attorney General investigator; and
- 20 n. A Kentucky Department of Fish and Wildlife Resources
- 21 conservation officer, subject to KRS 15.460(1)(e);
- 22 who is responsible for the prevention and detection of crime and the
- 23 enforcement of the general criminal laws of the state;
- 24 (b) "Police officer" does not include any sheriff who earns the maximum
- 25 constitutional salary for this office, any special deputy sheriff appointed under
- 26 KRS 70.045, any constable, deputy constable, district detective, deputy district
- 27 detective, special local peace officer, auxiliary police officer, or any other

1 peace officer not specifically authorized in KRS 15.410 to 15.510;

2 (3) "Police department" means the employer of a police officer;

3 (4) "Retirement plan" means a defined benefit plan consisting of required employer  
4 contributions pursuant to KRS 61.565, 61.702, or any other provision of law;

5 (5) "Unit of government" means any city, county, combination of cities and counties,  
6 public university, state agency, local school district, or county sheriff's office of the  
7 Commonwealth; and

8 (6) "Validated job task analysis" means the core job description that describes the  
9 minimum entry level requirements, qualifications, and training requirements for  
10 peace officers in the Commonwealth, and that is based upon an actual survey and  
11 study of police officer duties and responsibilities conducted by an entity recognized  
12 by the council as being competent to conduct such a study.

13 ➔Section 47. KRS 15A.340 is amended to read as follows:

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

16 (2) The Office of Drug Control Policy shall administer an endowment from interest  
17 generated through funds appropriated or gifts, donations, or funds received from  
18 any source. The Office of Drug Control Policy may expend endowment principal, if  
19 necessary in its discretion, to carry out the purposes of this section and KRS  
20 15A.342 and 15A.344. These expenditures from the endowment principal are  
21 hereby appropriated for this purpose.

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

27 1. One (1) member representing the Kentucky Family Resource Youth

- 1 Services Coalition, or a designee;
- 2 2. One (1) member representing the Kentucky Health Department
- 3 Association, or a designee;
- 4 3. The secretary of the Cabinet for Health and Family Services, or
- 5 designee;
- 6 4. The secretary of the Justice and Public Safety Cabinet, or a designee;
- 7 5. One (1) member representing the Division of Behavioral Health within
- 8 the Department for Behavioral Health, Developmental and Intellectual
- 9 Disabilities, Cabinet for Health and Family Services, or a designee;
- 10 6. The commissioner of the Department for Public Health, Cabinet for
- 11 Health and Family Services, or a designee;
- 12 7. The commissioner of the Department of Alcoholic Beverage *and*
- 13 *Cannabis* Control, or a designee;
- 14 8. The commissioner of the Department of Education;
- 15 9. The director of the Administrative Office of the Courts, or a designee;
- 16 10. One (1) member representing the Kentucky Association of Regional
- 17 Programs, or a designee;
- 18 11. One (1) member representing the Kentucky Heart Association, or a
- 19 designee;
- 20 12. One (1) member representing the Kentucky Lung Association, or a
- 21 designee;
- 22 13. One (1) member representing the Kentucky Cancer Society, or a
- 23 designee;
- 24 14. Two (2) members representing local tobacco addiction and substance
- 25 abuse advisory and coordination boards; and
- 26 15. Two (2) members representing private community-based organizations,
- 27 whether for-profit or nonprofit, with experience in programs involving

1 smoking cessation or prevention or alcohol or substance abuse  
2 prevention and treatment.

3 (b) Members shall serve for a term of four (4) years, may be reappointed, and may  
4 serve no more than two (2) consecutive terms. Members shall not be  
5 compensated but shall receive reimbursement for expenses incurred while  
6 performing board business.

7 (c) The board shall meet at least quarterly. A quorum of nine (9) members shall  
8 be required for the transaction of business. Meetings shall be held at the call  
9 of the chair, or upon the written request of two (2) members to the chair.

10 (d) The board shall:

- 11 1. Oversee deposits and expenditures from the endowment;
- 12 2. Request, in its discretion, an audit relating to the expenditure of  
13 endowment funds;
- 14 3. Receive quarterly reports from the commissioner of the Department of  
15 Alcoholic Beverage and Cannabis Control regarding KY-ASAP's  
16 activities;
- 17 4. Progress toward development and implementation of the strategic plan;
- 18 5. Recommend to KY-ASAP the most efficient means for using public  
19 funds to coordinate, supplement, and support high quality and ongoing  
20 programs of all public agencies and private service providers related to  
21 smoking cessation and prevention and alcohol and substance abuse  
22 prevention and treatment;
- 23 6. Recommend matters for review and analysis by KY-ASAP; and
- 24 7. Perform other duties as necessary for the oversight of KY-ASAP.

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

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

5 ➔Section 48. KRS 61.592 is amended to read as follows:

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

9 1. Any position whose principal duties involve active law enforcement,  
10 including the positions of probation and parole officer and  
11 Commonwealth detective, active fire suppression or prevention, or other  
12 positions, including, but not limited to, pilots of the Transportation  
13 Cabinet and paramedics and emergency medical technicians, with duties  
14 that require frequent exposure to a high degree of danger or peril and  
15 also require a high degree of physical conditioning;

16 2. Positions in the Department of Corrections in state correctional  
17 institutions and the Kentucky Correctional Psychiatric Center with  
18 duties that regularly and routinely require face-to-face contact with  
19 inmates; and

20 3. Positions of employees who elect coverage under KRS 196.167(3)(b)2.  
21 and who continue to provide educational services and support to inmates  
22 as a Department of Corrections employee.

23 (b) "Hazardous position" for employees who begin participating in the County  
24 Employees Retirement System on or after September 1, 2008, means police  
25 officers and firefighters as defined in KRS 61.315(1), paramedics, correctional  
26 officers with duties that routinely and regularly require face-to-face contact  
27 with inmates, and emergency medical technicians if:



1           1.    The employee's duties require frequent exposure to a high degree of  
2                    danger or peril and a high degree of physical conditioning; and

3           2.    The employee's duties are not primarily clerical or administrative.

4           (c)   The effective date of participation under hazardous duty coverage for  
5                   positions in the Department of Alcoholic Beverage and Cannabis Control  
6                   shall be April 1, 1998. The employer and employee contributions shall be paid  
7                   by the employer and forwarded to the retirement system for the period not  
8                   previously reported.

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

22           (b)   Each employer desiring to provide hazardous duty coverage to employees who  
23                   begin participating in the County Employees Retirement System on or after  
24                   September 1, 2008, may request that the board approve hazardous duty  
25                   coverage for those positions that meet the criteria set forth in subsection (1)(b)  
26                   of this section. Each employer shall certify to the system, in the manner  
27                   prescribed by the board, the names of all employees working in a hazardous

1 position as defined in subsection (1)(b) of this section for which coverage is  
2 requested and a job description for each position or employee. The  
3 certification of the employer shall bear the approval of the agent or agency  
4 responsible for the budget of the department or county indicating that the  
5 required employer contributions have been provided for in the budget of the  
6 employing department or county. Each employer shall also certify, under  
7 penalty of perjury in accordance with KRS Chapter 523, that each employee's  
8 actual job duties are accurately reflected in the job description provided to the  
9 system. The system shall determine whether the employees whose names have  
10 been certified by the employer are working in positions meeting the definition  
11 of a hazardous position as defined in subsection (1)(b) of this section. The  
12 board shall have the authority to remove any employee from hazardous duty  
13 coverage if the board determines the employee is not working in a hazardous  
14 duty position or if the employee is classified in a hazardous duty position but  
15 has individual job duties that do not meet the definition of a hazardous duty  
16 position or are not accurately reflected in the job descriptions filed by the  
17 employer with the system.

18 (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an  
19 employee participating in the Kentucky Employees Retirement System who is  
20 determined by the system to be working in a hazardous position in accordance  
21 with subsection (2) of this section, shall contribute, for each pay period for  
22 which he receives compensation, eight percent (8%) of his creditable  
23 compensation. An employee participating in the County Employees  
24 Retirement System who is determined by the system to be working in a  
25 hazardous duty position in accordance with subsection (2) of this section shall  
26 contribute, for each pay period for which he receives compensation, eight  
27 percent (8%) of his creditable compensation.

1 (b) Each employer shall pay employer contributions based on the creditable  
2 compensation of the employees determined by the system to be working in a  
3 hazardous position at the employer contribution rate as determined by the  
4 board. The rate shall be determined by actuarial methods consistent with the  
5 provisions of KRS 61.565.

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

25 (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other  
26 benefits, eligibility requirements, rights, and responsibilities of a member in a  
27 hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and

1 the responsibilities, rights, and requirements of his employer shall be as prescribed  
2 for a member and employer participating in the State Police Retirement System as  
3 provided for by KRS 16.505 to 16.652.

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

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

11 ➔Section 49. KRS 62.160 is amended to read as follows:

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

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

|    |  |          |
|----|--|----------|
| 24 | Secretary of State .....                 | \$10,000 |
| 25 | Attorney General .....                   | 10,000   |
| 26 | State Treasurer .....                    | 300,000  |
| 27 | Secretary for economic development ..... | 10,000   |

|    |  |         |
|----|--|---------|
| 1  | Commissioner of Agriculture .....                                    | 10,000  |
| 2  | Secretary for education .....  | 10,000  |
| 3  | Auditor of Public Accounts .....                                     | 25,000  |
| 4  | Adjutant general .....   | 10,000  |
| 5  | Secretary of finance and administration .....                        | 100,000 |
| 6  | Commissioner of revenue .....  | 50,000  |
| 7  | Secretary of transportation .....                                    | 50,000  |
| 8  | Commissioner of highways .....                                       | 50,000  |
| 9  | Secretary of justice and public safety .....                         | 50,000  |
| 10 | Secretary of corrections .....                                       | 25,000  |
| 11 | Commissioner for public health services .....                        | 10,000  |
| 12 | Secretary of labor .....   | 5,000   |
| 13 | Commissioner for natural resources .....                             | 50,000  |
| 14 | State librarian .....  | 5,000   |
| 15 | Commissioner of alcoholic beverage <u>and cannabis</u> control ..... | 10,000  |
| 16 | Commissioner of financial institutions .....                         | 25,000  |
| 17 | Secretary for energy and environment .....                           | 50,000  |
| 18 | Commissioner of insurance .....                                      | 50,000  |
| 19 | Commissioner of vehicle regulation .....                             | 10,000  |
| 20 | Commissioner of fish and wildlife resources .....                    | 5,000   |
| 21 | Secretary for health and family services .....                       | 20,000  |
| 22 | Commissioner of environmental protection .....                       | 10,000  |
| 23 | Secretary of public protection .....                                 | 10,000  |
| 24 | Secretary of tourism, arts and heritage .....                        | 25,000  |
| 25 | Commissioner for community based services .....                      | 20,000  |
| 26 | Member of the Public Service Commission .....                        | 10,000  |
| 27 | Member of State Fair Board .....                                     | 10,000  |

1 Member of Fish and Wildlife Resources Commission .....1,000

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

3 Associate member of Alcoholic Beverage Control Board .....5,000

4 Commissioner of local government .....100,000

5 ➔Section 50. KRS 131.1815 is amended to read as follows:

6 (1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter  
 7 243, is a delinquent taxpayer as defined in subsection (2) of this section, the  
 8 department may, after giving notice as provided in subsection (3) of this section,  
 9 submit the name of the taxpayer to the Department of Alcoholic Beverage **and**  
 10 **Cannabis** Control for revocation of any license issued under KRS Chapter 243.

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

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

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

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

27 (3) At least twenty (20) days before submitting a taxpayer's name to the Department of

1 Alcoholic Beverage and Cannabis Control as provided in subsection (1) of this  
2 section, the department shall notify the taxpayer by certified mail that the action is  
3 to be taken. The notice shall state the reason for the action and shall set out the  
4 amount of any tax liability including any applicable penalties and interest and any  
5 other area of noncompliance that must be satisfied in order to prevent the  
6 submission of his name to the Department of Alcoholic Beverage and Cannabis  
7 Control as a delinquent taxpayer.

8 ➔Section 51. KRS 211.285 is amended to read as follows:

- 9 (1) There is hereby created the malt beverage educational fund which shall provide  
10 moneys on a matching basis for educational information and materials that deter or  
11 eliminate underage drinking. The fund shall consist of moneys generated from one  
12 percent (1%) of the excise tax collected from the sale and distribution of malt  
13 beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected  
14 from distributors of malt beverages and microbreweries under KRS 243.884.
- 15 (2) The malt beverage educational fund shall be established in the State Treasury as a  
16 trust and revolving account under KRS 45.253. Moneys in the account shall be  
17 distributed by the State Treasurer to the Malt Beverage Educational Corporation, a  
18 nonprofit organization that is organized under the laws of this state, upon the  
19 authorization of the secretary of the Cabinet for Health and Family Services. The  
20 moneys shall be awarded to the corporation solely to fund educational programs to  
21 deter or eliminate underage drinking.
- 22 (3) The secretary of the Cabinet for Health and Family Services shall authorize that  
23 moneys from the fund be disbursed to the corporation upon the secretary's receipt of  
24 a certification from the corporation showing the moneys the corporation has  
25 received from malt beverage distributors, microbreweries, and other private sources  
26 since the last certification. The moneys disbursed from the fund shall be equal to the  
27 contributions that the corporation has received from its members and other private

1 sources during that period. The moneys in the fund shall be disbursed in accordance  
2 with a schedule established by the secretary, and shall be disbursed until the moneys  
3 in the fund are exhausted or until the moneys in the fund lapse in accordance with  
4 subsection (4) of this section, whichever comes first.

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

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

9 (a) The Governor or his or her designee;

10 (b) The Attorney General or his or her designee;

11 (c) The President of the Senate or his or her designee;

12 (d) The Speaker of the House or his or her designee;

13 (e) The secretary of the Cabinet for Health and Family Services or his or her  
14 designee; and

15 (f) The commissioner of the Department of Alcoholic Beverage and Cannabis  
16 Control or his or her designee.

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

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

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



1 Graduation" events.

2 ➔Section 52. KRS 241.010 is amended to read as follows:

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

4 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from  
5 whatever source or by whatever process it is produced;

6 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether  
7 patented or not, containing alcohol in an amount in excess of more than one percent  
8 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every  
9 spurious or imitation liquor sold as, or under any name commonly used for,  
10 alcoholic beverages, whether containing any alcohol or not. It does not include the  
11 following products:

12 (a) Medicinal preparations manufactured in accordance with formulas prescribed  
13 by the United States Pharmacopoeia, National Formulary, or the American  
14 Institute of Homeopathy;

15 (b) Patented, patent, and proprietary medicines;

16 (c) Toilet, medicinal, and antiseptic preparations and solutions;

17 (d) Flavoring extracts and syrups;

18 (e) Denatured alcohol or denatured rum;

19 (f) Vinegar and preserved sweet cider;

20 (g) Wine for sacramental purposes; and

21 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external  
22 use;

23 (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,  
24 or process that mixes liquor, spirits, or any other alcohol product with pure  
25 oxygen or by any other means produces a vaporized alcoholic product used for  
26 human consumption;

27 (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler,

- 1           nebulizer, atomizer, or other device that is designed and intended by the  
2           manufacturer to dispense a prescribed or over-the-counter medication or a  
3           device installed and used by a licensee under this chapter to demonstrate the  
4           aroma of an alcoholic beverage;
- 5 (4) "Automobile race track" means a facility primarily used for vehicle racing that has a  
6           seating capacity of at least thirty thousand (30,000) people;
- 7 (5) "Bed and breakfast" means a one (1) family dwelling unit that:
- 8           (a) Has guest rooms or suites used, rented, or hired out for occupancy or that are  
9           occupied for sleeping purposes by persons not members of the single-family  
10           unit;
- 11           (b) Holds a permit under KRS Chapter 219; and
- 12           (c) Has an innkeeper who resides on the premises or property adjacent to the  
13           premises during periods of occupancy;
- 14 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS  
15           241.030;
- 16 (7) "Bottle" means any container which is used for holding alcoholic beverages for the  
17           use and sale of alcoholic beverages at retail;
- 18 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,  
19           carries on, works, or conducts any brewery, either alone or through an agent;
- 20 (9) "Brewery" means any place or premises where malt beverages are manufactured for  
21           sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,  
22           and storerooms connected with the premises; or where any part of the process of the  
23           manufacture of malt beverages is carried on; or where any apparatus connected with  
24           manufacture is kept or used; or where any of the products of brewing or  
25           fermentation are stored or kept;
- 26 (10) "Building containing licensed premises" means the licensed premises themselves  
27           and includes the land, tract of land, or parking lot in which the premises are

1 contained, and any part of any building connected by direct access or by an entrance  
2 which is under the ownership or control of the licensee by lease holdings or  
3 ownership;

4 (11) "Caterer" means a person operating a food service business that prepares food in a  
5 licensed and inspected commissary, transports the food and alcoholic beverages to  
6 the caterer's designated and inspected banquet hall or to an agreed location, and  
7 serves the food and alcoholic beverages pursuant to an agreement with another  
8 person;

9 (12) "Charitable organization" means a nonprofit entity recognized as exempt from  
10 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.  
11 501(c)) or any organization having been established and continuously operating  
12 within the Commonwealth of Kentucky for charitable purposes for three (3) years  
13 and which expends at least sixty percent (60%) of its gross revenue exclusively for  
14 religious, educational, literary, civic, fraternal, or patriotic purposes;

15 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or  
16 more alcohol by volume and includes hard cider and perry cider;

17 (14) "City administrator" means city alcoholic beverage control administrator;

18 (15) "Commercial airport" means an airport through which more than five hundred  
19 thousand (500,000) passengers arrive or depart annually;

20 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)  
21 pairs of fully operative pedals for propulsion by means of human muscular power  
22 exclusively and which:

23 (a) Has four (4) wheels;

24 (b) Is operated in a manner similar to that of a bicycle;

25 (c) Is equipped with a minimum of thirteen (13) seats for passengers;

26 (d) Has a unibody design;

27 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;

- 1 (f) Is used for commercial tour purposes; and
- 2 (g) Is operated by the vehicle owner or an employee of the owner;
- 3 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage  
4 and Cannabis Control;
- 5 (18) "Convention center" means any facility which, in its usual and customary business,  
6 provides seating for a minimum of one thousand (1,000) people and offers  
7 convention facilities and related services for seminars, training and educational  
8 purposes, trade association meetings, conventions, or civic and community events  
9 or for plays, theatrical productions, or cultural exhibitions;
- 10 (19) "Convicted" and "conviction" means a finding of guilt resulting from a plea of  
11 guilty, the decision of a court, or the finding of a jury, irrespective of a  
12 pronouncement of judgment or the suspension of the judgment;
- 13 (20) "County administrator" means county alcoholic beverage control administrator;
- 14 (21) "Department" means the Department of Alcoholic Beverage and Cannabis Control;
- 15 (22) "Dining car" means a railroad passenger car that serves meals to consumers on any  
16 railroad or Pullman car company;
- 17 (23) "Discount in the usual course of business" means price reductions, rebates, refunds,  
18 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to  
19 an agreement made at the time of the sale of the merchandise involved and are  
20 considered a part of the sales transaction, constituting reductions in price pursuant  
21 to the terms of the sale, irrespective of whether the quantity discount was:
- 22 (a) Prorated and allowed on each delivery;
- 23 (b) Given in a lump sum after the entire quantity of merchandise purchased had  
24 been delivered; or
- 25 (c) Based on dollar volume or on the quantity of merchandise purchased;
- 26 (24) "Distilled spirits" or "spirits" means any product capable of being consumed by a  
27 human being which contains alcohol in excess of the amount permitted by KRS

- 1 Chapter 242 obtained by distilling, mixed with water or other substances in  
2 solution, except wine, hard cider, and malt beverages;
- 3 (25) "Distiller" means any person who is engaged in the business of manufacturing  
4 distilled spirits at any distillery in the state and is registered in the Office of the  
5 Collector of Internal Revenue for the United States at Louisville, Kentucky;
- 6 (26) "Distillery" means any place or premises where distilled spirits are manufactured for  
7 sale, and which are registered in the office of any collector of internal revenue for  
8 the United States. It includes any United States government bonded warehouse;
- 9 (27) "Distributor" means any person who distributes malt beverages for the purpose of  
10 being sold at retail;
- 11 (28) "Dry" means a territory in which a majority of the electorate voted to prohibit all  
12 forms of retail alcohol sales through a local option election held under KRS Chapter  
13 242;
- 14 (29) "Election" means:
- 15 (a) An election held for the purpose of taking the sense of the people as to the  
16 application or discontinuance of alcoholic beverage sales under KRS Chapter  
17 242; or
- 18 (b) Any other election not pertaining to alcohol;
- 19 (30) "Horse racetrack" means a facility licensed to conduct a horse race meeting under  
20 KRS Chapter 230;
- 21 (31) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public,  
22 designed primarily to serve transient patrons;
- 23 (32) "Investigator" means any employee or agent of the department who is regularly  
24 employed and whose primary function is to travel from place to place for the  
25 purpose of visiting licensees, and any employee or agent of the department who is  
26 assigned, temporarily or permanently, by the commissioner to duty outside the main  
27 office of the department at Frankfort, in connection with the administration of

- 1 alcoholic beverage statutes;
- 2 (33) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 3 (34) "Licensee" means any person to whom a license has been issued, pursuant to KRS  
4 Chapters 241 to 244;
- 5 (35) "Limited restaurant" means:
- 6 (a) A facility where the usual and customary business is the preparation and  
7 serving of meals to consumers, which has a bona fide kitchen facility, which  
8 receives at least seventy percent (70%) of its food and alcoholic beverage  
9 receipts from the sale of food, which maintains a minimum seating capacity of  
10 fifty (50) persons for dining, which has no open bar, which requires that  
11 alcoholic beverages be sold in conjunction with the sale of a meal, and which  
12 is located in a wet or moist territory under KRS 242.1244; or
- 13 (b) A facility where the usual and customary business is the preparation and  
14 serving of meals to consumers, which has a bona fide kitchen facility, which  
15 receives at least seventy percent (70%) of its food and alcoholic beverage  
16 receipts from the sale of food, which maintains a minimum seating capacity of  
17 one hundred (100) persons of dining, and which is located in a wet or moist  
18 territory under KRS 242.1244;
- 19 (36) "Local administrator" means a city alcoholic beverage administrator, county  
20 alcoholic beverage administrator, or urban-county alcoholic beverage control  
21 administrator;
- 22 (37) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or  
23 description, manufactured from malt wholly or in part, or from any substitute for  
24 malt, and includes weak cider;
- 25 (38) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- 26 (39) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person  
27 engaged in the production or bottling of alcoholic beverages;

- 1 (40) "Minor" means any person who is not twenty-one (21) years of age or older;
- 2 (41) "Moist" means a territory in which a majority of the electorate voted to permit  
3 limited alcohol sales by any one (1) or a combination of special limited local option  
4 elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242,  
5 242.1243, 242.1244, or 242.1292;
- 6 (42) "Population" means the population figures established by the federal decennial  
7 census for a census year or the current yearly population estimates prepared by the  
8 Kentucky State Data Center, Urban Studies Center of the University of Louisville,  
9 Louisville, Kentucky, for all other years;
- 10 (43) "Premises" means the land and building in and upon which any business regulated  
11 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include  
12 as a single unit two (2) or more separate businesses of one (1) owner on the same  
13 lot or tract of land, in the same or in different buildings if physical and permanent  
14 separation of the premises is maintained, excluding employee access by keyed entry  
15 and emergency exits equipped with crash bars, and each has a separate public  
16 entrance accessible directly from the sidewalk or parking lot. Any licensee holding  
17 an alcoholic beverage license on July 15, 1998, shall not, by reason of this  
18 subsection, be ineligible to continue to hold his or her license or obtain a renewal,  
19 of the license;
- 20 (44) "Primary source of supply" or "supplier" means the distiller, winery, brewer,  
21 producer, owner of the commodity at the time it becomes a marketable product,  
22 bottler, or authorized agent of the brand owner. In the case of imported products, the  
23 primary source of supply means either the foreign producer, owner, bottler, or agent  
24 of the prime importer from, or the exclusive agent in, the United States of the  
25 foreign distiller, producer, bottler, or owner;
- 26 (45) "Private club" means a nonprofit social, fraternal, military, or political organization,  
27 club, or entity maintaining or operating a club room, club rooms, or premises from

- 1           which the general public is excluded;
- 2   (46) "Public nuisance" means a condition that endangers safety or health, is offensive to  
3       the senses, or obstructs the free use of property so as to interfere with the  
4       comfortable enjoyment of life or property by a community or neighborhood or by  
5       any considerable number of persons;
- 6   (47) "Qualified historic site" means:
- 7       (a) A contributing property with dining facilities for at least fifty (50) persons at  
8           tables, booths, or bars where food may be served within a commercial district  
9           listed in the National Register of Historic Places;
- 10       (b) A site that is listed as a National Historic Landmark or in the National  
11          Register of Historic Places with dining facilities for at least fifty (50) persons  
12          at tables, booths, or bars where food may be served;
- 13       (c) A distillery which is listed as a National Historic Landmark and which  
14          conducts souvenir retail package sales under KRS 243.0305; or
- 15       (d) A not-for-profit or nonprofit facility listed on the National Register of Historic  
16          Places;
- 17   (48) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or  
18       wine by any process other than as provided for on distillery premises, and every  
19       person who, without rectifying, purifying, or refining distilled spirits by mixing  
20       alcoholic beverages with any materials, manufactures any imitations of or  
21       compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,  
22       spirits, cordials, bitters, or any other name;
- 23   (49) "Repackaging" means the placing of alcoholic beverages in any retail container  
24       irrespective of the material from which the container is made;
- 25   (50) "Restaurant" means a facility where the usual and customary business is the  
26       preparation and serving of meals to consumers, that has a bona fide kitchen facility,  
27       and that receives at least fifty percent (50%) of its food and alcoholic beverage



- 1 receipts from the sale of food at the premises;
- 2 (51) "Retail container" means any bottle, can, barrel, or other container which, without a  
3 separable intermediate container, holds alcoholic beverages and is suitable and  
4 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer  
5 or not;
- 6 (52) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- 7 (53) "Retailer" means any licensee who sells and delivers any alcoholic beverage to  
8 consumers, except for producers with limited retail sale privileges;
- 9 (54) "Riverboat" means any boat or vessel with a regular place of mooring in this state  
10 that is licensed by the United States Coast Guard to carry one hundred (100) or  
11 more passengers for hire on navigable waters in or adjacent to this state;
- 12 (55) "Sale" means any transfer, exchange, or barter for consideration, and includes all  
13 sales made by any person, whether principal, proprietor, agent, servant, or  
14 employee, of any alcoholic beverage;
- 15 (56) "Service bar" means a bar, counter, shelving, or similar structure used for storing or  
16 stocking supplies of alcoholic beverages that is a workstation where employees  
17 prepare alcoholic beverage drinks to be delivered to customers away from the  
18 service bar;
- 19 (57) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with  
20 intent to sell, and the delivery of any alcoholic beverage;
- 21 (58) "Small farm winery" means a winery whose wine production is not less than two  
22 hundred fifty (250) gallons and not greater than one hundred thousand (100,000)  
23 gallons in a calendar year;
- 24 (59) "Souvenir package" means a special package of distilled spirits available from a  
25 licensed retailer that is:
- 26 (a) Available for retail sale at a licensed Kentucky distillery where the distilled  
27 spirits were produced or bottled; or

- 1 (b) Available for retail sale at a licensed Kentucky distillery but produced or  
2 bottled at another of that distiller's licensed distilleries in Kentucky;
- 3 (60) "State administrator" or "administrator" means the distilled spirits administrator or  
4 the malt beverages administrator, or both, as the context requires;
- 5 (61) "State park" means a state park that has a:
- 6 (a) Nine (9) or eighteen (18) hole golf course; or  
7 (b) Full-service lodge and dining room;
- 8 (62) "Supplemental bar" means a bar, counter, shelving, or similar structure used for  
9 serving and selling distilled spirits or wine by the drink for consumption on the  
10 licensed premises to guests and patrons from additional locations other than the  
11 main bar;
- 12 (63) "Territory" means a county, city, district, or precinct;
- 13 (64) "Urban-county administrator" means an urban-county alcoholic beverage control  
14 administrator;
- 15 (65) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise  
16 move alcoholic beverages or any products, equipment, or appurtenances used to  
17 manufacture, bottle, or sell these beverages;
- 18 (66) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- 19 (a) Are in their original manufacturer's unopened container;  
20 (b) Are not owned by a distillery; and  
21 (c) Are not otherwise available for purchase from a licensed wholesaler within  
22 the Commonwealth;
- 23 (67) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 24 (68) "Weak cider" means any fermented fruit-based beverage containing more than one  
25 percent (1%) but less than seven percent (7%) alcohol by volume;
- 26 (69) "Wet" means a territory in which a majority of the electorate voted to permit all  
27 forms of retail alcohol sales by a local option election under KRS 242.050 or

1 242.125 on the following question: "Are you in favor of the sale of alcoholic  
2 beverages in (name of territory)?";

3 (70) "Wholesale sale" means a sale to any person for the purpose of resale;

4 (71) "Wholesaler" means any person who distributes alcoholic beverages for the purpose  
5 of being sold at retail, but it shall not include a subsidiary of a manufacturer or  
6 cooperative of a retail outlet;

7 (72) "Wine" means the product of the normal alcoholic fermentation of the juices of  
8 fruits, with the usual processes of manufacture and normal additions, and includes  
9 champagne and sparkling and fortified wine of an alcoholic content not to exceed  
10 twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry  
11 cider and also includes preparations or mixtures vended in retail containers if these  
12 preparations or mixtures contain not more than fifteen percent (15%) of alcohol by  
13 volume. It does not include weak cider; and

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

18 ➔Section 53. KRS 241.015 is amended to read as follows:

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

1           ➔Section 54. KRS 241.030 is amended to read as follows:

2     The Alcoholic Beverage Control Board shall consist of the commissioner~~[of alcoholic~~  
3 ~~beverage control]~~ and two (2) persons appointed by the secretary of the Public Protection  
4 Cabinet with the approval of the Governor, who shall be persons with administrative  
5 experience in the field of alcoholic beverage or cannabis control. One (1) of these  
6 persons shall serve as administrator of the Division of Distilled Spirits, and the other shall  
7 serve as administrator of the Division of Malt Beverages. The commissioner shall be  
8 chairman of the board.

9           ➔Section 55. KRS 243.025 is amended to read as follows:

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

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

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

19           ➔Section 56. KRS 243.0307 is amended to read as follows:

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

- 21       (a) A quota retail drink license;
- 22       (b) A quota retail package license;
- 23       (c) An NQ1 license;
- 24       (d) An NQ2 license; or
- 25       (e) A distiller's license.

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

- 1 (a) Sampling shall be permitted only on licensed premises and by licensees  
2 holding a sampling license, during regular business hours;
- 3 (b) A distillery shall provide samples as authorized by KRS 243.0305; and
- 4 (c) All other licensees shall limit a customer to:
- 5 1. One (1) ounce of distilled spirits samples per day; and  
6 2. Six (6) ounces of wine samples per day.
- 7 (3) Retailers holding a sampling license shall:
- 8 (a) Notify the Department of Alcoholic Beverage and Cannabis Control at least  
9 seven (7) days in advance of conducting a free sampling event; and
- 10 (b) Limit a sampling event to a period not to exceed four (4) consecutive hours  
11 between 12 noon and 8 p.m.
- 12 (4) In addition to free sampling, a quota retail package licensee holding a sampling  
13 license may also sell sample distilled spirits and wine under the following  
14 conditions:
- 15 (a) Paid samples may be sold only on licensed premises and by licensees holding  
16 a sampling license, during regular business hours; and
- 17 (b) A licensee shall limit a customer to purchased samples totaling no more than:
- 18 1. Two (2) ounces of distilled spirits per day; and  
19 2. Nine (9) ounces of wine per day.
- 20 (5) A quota retail package licensee holding both a sampling license and a nonquota  
21 retail malt beverage package license may also sell samples of malt beverages under  
22 the following conditions:
- 23 (a) Paid samples may be sold only on licensed premises and by licensees holding  
24 a sampling license, during regular business hours;
- 25 (b) A licensee shall limit a customer to no more than sixteen (16) ounces of malt  
26 beverages per day;
- 27 (c) Nothing in this subsection shall allow a quota retail package licensee to

- 1 provide a customer samples of malt beverages free of charge;
- 2 (d) The retail price of a sample shall not be less than a licensee's purchase cost of
- 3 the sample; and
- 4 (e) A licensee, supplier, or individual shall not request, require, or allow a
- 5 distributor to provide malt beverages free of charge or participate in any
- 6 activity allowed under this subsection.
- 7 (6) No customer shall be allowed to receive a combination of free and purchased
- 8 samples totaling more than:
- 9 (a) Two (2) ounces of distilled spirits per day; and
- 10 (b) Nine (9) ounces of wine per day.
- 11 (7) Free and paid samples provided under this section shall not constitute drink sales.

12 ➔Section 57. KRS 243.038 is amended to read as follows:

- 13 (1) The Department of Alcoholic Beverage and Cannabis Control shall not issue a
- 14 license to an applicant authorized to apply for a license to sell alcoholic beverages
- 15 by the drink under KRS 243.039 unless the applicant and the golf course, if
- 16 different from the applicant, agree to voluntarily comply with the provisions of KRS
- 17 Chapter 344, whether or not the applicant and the golf course would otherwise be
- 18 covered by the provisions of KRS Chapter 344.
- 19 (2) The department shall revoke or suspend any license issued under KRS 243.039 if
- 20 the department or the Kentucky Commission on Human Rights makes a finding that
- 21 the applicant or the golf course, if different from the applicant, has violated a
- 22 requirement specified in this section.

23 ➔Section 58. KRS 243.090 is amended to read as follows:

- 24 (1) All licenses issued by the department, except special event licenses, temporary
- 25 licenses, or licenses listed in subsection (5) of this section, shall be valid for a
- 26 period of no more than a year. The board shall promulgate administrative
- 27 regulations establishing the year-round system for renewal of licenses. The system

1 shall be designed to distribute the workload as uniformly as possible within the  
2 offices of the local administrators and the Department of Alcoholic Beverage and  
3 Cannabis Control.

4 (2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses  
5 issued after January 1, 2017, by a local administrator shall be valid for a  
6 period of no more than a year and shall be renewable upon the date  
7 established by the department for the expiration of state licenses issued for  
8 premises located in that county or city. During the first year following July 15,  
9 2016, if the new date for renewal for the licensee does not occur on the date  
10 established by the department for the expiration of the licensee's state license,  
11 the local administrator shall either:

- 12 1. Prorate the cost of the renewed license by proportionally reducing the  
13 cost of the renewed license if the new date for the renewal occurs prior  
14 to the expiration of a previous license; or
- 15 2. Provide a prorated provisional local license to cover any period of time  
16 between the expiration of the previous license and the new date for  
17 renewal if the new date for renewal occurs after the expiration of the  
18 licensee's previous license.

19 (b) Paragraph (a) of this subsection shall not apply to licenses issued by a  
20 consolidated local government, special event licenses, temporary licenses, or  
21 licenses listed in subsection (5) of this section.

22 (3) When any person applies for a new license authorized under KRS Chapters 241 to  
23 244, the person shall be charged, if the license is issued, the full fee for the  
24 respective license if six (6) months or more remain before the license is due to be  
25 renewed and one-half (1/2) the fee if less than six (6) months remain before the  
26 license is due to be renewed. No abatement of license fees shall be permitted to any  
27 person who held a license of the same kind for the same premises in the preceding

1 license period and who was actually doing business under the license during the last  
2 month of the preceding license period.

3 (4) The renewal by the department of any alcoholic beverage license shall not be  
4 construed to waive or condone any violation that occurred prior to the renewal and  
5 shall not prevent subsequent proceedings against the licensee.

6 (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew  
7 their licenses for either a one (1) year term or a two (2) year term.

8 (6) The department may deny license renewal if the licensee is a delinquent taxpayer as  
9 defined in KRS 131.1815.

10 ➔Section 59. KRS 243.360 is amended to read as follows:

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

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

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

27 (b) The notice shall specifically state the location of the premises for which the



1 license is sought, the type of business, and the type of license being requested;  
2 and

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

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

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

12 ➔Section 60. KRS 438.310 is amended to read as follows:

13 (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine  
14 product, or vapor product at retail to any person under the age of eighteen (18), or  
15 solicit any person under the age of eighteen (18) to purchase any tobacco product,  
16 alternative nicotine product, or vapor product at retail.

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

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

25 (4) A person who violates subsection (1) or (2) of this section shall be subject to a fine  
26 of not less than one hundred dollars (\$100) nor more than five hundred dollars  
27 (\$500) for a first violation and a fine of not less than five hundred dollars (\$500) nor

1 more than one thousand dollars (\$1,000) for any subsequent violation. The fine  
2 shall be administered by the Department of Alcoholic Beverage and Cannabis  
3 Control using a civil enforcement procedure.

4 ➔Section 61. KRS 438.311 is amended to read as follows:

5 (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has  
6 not attained the age of eighteen (18) years to purchase or accept receipt of or to  
7 attempt to purchase or accept receipt of a tobacco product, alternative nicotine  
8 product, or vapor product, or to present or offer to any person any purported proof  
9 of age which is false, fraudulent, or not actually his or her own, for the purpose of  
10 purchasing or receiving any tobacco product, alternative nicotine product, or vapor  
11 product. It shall not be unlawful for such a person to accept receipt of a tobacco  
12 product, alternative nicotine product, or vapor product from an employer when  
13 required in the performance of the person's duties.

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

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

22 ➔Section 62. KRS 438.313 is amended to read as follows:

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

27 (2) Any person who distributes cigarettes, tobacco products, alternative nicotine

1 products, or vapor products, including samples thereof, free of charge or otherwise  
2 shall require proof of age from a prospective buyer or recipient if the person has  
3 reason to believe that the prospective purchaser or recipient is under the age of  
4 eighteen (18).

5 (3) Any person who violates the provisions of this section shall be fined not less than  
6 one thousand dollars (\$1,000) nor more than two thousand five hundred dollars  
7 (\$2,500) for each offense. The fine shall be administered by the Department of  
8 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for  
9 persons eighteen (18) years of age or older. For persons under the age of eighteen  
10 (18) years, the offense shall be deemed a status offense and shall be under the  
11 jurisdiction of the juvenile session of the District Court.

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

18 ➔Section 63. KRS 438.315 is amended to read as follows:

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

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

25 (3) Except for vending machines located in factories or vending machines located in  
26 bars or taverns to which minors are not permitted access, any vending machine from  
27 which tobacco products, alternative nicotine products, or vapor products are

1 dispensed shall be located in the line of sight of the cashier for the retail  
2 establishment.

3 (4) Any owner of a retail establishment violating this section shall be subject to a fine  
4 of not less than one hundred dollars (\$100) nor more than five hundred dollars  
5 (\$500) for each violation. The fine shall be administered by the Department of  
6 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for  
7 persons eighteen (18) years of age or older. For persons under the age of eighteen  
8 (18) years, the offense shall be deemed a status offense and shall be under the  
9 jurisdiction of the juvenile session of the District Court.

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

16 ➔Section 64. KRS 438.317 is amended to read as follows:

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

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

22 (3) Any person violating subsection (1) of this section shall be subject to a fine of not  
23 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).  
24 Any person violating subsection (2) of this section shall be fined not less than one  
25 thousand dollars (\$1,000) nor more than two thousand five hundred dollars  
26 (\$2,500). These penalties shall be enforced by the Department of Alcoholic  
27 Beverage and Cannabis Control through civil enforcement procedures.

1           ➔Section 65. KRS 438.320 is amended to read as follows:

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

7           ➔Section 66. KRS 438.325 is amended to read as follows:

8 (1) Each owner of a retail establishment selling or distributing tobacco products,  
9 alternative nicotine products, or vapor products shall notify each individual  
10 employed in the retail establishment as a retail sales clerk that the sale of tobacco  
11 products, alternative nicotine products, or vapor products to any person under the  
12 age of eighteen (18) years and the purchase of tobacco products, alternative nicotine  
13 products, or vapor products by any person under the age of eighteen (18) years are  
14 prohibited.

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

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

25 "I understand that under the law of the Commonwealth of Kentucky it is illegal to  
26 sell or distribute tobacco products, alternative nicotine products, or vapor products  
27 to persons under the age of eighteen (18) years and that it is illegal for persons

1 under the age of eighteen (18) years to purchase tobacco products, alternative  
2 nicotine products, or vapor products."

3 (4) The owner of the retail establishment shall maintain the signed notice that is  
4 required pursuant to subsection (3) of this section in a place and in a manner so as  
5 to be easily accessible to any employee of the Department of Alcoholic Beverage  
6 and Cannabis Control or the Department of Agriculture conducting an inspection  
7 of the retail establishment for the purpose of monitoring compliance in limiting the  
8 sale or distribution of tobacco products, alternative nicotine products, or vapor  
9 products to persons under the age of eighteen (18) as provided in KRS 438.305 to  
10 438.340.

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

16 ➔Section 67. KRS 438.330 is amended to read as follows:

17 (1) The Department of Alcoholic Beverage and Cannabis Control and the Department  
18 of Agriculture shall carry out annually conducted random, unannounced inspections  
19 of retail establishments where tobacco products, alternative nicotine products, or  
20 vapor products are sold or distributed for the purpose of enforcing the provisions of  
21 KRS 438.305 to 438.340. The inspections shall be conducted to the extent  
22 necessary to assure that the Commonwealth remains in compliance with Public Law  
23 102-321 and applicable federal regulations. The Department of Alcoholic Beverage  
24 and Cannabis Control and the Department of Agriculture shall also ensure that  
25 targeted inspections are conducted at those retail establishments where, and at those  
26 times when, persons under the age of eighteen (18) years are most likely to purchase  
27 tobacco products, alternative nicotine products, or vapor products. Persons under

1 the age of eighteen (18) years may be used to test compliance with the provisions of  
2 KRS 438.305 to 438.340 only if the testing is conducted under the direct  
3 supervision of the Department of Alcoholic Beverage and Cannabis Control,  
4 sheriff, or chief of police, or their employees, and written parental consent has been  
5 obtained. The Department of Alcoholic Beverage and Cannabis Control shall  
6 prepare annually, for submission by the Governor to the Secretary of the United  
7 States Department of Health and Human Services, the report required by Section  
8 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

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

12 ➔Section 68. KRS 438.337 is amended to read as follows:

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

17 (2) The Department of Alcoholic Beverage and Cannabis Control shall be entitled to  
18 the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent  
19 (\$0.03) per pack revenue collected by the Finance and Administration Cabinet from  
20 the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be  
21 deposited in a trust and agency account created in the State Treasury, and to keep  
22 fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset  
23 the costs of enforcement of KRS 438.305 to 438.340.

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

27 (4) The Department of Alcoholic Beverage and Cannabis Control shall devise a plan

1           and time frame for enforcement to determine by random inspection if the percentage  
2           of retailers or distributors making illegal sales to minors does or does not exceed  
3           federal guidelines preventing tobacco sales to minors.

4           ➔Section 69. KRS 438.340 is amended to read as follows:

5           The Department of Alcoholic Beverage and Cannabis Control and the Department of  
6           Agriculture are authorized to promulgate administrative regulations pursuant to KRS  
7           Chapter 13A as necessary to implement and carry out the provisions of KRS 438.305 to  
8           438.340.

9           ➔Section 70. This Act takes effect January 1, 2021.