

1 AN ACT relating to medicinal cannabis.

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 29 of this Act, unless the context otherwise requires:*

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

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

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

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

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

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

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

22 *(4) "Cardholder" means:*

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

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

1 another state, district, territory, commonwealth, or insular possession of the
2 United States that allows the person to use cannabis for medicinal purposes
3 in the jurisdiction of 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,
6 producer, or 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 cannabis 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 29 of this
27 Act would likely have prevented a conviction, but the conduct either

1 occurred prior to the enactment of Sections 1 to 29 of this Act or was
2 prosecuted by an authority other than the Commonwealth of
3 Kentucky;

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

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

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

12 (15) "Marijuana" has the same meaning as in KRS 218A.010;

13 (16) "Medicinal cannabis" means marijuana as defined in KRS 218A.010 when
14 cultivated, harvested, processed, produced, transported, dispensed, distributed,
15 sold, possessed, or used in accordance with Sections 1 to 29 of this Act. The term
16 "medicinal cannabis" includes medicinal cannabis products and raw plant
17 material;

18 (17) "Medicinal cannabis accessories" means any equipment, product, or material of
19 any kind which is used, intended for use, or designed for use in the preparing,
20 storing, using, or consuming medicinal cannabis in accordance with Sections 1
21 to 29 of this Act;

22 (18) "Medicinal cannabis product" means any compound, manufacture, salt,
23 derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds
24 or its resin; or any compound, mixture, or preparation which contains any
25 quantity of these substances when cultivated, harvested, processed, produced,
26 transported, dispensed, distributed, sold, possessed, or used in accordance with
27 Sections 1 to 29 of this Act;

- 1 (19) "Minor" means a person less than eighteen (18) years of age;
- 2 (20) "Pharmacist" means the same as in KRS 315.010;
- 3 (21) "Practitioner" means a physician or an advanced practice registered nurse who
4 is authorized to prescribe controlled substances under KRS 314.042, who is
5 authorized by a state licensing board to provide written certifications pursuant to
6 Section 9 of this Act;
- 7 (22) "Processor" means an entity licensed under this chapter that acquires raw plant
8 material from a cultivator in order to prepare, trim, manipulate, blend,
9 manufacture, or otherwise modify the raw plant material, and package products
10 containing or derived from the raw plant material for sale to a licensed
11 dispensary;
- 12 (23) "Processor agent" means a principal officer, board member, employee,
13 volunteer, or agent of a processor;
- 14 (24) "Producer" means an entity licensed under this chapter that is permitted to
15 operate as and engage in the permitted activities of both a cultivator and
16 processor;
- 17 (25) "Producer agent" means a principal officer, board member, employee, volunteer,
18 or agent of a producer;
- 19 (26) "Qualified patient" means a person who has obtained a written certification from
20 a practitioner with whom he or she has a bona fide practitioner-patient
21 relationship;
- 22 (27) "Raw plant material" means the trichome-covered part of the female plant
23 Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the
24 Cannabis sp. plant;
- 25 (28) "Registered qualified patient" means a qualified patient who has applied for,
26 obtained, and possesses a valid registry identification card or provisional
27 licensure receipt issued by the department;

- 1 (29) "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 (30) "Safety compliance facility" means an entity licensed under this chapter that
5 provides at least one (1) of the following services:
6 (a) Testing medicinal cannabis produced by a cannabis business licensed under
7 this chapter; or
8 (b) Training cardholders and cannabis business agents;
- 9 (31) "Safety compliance facility agent" means a principal officer, board member,
10 employee, volunteer, or agent of a safety compliance facility;
- 11 (32) "Seedling" means a cannabis plant that has no flowers and is taller than eight
12 (8) inches;
- 13 (33) "Smoking" means the inhalation of smoke produced from the combustion of raw
14 plant material when ignited by a flame;
- 15 (34) "State licensing board" means any of the following:
16 (a) The Kentucky Board of Medical Licensure; and
17 (b) The Kentucky Board of Nursing;
- 18 (35) "Use of medicinal cannabis" or "medicinal use of cannabis" includes the
19 acquisition, administration, possession, transfer, transportation, or consumption
20 of medicinal cannabis or medicinal cannabis accessories by a cardholder in
21 accordance with Sections 1 to 29 of this Act. The terms "use of medicinal
22 cannabis" and "medicinal use of cannabis" do not include:
23 (a) Cultivation of marijuana by a cardholder; or
24 (b) The use or consumption of marijuana by smoking;
- 25 (36) "Visiting qualified patient" means a person who has registered as such through
26 the department as required under this chapter or who possesses a valid registry
27 identification card, or an equivalent document, that was issued pursuant to the

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

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

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

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

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

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

15 Notwithstanding any provisions to the contrary:

16 (1) The use of medicinal cannabis by a cardholder shall be considered lawful if done
 17 in accordance with Sections 1 to 29 of this Act and any administrative regulations
 18 promulgated thereunder;

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

23 (3) The acquisition, blending, cultivation, delivery, distribution, manufacturing,
 24 manipulation, packaging for sale, preparation, possession, sale, testing,
 25 transportation, or transfer of medicinal cannabis or medicinal cannabis
 26 accessories by a cannabis business or cannabis business agent shall be
 27 considered lawful if done in accordance with Sections 1 to 29 of this Act and any

1 administrative regulations promulgated thereunder;

2 (4) A practitioner shall not be subject to arrest, prosecution, or penalty in any
3 manner, or denied any right or privilege, including but not limited to a civil
4 penalty or disciplinary action by a state licensing board or by any other
5 occupational or professional licensing board, solely for providing written
6 certifications or for otherwise stating that, in the practitioner's professional
7 opinion, a patient may receive therapeutic or palliative benefit from the use of
8 medicinal cannabis, if done in accordance with Sections 1 to 29 of this Act;

9 (5) An attorney shall not be subject to arrest, prosecution, or penalty in any manner,
10 or denied any right or privilege, including but not limited to a civil penalty or
11 disciplinary action by the Kentucky Bar Association or by any other professional
12 licensing board, for providing an individual or cannabis business with legal
13 assistance related to activity that is no longer subject to criminal penalties under
14 state law pursuant to Sections 1 to 29 of this Act;

15 (6) A pharmacist shall not be subject to arrest, prosecution, or penalty in any
16 manner, or denied any right or privilege, including but not limited to a civil
17 penalty or disciplinary action by the Kentucky Board of Pharmacy or by any
18 other professional licensing board, for consulting with or providing information
19 with respect to the possible risks or side effects of medicinal cannabis, including
20 any potentially harmful or dangerous interactions between medicinal cannabis
21 and any other drug; and

22 (7) No person shall be subject to arrest, prosecution, or penalty in any manner, or
23 denied any right or privilege, including but not limited to a civil penalty or
24 disciplinary action by an occupational or professional licensing board, for
25 providing assistance or services, including but not limited to accounting services,
26 security services, or business consulting services, to any individual or cannabis
27 business related to activity that is no longer subject to criminal penalties under

1 state law pursuant to Sections 1 to 29 of this Act.

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

4 (1) The Department of Alcoholic Beverage and Cannabis Control is hereby charged
5 with the implementation, operation, oversight, and regulation of the medicinal
6 cannabis program established in Sections 1 to 29 of this Act, and there is hereby
7 created within the department a Division of Medicinal Cannabis. The Division of
8 Medicinal Cannabis shall consist of a director and the necessary staff to fulfill its
9 statewide regulatory responsibilities.

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

15 (3) (a) There is hereby established within the department a Board of Physicians
16 and Advisors which for administrative purposes shall be attached to the
17 department.

18 (b) The board shall consist of:

19 1. Seven (7) physicians or surgeons who are knowledgeable about the
20 medicinal use of cannabis and certified by the appropriate board in
21 one (1) of the following specialties:

22 a. Addiction medicine;

23 b. Anesthesiology;

24 c. Gastroenterology;

25 d. Obstetrics and gynecology;

26 e. Ophthalmology;

27 f. Optometry;

- 1 g. Infectious disease;
2 h. Neurology;
3 i. Oncology;
4 j. Pain management;
5 k. Pain medicine;
6 l. Pediatrics;
7 m. Physical Medicine and Rehabilitation; or
8 n. Psychiatry;
9 2. One (1) advanced practice registered nurse who is authorized to
10 prescribe controlled substances under KRS 314.042;
11 3. One (1) pharmacist licensed by the Kentucky Board of Pharmacy; and
12 4. Four (4) patient advocates.
13 (c) The commissioner of the department shall appoint members to the board.
14 Seven (7) of the members first appointed shall serve for a term of three (3)
15 years, and six (6) of the members first appointed shall serve for a term of
16 four (4) years. Thereafter, members of the board shall serve for a term of
17 four (4) years and shall be eligible for reappointment. A member of the
18 board whose term has expired may continue to serve until a successor has
19 been appointed. The commissioner and the director of the Division of
20 Medicinal Cannabis shall serve as nonvoting ex officio members of the
21 board. The commissioner shall select a chairperson from among the
22 physicians and surgeons appointed to the board.
23 (d) The board shall:
24 1. Review and recommend to the department protocols for determining
25 the amount of medicinal cannabis that shall constitute daily supply,
26 an uninterrupted ten (10) day supply, and an uninterrupted thirty (30)
27 day supply, as well as the amount of raw plant material that medicinal

- 1 cannabis products are considered equivalent to;
- 2 2. Review and recommend to the department protocols, evolving
3 continuous quality improvement metrics, and minimal performance
4 standards for the biennial accreditation process of licensed cannabis
5 businesses;
- 6 3. Review relevant scientific data related to the delta-9
7 tetrahydrocannabinol content limits established in subsection (2)(b) of
8 Section 19 of this Act and make recommendations to the General
9 Assembly regarding revisions to the limits as the board deems
10 appropriate;
- 11 4. Review relevant scientific data related to the various methods of use
12 and consumption of medicinal cannabis and make recommendations
13 to the General Assembly to approve or restrict certain methods as the
14 board deems appropriate; and
- 15 5. Perform other duties related to the medicinal use of cannabis upon
16 request by the commissioner of the department or the director of the
17 Division of Medicinal Cannabis.
- 18 (4) No later than December 1 of each year beginning in 2022, the department, in
19 consultation with the University of Kentucky, College of Medicine shall submit
20 an annual report to the Legislative Research Commission. The report submitted
21 by the department shall, at a minimum, include:
- 22 (a) The number of applications and renewals received by the department for
23 registry identification cards for registered qualified patients, visiting
24 qualified patients, and designated caregivers, individually and collectively;
- 25 (b) The number of applications and renewals for registry identification cards
26 that were approved and denied by the department;
- 27 (c) The number of registry identification cards revoked by the department for

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

- 1 reasonableness of their fees, whether they are generating any
2 complaints or security problems, and the sufficiency of the number
3 operating to serve cardholders in the Commonwealth; and
- 4 5. The effectiveness of the licensed safety compliance facilities licensed
5 under this chapter, individually and collectively, in serving the needs
6 of other cannabis businesses, including the provision of testing and
7 training services, the reasonableness of their fees, whether they are
8 generating any complaints or security problems, and the sufficiency of
9 the number operating to serve other cannabis businesses and
10 cardholders in the Commonwealth;
- 11 (j) The profits and expenditures by cannabis businesses, individually and
12 collectively;
- 13 (k) The amount of medicinal cannabis sold per month in the Commonwealth;
- 14 (l) The total amount of revenue for each calendar year and aggregated by prior
15 years generated from any cannabis business licensure and cardholder
16 application and renewal fees established by the department;
- 17 (m) The total cost of enforcement for the medicinal cannabis program at the
18 time of the report, by city, county, and overall;
- 19 (n) The sufficiency of the regulatory and security safeguards contained in
20 Sections 1 to 29 of this Act and adopted by the department through
21 administrative regulations to ensure that access to and use of medicinal
22 cannabis cultivated and processed in this state is provided only to
23 cardholders;
- 24 (o) Any recommended additions or revisions to Sections 1 to 29 of this Act or
25 administrative regulations promulgated thereunder, including those
26 relating to security, safe handling, labeling, and nomenclature;
- 27 (p) The results of any scientific research studies regarding the health effects of

- 1 cannabis; and
- 2 (q) Any other data requested by the Legislative Research Commission relating
- 3 to the medicinal cannabis program and Sections 1 to 29 of this Act.
- 4 (5) The department shall provide the University of Kentucky, College of Medicine
- 5 with all information necessary to allow collaboration with the department on the
- 6 preparation of this report. The University of Kentucky, College of Medicine may
- 7 also produce its own report regarding the medicinal cannabis program
- 8 established in Sections 1 to 29 of this Act which, if produced, shall be submitted
- 9 to the Legislative Research Commission upon completion.
- 10 (6) The information contained in the report described in subsection (4) of this section
- 11 shall be presented in a manner that does not disclose any identifying information
- 12 about cardholders or licensed cannabis businesses.
- 13 (7) Nothing in Sections 1 to 29 of this Act shall require the department to assume
- 14 duties in relation to the medicinal cannabis program that are more than
- 15 administrative in nature if federal law or a current and clear directive from the
- 16 federal government indicates that duties assumed by the department that are
- 17 more than administrative could result in federal prosecution or invalidation of
- 18 the medicinal cannabis program established in Sections 1 to 29 of this Act.
- 19 (8) If the department makes a determination that it is required by Sections 1 to 29 of
- 20 this Act to conduct duties that are more than administrative in nature, then it
- 21 shall continue to conduct duties that are administrative in nature and designate
- 22 or enter into a contract with a qualified nongovernmental entity to conduct any
- 23 duties required by Sections 1 to 29 of this Act that are more than administrative
- 24 in nature. The department may reimburse the state for any costs involved in
- 25 working with outside consultants to implement the program.

26 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO

27 READ AS FOLLOWS:

- 1 (1) A registered qualified patient, except as provided in subsection (2) of this section,
2 shall not be subject to arrest, prosecution, or denial of any right or privilege,
3 including but not limited to a civil penalty or disciplinary action by a court or
4 occupational or professional licensing board, for the use of medicinal cannabis,
5 if the registered qualified patient does not possess more than:
- 6 (a) An amount of medicinal cannabis determined by the department to
7 constitute an uninterrupted thirty (30) day supply at his or her residence;
- 8 (b) An amount of medicinal cannabis in excess of a thirty (30) day supply at his
9 or her residence, in accordance with administrative regulations
10 promulgated pursuant to Section 28(1)(c)6. of this Act; or
- 11 (c) An amount of medicinal cannabis determined by the department to
12 constitute an uninterrupted ten (10) day supply on his or her person, except
13 that an amount greater than a ten (10) day supply may be transported by a
14 registered qualified patient from a dispensary to his or her residence if the
15 medicinal cannabis is contained in a sealed package that requires at least a
16 two (2) step process for initial opening.
- 17 (2) A registered qualified patient who is under eighteen (18) years of age shall not be
18 permitted to possess, purchase, or acquire medicinal cannabis and shall only
19 engage in the use of medicinal cannabis with the assistance of a designated
20 caregiver who is the registered qualified patient's parent or legal guardian
21 responsible for providing consent for medical treatment.
- 22 (3) A visiting qualified patient shall not be subject to arrest, prosecution, or denial of
23 any right or privilege, including but not limited to civil penalty or disciplinary
24 action by a court or occupational or professional licensing board, for the use of
25 medicinal cannabis, if the visiting qualified patient does not possess more than an
26 amount of medicinal cannabis determined by the department to constitute an
27 uninterrupted ten (10) day supply on his or her person.

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

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

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

11 2. An amount of medicinal cannabis in excess of a thirty (30) day supply
12 at his or her residence for each registered qualified patient to whom
13 the caregiver is connected through the department's registration
14 process, in accordance with administrative regulations promulgated
15 pursuant to Section 28(1)(c)6. of this Act; or

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

24 (b) Receiving compensation for reasonable costs associated with assisting a
25 registered qualified patient in the use of medicinal cannabis if the
26 designated caregiver is connected to the registered qualified patient through
27 the department's registration process.

- 1 (5) All medicinal cannabis possessed by a cardholder in accordance with subsections
2 (1), (3), and (4) of this section shall be kept in the original container in which the
3 cardholder received the medicinal cannabis from a dispensary.
- 4 (6) Notwithstanding subsections (1), (3), and (4) of this section and except as
5 provided in administrative regulations promulgated pursuant to Section
6 28(1)(c)6. of this Act:
- 7 (a) A registered qualified patient shall not be permitted to purchase more
8 medicinal cannabis than the amount determined by the department to
9 constitute an uninterrupted thirty (30) day supply of medicinal cannabis
10 during a given twenty-five (25) day period;
- 11 (b) A designated caregiver shall not be permitted to purchase more medicinal
12 cannabis than the amount determined by the department to constitute an
13 uninterrupted thirty (30) day supply of medicinal cannabis for each
14 registered qualified patient to whom the caregiver is connected through the
15 department's registration process during a given twenty-five (25) day
16 period; and
- 17 (c) A visiting qualified patient shall not be permitted to purchase more
18 medicinal cannabis than the amount determined by the department to
19 constitute an uninterrupted ten (10) day supply of medicinal cannabis
20 during a given eight (8) day period.
- 21 (7) A cardholder shall not be subject to arrest, prosecution, or denial of any right or
22 privilege, including but not limited to a civil penalty or disciplinary action by a
23 court or occupational or professional licensing board, for:
- 24 (a) Possession of cannabis that is incidental to the use of medicinal cannabis;
25 (b) Possession of medicinal cannabis accessories; or
26 (c) Transferring medicinal cannabis to a safety facility for testing.
- 27 (8) No person shall be subject to arrest, prosecution, or denial of any right or

1 privilege, including but not limited to a civil penalty or disciplinary action by a
 2 court or occupational or professional licensing board, for:

3 (a) Selling medicinal cannabis accessories to a cardholder, who is over
 4 eighteen (18) years of age, upon presentation of a valid registry
 5 identification card issued by the department in accordance with Sections 11,
 6 12, and 13 of this Act, or its equivalent issued pursuant to the laws of
 7 another state, district, territory, commonwealth, or insular possession of the
 8 United States that allows the person to use medicinal cannabis in the
 9 jurisdiction of issuance;

10 (b) Being in the presence or vicinity of the use of medicinal cannabis as
 11 allowed under Sections 1 to 29 of this Act; or

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

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

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

24 (b) Sections 1 to 29 of this Act shall not prevent the seizure or forfeiture of
 25 marijuana exceeding the amounts allowed under Section 4 of this Act or
 26 administrative regulations promulgated pursuant to subsection (1)(c)6. of
 27 Section 28 of this Act, nor shall it prevent seizure or forfeiture if the basis

1 for that action is unrelated to the medicinal use of cannabis in accordance
2 with Sections 1 to 29 of this Act and any administrative regulation
3 promulgated thereunder.

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

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

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

19 2. Possesses an amount of medicinal cannabis that does not exceed the
20 amount allowed under Section 4 of this Act or administrative
21 regulations promulgated pursuant to subsection (1)(c)6. of Section 28
22 of this Act.

23 (b) The presumption may be rebutted by evidence that conduct was unrelated to
24 the medicinal use of cannabis or was otherwise in violation of Sections 1 to
25 29 of this Act.

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

1 officer's time, to effect any arrest or seizure of medicinal cannabis, or conduct
2 any investigation, on the sole basis of activity the officer believes to constitute a
3 violation of the federal Controlled Substances Act, 21 U.S.C. secs. 801 et seq., if
4 the officer should have reason to believe that such activity is in compliance with
5 Sections 1 to 29 of this Act.

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

8 (1) Sections 1 to 29 of this Act do not authorize any person to engage in, and shall
9 not prevent the imposition of any civil, criminal, or other penalties, including but
10 not limited to criminal prosecution or disciplinary action by the department or an
11 occupational or professional licensing board, for engaging in, the following
12 conduct:

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

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

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

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

- 1 (e) Possessing medicinal cannabis, or otherwise engaging in the use of
2 medicinal cannabis:
- 3 1. On the grounds of any preschool or primary or secondary school,
4 except as permitted in accordance with policies enacted pursuant to
5 subsection (4)(c) of Section 8 of this Act;
- 6 3. In any correctional facility; or
- 7 4. On any property of the federal government;
- 8 (f) Using marijuana, if that person is not a registered qualified patient or
9 visiting qualified patient;
- 10 (g) Using or consuming marijuana by smoking; or
- 11 (h) Cultivating marijuana unless that person is licensed by the department as a
12 cannabis cultivator or cannabis producer pursuant to Sections 16, 17, and
13 18 of this Act or is a cultivator or producer agent.
- 14 (2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the
15 same as those established for operating a motor vehicle under the influence of
16 alcohol or any other substance in KRS 189A.010.
- 17 (3) (a) An individual who violates subsection (1)(g) of this section shall not be
18 considered to be in possession of medicinal cannabis or engaged in the use
19 of medicinal cannabis and shall not benefit from the legal protections
20 afforded by Sections 1 to 29 of this Act.
- 21 (b) The odor or smell of cannabis shall not constitute evidence of use or
22 consumption of cannabis by smoking.
- 23 (c) If an individual uses or consumes marijuana by smoking while on any form
24 of public transportation, in any public place as defined in KRS 525.010, or
25 in any place of public accommodation, resort, or amusement as defined in
26 KRS 344.130:
- 27 1. The department may revoke the individual's registry identification

1 card; and

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

4 (4) Nothing in Sections 1 to 29 of this Act supersedes statutory laws relating to
5 driving while under the influence of intoxicants. Sections 1 to 29 of this Act shall
6 not prevent the enforcement of current laws pertaining to driving while
7 intoxicated, including KRS 183.061, 189.520, 189A.010, and 235.240.

8 (5) As used in this section:

9 (a) "Aircraft" has the same meaning as in KRS 183.011;

10 (b) "Vehicle" has the same meaning as in KRS 189.010; and

11 (c) "Vessel" has the same meaning as in KRS 235.010.

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

14 (1) Nothing in Sections 1 to 29 of this Act shall:

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

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

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

21 2. Restricting or prohibiting the use of equipment, machinery, or power
22 tools by an employee who is a registered qualified patient, if the
23 employer believes that the use of such equipment, machinery, or
24 power tools by an employee who is a registered qualified patient poses
25 an unreasonable safety risk;

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

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

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

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

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

15 (3) An employer shall not be penalized or denied any benefit under state law for
16 employing a cardholder.

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

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

24 (2) A cardholder otherwise entitled to custody of or visitation time or parenting time
25 with a minor child shall not be denied that right, and there shall be no
26 presumption of abuse, neglect, or dependency, for conduct permitted under
27 Sections 1 to 29 of this Act unless the person's actions in relation to medicinal

1 cannabis created an unreasonable danger to the safety of the minor child as
2 established by clear and convincing evidence.

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

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

11 (4) (a) A school shall not refuse to enroll, or otherwise penalize, a person solely for
12 his or her status as a cardholder, unless failing to do so would violate
13 federal law or regulations and cause the school to lose a monetary or
14 licensing-related benefit under federal law or regulations.

15 (b) A school shall not be penalized or denied any benefit under state law for
16 enrolling a cardholder.

17 (c) The board of each local public school district shall establish policies and
18 regulations to permit a pupil who is a registered qualified patient to
19 consume medicinal cannabis on school property as deemed necessary by the
20 pupil's parent or legal guardian. Policies and regulations enacted pursuant
21 to this paragraph shall require medicinal cannabis be administered by a
22 school nurse or under the supervision of appropriate school staff.

23 (5) (a) A landlord shall not refuse to lease to, or otherwise penalize, a person solely
24 for his or her status as a cardholder, unless failing to do so would violate
25 federal law or regulations and cause the landlord to lose a monetary or
26 licensing-related benefit under federal law or regulations.

27 (b) No landlord may be penalized or denied any benefit under state law for

1 leasing to a cardholder.

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

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

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

13 (2) (a) A state licensing board shall approve an application for authorization to
14 provide written certifications for the use of medicinal cannabis if the
15 application is complete and meets the requirements established in
16 administrative regulations promulgated by the state licensing board.

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

24 (3) Authorization to provide written certifications for the use of medicinal cannabis
25 granted under this section shall expire and may be renewed in accordance with
26 administrative regulations promulgated by a state licensing board.

27 (4) A practitioner authorized by a state licensing board to provide written

1 certifications for the use of medicinal cannabis may only provide a patient with a
2 written certification after the practitioner has:

3 (a) Established a bona fide practitioner-patient relationship with the patient;

4 (b) Diagnosed the patient, or confirmed a diagnosis provided by another health
5 care provider, with a medical condition for which the practitioner believes
6 that the patient may receive therapeutic or palliative benefit from the use of
7 medicinal cannabis;

8 (c) Reviewed a report of information from the electronic system for monitoring
9 controlled substances established in KRS 218A.202 related to the patient for
10 a period of time that covers at least the twelve (12) months immediately
11 preceding the date of the report;

12 (d) Consulted with the patient, or the patient's custodial parent or legal
13 guardian responsible for providing consent to treatment if the patient is a
14 minor child, with respect to the possible risks and side effects associated
15 with medicinal cannabis, including possible interactions between medicinal
16 cannabis and any other drug or medication that the patient is taking at that
17 time; and

18 (e) Obtained the consent of the patient's custodial parent or legal guardian
19 responsible for providing consent to treatment, if the patient is a minor
20 child.

21 (5) A bona fide practitioner-patient relationship may be established following a
22 referral from the patient's primary care provider and may be maintained via
23 telehealth. However, a bona fide practitioner-patient relationship shall not be
24 established via telehealth.

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

27 (b) An initial written certification for the use of medicinal cannabis shall be

1 provided during the course of an in-person examination of the patient by
2 the practitioner. Subsequent written certifications, including for the purpose
3 of renewing a registry identification card, may be provided electronically or
4 during the course of a telehealth consultation.

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

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

16 (7) A practitioner shall not:

17 (a) Dispense medicinal cannabis; or

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

20 (8) Nothing in Sections 1 to 29 of this Act shall prevent a practitioner from being
21 sanctioned for:

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

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

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

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

2 (e) Any other violation of this section.

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

7 (10) The state licensing boards shall:

8 (a) No later than January 1, 2022, promulgate administrative regulations to
9 carry out this section, including but not limited to:

10 1. The procedures for applying for authorization to provide written
11 certifications;

12 2. The conditions that must be met to be eligible for authorization to
13 provide written certifications;

14 3. The process and procedures for renewing authorization to provide
15 written certifications;

16 4. Continuing education requirements for practitioners who are
17 authorized to provide written certifications;

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

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

21 (b) On a regular basis, provide the department with the names of all
22 practitioners authorized by the state licensing board to provide written
23 certifications; and

24 (c) Immediately provide the department with the name of any practitioner
25 whose authorization to provide written certifications is suspended or
26 revoked.

27 (11) This section does not apply to a practitioner who recommends treatment with

1 cannabis or a drug derived from cannabis under any of the following that are
2 approved by an investigational review board or equivalent entity, the United
3 States Food and Drug Administration, or the National Institutes for Health or
4 any of its cooperative groups or centers under the United States Department of
5 Health and Human Services:

6 (a) A research protocol;

7 (b) A clinical trial;

8 (c) An investigational new drug application; or

9 (d) An expanded access submission.

10 (12) As used in this section, "telehealth" has the same meaning as in KRS 304.17A-
11 005.

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

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

23 (2) A designated caregiver shall be permitted to complete the consultation required
24 by subsection (1) of this section on behalf of any registered qualified patient to
25 whom the designated caregiver is connected through the department's
26 registration process.

27 (3) A pharmacist who wishes to be authorized by the Kentucky Board of Pharmacy to

1 provide medicinal cannabis consultation services to cardholders or to enter into a
2 collaborative agreement with dispensaries, as required by Section 22 of this Act,
3 shall apply to the board on a form prescribed by the board.

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

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

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

12 (c) Define the standards of care for medicinal cannabis consultation services;
13 and

14 (d) Define the nature and scope of a collaborative agreement between a
15 pharmacist and a dispensary, including the process by which a pharmacist
16 and dispensary shall establish a collaborative agreement. The nature and
17 scope of the collaborative agreement shall not require a pharmacist to be
18 present at a dispensary.

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

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

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

23 (6) Members of the Kentucky Board of Pharmacy, its agents, its employees, and any
24 pharmacist authorized by the board to provide medicinal cannabis consultation
25 services to cardholders or to enter into a collaborative agreement with
26 dispensaries shall be immune from suit in any action, civil, or criminal, which is
27 based upon any act that is conducted in accordance with this section and

1 administrative regulations promulgated thereunder.

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

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

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

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

19 (4) A person shall be eligible to apply for a registry identification card as a visiting
20 qualified patient if he or she is not a resident of Kentucky or has been a resident
21 of Kentucky for less than thirty (30) days, is at least twenty-one (21) years of age,
22 has not been convicted of a disqualifying felony offense, and possesses a valid
23 registry identification card, or an equivalent document, issued pursuant to the
24 laws of another state, district, territory, commonwealth, or insular possession of
25 the United States that allows the person to use medicinal cannabis in the
26 jurisdiction of issuance.

27 (5) A person with a valid registry identification card, or its equivalent, that was

1 issued pursuant to the laws of another state, district, territory, commonwealth, or
2 insular possession of the United States that allows the person to use medicinal
3 cannabis in the jurisdiction of issuance may use that registry identification card,
4 or its equivalent, for all purposes established in Sections 1 to 29 of this Act and
5 shall not be required to apply for or receive a visiting qualified patient registry
6 identification card from the department.

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

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

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

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

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

20 (e) A statement, signed by the qualified patient, pledging not to divert medicinal
21 cannabis to anyone who is not permitted to possess medicinal cannabis
22 pursuant to Sections 1 to 29 of this Act. The statement shall contain a
23 listing of potential penalties, including criminal prosecution, for diverting
24 medicinal cannabis;

25 (f) A statement, signed by the individuals chosen by the qualified patient to be
26 designated as a caregiver, if any, agreeing to be designated as the patient's
27 designated caregiver and pledging not to divert medicinal cannabis to

1 anyone other than the registered qualified patient to whom the caregiver is
2 connected through the department's registration process. The statement
3 shall contain a listing of potential penalties, including criminal prosecution,
4 for diverting medicinal cannabis; and

5 (g) The application or renewal fee for a registry identification card for a
6 qualified patient and the application or renewal fee for a registry
7 identification card for any designated caregiver chosen by the qualified
8 patient.

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

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

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

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

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

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

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

27 (c) The application or renewal fee for a registry identification card for a

1 visiting qualified patient; and
 2 (d) A statement, signed by the visiting qualified patient, pledging not to divert
 3 medicinal cannabis to anyone who is not permitted to possess medicinal
 4 cannabis pursuant to Sections 1 to 30 of this Act. The statement shall
 5 contain a listing of potential penalties, including criminal prosecution, for
 6 diverting medicinal cannabis.

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

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

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

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

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

22 (a) The name of the cardholder;

23 (b) A designation of whether the cardholder is a registered qualified patient,
 24 visiting qualified patient, or designated caregiver;

25 (c) The date of issuance and expiration date of the registry identification card;

26 (d) A random alphanumeric identification number of at least ten (10)
 27 characters, containing at least four (4) numbers and at least four (4) letters,

- 1 that is unique to the cardholder;
- 2 (e) A bar code or other marking that can be scanned electronically;
- 3 (f) A photograph of the cardholder, if the department's administrative
4 regulations require one;
- 5 (g) The telephone number and Web site address for the electronic verification
6 system developed by the department pursuant to subsection (1)(a) of Section
7 28 of this Act;
- 8 (h) If the cardholder is a designated caregiver, the random alphanumeric
9 identification number of the registered qualified patient the designated
10 caregiver is receiving the registry identification card to assist; and
- 11 (i) If the cardholder is under eighteen (18) years of age, a clear and obvious
12 designation or identifier indicating that the cardholder is under eighteen
13 (18) years of age.
- 14 (3) (a) Except as provided in this subsection, the expiration date for registry
15 identification cards shall be one (1) year after the date of issuance.
- 16 (b) If a practitioner states in the written certification that the qualified patient
17 would benefit from the use of medicinal cannabis until a specified earlier
18 date, then the registry identification card shall expire on that date.
- 19 (4) The department may, at its discretion, electronically store in the card all of the
20 information listed in subsection (2) of this section, along with the address and
21 date of birth of the cardholder, to allow it to be read electronically by law
22 enforcement agents and licensed cannabis businesses.
- 23 (5) A fee for registry identification card applications and renewals shall be
24 established by the department.
- 25 (6) (a) The department shall operate a provisional licensure receipt system for
26 registered qualified patients, designated caregivers, and visiting qualified
27 patients that shall be valid for forty-five (45) days, or until a permanent card

1 can be issued, as if it is a registry identification card issued pursuant to this
2 section and Sections 11 and 13 of this Act. This program shall be
3 implemented and operational simultaneously with the department's
4 implementation of the registry identification card program established in
5 this section. A provisional licensure receipt shall contain the following:

6 1. A temporary licensure number;

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

8 3. The name of the applicant;

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

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

14 6. The effective date of the receipt;

15 7. The expiration date of the receipt;

16 8. An indication that the cardholder fee has been paid;

17 9. An indication that the application has been submitted and is
18 apparently complete; and

19 10. The name of the certifying practitioner.

20 (b) The licensure receipt system shall be designed so that this provisional
21 licensure receipt shall be produced by the application Web site upon
22 completion of an application that includes a practitioner recommendation
23 and payment of the cardholder fee. To reduce application errors and
24 processing time, a recommending practitioner or a dispensary may offer a
25 service that allows an applicant to use a computer and printer on the
26 premises of the practitioner's office or dispensary to complete an
27 application and receive a provisional licensure receipt pursuant to this

1 subsection.

2 (c) Notwithstanding any other provision of Sections 1 to 29 of this Act, a valid
 3 provisional licensure receipt issued pursuant to this subsection shall convey
 4 to the individual whose name appears on the provisional licensure receipt
 5 all of the same rights and privileges as a registry identification card issued
 6 pursuant to this section and Sections 11 and 13 of this Act and shall be
 7 accepted by a cannabis business in place of a registry identification card.

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

10 (1) Except as provided in subsections (2) to (5) of this section, the department shall:

11 (a) Acknowledge receipt of an application within fifteen (15) days of receipt,
 12 and approve or deny an application or renewal within thirty (30) days of
 13 receiving a completed application or renewal application; and

14 (b) Issue registry identification cards to a qualified patient and any individual
 15 designated by the qualified patient as a designated caregiver, or a visiting
 16 qualified patient within five (5) days of approving the application or
 17 renewal. An individual designated as a caregiver shall be issued a
 18 designated caregiver registry identification card for each registered
 19 qualified patient to whom he or she is connected through the department's
 20 registration process.

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

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

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

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

27 3. Control the acquisition of the medicinal cannabis, the dosage, and the

- 1 frequency of the use by the qualified patient; and
- 2 **(b) The designated caregiver application for the custodial parent or legal**
- 3 **guardian with responsibility for health care decisions for the qualified**
- 4 **patient is approved.**
- 5 **(3) The department may deny an application or renewal for a qualified patient's or**
- 6 **visiting qualified patient's registry identification card for any reason that the**
- 7 **department, in the exercise of sound discretion, deems sufficient, including but**
- 8 **not limited to if the applicant:**
- 9 **(a) Did not provide the information or materials required by Section 11 of this**
- 10 **Act;**
- 11 **(b) Previously had a registry identification card revoked;**
- 12 **(c) Provided false or falsified information; or**
- 13 **(d) Does not meet the eligibility requirements established in Section 11 of this**
- 14 **Act.**
- 15 **(4) The department may deny an application or renewal for a designated caregiver's**
- 16 **registration card for any reason that the department, in the exercise of sound**
- 17 **discretion, deems sufficient, including but not limited to if the applicant:**
- 18 **(a) Is already registered as a designated caregiver for three (3) registered**
- 19 **qualified patients;**
- 20 **(b) Does not meet the eligibility requirements established in Section 11 of this**
- 21 **Act;**
- 22 **(c) Did not provide the information or materials required by Section 11 of this**
- 23 **Act;**
- 24 **(d) Previously had a registry identification card revoked;**
- 25 **(e) Provided false or falsified information;**
- 26 **(f) Was previously convicted of a disqualifying felony offense; or**
- 27 **(g) Has applied as a designated caregiver for a qualified patient whose**

1 application or renewal for a registry identification card was denied.

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

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

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

8 (c) Provided false or falsified information; or

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

11 (6) The department may conduct a criminal background check of any applicant if the
12 criminal background check is conducted solely to determine whether the
13 applicant was previously convicted of a disqualifying felony offense.

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

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

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

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

- 1 (1) Cardholders shall be required to make the following notifications to the
2 department:
- 3 (a) A cardholder shall notify the department of any change in his or her name
4 or address;
- 5 (b) A registered qualified patient shall notify the department within thirty (30)
6 days if he or she ceases to suffer from the medical condition for which a
7 practitioner provided a written certification;
- 8 (c) A registered qualified patient shall notify the department if he or she wishes
9 to terminate a designated caregiver relationship with an individual who has
10 been designated as his or her caregiver;
- 11 (d) A designated caregiver shall notify the department within thirty (30) days if
12 he or she becomes aware that a registered qualified patient to whom the
13 caregiver is connected through the department's registration process has
14 died or has ceased to suffer from the medical condition for which a
15 practitioner provided a written certification; and
- 16 (e) If a cardholder loses his or her registry identification card, he or she shall
17 notify the department within ten (10) days of becoming aware the card has
18 been lost.
- 19 (2) When a cardholder notifies the department of items listed in paragraphs (b) or (d)
20 of subsection (1) of this section, the cardholder shall, within ten (10) days of
21 notification, return any unused medicinal cannabis products to a licensed
22 dispensary for destruction.
- 23 (3) When a cardholder notifies the department of items listed in subsection (1) of this
24 section, but remains eligible under Sections 1 to 29 of this Act, the department
25 shall issue the cardholder a new registry identification card with a new random
26 ten (10) character alphanumeric identification number. If the department issues
27 a new registry identification card to a registered qualified patient, the department

1 shall also issue a new registry identification card with a new ten (10) character
2 alphanumeric number to the registered qualified patient's designated caregiver.
3 New registry identification cards issued under this subsection shall be issued by
4 the department within ten (10) days of receiving the updated information.

5 (4) If a registered qualified patient ceases to be a registered qualified patient or
6 changes his or her designated caregiver, the department shall promptly notify the
7 designated caregiver in writing. The designated caregiver's protections under
8 Sections 1 to 29 of this Act as to that registered qualified patient shall expire
9 fifteen (15) days after notification by the department.

10 (5) If a practitioner who provided a written certification notifies the department in
11 writing either that the registered qualified patient has died, ceased to suffer from
12 the medical condition for which a practitioner provided a written certification, or
13 that the practitioner no longer believes the patient might receive therapeutic or
14 palliative benefit from the use of medicinal cannabis, the department shall
15 promptly notify the registered qualified patient in writing. The registered
16 qualified patient's protections under Sections 1 to 29 of this Act shall expire
17 fifteen (15) days after notification by the department, and the registered qualified
18 patient shall have fifteen (15) days to dispose of or donate his or her medicinal
19 cannabis to a dispensary.

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

22 (1) Any cardholder who sells, distributes, or dispenses medicinal cannabis to a
23 person who is not permitted to possess or use medicinal cannabis under Sections
24 1 to 29 of this Act shall have his or her registry identification card revoked and
25 shall be subject to other penalties, including but not limited to criminal
26 prosecution under this chapter and KRS 138.870 to 138.889.

27 (2) The department may revoke the registry identification card of any cardholder

1 who knowingly commits multiple violations or a serious violation of Sections 1 to
 2 29 of this Act.

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

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

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

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

17 (2) The department shall create separate licenses, initial licensure fees, and licensure
 18 renewal fees allowing persons to operate a cannabis business, pursuant to
 19 Sections 1 to 29 of this Act and any administrative regulations promulgated
 20 thereunder, as:

- 21 (a) A Tier I cannabis cultivator;
 22 (b) A Tier II cannabis cultivator;
 23 (c) A Tier III cannabis cultivator;
 24 (d) A Tier IV cannabis cultivator;
 25 (e) A cannabis dispensary;
 26 (f) A cannabis processor;
 27 (g) A cannabis producer); or

- 1 (h) A cannabis safety compliance facility.
- 2 (3) (a) Except as provided in paragraph (b) of this subsection, a cannabis business
3 shall be required to apply for and obtain from the department a separate
4 license for each location it intends to operate.
- 5 (b) A cannabis business licensed as a producer may operate cultivation and
6 processing activities at separate locations, but shall not operate more than
7 one (1) cultivation and one (1) processing facility.
- 8 (4) (a) A cannabis business license issued under this section and Sections 17 and
9 18 of this Act shall be valid for one (1) year from the date of issuance. The
10 department shall notify each licensee ninety (90) days prior to the date the
11 license expires to allow the licensee to begin the renewal procedure
12 promulgated by the department pursuant to Section 28 of this Act.
- 13 (b) The renewal of a cannabis business license shall be contingent upon
14 successful achievement of minimal performance standards established by
15 the department as part of the biennial accreditation process established by
16 the department pursuant to Section 3 of this Act.
- 17 (5) The department shall approve a license holder's sale of a license issued pursuant
18 to this section and Sections 17 and 18 of this Act if the purchaser and any new
19 facilities meet the requirements of Sections 1 to 29 of this Act.

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

- 22 (1) The department shall create a uniform application form for the cannabis
23 business licenses established in Section 16 of this Act.
- 24 (2) When applying for a license, the applicant shall submit the following in
25 accordance with the department's administrative regulations:
- 26 (a) The proposed legal name of the cannabis business;
- 27 (b) The proposed physical address of the cannabis business and the global

1 positioning system coordinates for any proposed cultivation activities;

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

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

8 (e) Any information required by the department to evaluate the applicant
9 pursuant to the competitive application process described in Section 18 of
10 this Act.

11 (3) If a cannabis business license application is approved:

12 (a) The cannabis business shall, before it begins operations, submit its
13 complete physical address and the global positioning system coordinates for
14 any cultivation activities if a physical address or the global positioning
15 system coordinates for any cultivation activities had not been finalized when
16 it applied; and

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

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

23 (1) The department shall:

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

26 (b) Provide notification to the cannabis business license applicant as to whether
27 the application for a cannabis business license has been approved or denied

1 within forty-five (45) days of receiving a completed application.

2 (2) The department may deny an application for a cannabis business license for any
3 reason that the department, in the exercise of sound discretion, deems sufficient,
4 including but not limited to:

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

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

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

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

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

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

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

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

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

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

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

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operate in Kentucky.

(3) (a) The department shall not be required to issue more cannabis business licenses than market pressures dictate, except that the department shall not place a limit on the number of licenses issued for safety compliance facilities.

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

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

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

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

a. Staffing and training plans;

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

c. Whether it has sufficient capital to operate; and

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

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

27 ➔SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

1 TO READ AS FOLLOWS:

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

3 (a) Comply with Sections 1 to 29 of this Act and any administrative regulations
4 promulgated thereunder by the department;

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

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

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

12 (c) Implement appropriate security measures to deter and prevent the theft of
13 medicinal cannabis and unauthorized entrance into areas containing
14 medicinal cannabis;

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

17 (e) Display its license on the premises at all times; and

18 (f) Only acquire, possess, cultivate, manufacture, deliver, transfer, transport,
19 supply, or dispense medicinal cannabis:

20 1. For the purposes of distributing medicinal cannabis to cardholders
21 who possess a valid registry identification card issued by the
22 department, or for visiting qualified patients, an equivalent document
23 issued in another jurisdiction; and

24 2. From a cannabis business licensed under this chapter.

25 (2) A cannabis business licensed under this chapter shall not:

26 (a) Be located within one thousand (1,000) feet of an existing elementary or
27 secondary school or a day-care center;

- 1 (b) Acquire, possess, cultivate, process, manufacture, deliver, transfer,
- 2 transport, supply, dispense, or sell:
- 3 1. Raw plant material with a delta-9 tetrahydrocannabinol content of
- 4 more than thirty-five percent (35%);
- 5 2. Medicinal cannabis products intended for oral consumption as an
- 6 edible, oil, or tincture with more than ten (10) milligrams of delta-9
- 7 tetrahydrocannabinol per serving;
- 8 3. Any medicinal cannabis product not described in subparagraph 1. or
- 9 2. of this paragraph with a delta-9 tetrahydrocannabinol content of
- 10 more than seventy percent (70%); or
- 11 4. Any medicinal cannabis product that contains vitamin E acetate;
- 12 (c) Permit a person under eighteen (18) years of age to enter or remain on the
- 13 premises of a cannabis business;
- 14 (d) Permit a person who is not a cardholder to enter or remain on the premises
- 15 of a cannabis business, except in accordance with subsection (6) of this
- 16 section;
- 17 (e) Employ, have as a board member, or be owned by, in part or in whole, a
- 18 practitioner who has been authorized by a state licensing board to provide
- 19 patients with a written certification; or
- 20 (f) Advertise medicinal cannabis sales in print, broadcast, online, by paid in-
- 21 person solicitation of customers, or by any other advertising device as
- 22 defined in KRS 177.830, except that this paragraph shall not prevent
- 23 appropriate signs on the property of a licensed cannabis business, listings in
- 24 business directories including phone books, listings in trade or medical
- 25 publications, or sponsorship of health or not-for-profit charity or advocacy
- 26 events.
- 27 (3) The operating documents of a cannabis business shall include procedures for its

1 oversight and procedures to ensure accurate recordkeeping and inventory
2 control.

3 (4) When transporting medicinal cannabis on behalf of a cannabis business that is
4 permitted to transport it, a cannabis business agent shall have:

5 (a) A copy of the cannabis business license for the business that employs the
6 agent;

7 (b) Documentation that specifies the amount of medicinal cannabis being
8 transported and the date on which it is being transported; and

9 (c) The cannabis business license number and telephone number of any other
10 cannabis business receiving or otherwise involved in the transportation of
11 the medicinal cannabis.

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

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

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

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

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

27 (1) Cannabis businesses shall be subject to reasonable inspection by the department

- 1 pursuant to the department's procedures or administrative regulations. The
2 department may inspect any licensed cannabis business premises without having
3 to first obtain a search warrant.
- 4 (2) The department may, on its own motion or on complaint, after investigation and
5 opportunity for a public hearing at which the cannabis business has been
6 afforded an opportunity to appear and be heard pursuant to KRS Chapter 13B,
7 suspend or revoke a cannabis business license for multiple violations or a serious
8 violation of Sections 1 to 29 of this Act or any administrative regulations
9 promulgated thereunder by the licensee or any of its agents. A suspension shall
10 not be for a period of time longer than six (6) months.
- 11 (3) The department shall provide notice of suspension, revocation, fine, or other
12 penalty, as well as the required notice of the hearing, by mailing, via certified
13 mail, the same in writing to the cannabis business at the address on the license.
14 The cannabis business may, within thirty (30) days after the date of the mailing
15 of the department's notice, file a written request for an administrative hearing
16 regarding the suspension, revocation, fine, or other penalty. The hearing shall be
17 conducted in compliance with the requirements of KRS Chapter 13B.
- 18 (4) Final orders of the department after administrative hearings shall be subject to
19 judicial review. Jurisdiction and venue for judicial review are vested in the
20 Circuit Court of the county in which the cannabis business is physically located.
- 21 (5) A cultivator may continue to cultivate and possess cannabis plants during a
22 suspension, but it shall not transfer or sell medicinal cannabis during a
23 suspension.
- 24 (6) A dispensary may continue to possess its existing medicinal cannabis inventory
25 during a suspension, but it shall not acquire additional medicinal cannabis, or
26 dispense, transfer, or sell medicinal cannabis during a suspension.
- 27 (7) A processor may continue to process and possess its existing medicinal cannabis

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

4 (8) A producer may continue to cultivate, process, and possess cannabis plants and
 5 its existing medicinal cannabis inventory during a suspension, but it shall not
 6 acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal
 7 cannabis during a suspension.

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

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

14 (1) A cultivator or cultivator agent acting on behalf of a cultivator shall not be
 15 subject to prosecution under state or local law, to search or inspection except by
 16 the department pursuant to Section 20 of this Act, or to seizure or penalty in any
 17 manner, or be denied any right or privilege, including but not limited to civil
 18 penalty or disciplinary action by a court or business licensing board, for acting
 19 pursuant to Sections 1 to 29 of this Act and the department's administrative
 20 regulations for:

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

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

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

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

2 (a) Only deliver raw plant material to a licensed processor, licensed producer,
3 licensed safety compliance facility, or licensed dispensary for fair market
4 value;

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

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

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

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

16 (b) A Tier II cultivator shall not exceed an indoor growth area of ten thousand
17 (10,000) square feet.

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

20 (d) A Tier IV cultivator shall not exceed an growth area of fifty thousand
21 (50,000) square feet.

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

24 (1) A dispensary or dispensary agent acting on behalf of a dispensary shall not be
25 subject to prosecution under state or local law, to search or inspection except by
26 the department pursuant to Section 20 of this Act, to seizure or penalty in any
27 manner, or be denied any right or privilege, including but not limited to a civil

1 penalty or disciplinary action by a court or business licensing board, for acting
2 pursuant to Sections 1 to 29 of this Act and the department's administrative
3 regulations for:

4 (a) Acquiring or possessing medicinal cannabis from a cultivator, processor, or
5 producer in this state;

6 (b) Acquiring or possessing medicinal cannabis accessories or educational
7 material;

8 (c) Supplying, selling, dispensing, distributing, or delivering medicinal
9 cannabis, medicinal cannabis accessories, and educational material to
10 cardholders or other dispensaries;

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

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

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

21 (a) Maintain records that include specific notations of the amount of medicinal
22 cannabis being dispensed to a cardholder and whether it was dispensed
23 directly to a registered qualified patient or visiting qualified patient, or to a
24 registered qualified patient's designated caregiver. Each entry shall include
25 the date and time the medicinal cannabis was dispensed. The data required
26 to be recorded by this paragraph shall be entered into the electronic system
27 developed by the department pursuant to subsection (1)(a) of Section 28 of

1 *this Act in accordance with administrative regulations promulgated by the*
2 *department for the record of medicinal cannabis dispensing;*

3 *(b) Only dispense or sell medicinal cannabis after it has been checked by a*
4 *safety compliance facility agent for cannabinoid contents and contaminants*
5 *in accordance with administrative regulations promulgated by the*
6 *department;*

7 *(c) Only dispense or sell medicinal cannabis to a registered qualified patient,*
8 *visiting qualified patient, or designated caregiver after making a diligent*
9 *effort to verify:*

10 *1. That the registry identification card, or its equivalent for a visiting*
11 *qualified patient, presented to the dispensary is valid, including by*
12 *checking the verification system, if it is operational, or other*
13 *department-designated databases;*

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

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

22 *4. The amount of medicinal cannabis the person is legally permitted to*
23 *purchase at the time of verification pursuant to subsection (4) of*
24 *Section 4 of this Act by checking the electronic system developed by*
25 *the department pursuant to subsection (1)(a) of Section 28 of this Act,*
26 *if it is operational, or other department-designated databases;*

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

- 1 1. Raw plant material with a delta-9 tetrahydrocannabinol content of
2 more than thirty-five percent (35%);
- 3 2. Medicinal cannabis products intended for oral consumption as an
4 edible, oil, or tincture with more than ten (10) milligrams of delta-9
5 tetrahydrocannabinol per serving;
- 6 3. Any medicinal cannabis product not described in subparagraph 1. or
7 2. of this paragraph with a delta-9 tetrahydrocannabinol content of
8 more than seventy percent (70%); or
- 9 4. Any medicinal cannabis product that contains vitamin E acetate;
- 10 (e) Not acquire medicinal cannabis from any person other than a cannabis
11 business licensed under this chapter, or an agent thereof, a registered
12 qualified patient, or a designated caregiver;
- 13 (f) Not sell or dispense medicinal cannabis products intended for consumption
14 by vaporizing to a cardholder who is less than twenty-one (21) years of age;
- 15 (g) Not dispense or sell medicinal cannabis to a minor;
- 16 (h) Not dispense or sell more medicinal cannabis to a cardholder than he or she
17 is legally permitted to purchase at the time of the transaction; and
- 18 (i) Not rent office space to a practitioner.
- 19 (3) A dispensary shall be required to establish and maintain a collaborative
20 agreement, as described in Section 10 of this Act, with a pharmacist authorized
21 by the Kentucky Board of Pharmacy to engage in a collaborative agreement with
22 a dispensary.
- 23 (4) (a) A dispensary may operate a delivery service for cardholders and may deliver
24 medicinal cannabis, medicinal cannabis accessories, and educational
25 material to cardholders at the address identified on the cardholder's registry
26 identification.
- 27 (b) All delivery services operated or offered by a dispensary shall comply with

1 administrative regulations promulgated by the department pursuant to this
 2 section and Section 28 of this Act.

3 (5) If a dispensary or dispensary agent fails to comply with subsection (2)(c), (d), (e),
 4 (f) or (g) of this section, the dispensary and dispensary agent are liable in a civil
 5 action for compensatory and punitive damages and reasonable attorney's fees to
 6 any person or the representative of the estate of any person who sustains injury,
 7 death, or loss to person or property as a result of the failure to comply with
 8 subsection (2)(c), (d), (e), (f) or (g) of this section. In any action under this
 9 subsection, the court may also award any injunctive or equitable relief that the
 10 court considers appropriate.

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

13 (1) A processor or processor agent acting on behalf of a processor shall not be
 14 subject to prosecution under state or local law, to search or inspection except by
 15 the department pursuant to Section 20 of this Act, to seizure or penalty in any
 16 manner, or be denied any right or privilege, including but not limited to civil
 17 penalty or disciplinary action by a court or business licensing board, for acting
 18 pursuant to Sections 1 to 29 of this Act and the department's administrative
 19 regulations for:

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

22 (b) Possessing, processing, preparing, manufacturing, manipulating, blending,
 23 preparing, or packaging medicinal cannabis;

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

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

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

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

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

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

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

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

14 (1) A producer or producer agent acting on behalf of a producer shall not be subject
 15 to prosecution under state or local law, to search or inspection except by the
 16 department pursuant to Section 20 of this Act, to seizure or penalty in any
 17 manner, or be denied any right or privilege, including but not limited to civil
 18 penalty or disciplinary action by a court or business licensing board, for acting
 19 pursuant to Sections 1 to 29 of this Act and the department's administrative
 20 regulations for:

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

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

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

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

2 or

3 (e) Possessing, processing, preparing, manufacturing, manipulating, blending,

4 preparing, or packaging medicinal cannabis;

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

6 (a) Only deliver raw plant material to a licensed processor, licensed producer,

7 licensed safety compliance facility, or licensed dispensary for fair market

8 value;

9 (b) Only deliver raw plant material to a licensed dispensary, processor, or

10 producer after it has been checked by a safety compliance facility agent for

11 cannabinoid contents and contaminants in accordance with administrative

12 regulations promulgated by the department;

13 (c) Not supply a dispensary with more than the amount of raw plant material

14 reasonably required by a dispensary; and

15 (d) Be limited to an indoor cannabis growth area of fifty thousand (50,000)

16 square feet.

17 (3) A producer licensed under this section shall not possess, process, produce, or

18 manufacture:

19 (a) Raw plant material with a delta-9 tetrahydrocannabinol content of more

20 than thirty-five percent (35%);

21 (b) Medicinal cannabis products intended for oral consumption as an edible,

22 oil, or tincture with more than ten (10) milligrams of delta-9

23 tetrahydrocannabinol per serving;

24 (c) Any medicinal cannabis product not described in paragraph (a) or (b) of

25 this subsection with a delta-9 tetrahydrocannabinol content of more than

26 seventy percent (70%); or

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

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

3 *A safety compliance facility or safety compliance facility agent acting on behalf of a*
4 *safety compliance facility shall not be subject to prosecution, search except by the*
5 *department pursuant to Section 20 of this Act, seizure, or penalty in any manner, or be*
6 *denied any right or privilege, including but not limited to civil penalty or disciplinary*
7 *action by a court or business licensing board, for acting in accordance with Sections 1*
8 *to 29 of this Act and the department's administrative regulations to provide the*
9 *following services:*

10 *(1) Acquiring or possessing medicinal cannabis obtained from cardholders or*
11 *cannabis businesses in this state;*

12 *(2) Returning the medicinal cannabis to cardholders or cannabis businesses in this*
13 *state;*

14 *(3) Transporting medicinal cannabis that was produced by cannabis businesses in*
15 *this state;*

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

18 *(5) The production, sale, or transportation of equipment or materials other than*
19 *medicinal cannabis, including but not limited to lab equipment and packaging*
20 *materials that are used by cannabis businesses and cardholders, to cardholders or*
21 *cannabis businesses licensed under this chapter;*

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

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

27 *(a) The safe and efficient cultivation, harvesting, packaging, labeling, and*

- 1 distribution of medicinal cannabis;
 2 (b) Security and inventory accountability procedures; and
 3 (c) Up-to-date scientific and medical research findings related to medicinal use
 4 of cannabis;
 5 (8) Receiving compensation for actions allowed under this section; and
 6 (9) Engaging in any non-cannabis-related business activities that are not otherwise
 7 prohibited or restricted by state law.

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

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

13 (2) A local government may:

14 (a) Enact ordinances, not in conflict with Sections 1 to 29 of this Act or with
 15 the department's administrative regulations, regulating the time, place, and
 16 manner of cannabis business operations, except that a local government
 17 shall not enact ordinances that impose an undue burden or make cannabis
 18 business operations unreasonable or impractical;

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

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

25 (3) If a county, consolidated local government, charter county government, or
 26 unified local government prohibits all cannabis business operations, the
 27 legislative body of a city located within the county, consolidated local

1 government, charter county government, or unified local government may:

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

4 (b) Enact resolutions directing that the question of allowing cannabis
5 businesses to operate within the limits of the city be submitted to the voters
6 who are eligible to vote in that city's elections at the next regular election
7 pursuant to subsection (5)(j) of this section.

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

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

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

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

- 1 (c) The petition for the submission of the proposal shall be signed by a number
2 of constitutionally qualified voters of the territory to be affected equal to five
3 percent (5%) of registered voters for the affected territory;
- 4 (d) Each signature shall be executed in ink or indelible pencil and shall be
5 followed by the legibly printed name of each voter, followed by the voter's
6 residence address, year of birth, and the correct date upon which the voter's
7 name was signed;
- 8 (e) No petition for the submission of the proposal shall be circulated for more
9 than six (6) months prior to its filing;
- 10 (f) After a petition for the submission of the proposal has received no fewer
11 than the number of qualifying signatures required by paragraph (c) of this
12 subsection, the signed petition shall be filed with the county clerk. When it
13 is filed, each sheet of the petition shall have an affidavit executed by the
14 circulator stating that he or she personally circulated the sheet, the number
15 of signatures thereon, that all signatures were affixed in his or her
16 presence, that he or she believes them to be the genuine signatures of
17 registered voters within the affected territory, and that each signer had an
18 opportunity before signing to read the full text of the proposal;
- 19 (g) No signer of the petition may withdraw his or her name or have it taken
20 from the petition after the petition has been filed. If the name of any person
21 has been placed on the petition for submission of the public question
22 without that person's authority, the person may, at any time prior to
23 certification of sufficiency of the petition by the county clerk as required by
24 paragraph (h) of this subsection, request the removal of his or her name by
25 the county board of elections and, upon proof that the person's name was
26 placed on the petition without his or her authority, the person's name and
27 personal information shall be eliminated, and he or she shall not be

1 counted as a petitioner;

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

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

21 (j) If, not later than the second Tuesday in August preceding the day
22 established for a regular election, the county clerk has certified that a
23 petition is sufficient or has received a local government resolution pursuant
24 to subsection (2) or (3) of this section, the county clerk shall have prepared
25 to place before the voters of the affected territory at the next regular election
26 the question, which shall be "Are you in favor of the sale of medicinal
27 cannabis at a licensed dispensary and the operation of other cannabis

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

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

10 (7) If the question submitted to the voters under subsection (3) or (5) of this section
11 passes, medicinal cannabis sales and cannabis business operations may be
12 conducted in the affected territory, notwithstanding any local government
13 ordinances which prohibit all cannabis business operations within its territory.

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

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

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

1 (9) In circumstances where neither a city or the county, urban-county government,
 2 consolidated local government, charter county government, or unified local
 3 government in which the city is located prohibit cannabis business operations, a
 4 cannabis business that is located within the jurisdiction of both the city and the
 5 county shall only pay the reasonable established local fees of either the city or the
 6 county. The fee shall be established, assessed, collected, and shared between the
 7 city and the county, in a manner to be negotiated between the city and the county.

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

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

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

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

19 (3) The following information received and records kept pursuant to the
 20 department's administrative regulations promulgated for purposes of
 21 administering Sections 1 to 29 of this Act shall be confidential and exempt from
 22 the Open Records Act, KRS 61.870 to 61.884, and shall not be subject to
 23 disclosure to any individual or public or private entity, except as necessary for
 24 authorized employees of the department to perform official duties pursuant to
 25 Sections 1 to 29 of this Act:

26 (a) Applications and renewals, their contents, and supporting information
 27 submitted by qualified patients, visiting qualified patients, and designated

1 caregivers in compliance with Section 11 of this Act, including information
2 regarding their designated caregivers and practitioners;

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

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

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

13 Data subject to this section shall not be combined or linked in any manner with
14 any other list or database maintained by the department or the Cabinet for Health
15 and Family Services and shall not be used for any purpose not provided for in
16 Sections 1 to 29 of this Act.

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

18 (a) Notification by the department's employees to state or local law enforcement
19 about falsified or fraudulent information submitted to the department or of
20 other apparently criminal violations of Sections 1 to 29 of this Act if the
21 employee who suspects that falsified or fraudulent information has been
22 submitted has conferred with his or her supervisor and both agree that
23 circumstances exist that warrant reporting;

24 (b) Notification by the department's employees to state licensing board if the
25 department has reasonable suspicion to believe a practitioner did not have a
26 bona fide practitioner-patient relationship with a patient for whom he or
27 she signed a written certification, if the department has reasonable

1 suspicion to believe the practitioner violated the standard of care, or for
2 other suspected violations of Sections 1 to 29 of this Act by a practitioner;

3 (c) Notification by dispensary agents to the department of a suspected violation
4 or attempted violation of Sections 1 to 29 of this Act or the administrative
5 regulations promulgated thereunder;

6 (d) Verification by the department of registry identification cards issued
7 pursuant to Sections 11, 12, and 13 of this Act; and

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

10 (5) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in
11 jail for any person, including an employee or official of the department or
12 another state agency or local government, to knowingly breach the confidentiality
13 of information obtained pursuant to Sections 1 to 29 of this Act.

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

16 (1) No later than January 1, 2022, the department shall:

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

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

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

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

26 4. Department personnel, law enforcement personnel, and dispensary
27 agents to verify the validity of registry identification cards issued by

- 1 the department by entering a registry identification number to
2 determine whether or not the identification number corresponds with
3 a current, valid registry identification card. The system shall only
4 disclose whether the identification card is valid and whether the
5 cardholder is a registered qualified patient, visiting qualified patient,
6 or designated caregiver;
- 7 5. Law enforcement personnel and dispensary agents to access medicinal
8 cannabis sales data record by dispensary agents pursuant to Section
9 22 of this Act;
- 10 6. Dispensary agents to record the amount of medicinal cannabis that is
11 dispensed to a cardholder during each transaction as required by
12 Section 22 of this Act; and
- 13 7. The sharing of dispensing data recorded by dispensary agents
14 pursuant to Section 22 of this Act with all dispensaries in real time;
- 15 (b) Establish, maintain, and operate an electronic inventory tracking system
16 that is capable of tracking medicinal cannabis from the point of cultivation
17 to the point of sale to cardholders; and
- 18 (c) Promulgate administrative regulations to establish:
- 19 1. Procedures for the issuance, renewal, suspension, and revocation of
20 registry identification cards, including the creation of a standardized
21 written certification form and a uniform application form;
- 22 2. Procedures for the issuance and revocation of registry identification
23 cards;
- 24 3. Procedures for the issuance, renewal, suspension, and revocation of
25 cannabis business licenses, including the creation of a uniform
26 licensure application form and the competitive application process
27 described in Section 18 of this Act, with all such procedures subject to

- 1 *the requirements of KRS Chapters 13A and 13B;*
- 2 *4. A convenience fee to be assessed and collected by dispensaries for*
- 3 *visiting qualified patients who do not possess a valid registry*
- 4 *identification card issued by the department and who purchase*
- 5 *medicinal cannabis with a registry identification card or its equivalent*
- 6 *issued pursuant to the laws of another state, district, territory,*
- 7 *commonwealth, or insular possession of the United States that allows*
- 8 *the person to use medicinal cannabis in the jurisdiction of issuance.*
- 9 *The convenience fee established pursuant to this subparagraph shall*
- 10 *not exceed fifteen dollars (\$15) per transaction;*
- 11 *5. In collaboration with the Board of Physicians, as required by Section*
- 12 *3 of this Act:*
- 13 *a. A definition of the amount of medicinal cannabis or delta-9*
- 14 *tetrahydrocannabinol that constitutes a daily supply, a ten (10)*
- 15 *day supply, and a thirty (30) day supply; and*
- 16 *b. The amount of raw plant material that medicinal cannabis*
- 17 *products are considered to be equivalent to;*
- 18 *6. A process by which a practitioner may recommend, and a registered*
- 19 *qualified patient or his or her designated caregiver may legally*
- 20 *purchase and possess, an amount of medicinal cannabis in excess of*
- 21 *the thirty (30) day supply of medicinal cannabis, if the practitioner*
- 22 *reasonably believes that the standard thirty (30) supply would be*
- 23 *insufficient in providing the patient with uninterrupted therapeutic or*
- 24 *palliative relief;*
- 25 *7. Provisions governing the following matters related to cannabis*
- 26 *businesses with the goal of protecting against diversion and theft,*
- 27 *without imposing any undue burden that would make cannabis*

- 1 business operations unreasonable or impractical on cannabis
2 businesses or compromising the confidentiality of cardholders:
- 3 a. Recordkeeping and inventory control requirements, including
4 the use of the electronic systems developed by the department
5 pursuant to paragraphs (a) and (b) of this subsection;
- 6 b. Procedures for the verification and validation of a registry
7 identification card, or its equivalent, that was issued pursuant to
8 the laws of another state, district, territory, commonwealth, or
9 insular possession of the United States that allows for the use of
10 medicinal cannabis in the jurisdiction of issuance;
- 11 c. Security requirements for safety compliance facilities,
12 processors, producers, dispensaries, and cultivators, which shall
13 include at a minimum lighting, video security, alarm
14 requirements, on-site parking, and measures to prevent loitering;
- 15 d. Procedures for the secure transportation, including delivery
16 services provided by dispensaries, and storage of medicinal
17 cannabis by cannabis business licensees and their employees or
18 agents;
- 19 e. Employment and training requirements for licensees and their
20 agents, including requiring each licensee to create an
21 identification badge for each of the licensee's agents or
22 employees; and
- 23 f. Restrictions on visits to licensed cultivation and processing
24 facilities, including requiring the use of visitor logs;
- 25 8. Procedures to establish, publish, and annually update a list of varieties
26 of cannabis that possess a low but effective level of
27 tetrahydrocannabinol, including the substance cannabidiol, by

1 comparing percentages of chemical compounds within a given variety
2 against other varieties of cannabis;

3 9. A rating system that tracks the terpene content of at least the twelve
4 (12) major terpenoids within each strain of cannabis available for
5 medicinal use within the Commonwealth;

6 10. Requirements for random sample testing of medicinal cannabis to
7 ensure quality control, including testing for cannabinoids, terpenoids,
8 residual solvents, pesticides, poisons, toxins, mold, mildew, insects,
9 bacteria, and any other dangerous adulterant;

10 11. Requirements for licensed cultivators, producers, and processors to
11 contract with an independent safety compliance facility to test the
12 medicinal cannabis before it is sold at a dispensary. The department
13 may approve the safety compliance facility chosen by a cultivator,
14 producer, or processor and require that the safety compliance facility
15 report test results for a designated quantity of medicinal cannabis to
16 the cultivator, producer, or processor and department;

17 12. Standards for the operation of safety compliance facilities which may
18 include:

19 a. Requirements for equipment;

20 b. Personnel qualifications; and

21 c. Requiring facilities to be accredited by a relevant certifying
22 entity;

23 13. Standards for the packaging and labeling of medicinal cannabis sold
24 or distributed by cannabis businesses which shall comply with 15
25 U.S.C. secs. 1471 to 1476 and shall include:

26 a. Standards for packaging that requires at least a two (2) step
27 process of initial opening;

- 1 *b. A warning label which may include the length of time it typically*
2 *takes for the product to take effect, how long the effects of the*
3 *product typically last, and any other information deemed*
4 *appropriate or necessary by the department;*
- 5 *c. The amount of medicinal cannabis the product is considered the*
6 *equivalent to;*
- 7 *d. Disclosing ingredients, possible allergens, and certain bioactive*
8 *components, including cannabinoids and terpenoids, as*
9 *determined by the department;*
- 10 *e. A nutritional fact panel;*
- 11 *f. Opaque, child-resistant packaging;*
- 12 *g. A requirement that all raw plant material packaged or sold in*
13 *this state be marked or labeled as "NOT INTENDED FOR*
14 *CONSUMPTION BY SMOKING";*
- 15 *h. A requirement that medicinal cannabis products be clearly*
16 *marked with an identifiable and standardized symbol indicating*
17 *that the product contains cannabis;*
- 18 *i. A requirement that all medicinal cannabis product packaging*
19 *include an expiration date; and*
- 20 *j. A requirement that medicinal cannabis products and their*
21 *packaging not be visually reminiscent of major brands of edible*
22 *noncannabis products or otherwise present an attractive*
23 *nuisance to minors;*
- 24 *14. Health and safety requirements for the processing of medicinal*
25 *cannabis and the indoor cultivation of medicinal cannabis by*
26 *licensees;*
- 27 *15. Restrictions on:*

- 1 a. Additives to medicinal cannabis that are toxic, including vitamin
2 E acetate, or increase the likelihood of addiction; and
3 b. Pesticides, fertilizers, and herbicides used during medicinal
4 cannabis cultivation which pose a threat to human health and
5 safety;
- 6 16. Standards for the safe processing of medicinal cannabis products
7 created by extracting or concentrating compounds from raw plant
8 material;
- 9 17. Standards for determining the amount of unprocessed raw plant
10 material that medicinal cannabis products are considered the
11 equivalent to;
- 12 18. Restrictions on advertising, marketing, and signage in regard to
13 operations or establishments owned by licensees necessary to prevent
14 the targeting of minors;
- 15 19. The requirement that evidence-based educational materials regarding
16 dosage and impairment be disseminated to registered qualified
17 patients, visiting qualified patients, and designated caregivers who
18 purchase medicinal cannabis products;
- 19 20. Policies governing insurance requirements for cultivators,
20 dispensaries, processors, producers, and safety compliance facilities;
21 and
- 22 21. Standards, procedures, or restrictions that the department deems
23 necessary to ensure the efficient, transparent, and safe operation of
24 the medicinal cannabis program, except that the department shall not
25 promulgate any administrative regulation that would impose an undue
26 burden or make cannabis business operations unreasonable or
27 impractical.

- 1 (2) The department shall perform all acts necessary or advisable for the purpose of
2 contracting with a third party for the development and maintenance of the
3 electronic systems described in subsection (1)(a) and (b) of this section.
- 4 (3) Except as provided in subsection (1)(g) of Section 6 of this Act, subsection (2)(b)
5 of Section 19 of this Act, subsection (2)(d) of Section 22 of this Act, subsection (2)
6 of Section 23 of this Act, subsection (3) of Section 24 of this Act, and subsection
7 (1)(c)10., 13., 15., and 16. of this section, the department shall not restrict or limit
8 methods of delivery, use, or consumption of medicinal cannabis or the types of
9 products that may be acquired, produced, processed, possessed, sold, or
10 distributed by a cannabis business.
- 11 (4) If a need for additional cannabis cultivation in this state is demonstrated by
12 cannabis businesses or the department's own analysis, the department may
13 through the promulgation of administrative regulations increase the cultivation
14 area square footage limits for either cultivators or producers, or both by up to
15 three (3) times the limits established in Sections 21 and 24 of this Act. Any
16 increase in the cultivation square footage limits adopted by the department
17 pursuant to this section shall not result in an increase in the licensure application
18 or renewal fees established by the department.
- 19 (5) When promulgating administrative regulations under this section, the
20 department shall consider standards, procedures, and restrictions that have been
21 found to be best practices relative to the use and regulation of medicinal
22 cannabis.

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

25 Nothing in Sections 1 to 29 of this Act shall require a government medical assistance
26 program, private health insurer or workers' compensation carrier, or self-funded
27 employer providing workers' compensation benefits to reimburse a person for costs

1 *associated with the medicinal use of cannabis.*

2 ➔Section 30. KRS 342.815 is amended to read as follows:

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

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

10 (a) The employer owes undisputed premiums to a previous workers'
11 compensation carrier or to a workers' compensation residual market
12 mechanism; or

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

15 ➔Section 31. KRS 216B.402 is amended to read as follows:

16 (1) When a person is admitted to a hospital emergency department or hospital
17 emergency room for treatment of a drug overdose:

18 (a)~~(1)~~ The person shall be informed of available substance use disorder
19 treatment services known to the hospital that are provided by that hospital,
20 other local hospitals, the local community mental health center, and any other
21 local treatment programs licensed pursuant to KRS 222.231;

22 (b)~~(2)~~ The hospital may obtain permission from the person when stabilized, or
23 the person's legal representative, to contact any available substance use
24 disorder treatment programs offered by that hospital, other local hospitals, the
25 local community mental health center, or any other local treatment programs
26 licensed pursuant to KRS 222.231, on behalf of the person to connect him or
27 her to treatment; and

1 ~~(c)(3)~~ The local community mental health center may provide an on-call
 2 service in the hospital emergency department or hospital emergency room for
 3 the person who was treated for a drug overdose to provide information about
 4 services and connect the person to substance use disorder treatment, as funds
 5 are available. These services, when provided on the grounds of a hospital,
 6 shall be coordinated with appropriate hospital staff.

7 **(2) When a person, who is a registered qualified patient or a visiting qualified patient**
 8 **as defined in Section 1 of this Act, is admitted to a hospital emergency**
 9 **department or a hospital emergency room for treatment of cannabinoid**
 10 **hyperemesis syndrome, the hospital shall notify the Department of Alcoholic**
 11 **Beverage and Cannabis Control within forty-eight (48) hours. Notification shall**
 12 **include the registered qualified patient's or a visiting qualified patient's name**
 13 **and registry identification card number, if available. The department shall record**
 14 **all cases of cannabinoid hyperemesis syndrome in the electronic monitoring**
 15 **system described in Section 28 of this Act.**

16 ➔Section 32. KRS 218A.010 is amended to read as follows:

17 As used in this chapter, **unless the context otherwise requires:**

- 18 (1) "Administer" means the direct application of a controlled substance, whether by
 19 injection, inhalation, ingestion, or any other means, to the body of a patient or
 20 research subject by:
- 21 (a) A practitioner or by his or her authorized agent under his or her immediate
 22 supervision and pursuant to his or her order; or
- 23 (b) The patient or research subject at the direction and in the presence of the
 24 practitioner;
- 25 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
 26 pharmacologically related to testosterone that promotes muscle growth and includes
 27 those substances classified as Schedule III controlled substances pursuant to KRS

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

- 1 2. With respect to a particular person, any substance if an exemption is in
2 effect for investigational use for that person pursuant to federal law to
3 the extent conduct with respect to such substance is pursuant to such
4 exemption; or
- 5 3. Any substance to the extent not intended for human consumption before
6 the exemption described in subparagraph 2. of this paragraph takes
7 effect with respect to that substance;
- 8 (10) "Counterfeit substance" means a controlled substance which, or the container or
9 labeling of which, without authorization, bears the trademark, trade name, or other
10 identifying mark, imprint, number, or device, or any likeness thereof, of a
11 manufacturer, distributor, or dispenser other than the person who in fact
12 manufactured, distributed, or dispensed the substance;
- 13 (11) "Dispense" means to deliver a controlled substance to an ultimate user or research
14 subject by or pursuant to the lawful order of a practitioner, including the packaging,
15 labeling, or compounding necessary to prepare the substance for that delivery;
- 16 (12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
17 controlled substance to or for the use of an ultimate user;
- 18 (13) "Distribute" means to deliver other than by administering or dispensing a controlled
19 substance;
- 20 (14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
21 administration available as a single unit;
- 22 (15) "Drug" means:
- 23 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
24 official Homeopathic Pharmacopoeia of the United States, or official National
25 Formulary, or any supplement to any of them;
- 26 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
27 prevention of disease in man or animals;

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

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

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

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

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

12 (a) By substitution:

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

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

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

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

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

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

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

27 (18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal

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

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

11 (a) Poses an explosion hazard;

12 (b) Poses a fire hazard; or

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

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

16 (21) "Hydrocodone combination product" means a drug with:

17 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
18 its salts, per one hundred (100) milliliters or not more than fifteen (15)
19 milligrams per dosage unit, with a fourfold or greater quantity of an
20 isoquinoline alkaloid of opium; or

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

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

1 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
2 manufacture;

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

4 (24) "Industrial hemp products" has the same meaning as in KRS 260.850;

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

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

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

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

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

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

27 (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the

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

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

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

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

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

17 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
18 260.850; ~~or~~

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

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

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

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

- 1 not include a prescription drug order;
- 2 (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
3 means a record, other than for financial or billing purposes, relating to a patient,
4 kept by a practitioner as a result of the practitioner-patient relationship;
- 5 (32) "Methamphetamine" means any substance that contains any quantity of
6 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 7 (33) "Narcotic drug" means any of the following, whether produced directly or indirectly
8 by extraction from substances of vegetable origin, or independently by means of
9 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 10 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
11 opium or opiate;
- 12 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
13 chemically equivalent or identical with any of the substances referred to in
14 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
15 of opium;
- 16 (c) Opium poppy and poppy straw;
- 17 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
18 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
19 removed;
- 20 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 21 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 22 (g) Any compound, mixture, or preparation which contains any quantity of any of
23 the substances referred to in paragraphs (a) to (f) of this subsection;
- 24 (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining
25 liability similar to morphine or being capable of conversion into a drug having
26 addiction-forming or addiction-sustaining liability. It does not include, unless
27 specifically designated as controlled under KRS 218A.020, the dextrorotatory

- 1 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
2 include its racemic and levorotatory forms;
- 3 (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
4 seeds;
- 5 (36) "Person" means individual, corporation, government or governmental subdivision
6 or agency, business trust, estate, trust, partnership or association, or any other legal
7 entity;
- 8 (37) "Physical injury" has the same meaning it has in KRS 500.080;
- 9 (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 10 (39) "Pharmacist" means a natural person licensed by this state to engage in the practice
11 of the profession of pharmacy;
- 12 (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
13 investigator, optometrist as authorized in KRS 320.240, advanced practice
14 registered nurse as authorized under KRS 314.011, physician assistant as authorized
15 under KRS 311.858, or other person licensed, registered, or otherwise permitted by
16 state or federal law to acquire, distribute, dispense, conduct research with respect to,
17 or to administer a controlled substance in the course of professional practice or
18 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,
19 veterinarian, or advanced practice registered nurse authorized under KRS 314.011
20 who is a resident of and actively practicing in a state other than Kentucky and who
21 is licensed and has prescriptive authority for controlled substances under the
22 professional licensing laws of another state, unless the person's Kentucky license
23 has been revoked, suspended, restricted, or probated, in which case the terms of the
24 Kentucky license shall prevail;
- 25 (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
26 prosecution only, means a medical relationship that exists between a patient and a
27 practitioner or the practitioner's designee, after the practitioner or his or her

- 1 designee has conducted at least one (1) good faith prior examination;
- 2 (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
3 combination or mixture of drugs or medicines, or proprietary preparation, signed or
4 given or authorized by a medical, dental, chiropody, veterinarian, optometric
5 practitioner, or advanced practice registered nurse, and intended for use in the
6 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
7 animals;
- 8 (43) "Prescription blank," with reference to a controlled substance, means a document
9 that meets the requirements of KRS 218A.204 and 217.216;
- 10 (44) "Presumptive probation" means a sentence of probation not to exceed the maximum
11 term specified for the offense, subject to conditions otherwise authorized by law,
12 that is presumed to be the appropriate sentence for certain offenses designated in
13 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
14 presumption shall only be overcome by a finding on the record by the sentencing
15 court of substantial and compelling reasons why the defendant cannot be safely and
16 effectively supervised in the community, is not amenable to community-based
17 treatment, or poses a significant risk to public safety;
- 18 (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
19 of a controlled substance;
- 20 (46) "Recovery program" means an evidence-based, nonclinical service that assists
21 individuals and families working toward sustained recovery from substance use and
22 other criminal risk factors. This can be done through an array of support programs
23 and services that are delivered through residential and nonresidential means;
- 24 (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant
25 presently classified botanically as *Salvia divinorum*, whether growing or not, the
26 seeds thereof, any extract from any part of that plant, and every compound,
27 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its

1 extracts, including salts, isomers, and salts of isomers whenever the existence of
2 such salts, isomers, and salts of isomers is possible within the specific chemical
3 designation of that plant, its seeds, or extracts. The term shall not include any other
4 species in the genus salvia;

5 (48) "Second or subsequent offense" means that for the purposes of this chapter an
6 offense is considered as a second or subsequent offense, if, prior to his or her
7 conviction of the offense, the offender has at any time been convicted under this
8 chapter, or under any statute of the United States, or of any state relating to
9 substances classified as controlled substances or counterfeit substances, except that
10 a prior conviction for a nontrafficking offense shall be treated as a prior offense
11 only when the subsequent offense is a nontrafficking offense. For the purposes of
12 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
13 constitute a conviction under this chapter;

14 (49) "Sell" means to dispose of a controlled substance to another person for
15 consideration or in furtherance of commercial distribution;

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

17 (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is
18 not approved by the United States Food and Drug Administration or, if approved,
19 which is not dispensed or possessed in accordance with state and federal law, that
20 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
21 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
22 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
23 compound in the following structural classes:

24 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
25 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
26 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
27 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further

- 1 substituted in the indole ring to any extent and whether or not substituted in
2 the naphthyl ring to any extent. Examples of this structural class include but
3 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,
4 JWH-122, JWH-200, and AM-2201;
- 5 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole
6 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
7 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
8 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
9 substituted in the indole ring to any extent and whether or not substituted in
10 the phenyl ring to any extent. Examples of this structural class include but are
11 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 12 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
13 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
14 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
15 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
16 indole ring to any extent and whether or not substituted in the phenyl ring to
17 any extent. Examples of this structural class include but are not limited to
18 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- 19 (d) Cyclohexylphenols: Any compound containing a 2-(3-
20 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
21 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
22 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
23 group whether or not substituted in the cyclohexyl ring to any extent.
24 Examples of this structural class include but are not limited to CP 47,497 and
25 its C8 homologue (cannabicyclohexanol);
- 26 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
27 naphthyl)methane structure with substitution at the nitrogen atom of the indole

1 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
2 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
3 further substituted in the indole ring to any extent and whether or not
4 substituted in the naphthyl ring to any extent. Examples of this structural class
5 include but are not limited to JWH-175, JWH-184, and JWH-185;

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

13 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
14 naphthylmethyl)indene structure with substitution at the 3-position of the
15 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
16 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
17 or not further substituted in the indene ring to any extent and whether or not
18 substituted in the naphthyl ring to any extent. Examples of this structural class
19 include but are not limited to JWH-176;

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

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

1 cyclic structure. Examples of this class include but are not limited to
2 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
3 or

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

7 (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
8 cathinones;

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

10 (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
11 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
12 substances, derivatives, and their isomers with similar chemical structure and
13 pharmacological activity such as the following:

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

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

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

17 (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
18 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
19 or sell a controlled substance;

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

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

26 ➔Section 33. KRS 218A.1421 is amended to read as follows:

27 (1) A person is guilty of trafficking in marijuana when he or she knowingly and

1 unlawfully traffics in marijuana, **and the trafficking is not in compliance with, or**
 2 **otherwise authorized by, Sections 1 to 29 of this Act.**

3 (2) **Unless authorized by Sections 1 to 29 of this Act,** trafficking in less than eight (8)
 4 ounces of marijuana is:

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

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

7 (3) **Unless authorized by Sections 1 to 29 of this Act,** trafficking in eight (8) or more
 8 ounces but less than five (5) pounds of marijuana is:

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

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

11 (4) **Unless authorized by Sections 1 to 29 of this Act,** trafficking in five (5) or more
 12 pounds of marijuana is:

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

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

15 (5) **Unless authorized by Sections 1 to 29 of this Act,** the unlawful possession by any
 16 person of eight (8) or more ounces of marijuana shall be prima facie evidence that
 17 the person possessed the marijuana with the intent to sell or transfer it.

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

19 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
 20 **of this Act, when acting in compliance with Sections 1 to 29 of this Act; or**

21 **(b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of**
 22 **cannabis is in compliance with Sections 1 to 29 of this Act.**

23 ➔Section 34. KRS 218A.1422 is amended to read as follows:

24 (1) A person is guilty of possession of marijuana when he or she knowingly and
 25 unlawfully possesses marijuana, **and the possession is not in compliance with, or**
 26 **otherwise authorized by, Sections 1 to 29 of this Act.**

27 (2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532

1 to the contrary notwithstanding, the maximum term of incarceration shall be no
2 greater than forty-five (45) days.

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

4 **(a) A cannabis business or a cannabis business agent, as defined in Section 1**
5 **of this Act, when acting in compliance with Sections 1 to 29 of this Act; or**

6 **(b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of**
7 **cannabis is in compliance with Sections 1 to 29 of this Act.**

8 ➔Section 35. KRS 218A.1423 is amended to read as follows:

9 (1) A person is guilty of marijuana cultivation when he or she knowingly and
10 unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer
11 it, **and the cultivation is not in compliance with, or otherwise authorized by,**
12 **Sections 1 to 29 of this Act.**

13 (2) **Unless authorized by Sections 1 to 29 of this Act,** marijuana cultivation of five (5)
14 or more plants of marijuana is:

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

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

17 (3) **Unless authorized by Sections 1 to 29 of this Act,** marijuana cultivation of fewer
18 than five (5) plants is:

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

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

21 (4) **Unless authorized by Sections 1 to 29 of this Act,** the planting, cultivating, or
22 harvesting of five (5) or more marijuana plants shall be prima facie evidence that
23 the marijuana plants were planted, cultivated, or harvested for the purpose of sale or
24 transfer.

25 **(5) This section does not apply to a cannabis business or a cannabis business agent,**
26 **as defined in Section 1 of this Act, when acting in compliance with Sections 1 to**
27 **29 of this Act.**

1 ➔Section 36. KRS 218A.500 is amended to read as follows:

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

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

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

- 11 (a) Kits used, intended for use, or designed for use in planting, propagating,
12 cultivating, growing, or harvesting of any species of plant which is a
13 controlled substance or from which a controlled substance can be derived;
- 14 (b) Kits used, intended for use, or designed for use in manufacturing,
15 compounding, converting, producing, processing, or preparing controlled
16 substances;
- 17 (c) Isomerization devices used, intended for use, or designed for use in increasing
18 the potency of any species of plant which is a controlled substance;
- 19 (d) Testing equipment used, intended for use, or designed for use in identifying,
20 or in analyzing the strength, effectiveness or purity of controlled substances;
- 21 (e) Scales and balances used, intended for use, or designed for use in weighing or
22 measuring controlled substances;
- 23 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
24 dextrose and lactose, used, intended for use, or designed for use in cutting
25 controlled substances;
- 26 (g) Separation gins and sifters used, intended for use, or designed for use in
27 removing twigs and seeds from, or in otherwise cleaning or refining

- 1 marijuana;
- 2 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
3 use, or designed for use in compounding controlled substances;
- 4 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
5 designed for use in packaging small quantities of controlled substances;
- 6 (j) Containers and other objects used, intended for use, or designed for use in
7 storing or concealing controlled substances;
- 8 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
9 designed for use in parenterally injecting controlled substances into the human
10 body; and
- 11 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
12 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the
13 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
14 pipes with or without screens, permanent screens, hashish heads, or punctured
15 metal bowls; water pipes; carburetion tubes and devices; smoking and
16 carburetion masks; roach clips which mean objects used to hold burning
17 material, such as marijuana cigarettes, that have become too small or too short
18 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber
19 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
20 pipes or chillers.
- 21 (2) It is unlawful for any person to use, or to possess with intent to use, drug
22 paraphernalia for the purpose of planting, propagating, cultivating, growing,
23 harvesting, manufacturing, compounding, converting, producing, processing,
24 preparing, testing, analyzing, packing, repacking, storing, containing, concealing,
25 injecting, ingesting, inhaling, or otherwise introducing into the human body a
26 controlled substance in violation of this chapter.
- 27 (3) It is unlawful for any person to deliver, possess with intent to deliver, or

1 manufacture with intent to deliver, drug paraphernalia, knowing, or under
2 circumstances where one reasonably should know, that it will be used to plant,
3 propagate, cultivate, grow, harvest, manufacture, compound, convert, produce,
4 process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,
5 inhale, or otherwise introduce into the human body a controlled substance in
6 violation of this chapter.

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

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

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

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

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

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

23 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace
24 officer may inquire as to the presence of needles or other sharp objects in the
25 areas to be searched that may cut or puncture the officer and offer to not
26 charge a person with possession of drug paraphernalia if the person declares to
27 the officer the presence of the needle or other sharp object. If, in response to

1 the offer, the person admits to the presence of the needle or other sharp object
2 prior to the search, the person shall not be charged with or prosecuted for
3 possession of drug paraphernalia for the needle or sharp object or for
4 possession of a controlled substance for residual or trace drug amounts present
5 on the needle or sharp object.

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

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

11 ➔Section 37. KRS 12.020 is amended to read as follows:

12 Departments, program cabinets and their departments, and the respective major
13 administrative bodies that they include are enumerated in this section. It is not intended
14 that this enumeration of administrative bodies be all-inclusive. Every authority, board,
15 bureau, interstate compact, commission, committee, conference, council, office, or any
16 other form of organization shall be included in or attached to the department or program
17 cabinet in which they are included or to which they are attached by statute or statutorily
18 authorized executive order; except in the case of the Personnel Board and where the
19 attached department or administrative body is headed by a constitutionally elected officer,
20 the attachment shall be solely for the purpose of dissemination of information and
21 coordination of activities and shall not include any authority over the functions,
22 personnel, funds, equipment, facilities, or records of the department or administrative
23 body.

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

- 25 (1) The Governor.
26 (2) Lieutenant Governor.
27 (3) Department of State.

- 1 (a) Secretary of State.
- 2 (b) Board of Elections.
- 3 (c) Registry of Election Finance.
- 4 (4) Department of Law.
- 5 (a) Attorney General.
- 6 (5) Department of the Treasury.
- 7 (a) Treasurer.
- 8 (6) Department of Agriculture.
- 9 (a) Commissioner of Agriculture.
- 10 (b) Kentucky Council on Agriculture.
- 11 (7) Auditor of Public Accounts.
- 12 II. Program cabinets headed by appointed officers:
- 13 (1) Justice and Public Safety Cabinet:
- 14 (a) Department of Kentucky State Police.
- 15 (b) Department of Criminal Justice Training.
- 16 (c) Department of Corrections.
- 17 (d) Department of Juvenile Justice.
- 18 (e) Office of the Secretary.
- 19 (f) Office of Drug Control Policy.
- 20 (g) Office of Legal Services.
- 21 (h) Office of the Kentucky State Medical Examiner.
- 22 (i) Parole Board.
- 23 (j) Kentucky State Corrections Commission.
- 24 (k) Office of Legislative and Intergovernmental Services.
- 25 (l) Office of Management and Administrative Services.
- 26 (m) Department of Public Advocacy.
- 27 (2) Education and Workforce Development Cabinet:

- 1 (a) Office of the Secretary.
 - 2 1. Governor's Scholars Program.
 - 3 2. Governor's School for Entrepreneurs Program.
 - 4 3. Office of the Kentucky Workforce Innovation Board.
 - 5 4. Foundation for Adult Education.
 - 6 5. Early Childhood Advisory Council.
- 7 (b) Office of Legal and Legislative Services.
 - 8 1. Client Assistance Program.
- 9 (c) Office of Communication.
- 10 (d) Office of Administrative Services.
 - 11 1. Division of Human Resources.
 - 12 2. Division of Operations and Support Services.
 - 13 3. Division of Fiscal Management.
- 14 (e) Office of Technology Services.
- 15 (f) Office of Educational Programs.
- 16 (g) Office of the Kentucky Center for Statistics.
- 17 (h) Board of the Kentucky Center for Statistics.
- 18 (i) Board of Directors for the Center for School Safety.
- 19 (j) Department of Education.
 - 20 1. Kentucky Board of Education.
 - 21 2. Kentucky Technical Education Personnel Board.
- 22 (k) Department for Libraries and Archives.
- 23 (l) Department of Workforce Investment.
 - 24 1. Office of Vocational Rehabilitation.
 - 25 a. Division of Kentucky Business Enterprise.
 - 26 b. Division of the Carl D. Perkins Vocational Training Center.
 - 27 c. Division of Blind Services.

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

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

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

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

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

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

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

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

- 1 (u) Kentucky Higher Education Assistance Authority.
- 2 (v) Kentucky River Authority.
- 3 (w) Kentucky Teachers' Retirement System Board of Trustees.
- 4 (x) Executive Branch Ethics Commission.
- 5 (10) Tourism, Arts and Heritage Cabinet:
- 6 (a) Kentucky Department of Tourism.
- 7 1. Division of Tourism Services.
- 8 2. Division of Marketing and Administration.
- 9 3. Division of Communications and Promotions.
- 10 (b) Kentucky Department of Parks.
- 11 1. Division of Information Technology.
- 12 2. Division of Human Resources.
- 13 3. Division of Financial Operations.
- 14 4. Division of Facilities Management.
- 15 5. Division of Facilities Maintenance.
- 16 6. Division of Customer Services.
- 17 7. Division of Recreation.
- 18 8. Division of Golf Courses.
- 19 9. Division of Food Services.
- 20 10. Division of Rangers.
- 21 11. Division of Resort Parks.
- 22 12. Division of Recreational Parks and Historic Sites.
- 23 (c) Department of Fish and Wildlife Resources.
- 24 1. Division of Law Enforcement.
- 25 2. Division of Administrative Services.
- 26 3. Division of Engineering, Infrastructure, and Technology.
- 27 4. Division of Fisheries.

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

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

1 (i) Office of Diversity, Equality, and Training.

2 (j) Office of Public Affairs.

3 III. Other departments headed by appointed officers:

4 (1) Council on Postsecondary Education.

5 (2) Department of Military Affairs.

6 (3) Department for Local Government.

7 (4) Kentucky Commission on Human Rights.

8 (5) Kentucky Commission on Women.

9 (6) Department of Veterans' Affairs.

10 (7) Kentucky Commission on Military Affairs.

11 (8) Office of Minority Empowerment.

12 (9) Governor's Council on Wellness and Physical Activity.

13 (10) Kentucky Communications Network Authority.

14 ➔Section 38. KRS 12.252 is amended to read as follows:

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

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

27 (a) The Office of Communications and Public Outreach, which shall be headed

- 1 by an executive director appointed by the secretary with the approval of the
2 Governor in accordance with KRS 12.050;
- 3 (b) The Office of Legal Services, which shall be headed by an executive director
4 appointed by the secretary with the approval of the Governor in accordance
5 with KRS 12.050 and 12.210;
- 6 (c) The Office of Administrative Hearings, which shall be headed by an executive
7 director appointed by the secretary with the approval of the Governor in
8 accordance with KRS 12.050 and 12.210; and
- 9 (d) The Office of Administrative Services, which shall be headed by an executive
10 director appointed by the secretary with the approval of the Governor in
11 accordance with KRS 12.050.
- 12 (3) There is established within the Public Protection Cabinet the Kentucky Claims
13 Commission pursuant to KRS 49.010.
- 14 (4) The Kentucky Horse Racing Commission is attached to the Public Protection
15 Cabinet for administrative purposes only, except as provided in KRS 131.330.
- 16 (5) There is established within the Public Protection Cabinet the Kentucky Boxing and
17 Wrestling Commission, which shall be headed by an executive director appointed
18 by the secretary with the approval of the Governor as required by KRS 12.050. The
19 executive director shall be directly responsible to the secretary and shall perform the
20 functions, powers, and duties provided by law and prescribed by the secretary.
- 21 ➔Section 39. KRS 15.300 is amended to read as follows:
- 22 (1) As used in this section, "consent order" means the consent order of December 21,
23 1998, agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket
24 Number 98-CI-01579, Franklin Circuit Court.
- 25 (2) There is created the Tobacco Master Settlement Agreement Compliance Advisory
26 Board in the Department of Law. The board shall be composed of six (6) members
27 as follows:

- 1 (a) The Attorney General, or the Attorney General's designee;
- 2 (b) The secretary of the Cabinet for Health and Family Services, or the secretary's
3 designee;
- 4 (c) The Commissioner of Agriculture, or the Commissioner's designee;
- 5 (d) The secretary of the Public Protection Cabinet, or the secretary's designee; and
- 6 (e) Two (2) citizens at large appointed by the Attorney General.
- 7 (3) The citizen members of the board shall serve for terms of one (1) year and until
8 their successors are appointed. The citizen members shall be eligible for successive
9 terms on the board.
- 10 (4) The board shall annually elect a member to serve as its chair and shall meet at least
11 quarterly on a date set by the board. Board members shall be reimbursed for
12 necessary expenses incurred in serving on the board.
- 13 (5) The board may adopt rules governing the conduct of its meetings, the creation of
14 meeting agendas, and other procedural matters it deems necessary. The board may
15 adopt reporting forms, which shall be developed in consultation with participating
16 agencies.
- 17 (6) The Office of the Attorney General shall:
- 18 (a) Enter into a memorandum of agreement with the Department of Public Health
19 of the Cabinet for Health and Family Services, the Department of Alcoholic
20 Beverage and Cannabis Control in the Public Protection Cabinet, and the
21 Department of Agriculture to identify and report possible violations of the
22 consent order;
- 23 (b) Attempt to secure funding under the master settlement agreement to reimburse
24 the agencies specified in paragraph (a) of this subsection for any compliance
25 activity that they perform; and
- 26 (c) Provide necessary funding and staff for administrative expenses related to the
27 operation of the board. The board may request assistance from other state

1 agencies.

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

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

7 (b) Determine eligible compliance training costs and seek reimbursement for the
8 costs; and

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

15 ➔Section 40. KRS 15.380 is amended to read as follows:

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

18 (a) Department of Kentucky State Police officers, but for the commissioner of the
19 Department of Kentucky State Police;

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

21 (c) Court security officers and deputy sheriffs, except those identified in KRS
22 70.045 and 70.263(3);

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

24 (e) School resource officers as defined in KRS 158.441 and employed or
25 appointed under KRS 158.4414;

26 (f) Airport safety and security officers appointed under KRS 183.880;

27 (g) Department of Alcoholic Beverage and Cannabis Control investigators

- 1 appointed under KRS 241.090;
- 2 (h) Division of Insurance Fraud Investigation investigators appointed under KRS
3 304.47-040;
- 4 (i) Fire investigators appointed or employed under KRS 95A.100 or 227.220; and
- 5 (j) County detectives appointed in accordance with KRS 69.360 after July 1,
6 2019.
- 7 (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state
8 peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be
9 incorporated by the Personnel Cabinet for job specifications.
- 10 (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for
11 all peace officers possessing arrest powers who have specialized law enforcement
12 responsibilities shall be the responsibility of the employing agency.
- 13 (4) The following officers may, upon request of the employing agency, be certified by
14 the council:
- 15 (a) Deputy coroners;
- 16 (b) Deputy constables;
- 17 (c) Deputy jailers;
- 18 (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
- 19 (e) Officers appointed under KRS 61.360;
- 20 (f) Officers appointed under KRS 61.902, except those who are school resource
21 officers as defined in KRS 158.441 and who shall be certified under
22 subsection (1)(e) of this section;
- 23 (g) Private security officers;
- 24 (h) Employees of a correctional services division created pursuant to KRS
25 67A.028 and employees of a metropolitan correctional services department
26 created pursuant to KRS 67B.010 to 67B.080; and
- 27 (i) Investigators employed by the Department of Charitable Gaming in

1 accordance with KRS 238.510; and

2 (j) Commonwealth detectives employed under KRS 69.110 and county detectives
3 employed under KRS 69.360.

4 (5) The following officers shall be exempted from the certification requirements but
5 may upon their request be certified by the council:

6 (a) Sheriffs;

7 (b) Coroners;

8 (c) Constables;

9 (d) Jailers;

10 (e) Kentucky Horse Racing Commission security officers employed under KRS
11 230.240; and

12 (f) Commissioner of the State Police.

13 (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

14 (7) Local alcoholic beverage control investigators appointed under KRS Chapter 241
15 on or after April 1, 2019, shall be certified by the council if all minimum standards
16 set forth in KRS 15.380 to 15.404 have been met. Local alcoholic beverage control
17 investigators appointed under KRS Chapter 241 before April 1, 2019, shall be
18 exempt from this requirement.

19 ➔Section 41. KRS 15.398 is amended to read as follows:

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

24 (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;

25 (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;

26 (3) KRS Chapter 78, relating to county police;

27 (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county

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

10 ➔Section 42. KRS 15.420 is amended to read as follows:

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

- 12 (1) "Cabinet" means the Justice and Public Safety Cabinet;
- 13 (2) (a) "Police officer" means:
- 14 1. A local officer, limited to:
- 15 a. A full-time:
- 16 i. Member of a lawfully organized police department of county,
17 urban-county, or city government; or
- 18 ii. Sheriff or full-time deputy sheriff, including any sheriff
19 providing court security or appointed under KRS 70.030; or
- 20 b. A school resource officer as defined in KRS 158.441; and
- 21 2. A state officer, limited to:
- 22 a. A public university police officer;
- 23 b. A Kentucky state trooper;
- 24 c. A Kentucky State Police arson investigator;
- 25 d. A Kentucky State Police hazardous device investigator;
- 26 e. A Kentucky State Police legislative security specialist;
- 27 f. A Kentucky vehicle enforcement officer;

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

1 by the council as being competent to conduct such a study.

2 ➔Section 43. KRS 15A.340 is amended to read as follows:

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

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

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

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

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

21 ➔Section 44. KRS 61.592 (Effective April 1, 2021) is amended to read as
22 follows:

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

- 26 1. Any position whose principal duties involve active law enforcement,
27 including the positions of probation and parole officer and

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

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

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

1 of a hazardous position as defined in subsection (1)(b) of this section. The
2 board shall have the authority to remove any employee from hazardous duty
3 coverage if the board determines the employee is not working in a hazardous
4 duty position or if the employee is classified in a hazardous duty position but
5 has individual job duties that do not meet the definition of a hazardous duty
6 position or are not accurately reflected in the job descriptions filed by the
7 employer with the system.

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

18 (b) Each employer shall pay employer contributions based on the creditable
19 compensation of the employees determined by the system to be working in a
20 hazardous position at the employer contribution rate as determined by the
21 board. The rate shall be determined by actuarial methods consistent with the
22 provisions of KRS 61.565 or 78.635, as applicable.

23 (c) If the employer participated in the system prior to electing hazardous duty
24 coverage, the employer may pay to the system the cost of converting the
25 nonhazardous service to hazardous service from the date of participation to
26 the date the payment is made, or the employer may establish a payment
27 schedule for payment of the cost of the hazardous service above that which

1 would be funded within the existing employer contribution rate. The employer
2 may extend the payment schedule to a maximum of thirty (30) years.
3 Payments made by the employer under this subsection shall be deposited to
4 the retirement allowance account of the proper retirement system and these
5 funds shall not be considered accumulated contributions of the individual
6 members. If the employer elects not to make the additional payment, the
7 employee may pay the cost of converting the service and provide payment for
8 the cost as provided by KRS 61.552(14). Payments made by the employee
9 under this subsection shall not be picked up, as described in KRS 61.560(4),
10 by the employer. If neither the employer nor employee makes the payment, the
11 service prior to hazardous coverage shall remain nonhazardous. The
12 provisions of this paragraph shall not apply to members who begin
13 participating in the systems administered by Kentucky Retirement Systems or
14 County Employees Retirement System on or after January 1, 2014.

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

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

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

1 ➔Section 45. KRS 62.160 is amended to read as follows:

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

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

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

1 Commissioner for public health services10,000

2 Secretary of labor5,000

3 Commissioner for natural resources50,000

4 State librarian5,000

5 Commissioner of alcoholic beverage and cannabis control10,000

6 Commissioner of financial institutions25,000

7 Secretary for energy and environment50,000

8 Commissioner of insurance50,000

9 Commissioner of vehicle regulation10,000

10 Commissioner of fish and wildlife resources5,000

11 Secretary for health and family services20,000

12 Commissioner of environmental protection10,000

13 Secretary of public protection10,000

14 Secretary of tourism, arts and heritage25,000

15 Commissioner for community based services20,000

16 Member of the Public Service Commission10,000

17 Member of State Fair Board10,000

18 Member of Fish and Wildlife Resources Commission1,000

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

20 Associate member of Alcoholic Beverage Control Board5,000

21 Commissioner of local government100,000

22 ➔Section 46. KRS 131.1815 is amended to read as follows:

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

- 1 (2) Any of the following situations shall be sufficient to cause a taxpayer to be
2 classified as a "delinquent taxpayer" for purposes of this section:
- 3 (a) When a taxpayer has an overdue state tax liability arising directly or indirectly
4 from the manufacture, sale, transportation, or distribution of alcoholic
5 beverages, for which all protest and appeal rights granted by law have expired,
6 and the taxpayer has been contacted by the department concerning the overdue
7 tax liability. This does not include a taxpayer who is making current timely
8 installment payments on the overdue tax liability under agreement with the
9 department;
- 10 (b) When a taxpayer has not filed a required tax return as of ninety (90) days after
11 the due date or after the extended due date, and the taxpayer has been
12 contacted by the department concerning the delinquent return; or
- 13 (c) When an owner, partner, or corporate officer of a proprietorship, partnership,
14 or corporation holding a license under KRS Chapter 243 held a similar
15 position in a business whose license was revoked as a "delinquent taxpayer,"
16 and the tax liability remains unpaid as of ninety (90) days after the due date.
- 17 (3) At least twenty (20) days before submitting a taxpayer's name to the Department of
18 Alcoholic Beverage and Cannabis Control as provided in subsection (1) of this
19 section, the department shall notify the taxpayer by certified mail that the action is
20 to be taken. The notice shall state the reason for the action and shall set out the
21 amount of any tax liability including any applicable penalties and interest and any
22 other area of noncompliance that must be satisfied in order to prevent the
23 submission of his name to the Department of Alcoholic Beverage and Cannabis
24 Control as a delinquent taxpayer.
- 25 ➔Section 47. KRS 211.285 is amended to read as follows:
- 26 (1) There is hereby created the malt beverage educational fund which shall provide
27 moneys on a matching basis for educational information and materials that deter or

1 eliminate underage drinking. The fund shall consist of moneys generated from one
2 percent (1%) of the excise tax collected from the sale and distribution of malt
3 beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected
4 from distributors of malt beverages and microbreweries under KRS 243.884.

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

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

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

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

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

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

- 1 (c) The President of the Senate or his or her designee;
- 2 (d) The Speaker of the House or his or her designee;
- 3 (e) The secretary of the Cabinet for Health and Family Services or his or her
- 4 designee; and
- 5 (f) The commissioner of the Department of Alcoholic Beverage and Cannabis
- 6 Control or his or her designee.

7 (6) All expenditures of moneys from the fund shall be approved by a majority of those

8 persons set out in subsection (5)(a) to (f) of this section. If the moneys from the

9 fund are not expended in their entirety, any moneys that remain unused by the

10 corporation at the end of the fiscal year shall be returned to the general fund.

11 (7) Any moneys from the fund that are not expended shall be returned to the general

12 fund upon the dissolution of the corporation.

13 (8) Any high school in the Commonwealth of Kentucky that was registered with the

14 Department of Education as of July 1, 1997, may make an application to the Malt

15 Beverage Education Corporation by February 28 of each year and shall be granted a

16 minimum of five hundred dollars (\$500) annually from the funds contributed by the

17 malt beverage educational fund for the single purpose of supporting "Project

18 Graduation" events.

19 ➔Section 48. KRS 241.010 is amended to read as follows:

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

21 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from

22 whatever source or by whatever process it is produced;

23 (2) "Alcoholic beverage" means every liquid, solid, powder, or crystal, whether

24 patented or not, containing alcohol in an amount in excess of more than one percent

25 (1%) of alcohol by volume, which is fit for beverage purposes. It includes every

26 spurious or imitation liquor sold as, or under any name commonly used for,

27 alcoholic beverages, whether containing any alcohol or not. It does not include the

1 following products:

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

- 1 (b) Holds a permit under KRS Chapter 219; and
- 2 (c) Has an innkeeper who resides on the premises or property adjacent to the
- 3 premises during periods of occupancy;
- 4 (6) "Board" means the State Alcoholic Beverage Control Board created by KRS
- 5 241.030;
- 6 (7) "Bottle" means any container which is used for holding alcoholic beverages for the
- 7 use and sale of alcoholic beverages at retail;
- 8 (8) "Brewer" means any person who manufactures malt beverages or owns, occupies,
- 9 carries on, works, or conducts any brewery, either alone or through an agent;
- 10 (9) "Brewery" means any place or premises where malt beverages are manufactured for
- 11 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
- 12 and storerooms connected with the premises; or where any part of the process of the
- 13 manufacture of malt beverages is carried on; or where any apparatus connected with
- 14 manufacture is kept or used; or where any of the products of brewing or
- 15 fermentation are stored or kept;
- 16 (10) "Building containing licensed premises" means the licensed premises themselves
- 17 and includes the land, tract of land, or parking lot in which the premises are
- 18 contained, and any part of any building connected by direct access or by an entrance
- 19 which is under the ownership or control of the licensee by lease holdings or
- 20 ownership;
- 21 (11) "Caterer" means a person operating a food service business that prepares food in a
- 22 licensed and inspected commissary, transports the food and alcoholic beverages to
- 23 the caterer's designated and inspected banquet hall or to an agreed location, and
- 24 serves the food and alcoholic beverages pursuant to an agreement with another
- 25 person;
- 26 (12) "Charitable organization" means a nonprofit entity recognized as exempt from
- 27 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.

- 1 501(c)) or any organization having been established and continuously operating
2 within the Commonwealth of Kentucky for charitable purposes for three (3) years
3 and which expends at least sixty percent (60%) of its gross revenue exclusively for
4 religious, educational, literary, civic, fraternal, or patriotic purposes;
- 5 (13) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or
6 more alcohol by volume and includes hard cider and perry cider;
- 7 (14) "City administrator" means city alcoholic beverage control administrator;
- 8 (15) "Commercial airport" means an airport through which more than five hundred
9 thousand (500,000) passengers arrive or depart annually;
- 10 (16) "Commercial quadricycle" means a vehicle equipped with a minimum of ten (10)
11 pairs of fully operative pedals for propulsion by means of human muscular power
12 exclusively and which:
- 13 (a) Has four (4) wheels;
- 14 (b) Is operated in a manner similar to that of a bicycle;
- 15 (c) Is equipped with a minimum of thirteen (13) seats for passengers;
- 16 (d) Has a unibody design;
- 17 (e) Is equipped with a minimum of four (4) hydraulically operated brakes;
- 18 (f) Is used for commercial tour purposes; and
- 19 (g) Is operated by the vehicle owner or an employee of the owner;
- 20 (17) "Commissioner" means the commissioner of the Department of Alcoholic Beverage
21 *and Cannabis* Control;
- 22 (18) "Consumer" means a person who purchases alcoholic beverages and who:
- 23 (a) Does not hold a license or permit issued by the department;
- 24 (b) Purchases the alcoholic beverages for personal consumption only and not for
25 resale;
- 26 (c) Is of lawful drinking age;
- 27 (d) Receives the alcoholic beverages at a location other than a licensed premises;

1 and

2 (e) Receives the alcoholic beverages in territory where the alcoholic beverages
3 may be lawfully sold or received;

4 (19) "Convention center" means any facility which, in its usual and customary business,
5 provides seating for a minimum of one thousand (1,000) people and offers
6 convention facilities and related services for seminars, training and educational
7 purposes, trade association meetings, conventions, or civic and community events
8 or for plays, theatrical productions, or cultural exhibitions;

9 (20) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
10 guilty, the decision of a court, or the finding of a jury, irrespective of a
11 pronouncement of judgment or the suspension of the judgment;

12 (21) "County administrator" means county alcoholic beverage control administrator;

13 (22) "Department" means the Department of Alcoholic Beverage and Cannabis Control;

14 (23) "Dining car" means a railroad passenger car that serves meals to consumers on any
15 railroad or Pullman car company;

16 (24) "Discount in the usual course of business" means price reductions, rebates, refunds,
17 and discounts given by wholesalers to distilled spirits and wine retailers pursuant to
18 an agreement made at the time of the sale of the merchandise involved and are
19 considered a part of the sales transaction, constituting reductions in price pursuant
20 to the terms of the sale, irrespective of whether the quantity discount was:

21 (a) Prorated and allowed on each delivery;

22 (b) Given in a lump sum after the entire quantity of merchandise purchased had
23 been delivered; or

24 (c) Based on dollar volume or on the quantity of merchandise purchased;

25 (25) "Distilled spirits" or "spirits" means any product capable of being consumed by a
26 human being which contains alcohol in excess of the amount permitted by KRS
27 Chapter 242 obtained by distilling, mixed with water or other substances in

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

- 1 (34) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- 2 (35) "Licensee" means any person to whom a license has been issued, pursuant to KRS
3 Chapters 241 to 244;
- 4 (36) "Limited restaurant" means:
- 5 (a) A facility where the usual and customary business is the preparation and
6 serving of meals to consumers, which has a bona fide kitchen facility, which
7 receives at least seventy percent (70%) of its food and alcoholic beverage
8 receipts from the sale of food, which maintains a minimum seating capacity of
9 fifty (50) persons for dining, which has no open bar, which requires that
10 alcoholic beverages be sold in conjunction with the sale of a meal, and which
11 is located in a wet or moist territory under KRS 242.1244; or
- 12 (b) A facility where the usual and customary business is the preparation and
13 serving of meals to consumers, which has a bona fide kitchen facility, which
14 receives at least seventy percent (70%) of its food and alcoholic beverage
15 receipts from the sale of food, which maintains a minimum seating capacity of
16 one hundred (100) persons of dining, and which is located in a wet or moist
17 territory under KRS 242.1244;
- 18 (37) "Local administrator" means a city alcoholic beverage administrator, county
19 alcoholic beverage administrator, or urban-county alcoholic beverage control
20 administrator;
- 21 (38) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or
22 description, manufactured from malt wholly or in part, or from any substitute for
23 malt, and includes weak cider;
- 24 (39) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;
- 25 (40) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person
26 engaged in the production or bottling of alcoholic beverages;
- 27 (41) "Minor" means any person who is not twenty-one (21) years of age or older;

- 1 (42) "Moist" means a territory in which a majority of the electorate voted to permit
2 limited alcohol sales by any one (1) or a combination of special limited local option
3 elections authorized by KRS Chapter 242;
- 4 (43) "Population" means the population figures established by the federal decennial
5 census for a census year or the current yearly population estimates prepared by the
6 Kentucky State Data Center, Urban Studies Center of the University of Louisville,
7 Louisville, Kentucky, for all other years;
- 8 (44) "Premises" means the land and building in and upon which any business regulated
9 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
10 as a single unit two (2) or more separate businesses of one (1) owner on the same
11 lot or tract of land, in the same or in different buildings if physical and permanent
12 separation of the premises is maintained, excluding employee access by keyed entry
13 and emergency exits equipped with crash bars, and each has a separate public
14 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
15 an alcoholic beverage license on July 15, 1998, shall not, by reason of this
16 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
17 of the license;
- 18 (45) "Primary source of supply" or "supplier" means the distiller, winery, brewer,
19 producer, owner of the commodity at the time it becomes a marketable product,
20 bottler, or authorized agent of the brand owner. In the case of imported products, the
21 primary source of supply means either the foreign producer, owner, bottler, or agent
22 of the prime importer from, or the exclusive agent in, the United States of the
23 foreign distiller, producer, bottler, or owner;
- 24 (46) "Private club" means a nonprofit social, fraternal, military, or political organization,
25 club, or nonprofit or for-profit entity maintaining or operating a club room, club
26 rooms, or premises from which the general public is excluded;
- 27 (47) "Public nuisance" means a condition that endangers safety or health, is offensive to

1 the senses, or obstructs the free use of property so as to interfere with the
2 comfortable enjoyment of life or property by a community or neighborhood or by
3 any considerable number of persons;

4 (48) "Qualified historic site" means:

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

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

11 (c) A distillery which is listed as a National Historic Landmark and which
12 conducts souvenir retail package sales under KRS 243.0305; or

13 (d) A not-for-profit or nonprofit facility listed on the National Register of Historic
14 Places;

15 (49) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
16 wine by any process other than as provided for on distillery premises, and every
17 person who, without rectifying, purifying, or refining distilled spirits by mixing
18 alcoholic beverages with any materials, manufactures any imitations of or
19 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,
20 spirits, cordials, bitters, or any other name;

21 (50) "Repackaging" means the placing of alcoholic beverages in any retail container
22 irrespective of the material from which the container is made;

23 (51) "Restaurant" means a facility where the usual and customary business is the
24 preparation and serving of meals to consumers, that has a bona fide kitchen facility,
25 and that receives at least fifty percent (50%) of its food and alcoholic beverage
26 receipts from the sale of food at the premises;

27 (52) "Retail container" means any bottle, can, barrel, or other container which, without a

- 1 separable intermediate container, holds alcoholic beverages and is suitable and
2 destined for sale to a retail outlet, whether it is suitable for delivery or shipment to
3 the consumer or not;
- 4 (53) "Retail sale" means any sale of alcoholic beverages to a consumer, including those
5 transactions taking place in person, electronically, online, by mail, or by telephone;
- 6 (54) "Retailer" means any licensee who sells and delivers any alcoholic beverage to
7 consumers, except for manufacturers with limited retail sale privileges and direct
8 shipper licensees;
- 9 (55) "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 (56) "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 (57) "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 (58) "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 (59) "Small farm winery" means a winery whose wine production is not less than two
22 hundred fifty (250) gallons and not greater than five hundred thousand (500,000)
23 gallons in a calendar year;
- 24 (60) "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 (61) "State administrator" or "administrator" means the distilled spirits administrator or
4 the malt beverages administrator, or both, as the context requires;
- 5 (62) "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 (63) "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 (64) "Territory" means a county, city, district, or precinct;
- 13 (65) "Urban-county administrator" means an urban-county alcoholic beverage control
14 administrator;
- 15 (66) "Valid identification document" means an unexpired, government-issued form of
16 identification that contains the photograph and date of birth of the individual to
17 whom it is issued;
- 18 (67) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise
19 move alcoholic beverages or any products, equipment, or appurtenances used to
20 manufacture, bottle, or sell these beverages;
- 21 (68) "Vintage distilled spirit" means a package or packages of distilled spirits that:
- 22 (a) Are in their original manufacturer's unopened container;
23 (b) Are not owned by a distillery; and
24 (c) Are not otherwise available for purchase from a licensed wholesaler within
25 the Commonwealth;
- 26 (69) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- 27 (70) "Weak cider" means any fermented fruit-based beverage containing more than one

1 percent (1%) but less than seven percent (7%) alcohol by volume;

2 (71) "Wet" means a territory in which a majority of the electorate voted to permit all
3 forms of retail alcohol sales by a local option election under KRS 242.050 or
4 242.125 on the following question: "Are you in favor of the sale of alcoholic
5 beverages in (name of territory)?";

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

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

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

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

21 ➔Section 49. KRS 241.015 is amended to read as follows:

22 There is created a Department of Alcoholic Beverage and Cannabis Control, which shall
23 constitute a statutory administrative department of the state government within the
24 meaning of KRS Chapter 12. The department consists of the commissioner of alcoholic
25 beverage and cannabis control, ~~and~~ the Alcoholic Beverage Control Board, and the
26 Division of Medicinal Cannabis. The commissioner shall head the department, shall be
27 its executive officer, and shall have charge of the administration of the department and

1 perform all functions of the department not specifically assigned to the board or division.
2 The Governor shall appoint as commissioner a person with administrative experience in
3 the field of alcoholic beverage or cannabis control.

4 →Section 50. KRS 241.030 is amended to read as follows:

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

12 →Section 51. KRS 243.025 is amended to read as follows:

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

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

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

22 →Section 52. KRS 243.0307 is amended to read as follows:

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

- 24 (a) A quota retail drink license;
25 (b) A quota retail package license;
26 (c) A nonquota retail malt beverage package license;
27 (d) An NQ1 license;

- 1 (e) An NQ2 license;
- 2 (f) An NQ4 retail malt beverage drink license; or
- 3 (g) A distiller's license.
- 4 (2) A sampling license shall authorize the licensee to allow customers to sample, free of
- 5 charge, distilled spirits, wine, and malt beverages under the following conditions:
- 6 (a) Sampling shall be permitted only on licensed premises and by licensees
- 7 holding a sampling license, during regular business hours;
- 8 (b) A distillery shall provide samples as authorized by KRS 243.0305;
- 9 (c) All other licensees shall limit a customer to:
- 10 1. One (1) ounce of distilled spirits samples per day;
- 11 2. Six (6) ounces of wine samples per day; or
- 12 3. Twelve (12) ounces of malt beverage samples per day; and
- 13 (d) A brewer, microbrewery, or out-of-state malt beverage supplier may conduct a
- 14 sampling of malt beverages as permitted by this section at the licensed
- 15 premises of a retailer licensee holding a sampling license.
- 16 (3) Retailers holding a sampling license shall:
- 17 (a) Notify the Department of Alcoholic Beverage and Cannabis Control at least
- 18 seven (7) days in advance of conducting a free sampling event; and
- 19 (b) Limit a sampling event to a period not to exceed four (4) consecutive hours
- 20 between 12 noon and 8 p.m.
- 21 (4) In addition to free sampling, a quota retail package licensee holding a sampling
- 22 license may also sell sample distilled spirits and wine under the following
- 23 conditions:
- 24 (a) Paid samples may be sold only on licensed premises and by licensees holding
- 25 a sampling license, during regular business hours; and
- 26 (b) A licensee shall limit a customer to purchased samples totaling no more than:
- 27 1. Two (2) ounces of distilled spirits per day; and

- 1 2. Nine (9) ounces of wine per day.
- 2 (5) A quota retail package licensee holding both a sampling license and a nonquota
3 retail malt beverage package license may also sell samples of malt beverages under
4 the following conditions:
- 5 (a) Paid samples may be sold only on licensed premises and by licensees holding
6 a sampling license, during regular business hours;
- 7 (b) A licensee shall limit a customer to no more than sixteen (16) ounces of malt
8 beverages per day; and
- 9 (c) The retail price of a sample shall not be less than a licensee's purchase cost of
10 the sample.
- 11 (6) No customer shall be allowed to receive a combination of free and purchased
12 samples totaling more than:
- 13 (a) Two (2) ounces of distilled spirits per day; and
- 14 (b) Nine (9) ounces of wine per day.
- 15 (7) Free and paid samples provided under this section shall not constitute drink sales.
- 16 ➔Section 53. KRS 243.038 is amended to read as follows:
- 17 (1) The Department of Alcoholic Beverage and Cannabis Control shall not issue a
18 license to an applicant authorized to apply for a license to sell alcoholic beverages
19 by the drink under KRS 243.039 unless the applicant and the golf course, if
20 different from the applicant, agree to voluntarily comply with the provisions of KRS
21 Chapter 344, whether or not the applicant and the golf course would otherwise be
22 covered by the provisions of KRS Chapter 344.
- 23 (2) The department shall revoke or suspend any license issued under KRS 243.039 if
24 the department or the Kentucky Commission on Human Rights makes a finding that
25 the applicant or the golf course, if different from the applicant, has violated a
26 requirement specified in this section.
- 27 ➔Section 54. KRS 243.090 is amended to read as follows:

- 1 (1) All licenses issued by the department, except special event licenses, temporary
2 licenses, or licenses listed in subsection (5) of this section, shall be valid for a
3 period of no more than a year. The board shall promulgate administrative
4 regulations establishing the year-round system for renewal of licenses. The system
5 shall be designed to distribute the workload as uniformly as possible within the
6 offices of the local administrators and the Department of Alcoholic Beverage ***and***
7 ***Cannabis*** Control.
- 8 (2) (a) Except for licenses listed in paragraph (b) of this subsection, all licenses
9 issued after January 1, 2017, by a local administrator shall be valid for a
10 period of no more than a year and shall be renewable upon the date
11 established by the department for the expiration of state licenses issued for
12 premises located in that county or city. During the first year following July 15,
13 2016, if the new date for renewal for the licensee does not occur on the date
14 established by the department for the expiration of the licensee's state license,
15 the local administrator shall either:
- 16 1. Prorate the cost of the renewed license by proportionally reducing the
17 cost of the renewed license if the new date for the renewal occurs prior
18 to the expiration of a previous license; or
 - 19 2. Provide a prorated provisional local license to cover any period of time
20 between the expiration of the previous license and the new date for
21 renewal if the new date for renewal occurs after the expiration of the
22 licensee's previous license.
- 23 (b) Paragraph (a) of this subsection shall not apply to licenses issued by a
24 consolidated local government, special event licenses, temporary licenses, or
25 licenses listed in subsection (5) of this section.
- 26 (3) When any person applies for a new license authorized under KRS Chapters 241 to
27 244, the person shall be charged, if the license is issued, the full fee for the

1 respective license if six (6) months or more remain before the license is due to be
2 renewed and one-half (1/2) the fee if less than six (6) months remain before the
3 license is due to be renewed. No abatement of license fees shall be permitted to any
4 person who held a license of the same kind for the same premises in the preceding
5 license period and who was actually doing business under the license during the last
6 month of the preceding license period.

- 7 (4) The renewal by the department of any alcoholic beverage license shall not be
8 construed to waive or condone any violation that occurred prior to the renewal and
9 shall not prevent subsequent proceedings against the licensee.
- 10 (5) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew
11 their licenses for either a one (1) year term or a two (2) year term.
- 12 (6) The department may deny license renewal if the licensee is a delinquent taxpayer as
13 defined in KRS 131.1815.

14 ➔Section 55. KRS 243.360 is amended to read as follows:

- 15 (1) All persons shall, before applying for a license, advertise by publication their
16 intention to apply for a license in the newspaper for legal notices under KRS
17 424.120 for the county or city whose local administrator has local jurisdiction over
18 the proposed premises. This requirement shall not apply to an applicant for the same
19 license for the same premises, or an applicant for any of the following licenses:
- 20 (a) Out-of-state malt beverage supplier's license;
- 21 (b) Limited out-of-state malt beverage supplier's license;
- 22 (c) Out-of-state distilled spirits and wine supplier's license;
- 23 (d) Limited out-of-state distilled spirits and wine supplier's license;
- 24 (e) Supplemental bar license;
- 25 (f) Extended hours supplemental license;
- 26 (g) Special agent or solicitor's license;
- 27 (h) Special nonbeverage alcohol license;

- 1 (i) Transporter's license;
- 2 (j) Special Sunday drink license;
- 3 (k) Hotel in-room license;
- 4 (l) Sampling license;
- 5 (m) Direct shipper license; or
- 6 (n) Special temporary drink license.

- 7 (2) The notice shall contain the following information:
 - 8 (a) The notice shall state: the name and address of the applicant and the name and
9 address of each principal owner, partner, member, officer, and director if the
10 applicant is a partnership, limited partnership, limited liability company,
11 corporation, governmental agency, or other business entity recognized by law;
 - 12 (b) The notice shall specifically state the location of the premises for which the
13 license is sought, the type of business, and the type of license being requested;
14 and
 - 15 (c) The notice shall state the date the application will be filed and shall contain
16 the following statement: "Any person may protest the approval of the license
17 by writing the Department of Alcoholic Beverage and Cannabis Control
18 within thirty (30) days of the date of legal publication."
 - 19 (3) Any protest received after the thirty (30) day period has expired shall not be
20 considered a valid legal protest by the board.
 - 21 (4) Substantial compliance with the information listed in subsection (2) of this section
22 shall be sufficient to comply with this section.
- 23 ➔Section 56. KRS 438.310 is amended to read as follows:
- 24 (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine
25 product, or vapor product at retail to any person under the age of twenty-one (21), or
26 solicit any person under the age of twenty-one (21) to purchase any tobacco product,
27 alternative nicotine product, or vapor product at retail.

1 (2) Any person who sells tobacco products, alternative nicotine products, or vapor
2 products at retail shall cause to be posted in a conspicuous place in his or her
3 establishment a notice stating that it is illegal to sell tobacco products, alternative
4 nicotine products, or vapor products to persons under age twenty-one (21).

5 (3) Any person selling tobacco products, alternative nicotine products, or vapor
6 products shall require proof of age from a prospective buyer or recipient if the
7 person has reason to believe that the prospective buyer or recipient is under the age
8 of twenty-one (21).

9 (4) A person who violates subsection (1) or (2) of this section shall be subject to a fine
10 of not less than one hundred dollars (\$100) nor more than five hundred dollars
11 (\$500) for a first violation and a fine of not less than five hundred dollars (\$500) nor
12 more than one thousand dollars (\$1,000) for any subsequent violation. The fine
13 shall be administered by the Department of Alcoholic Beverage and Cannabis
14 Control using a civil enforcement procedure.

15 ➔Section 57. KRS 438.311 is amended to read as follows:

16 (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has
17 not attained the age of twenty-one (21) years to purchase or accept receipt of or to
18 attempt to purchase or accept receipt of a tobacco product, alternative nicotine
19 product, or vapor product, or to present or offer to any person any purported proof
20 of age which is false, fraudulent, or not actually his or her own, for the purpose of
21 purchasing or receiving any tobacco product, alternative nicotine product, or vapor
22 product. It shall not be unlawful for such a person to accept receipt of a tobacco
23 product, alternative nicotine product, or vapor product from an employer when
24 required in the performance of the person's duties.

25 (2) All peace officers with general law enforcement authority and employees of the
26 Department of Alcoholic Beverage and Cannabis Control may confiscate the
27 tobacco product, alternative nicotine product, or vapor product of a person under the

1 age of twenty-one (21) who has violated this section. Notwithstanding any provision
2 of law to the contrary, no other penalty shall apply to a person under the age of
3 twenty-one (21) for a violation of this section.

4 ➔Section 58. KRS 438.313 is amended to read as follows:

5 (1) No wholesaler, retailer, or manufacturer of cigarettes, tobacco products, alternative
6 nicotine products, or vapor products may distribute cigarettes, tobacco products,
7 alternative nicotine products, or vapor products, including samples thereof, free of
8 charge or otherwise, to any person under the age of twenty-one (21).

9 (2) Any person who distributes cigarettes, tobacco products, alternative nicotine
10 products, or vapor products, including samples thereof, free of charge or otherwise
11 shall require proof of age from a prospective buyer or recipient if the person has
12 reason to believe that the prospective purchaser or recipient is under the age of
13 twenty-one (21).

14 (3) Any person who violates the provisions of this section shall be fined not less than
15 one thousand dollars (\$1,000) nor more than two thousand five hundred dollars
16 (\$2,500) for each offense. The fine shall be administered by the Department of
17 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for
18 persons eighteen (18) years of age or older.

19 (4) All peace officers with general law enforcement authority and employees of the
20 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
21 citation, but may not make an arrest, or take a child into custody, for a violation of
22 this section.

23 ➔Section 59. KRS 438.315 is amended to read as follows:

24 (1) The sale of tobacco products, alternative nicotine products, or vapor products
25 dispensed through a vending machine is prohibited to any person under the age of
26 twenty-one (21) years.

27 (2) The purchase of tobacco products, alternative nicotine products, or vapor products

1 dispensed through a vending machine is prohibited to any person under the age of
2 twenty-one (21) years.

3 (3) Except for vending machines located in factories or vending machines located in
4 bars or taverns to which minors are not permitted access, any vending machine from
5 which tobacco products, alternative nicotine products, or vapor products are
6 dispensed shall be located in the line of sight of the cashier for the retail
7 establishment.

8 (4) Any owner of a retail establishment violating this section shall be subject to a fine
9 of not less than one hundred dollars (\$100) nor more than five hundred dollars
10 (\$500) for each violation. The fine shall be administered by the Department of
11 Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for
12 persons eighteen (18) years of age or older.

13 (5) All peace officers with general law enforcement authority and employees of the
14 Department of Alcoholic Beverage and Cannabis Control may issue a uniform
15 citation, but may not make an arrest, or take a child into custody, for a violation of
16 this section.

17 ➔Section 60. KRS 438.317 is amended to read as follows:

18 (1) No person shall sell or cause to be sold at retail cigarettes packaged in units of
19 fewer than twenty (20) cigarettes.

20 (2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available
21 to a retail establishment cigarettes packaged for retail sale in units of less than
22 twenty (20) cigarettes.

23 (3) Any person violating subsection (1) of this section shall be subject to a fine of not
24 less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
25 Any person violating subsection (2) of this section shall be fined not less than one
26 thousand dollars (\$1,000) nor more than two thousand five hundred dollars
27 (\$2,500). These penalties shall be enforced by the Department of Alcoholic

1 Beverage and Cannabis Control through civil enforcement procedures.

2 ➔Section 61. KRS 438.320 is amended to read as follows:

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

8 ➔Section 62. KRS 438.325 is amended to read as follows:

9 (1) Each owner of a retail establishment selling or distributing tobacco products,
10 alternative nicotine products, or vapor products shall notify each individual
11 employed in the retail establishment as a retail sales clerk that the sale of tobacco
12 products, alternative nicotine products, or vapor products to any person under the
13 age of twenty-one (21) years and the purchase of tobacco products, alternative
14 nicotine products, or vapor products by any person under the age of twenty-one (21)
15 years are prohibited.

16 (2) Each owner of a retail establishment selling or distributing tobacco products,
17 alternative nicotine products, or vapor products shall notify each individual
18 employed in the retail establishment as a retail sales clerk that proof of age is
19 required from a prospective buyer or recipient if the person has reason to believe
20 that the prospective purchaser or recipient is under the age of twenty-one (21).

21 (3) The notice to employees that is required in subsection (1) of this section shall be
22 provided before the person commences work as a retail sales clerk, or, in the case of
23 a person employed as a retail sales clerk on March 26, 2020, within thirty (30) days
24 of that date. The employee shall signify receipt of the notice required by this section
25 by signing a form that states as follows:

26 "I understand that under the law of the Commonwealth of Kentucky it is illegal to
27 sell or distribute tobacco products, alternative nicotine products, or vapor products

1 to persons under the age of twenty-one (21) years and that it is illegal for persons
2 under the age of twenty-one (21) years to purchase tobacco products, alternative
3 nicotine products, or vapor products."

4 (4) The owner of the retail establishment shall maintain the signed notice that is
5 required pursuant to subsection (3) of this section in a place and in a manner so as
6 to be easily accessible to any employee of the Department of Alcoholic Beverage
7 and Cannabis Control or the Department of Agriculture conducting an inspection
8 of the retail establishment for the purpose of monitoring compliance in limiting the
9 sale or distribution of tobacco products, alternative nicotine products, or vapor
10 products to persons under the age of twenty-one (21) as provided in KRS 438.305 to
11 438.340.

12 (5) Any owner of the retail establishment violating subsections (1) to (4) of this section
13 shall be subject to a fine of not less than one hundred dollars (\$100) nor more than
14 five hundred dollars (\$500) for each violation. The fine shall be administered by the
15 Department of Alcoholic Beverage and Cannabis Control in a civil enforcement
16 procedure.

17 ➔Section 63. KRS 438.330 is amended to read as follows:

18 (1) The Department of Alcoholic Beverage and Cannabis Control and the Department
19 of Agriculture shall carry out annually conducted random, unannounced inspections
20 of retail establishments where tobacco products, alternative nicotine products, or
21 vapor products are sold or distributed for the purpose of enforcing the provisions of
22 KRS 438.305 to 438.340. The inspections shall be conducted to the extent
23 necessary to assure that the Commonwealth remains in compliance with Public Law
24 102-321 and applicable federal regulations. The Department of Alcoholic Beverage
25 and Cannabis Control and the Department of Agriculture shall also ensure that
26 targeted inspections are conducted at those retail establishments where, and at those
27 times when, persons under the age of twenty-one (21) years are most likely to

1 purchase tobacco products, alternative nicotine products, or vapor products. Persons
2 under the age of twenty-one (21) years may be used to test compliance with the
3 provisions of KRS 438.305 to 438.340 only if the testing is conducted under the
4 direct supervision of the Department of Alcoholic Beverage and Cannabis Control,
5 sheriff, or chief of police, or their employees, and written parental consent has been
6 obtained. The Department of Alcoholic Beverage and Cannabis Control shall
7 prepare annually, for submission by the Governor to the Secretary of the United
8 States Department of Health and Human Services, the report required by Section
9 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

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

13 ➔Section 64. KRS 438.337 is amended to read as follows:

14 (1) The Department of Alcoholic Beverage and Cannabis Control shall carry out the
15 enforcement provisions of KRS 438.305 to 438.340.

16 (2) The Department of Alcoholic Beverage and Cannabis Control shall be entitled to
17 the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent
18 (\$0.03) per pack revenue collected by the Finance and Administration Cabinet from
19 the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be
20 deposited in a trust and agency account created in the State Treasury, and to keep
21 fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset
22 the costs of enforcement of KRS 438.305 to 438.340.

23 (3) The Department of Alcoholic Beverage and Cannabis Control shall be responsible
24 for maintaining statistics for compilation of required reports to be submitted to the
25 United States Department of Health and Human Services.

26 (4) The Department of Alcoholic Beverage and Cannabis Control shall devise a plan
27 and time frame for enforcement to determine by random inspection if the percentage

1 of retailers or distributors making illegal sales to persons under the age of twenty-
2 one (21) does or does not exceed federal guidelines preventing tobacco sales to
3 persons under the age of twenty-one (21).

4 ➔Section 65. 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 66. Section 2, Sections 4 to 8, Section 11, Sections 13 to 15, Sections
10 18 to 25, Section 30, and Sections 33 to 35 of this Act take effect July 1, 2022.