AN ACT relating to medicinal cannabis.

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

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

For the purposes of Sections 1 to 30 of this Act, unless the context otherwise requires:

(1) "Bona fide practitioner-patient relationship" means a treating or consulting relationship, during the course of which a medicinal cannabis practitioner has:

(a) Completed an initial in-person examination and assessment of the patient's medical history and current medical condition;

(b) Consulted with the patient with respect to the possible medical, therapeutic, and palliative properties of medicinal cannabis;

(c) Advised the patient of the possible risks and side effects associated with the use of medicinal cannabis, including possible interactions between medicinal cannabis and any other drug or medication that the patient is taking at that time; and

(d) Established an expectation that he or she will provide follow-up care and treatment to the patient in accordance with administrative regulations promulgated pursuant to subsection (10) of Section 9 of this Act;

(2) "Cabinet" means the Cabinet for Health and Family Services;

(3) "Cannabis business" means an entity licensed under this chapter as a cultivator, dispensary, processor, producer, or safety compliance facility;

(4) "Cannabis business agent" means a principal officer, board member, employee, volunteer, or agent of a cannabis business;

(5) "Cardholder" means:

(a) A registered qualified patient, designated caregiver, or visiting qualified patient who has applied for, obtained, and possesses a valid registry identification card issued by the cabinet; or

(b) A visiting qualified patient who has obtained and possesses:

1. A valid out-of-state registry identification card; and

2. Documentation of having been diagnosed with a qualifying medical condition;

(6) "Cultivator" means an entity licensed as such under Sections 15, 16, and 17 of this Act;

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

(8) "Designated caregiver" means a person who has registered as such with the cabinet under Sections 10 and 11 of this Act;

(9) "Dispensary" means an entity licensed as such under Sections 15, 16, and 17 of this Act;

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

(11) "Disqualifying felony offense" means:

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

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

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

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

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

(13) "Growth area" has the same meaning as an enclosed, locked facility;

(14) "Marijuana" has the same meaning as in Section 34 of this Act;

(15) "Medicinal cannabis":

(a) Means marijuana as defined in Section 34 of this Act when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with Sections 1 to 30 of this Act;

(b) Includes medicinal cannabis products and raw plant material; and

(c) Does not include industrial hemp or industrial hemp products as defined in Section 40 of this Act;

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

(17) "Medicinal cannabis practitioner" means a physician or an advanced practice registered nurse who is authorized to prescribe controlled substances under KRS 314.042, who is authorized by his or her state licensing board to provide written certifications pursuant to Section 9 of this Act;

(18) "Medicinal cannabis product":

(a) Means any compound, manufacture, salt, derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds or its resin; or any compound, mixture, or preparation which contains any quantity of these substances when cultivated, harvested, processed, produced,

transported, dispensed, distributed, sold, possessed, or used in accordance with Sections 1 to 30 of this Act; and

(b) Does not include industrial hemp products as defined in KRS Section 40 of this Act;

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

(20) "Out-of-state registry identification card" means a registry identification card, or an equivalent document, that was issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States;

(21) "Processor" means an entity licensed as such under Sections 15, 16, and 17 of this Act;

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

(23) "Producer" means an entity licensed as such under Sections 15, 16, and 17 of this Act;

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

(25) "Qualified patient" means a person who has obtained a written certification from a medicinal cannabis practitioner with whom he or she has a bona fide practitioner-patient relationship;

(26) "Qualifying medical condition" means:

(a) Any type or form of cancer regardless of stage;

(b) Chronic, severe, intractable, or debilitating pain;

(c) Epilepsy or any other intractable seizure disorder;

(d) Multiple sclerosis, muscle spasms, or spasticity;

(e) Chronic nausea or cyclical vomiting syndrome that has proven resistant to other conventional medical treatments;

(f) Post-traumatic stress disorder; and

(g) Any other medical condition or disease for which the Kentucky Center for Cannabis established in KRS 164.983, or its successor, determines that sufficient scientific data and evidence exists to demonstrate that an individual diagnosed with that condition or disease is likely to receive medical, therapeutic, or palliative benefits from the use of medicinal cannabis;

(27) "Raw plant material":

(a) Means the trichome-covered part of the female plant Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the Cannabis sp. plant; and

(b) Does not include plant material obtained from industrial hemp as defined in Section 40 of this Act;

(28) "Registered qualified patient" means a qualified patient who has applied for, obtained, and possesses a valid registry identification card or provisional registration receipt issued by the cabinet;

(29) "Registry identification card" means a document issued by the cabinet that identifies a person as a registered qualified patient, visiting qualified patient, or designated caregiver;

(30) "Safety compliance facility" means an entity licensed as such under Sections 15, 16, and 17 of this Act;

(31) "Safety compliance facility agent" means a principal officer, board member, employee, volunteer, or agent of a safety compliance facility;

(32) "Seedling" means a medicinal cannabis plant that has no flowers and is not taller than eight (8) inches;

(33) "Serious violation" means:

(a) Any violation of Sections 1 to 30 of this Act or any administrative regulation promulgated thereunder that is capable of causing death or which causes

serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(b) The diversion of medicinal cannabis for use not regulated pursuant to Sections 1 to 30 of this Act; or

(c) Any act that would constitute a violation of Section 35 of this Act;

(34) "Smoking" means the inhalation of smoke produced from the combustion of raw plant material when ignited by a flame;

(35) "State licensing board" means:

(a) The Kentucky Board of Medical Licensure; or

(b) The Kentucky Board of Nursing;

(36) "Telehealth" has the same meaning as in KRS 211.332;

(37) "Use of medicinal cannabis":

(a) Includes the acquisition, administration, possession, transfer, transportation, or consumption of medicinal cannabis or medicinal cannabis accessories by a cardholder in accordance with Sections 1 to 30 of this Act; and

(b) Does not include:

1. Cultivation of marijuana by a cardholder;

2. The use or consumption of marijuana by smoking; or

3. The use of industrial hemp or industrial hemp products as defined in Section 40 of this Act;

(38) "Visiting qualified patient" means a person who has registered as such through the cabinet as required under this chapter or who possesses a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition;

(39) "Written certification" means a document dated and signed by a medicinal cannabis practitioner, that:

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

(b) Specifies the qualifying medical condition or conditions for which the medicinal cannabis practitioner believes the patient may receive medical, therapeutic, or palliative benefit; and

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

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

(1) Nothing in Sections 1 to 30 of this Act shall be construed as applying to industrial hemp or industrial hemp products as defined in Section 40 of this Act.

(2) Notwithstanding any provision of law to the contrary, and except as provided in subsections (3) and (4) of this section and Section 6 of this Act:

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

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

(c) A registered qualified patient or visiting qualified patient shall not be considered to be under the influence of medicinal cannabis solely because of the presence of tetrahydrocannabinol metabolites, including but not limited to the cannabinoid carboxy THC, which is also known as THC-

COOH;

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

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

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

(3) Nothing in subsection (2) of this section shall be construed or interpreted to:

(a) Prohibit the arrest, prosecution, or imposition of any other penalty arising from but not limited to breach of contract, breach of fiduciary duty, negligence, or engaging in criminal activity that would constitute a felony or misdemeanor; or

(b) Prevent a medicinal cannabis practitioner from being subject to administrative penalties imposed by his or her state licensing board for any violation of Sections 1 to 30 of this Act or any administrative regulation promulgated thereunder.

(4) Notwithstanding subsection (2) of this section and any other provision of law to the contrary, a cardholder who is licensed under KRS Chapter 311 or KRS Chapter 314 may be subject to intervention or disciplinary action by his or her state licensing board if:

(a) There is probable cause to believe that the cardholder has become impaired by, or otherwise abused, medicinal cannabis; or

(b) The cardholder has a medically diagnosable disease that is characterized by chronic, habitual, or periodic use of medicinal cannabis resulting in interference with the cardholder's professional, social, or economic functions in the community or the loss of powers of self-control regarding the use of medicinal cannabis.

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

(1) The Cabinet for Health and Family Services is hereby charged with the implementation, operation, oversight, and regulation of the medicinal cannabis program established in Sections 1 to 30 of this Act.

(2) There is hereby established within the cabinet a Board of Physicians and Advisors which shall consist of the following members:

(a) Seven (7) physicians appointed by the Kentucky Board of Medical

Licensure and confirmed by the Senate in accordance with KRS 11.160. In order to be eligible to be appointed to the board, a physician shall be authorized, pursuant to Section 9 of this Act to provide written certifications for the use of medicinal cannabis and shall be certified by the appropriate board in one (1) of the following specialties:

1. Addiction medicine;

2. Anesthesiology;

3. Gastroenterology;

4. Infectious disease;

5. Neurology;

6. Obstetrics and gynecology;

7. Oncology;

8. Ophthalmology;

9. Optometry;

10. Pain management;

11. Pain medicine;

12. Pediatrics;

13. Physical medicine and rehabilitation; or

14. Psychiatry; and

(b) Two (2) advanced practice registered nurses appointed by the Kentucky Board of Nursing and confirmed by the Senate. In order to be eligible to be appointed to the board, an advanced practice registered nurse shall be authorized, pursuant to Section 9 of this Act to provide written certifications for the use of medicinal cannabis.

(3) Each member of the Board of Physicians and Advisors shall:

(a) Serve for a term of four (4) years and until his or her successor is appointed and confirmed by the Senate;

(b) Be eligible for reappointment; and

(c) Serve without compensation, but each member of the board not otherwise compensated for his or her time or expenses shall be entitled to reimbursement for his or her actual and necessary expenses in carrying out his or her duties with reimbursement for expenses being made in accordance with administrative regulations relating to travel expenses.

(4) The Board of Physicians and Advisors shall not be subject to reorganization under KRS Chapter 12.

(5) The Board of Physicians and Advisors shall:

(a) Review and recommend to the cabinet protocols for determining:

1. The amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes a daily supply, an uninterrupted ten (10) day supply, and an uninterrupted thirty (30) day supply of medicinal cannabis for registered qualified patients and visiting qualified patients; and

2. The amount of raw plant material that medicinal cannabis products are considered to be equivalent to;

(b) Review and recommend to the cabinet protocols, evolving continuous quality improvement metrics, and minimal performance standards for the biennial accreditation process of licensed cannabis businesses;

(c) Review relevant peer-reviewed, scientific data related to the delta-9 tetrahydrocannabinol content limits established in subsection (2)(b) of Section 18 of this Act and make recommendations to the General Assembly regarding revisions to the limits as the board deems appropriate;

(d) Review relevant peer-reviewed, scientific data related to the various methods of use and consumption of medicinal cannabis and make recommendations to the General Assembly to approve or restrict certain methods as the board deems appropriate;

(e) Review relevant peer-reviewed, scientific data related to the use of medicinal cannabis for medical, therapeutic, or palliative purposes and make recommendations to the General Assembly to add or remove conditions from the list of qualifying medical conditions defined in Section 1 of this Act; and

(f) Perform other duties related to the use of medicinal cannabis upon request by the secretary of the cabinet.

(6) No later than December 1 of each year beginning in 2024, the cabinet, in consultation with the University of Kentucky College of Medicine and the Kentucky Center for Cannabis shall submit an annual report to the Legislative Research Commission. The report submitted by the cabinet shall, at a minimum, include:

(a) The number of applications and renewals received by the cabinet for registry identification cards for registered qualified patients, visiting qualified patients, and designated caregivers, individually and collectively;

(b) The number of applications and renewals for registry identification cards that were approved and denied by the cabinet;

(c) The number of registry identification cards revoked by the cabinet for misconduct and the nature of the misconduct;

(d) The number of medicinal cannabis practitioners authorized to provide written certifications;

(e) The nature of the medical conditions for which medicinal cannabis practitioners have provided written certifications;

(f) The number of applications and renewals received by the cabinet for cannabis business licenses, the number of cannabis business licenses issued for each business type and tier, and the number of cannabis business license applications and renewals that were denied by the cabinet;

(g) The number of cannabis business agents employed by each type of cannabis business;

(h) An assessment of:

1. The ability of cardholders in all areas of the state to obtain timely affordable access to medicinal cannabis;

2. The evolving continuous quality improvement metrics and minimal performance standards for the biennial accreditation process of licensed cannabis businesses;

3. The effectiveness of the cultivators, processors, and producers licensed under this chapter, individually and collectively, in serving the needs of processors, dispensaries, and cardholders, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve processors, dispensaries, and cardholders in the Commonwealth;

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

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

(i) The amount of medicinal cannabis sold per month in the Commonwealth;

(j) The total amount of revenue for each calendar year and aggregated by prior years generated from any cannabis business licensure and cardholder application and renewal fees established by the cabinet;

(k) The total cost of enforcement for the medicinal cannabis program at the time of the report, by city, county, and overall;

(l) The sufficiency of the regulatory and security safeguards contained in Sections 1 to 30 of this Act and adopted by the cabinet through administrative regulations to ensure that access to and use of medicinal cannabis cultivated and processed in this state is provided only to cardholders;

(m) Any recommended additions or revisions to Sections 1 to 30 of this Act or administrative regulations promulgated thereunder, including those relating to security, safe handling, labeling, and nomenclature;

(n) The results of any scientific research studies regarding the health effects of cannabis; and

(o) Any other data requested by the Legislative Research Commission relating to the medicinal cannabis program and Sections 1 to 30 of this Act.

(7) The cabinet shall provide the University of Kentucky College of Medicine and the Kentucky Center for Cannabis established in KRS 164.983 with all information necessary to allow collaboration with the cabinet on the preparation of this report. The University of Kentucky College of Medicine and the Kentucky Center for Cannabis may also produce its own report regarding the medicinal cannabis program established in Sections 1 to 30 of this Act which, if produced, shall be submitted to the Legislative Research Commission upon completion.

(8) The information contained in the report described in subsection (4) of this section shall be presented in a manner that complies with the federal Health Insurance

Portability and Accountability Act, Pub. L. No. 104-191, and does not disclose any identifying information about cardholders or licensed cannabis businesses.

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

(1) A registered qualified patient, except as provided in subsection (2) of this section and Section 6 of this Act, shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board, for the use of medicinal cannabis, if the registered qualified patient does not possess more than:

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

(b) An amount of medicinal cannabis in excess of a thirty (30) day supply at his or her residence, in accordance with administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act; or

(c) An amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted ten (10) day supply on his or her person, except that an amount greater than a ten (10) day supply may be transported by a registered qualified patient from a dispensary to his or her residence if the medicinal cannabis is contained in a sealed package that requires at least a two (2) step process for initial opening.

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

(3) A visiting qualified patient shall not be subject, under the laws of the

Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for the use of medicinal cannabis, if the visiting qualified patient does not possess more than an amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted ten (10) day supply on his or her person.

(4) A designated caregiver shall not be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for assisting a registered qualified patient to whom the designated caregiver is connected through the cabinet's registration process with the use of medicinal cannabis if the designated caregiver does not possess more than:

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

(b) An amount of medicinal cannabis in excess of a thirty (30) day supply at his or her residence for each registered qualified patient to whom the caregiver is connected through the cabinet's registration process, in accordance with administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act; or

(c) An amount of medicinal cannabis determined by the cabinet to constitute an uninterrupted ten (10) day supply on his or her person for each registered qualified patient to whom the caregiver is connected through the cabinet's registration process, except that an amount greater than a ten (10) day supply may be transported by a designated caregiver from a dispensary to

his or her residence if the medicinal cannabis is contained in a sealed package that requires at least a two (2) step process for initial opening.

(5) (a) All medicinal cannabis possessed by a cardholder outside of his or her residence shall be kept in the original container in which the cardholder received the medicinal cannabis from a dispensary.

(b) When a cardholder possesses medicinal cannabis outside of his or her residence, the cardholder shall also be in possession of a valid registry identification card issued by the cabinet or, for visiting qualified patients, a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition.

(6) Notwithstanding subsections (1), (3), and (4) of this section and except as provided in administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act:

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

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

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

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

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

(b) Possession of medicinal cannabis accessories; or

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

(8) No person shall be subject, under the laws of the Commonwealth, to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board, for:

(a) Selling medicinal cannabis accessories to a cardholder who is over eighteen (18) years of age upon presentation of a valid registry identification card issued by the cabinet or, for visiting qualified patients, a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition;

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

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

(9) Notwithstanding any other provision of law to the contrary, a registered qualified patient who is injured or defrauded, including by theft or deprivation of use and benefit of any money, personal property including medicinal cannabis, or articles

of value of any kind, by his or her designated caregiver shall have a civil cause of action in Circuit Court to recover the actual damages sustained, together with the cost of the lawsuit, including a reasonable fee for the individual's attorney of record.

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

(1) (a) Any medicinal cannabis, medicinal cannabis accessories, lawful property, or interest in lawful property that is possessed, owned, or used in connection with the use of medicinal cannabis or acts incidental to that use shall not be subject to seizure or forfeiture under KRS 218A.405 to 218A.460.

(b) Sections 1 to 30 of this Act shall not prevent the seizure or forfeiture of marijuana exceeding the amounts allowed under Section 4 of this Act or administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act, nor shall it prevent seizure or forfeiture if the basis for that action is unrelated to the use of medicinal cannabis in accordance with Sections 1 to 30 of this Act and any administrative regulation promulgated thereunder.

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

(3) (a) There shall be a rebuttable presumption that a cardholder is engaged in the

lawful use of medicinal cannabis, or in the case of a designated caregiver, assisting with the lawful use of medicinal cannabis, if the cardholder:

1. Possesses a valid registry identification card or, in the case of a visiting qualified patient, an out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition; and

2. Possesses an amount of medicinal cannabis that does not exceed the amount allowed under Section 4 of this Act or administrative regulations promulgated pursuant to subsection (1)(c)6. of Section 27 of this Act.

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

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

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

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

(b) Consuming medicinal cannabis while operating, navigating, or being in actual physical control of an aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or

may be used to transport persons or property;

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

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

(e) Possessing medicinal cannabis, or otherwise engaging in the use of medicinal cannabis:

1. On the grounds of any preschool or primary or secondary school, except as permitted in accordance with policies enacted pursuant to subsection (4) of Section 8 of this Act;

2. In any correctional facility; or

3. On any property of the federal government;

(f) Using marijuana, if that person is not a registered qualified patient or visiting qualified patient;

(g) Using or consuming marijuana by smoking; or

(h) Cultivating marijuana unless that person is licensed by the cabinet as a cannabis cultivator or cannabis producer pursuant to Sections 15, 16, and 17 of this Act or is a cultivator or producer agent.

(2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the same as those established for operating a motor vehicle under the influence of alcohol or any other substance in KRS 189A.010.

(3) (a) An individual who violates subsection (1)(g) of this section shall not be considered to be in possession of medicinal cannabis or engaged in the use of medicinal cannabis and shall not benefit from the legal protections

afforded by Sections 1 to 30 of this Act.

(b) The odor or smell of uncombusted raw plant material shall not constitute evidence of use or consumption of cannabis by smoking.

(c) If an individual uses or consumes marijuana by smoking while on any form of public transportation, in any public place as defined in KRS 525.010, or in any place of public accommodation, resort, or amusement as defined in KRS 344.130:

1. The cabinet may revoke the individual's registry identification card; and

2. The individual may be subject to prosecution under Sections 35 and 36 of this Act.

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

(5) As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A registered qualified patient or visiting qualified patient who uses medicinal

cannabis shall be afforded all the same rights under state and local law, including those guaranteed under KRS Chapter 344, as the individual would have been afforded if he or she were solely prescribed pharmaceutical medications as they pertain to drug testing required by any state or local law.

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

(3) (a) For the purposes of medical care, including organ transplants, a patient's authorized use of medicinal cannabis is the equivalent of the authorized use of any other medication used at the direction of a practitioner.

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

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

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

(c) Each local board of education and each board of directors of a public charter school shall, no later than July 1, 2024, establish policies to permit a pupil who is a registered qualified patient to consume medicinal cannabis on school property as deemed necessary by the pupil's parent or legal guardian. Policies enacted pursuant to this paragraph shall require

medicinal cannabis be administered by a school nurse or under the supervision of appropriate school staff.

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

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

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

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

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

(4) A medicinal cannabis practitioner authorized by a state licensing board to provide written certifications for the use of medicinal cannabis may only provide a patient

with a written certification after the medicinal cannabis practitioner has:

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

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

(c) Reviewed a report of information from the electronic monitoring system established pursuant to Section 38 of this Act related to the patient for a period of time that covers at least the twelve (12) months immediately preceding the date of the report;

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

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

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

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

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

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

(c) For the purpose of applying for a registry identification card, a written certification provided under this section shall be valid for a period of not more than sixty (60) days. The medicinal cannabis practitioner may renew a written certification for not more than three (3) additional periods of not more than sixty (60) days each. Thereafter, the medicinal cannabis practitioner may issue another certification to the patient only after an in-person examination or an examination conducted via telehealth of the patient by the medicinal cannabis practitioner.

(d) Within twenty-four (24) hours of providing a patient with a written certification for the use of medicinal cannabis, a medicinal cannabis practitioner shall record the issuance of the written certification in the electronic monitoring system established pursuant to Section 38 of this Act.

(7) A medicinal cannabis practitioner shall not:

(a) Dispense medicinal cannabis; or

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

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

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

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

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

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

(e) Any other violation of this section.

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

(10) The state licensing boards shall:

(a) No later than July 1, 2024, promulgate administrative regulations in accordance with KRS Chapter 13A to establish:

1. Procedures for applying for authorization to provide written certifications;

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

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

4. Continuing education requirements for medicinal cannabis practitioners who are authorized to provide written certifications;

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

6. The minimal standards of care when providing written certifications including record maintenance and follow-up care requirements;

(b) On a regular basis, provide the cabinet with the names of all medicinal cannabis practitioners; and

(c) Immediately provide the cabinet with the name of any medicinal cannabis practitioner whose authorization to provide written certifications is

suspended or revoked.

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

(a) A research protocol;

(b) A clinical trial;

(c) An investigational new drug application; or

(d) An expanded access submission.

(12) As used in this section, "telehealth" has the same meaning as in KRS 211.332.

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

(1) Except as provided in subsection (5) of this section, no person shall possess, purchase, acquire, or otherwise engage or assist in the use of medicinal cannabis in Kentucky without first applying for and receiving a registry identification card issued by the cabinet.

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

(3) (a) Except as provided in paragraph (b) of this subsection, a person shall be eligible to apply for a registry identification card as a designated caregiver if he or she is a resident of Kentucky, is at least twenty-one (21) years of age, has not been convicted of a disqualifying felony offense, and has agreed to

assist no more than three (3) registered qualified patients with the use of medicinal cannabis.

(b) Any person who has been appointed as a guardian, limited guardian, conservator, or limited conservator under KRS Chapter 387 shall be eligible to be designated as a designated caregiver by the individual for whom they have been appointed as a guardian, limited guardian, conservator, or limited conservator.

(4) A person shall be eligible to apply for a registry identification card as a visiting qualified patient if he or she is not a resident of Kentucky or has been a resident of Kentucky for less than thirty (30) days, is at least twenty-one (21) years of age, has not been convicted of a disqualifying felony offense, possesses a valid out-of-state registry identification card, and possesses documentation of having been diagnosed with a qualifying medical condition.

(5) A person with a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition may use his or her out-of-state registry identification card for all purposes established in Sections 1 to 30 of this Act and shall not be required to apply for or receive a visiting qualified patient registry identification card from the cabinet.

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

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

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

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

medicinal cannabis practitioner;

(d) The name, address, and date of birth of not more than two (2) individuals chosen by the qualified patient to be designated as a caregiver, if the qualified patient chooses to designate a caregiver, except that if an individual has been appointed as a guardian, limited guardian, conservator, or limited conservator under KRS Chapter 387, the qualified patient shall choose that individual as a designated caregiver;

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

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

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

(7) To apply for or renew a registry identification card, a qualified patient who is under eighteen (18) years of age shall, in addition to the information required under subsection (6) of this section, submit:

(a) Documentation of diagnosis of a qualifying medical condition by a

practitioner other than the medicinal cannabis practitioner who provided the written certification for the use of medicinal cannabis; and

(b) A statement signed by the custodial parent or legal guardian with responsibility for health care decisions for the qualified patient attesting to the fact that the custodial parent or legal guardian agrees to:

1. Allow the qualified patient to use medicinal cannabis;

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

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

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

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

(b) A copy of his or her valid out-of-state registry identification card;

(c) Proof that he or she has been diagnosed with a qualifying medical condition;

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

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

(9) The application for qualified patients' registry identification cards shall ask whether the patient would like the cabinet to notify him or her of any clinical

studies needing human subjects for research on the use of medicinal cannabis. The cabinet shall notify interested patients if it is aware of studies that will be conducted in the United States.

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

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

(1) The cabinet shall establish, implement, and operate a registry identification card program, including registry identification card application and renewal fees, for registered qualified patients, visiting qualified patients, and designated caregivers. Registry identification card application and renewal fees collected by the cabinet pursuant to this section shall be retained by the cabinet for administrative purposes.

(2) Registry identification cards shall contain the following:

(a) The name of the cardholder;

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

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

(d) A random alphanumeric identification number of at least ten (10) characters, containing at least four (4) numbers and at least four (4) letters, that is unique to the cardholder;

(e) A bar code or other marking that can be scanned electronically;

(f) A photograph of the cardholder, if the cabinet's administrative regulations require one;

(g) The telephone number and website address for the electronic monitoring

system established pursuant to Section 38 of this Act;

(h) If the cardholder is a registered qualified patient who has designated one (1) or more designated caregivers, the random alphanumeric identification number of the patient's designated caregivers;

(i) If the cardholder is a designated caregiver, the random alphanumeric identification number of the registered qualified patient the designated caregiver is receiving the registry identification card to assist; and

(j) If the cardholder is under eighteen (18) years of age, a clear and obvious designation or identifier indicating that the cardholder is under eighteen (18) years of age.

(3) (a) Except as provided in paragraph (b) of this subsection, the expiration date for registry identification cards shall be one (1) year after the date of issuance.

(b) If a medicinal cannabis practitioner states in the written certification that the qualified patient would benefit from the use of medicinal cannabis until a specified earlier date, then the registry identification card shall expire on that date.

(4) The cabinet may, at its discretion, electronically store in the card all of the information listed in subsection (2) of this section, along with the address and date of birth of the cardholder, to allow it to be read electronically by law enforcement agents and licensed cannabis businesses.

(5) (a) The cabinet shall operate a provisional registration receipt system for registered qualified patients, designated caregivers, and visiting qualified patients that shall be valid for forty-five (45) days, or until a permanent card can be issued, as if it is a registry identification card issued by the cabinet. This program shall be implemented and operational simultaneously with the cabinet's implementation of the registry identification card program

established in this section. A provisional registration receipt shall contain the following:

1. A temporary licensure number;

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

3. The name of the applicant;

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

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

6. The effective date of the receipt;

7. The expiration date of the receipt;

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

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

10. The name of the certifying medicinal cannabis practitioner.

(b) The registration receipt system shall be designed so that this provisional registration receipt shall be produced by the application website upon completion of an application that includes a written certification for the use of medicinal cannabis and payment of the cardholder fee. To reduce application errors and processing time, a medicinal cannabis practitioner or a dispensary may offer a service that allows an applicant to use a computer and printer on the premises of the medicinal cannabis practitioner's office or dispensary to complete an application and receive a provisional registration receipt pursuant to this subsection.

(c) Notwithstanding any other provision of Sections 1 to 30 of this Act, a valid provisional registration receipt issued pursuant to this subsection shall

convey to the individual whose name appears on the provisional registration receipt all of the same rights and privileges as a registry identification card issued by the cabinet and shall be accepted by a cannabis business in place of a registry identification card.

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

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

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

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

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

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

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

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

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

(b) The designated caregiver application for the custodial parent or legal guardian with responsibility for health care decisions for the qualified

patient is approved.

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

(a) Did not provide the information or materials required by Section 10 of this Act;

(b) Previously had a registry identification card revoked;

(c) Provided false or falsified information; or

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

(4) (a) Except as provided in paragraph (b) of this subsection, the cabinet may deny an application or renewal for a designated caregiver's registration card for any reason that the cabinet, in the exercise of sound discretion, deems sufficient, including but not limited to if the applicant:

1. Is already registered as a designated caregiver for three (3) registered qualified patients;

2. Does not meet the eligibility requirements established in Section 10 of this Act;

3. Did not provide the information or materials required by Section 10 of this Act;

4. Previously had a registry identification card revoked;

5. Provided false or falsified information;

6. Was previously convicted of a disqualifying felony offense; or

7. Has applied as a designated caregiver for a qualified patient whose application or renewal for a registry identification card was denied.

(b) Notwithstanding paragraph (a) of this subsection, the cabinet shall approve

an application or renewal for a designated caregiver's registration card if the applicant has applied as a designated caregiver for a qualified patient for who the applicant has been appointed under KRS Chapter 387 as a guardian, limited guardian, conservator, or limited conservator.

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

(a) Did not provide the information or materials required by Section 10 of this Act;

(b) Previously had a registry identification card revoked;

(c) Provided false or falsified information; or

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

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

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

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

(9) Final orders of the cabinet after administrative hearings shall be subject to judicial review. Jurisdiction and venue for judicial review are vested in the

Circuit Court of the county in which the appealing party resides.

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

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

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

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

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

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

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

(2) When a cardholder notifies the cabinet of items listed in paragraph (b) or (d) of subsection (1) of this section, the cardholder shall, within ten (10) days of notification, return any unused medicinal cannabis products to a licensed dispensary for destruction.

(3) When a cardholder notifies the cabinet of items listed in paragraph (a), (c), or (e) of subsection (1) of this section, but remains eligible under Sections 1 to 30 of this Act, the cabinet shall issue the cardholder a new registry identification card

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

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

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

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

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

prosecution under this chapter and KRS 138.870 to 138.889.

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

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

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

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

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

(2) The cabinet shall create separate licenses, licensure application fees, initial licensure fees, and licensure renewal fees allowing persons to operate a cannabis business, pursuant to Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder, as a:

(a) Tier I cannabis cultivator;

(b) Tier II cannabis cultivator;

(c) Tier III cannabis cultivator;

(d) Tier IV cannabis cultivator;

(e) Cannabis dispensary;

(f) Cannabis processor;

(g) Cannabis producer; or

(h) Cannabis safety compliance facility.

(3) Licensure application fees, initial licensing fees, and licensure renewal fees collected by the cabinet pursuant to this section shall be retained by the cabinet for administrative purposes.

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

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

(5) (a) A cannabis business license issued under this section and Sections 16 and 17 of this Act shall be valid for one (1) year from the date of issuance. The cabinet shall notify each licensee ninety (90) days prior to the date the license expires to allow the licensee to begin the renewal process established by the cabinet pursuant to Section 27 of this Act.

(b) The renewal of a cannabis business license shall be contingent upon successful achievement of minimal performance standards established by the cabinet as part of the biennial accreditation process established by the cabinet pursuant to Section 27 of this Act.

(6) The cabinet shall approve a license holder's sale of a license issued pursuant to this section and Sections 16 and 17 of this Act if the purchaser and any new facilities meet the requirements of Sections 1 to 30 of this Act.

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

(1) The cabinet shall create a uniform application form for the cannabis business

licenses established in Section 15 of this Act.

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

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

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

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

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

(e) Any additional information required by the cabinet.

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

(1) The cabinet shall:

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

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

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

(a) The applicant failed to submit the materials required by Section 16 of this Act, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping administrative regulations promulgated by the cabinet;

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

(c) The applicant would not be in compliance with local cannabis business prohibitions enacted pursuant to Section 25 of this Act;

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

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

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

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

4. Is a medicinal cannabis practitioner; or

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

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

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

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

(b) The cabinet shall:

1. Issue a copy of the license that includes the business's identification number to the approved cannabis business;

2. Provide a licensed dispensary with contact and access information for the electronic monitoring system established pursuant to Section 38 of this Act; and

3. Provide notice of licensure approval and issuance to the city and county in which the cannabis business intends to operate.

(4) If a cannabis business license application is denied, the cabinet shall notify the applicant in writing of a license denial and reasons by registered or certified mail at the address given in the application or supplement. The applicant may, within thirty (30) days after the mailing of the cabinet's notice, file a written request for an administrative hearing on the application. The hearing shall be conducted on the application in compliance with the requirements of KRS Chapter 13B. Final orders of the cabinet after administrative hearings shall be subject to judicial review as provided in KRS 13B.140. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the applicant's business would be located.

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

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

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

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

1. Was convicted of a disqualifying felony offense; or

2. Is younger than twenty-one (21) years of age;

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

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

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

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

1. For the purposes of distributing medicinal cannabis to cardholders who possess a valid registry identification card issued by the cabinet, or for visiting qualified patients, a valid out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition; and

2. From a cannabis business licensed under this chapter.

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

(a) Be located within one thousand (1,000) feet of an existing elementary or secondary school or a daycare center;

(b) Acquire, possess, cultivate, process, manufacture, deliver, transfer, transport, supply, dispense, or sell:

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

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

3. Any medicinal cannabis product not described in subparagraph 1. or 2. of this paragraph with a delta-9 tetrahydrocannabinol content of more than seventy percent (70%); or

4. Any medicinal cannabis product that contains vitamin E acetate;

(c) Permit a person under eighteen (18) years of age to enter or remain on the premises of a cannabis business;

(d) Permit a person who is not a cardholder to enter or remain on the premises of a cannabis business, except in accordance with subsection (6) of this section;

(e) Employ, have as a board member, or be owned by, in part or in whole, a medicinal cannabis practitioner; or

(f) Advertise medicinal cannabis sales in print, broadcast, online, by paid in-person solicitation of customers, or by any other advertising device as defined in KRS 177.830, except that this paragraph shall not prevent appropriate signs on the property of a licensed cannabis business, listings in business directories including phone books, listings in trade or medical publications, or sponsorship of health or not-for-profit charity or advocacy events.

(3) The operating documents of a cannabis business shall include procedures for its oversight and procedures to ensure accurate recordkeeping and inventory control.

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

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

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

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

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

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

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

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

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

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

(2) The cabinet may, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the cannabis business has been afforded an opportunity to appear and be heard pursuant to KRS Chapter 13B, suspend or revoke a cannabis business license for multiple violations or a serious violation of Sections 1 to 30 of this Act or any administrative regulations promulgated thereunder by the licensee or any of its agents. A suspension shall not be for a period of time longer than six (6) months.

(3) The cabinet shall provide notice of suspension, revocation, fine, or other penalty,

as well as the required notice of the hearing, by mailing, via certified mail, the same in writing to the cannabis business at the address on the license. The cannabis business may, within thirty (30) days after the date of the mailing of the cabinet's notice, file a written request for an administrative hearing regarding the suspension, revocation, fine, or other penalty. The hearing shall be conducted in compliance with the requirements of KRS Chapter 13B.

(4) Final orders of the cabinet after administrative hearings shall be subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the cannabis business is physically located.

(5) A cultivator may continue to cultivate and possess cannabis plants during a suspension, but it shall not transfer or sell medicinal cannabis during a suspension.

(6) A dispensary may continue to possess its existing medicinal cannabis inventory during a suspension, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis during a suspension.

(7) A processor may continue to process and possess its existing medicinal cannabis inventory during a suspension, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis products during a suspension.

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

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

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

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

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

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

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

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

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

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

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

(d) Not deliver, transfer, or sell raw plant material with a delta-9

tetrahydrocannabinol content of more than thirty-five percent (35%) to a licensed dispensary, processor, or producer.

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

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

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

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

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

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

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

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

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

(d) Selling cannabis seeds to similar entities that are licensed to cultivate

cannabis in this state or in any other jurisdiction; or

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

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

(a) Maintain records that include specific notations of the amount of medicinal cannabis being dispensed to a cardholder and whether it was dispensed directly to a registered qualified patient or visiting qualified patient, or to a registered qualified patient's designated caregiver. Each entry shall include the date and time the medicinal cannabis was dispensed. The data required to be recorded by this paragraph shall be entered into the electronic monitoring system established pursuant to Section 38 of this Act in accordance with administrative regulations promulgated by the cabinet for the recording of medicinal cannabis dispensing;

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

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

1. That the registry identification card or, for visiting qualified patients, the out-of-state registry identification card presented to the dispensary is valid, including by checking the verification system, if it is

operational, or other cabinet-designated databases;

2. That the person presenting the registry identification card or, for visiting qualified patients, the out-of-state registry identification card is at least eighteen (18) years of age and is the person identified on the registry identification card by examining at least one (1) other form of government-issued photo identification; and

3. The amount of medicinal cannabis the person is legally permitted to purchase pursuant to Section 4 of this Act by checking the electronic monitoring system established pursuant to Section 38 of this Act;

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

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

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

3. Any medicinal cannabis product not described in subparagraph 1. or 2. of this paragraph with a delta-9 tetrahydrocannabinol content of more than seventy percent (70%); or

4. Any medicinal cannabis product that contains vitamin E acetate;

(e) Not acquire medicinal cannabis from any person other than a cannabis business licensed under this chapter, or an agent thereof, a registered qualified patient, or a designated caregiver;

(f) Not sell or dispense medicinal cannabis products intended for consumption by vaporizing to a cardholder who is younger than twenty-one (21) years of age or to a designated caregiver for a registered qualified patient who is younger than twenty-one (21) years of age;

(g) Not dispense or sell medicinal cannabis to a minor;

(h) Not dispense or sell more medicinal cannabis to a cardholder than he or she is legally permitted to purchase at the time of the transaction; and

(i) Not rent office space to a medicinal cannabis practitioner.

(3) (a) A dispensary may operate a delivery service for cardholders and may deliver medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders at the address identified on the cardholder's registry identification.

(b) All delivery services operated or offered by a dispensary shall comply with administrative regulations promulgated by the cabinet pursuant to this section and Section 27 of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Possessing, processing, preparing, manufacturing, manipulating, blending, preparing, or packaging medicinal cannabis.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The production, sale, or transportation of equipment or materials other than medicinal cannabis, including but not limited to lab equipment and packaging materials that are used by cannabis businesses and cardholders, to cardholders or

cannabis businesses licensed under this chapter;

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

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

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

(b) Security and inventory accountability procedures; and

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

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

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

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

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

(2) A local government may:

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

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

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

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

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

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

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

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

(a) Before a petition for submission of the proposal may be presented for signatures, an intent to circulate the petition, including a copy of the unsigned petition, shall be filed with the county clerk of the affected territory by any person or group of persons seeking the submission of the public question. The statement of intent shall include the addresses of the person or group of persons and shall specify the person or group of persons,

as well as the address, to whom all notices are to be sent. Within ten (10) days after the intent to circulate the petition is filed, the county clerk shall deliver a copy of the intent to circulate the petition, including a copy of the unsigned petition, to the legislative body of the affected territory;

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

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

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

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

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

(g) No signer of the petition may withdraw his or her name or have it taken from the petition after the petition has been filed. If the name of any person

has been placed on the petition for submission of the public question without that person's authority, the person may, at any time prior to certification of sufficiency of the petition by the county clerk as required by paragraph (h) of this subsection, request the removal of his or her name by the county board of elections and, upon proof that the person's name was placed on the petition without his or her authority, the person's name and personal information shall be eliminated, and he or she shall not be counted as a petitioner;

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

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

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

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

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

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

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

and

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

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

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

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

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

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

(3) The following information received and records kept pursuant to the cabinet's administrative regulations promulgated for purposes of administering Sections 1 to 30 of this Act shall be confidential and exempt from the Open Records Act,

KRS 61.870 to 61.884, and shall not be subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the cabinet to perform official duties pursuant to Sections 1 to 30 of this Act:

(a) Applications and renewals, their contents, and supporting information submitted by qualified patients, visiting qualified patients, and designated caregivers in compliance with Section 10 of this Act, including information regarding their designated caregivers and medicinal cannabis practitioners;

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

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

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

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

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

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

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

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

(d) Verification by the cabinet of registry identification cards issued pursuant to Sections 10, 11, and 12 of this Act; and

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

(5) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in jail for any person, including an employee or official of the cabinet or another state agency or local government, to knowingly breach the confidentiality of information obtained pursuant to Sections 1 to 30 of this Act.

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

(1) No later than July 1, 2024, the cabinet shall:

(a) Ensure that the electronic monitoring system established pursuant to Section 38 of this Act is designed or configured to enable:

1. Medicinal cannabis practitioners to record the issuance of written certifications to qualified patients, as required by Section 9 of this Act;

2. The cabinet and state licensing boards to monitor the issuance of written certifications by medicinal cannabis practitioners;

3. Cabinet personnel, law enforcement personnel, and dispensary agents to verify the validity of registry identification cards issued by the cabinet by entering a registry identification number to determine whether or not the identification number corresponds with a current, valid registry identification card. The system shall only disclose whether the identification card is valid and whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;

4. Law enforcement personnel and dispensary agents to access medicinal cannabis sales data recorded by dispensary agents pursuant to Section 21 of this Act;

5. Dispensary agents to record the amount of medicinal cannabis that is dispensed to a cardholder during each transaction as required by Section 21 of this Act; and

6. The sharing of dispensing data recorded by dispensary agents pursuant to Section 21 of this Act with all dispensaries in real time;

(b) Ensure that the electronic monitoring system established pursuant to Section 38 of this Act is designed to facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders; and

(c) Promulgate administrative regulations in accordance with KRS Chapter 13A to establish:

1. Procedures for the issuance, renewal, suspension, and revocation of registry identification cards, including the creation of a standardized:

a. Written certification form; and

b. Application form which the cabinet shall require to be notarized;

2. Procedures for the issuance and revocation of registry identification

cards;

3. Procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses, including the creation of a uniform licensure application form which the cabinet shall require to be notarized and minimal performance standards for a biennial accreditation process with all such procedures subject to the requirements of KRS Chapters 13A and 13B;

4. A convenience fee to be assessed and collected by dispensaries for visiting qualified patients who do not possess a valid registry identification card issued by the cabinet and who purchase medicinal cannabis with an out-of-state registry identification card and documentation of having been diagnosed with a qualifying medical condition. The convenience fee established pursuant to this subparagraph shall not exceed fifteen dollars ($15) per transaction;

5. In collaboration with the Board of Physicians and Advisors, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, and the Kentucky Center for Cannabis:

a. A definition of the amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes a daily supply, an uninterrupted ten (10) day supply, and an uninterrupted thirty (30) day supply of medicinal cannabis; and

b. The amount of raw plant material that medicinal cannabis products are considered to be equivalent to;

6. A process by which a medicinal cannabis practitioner may recommend, and a registered qualified patient or his or her designated caregiver may legally purchase and possess, an amount of medicinal cannabis in excess of the thirty (30) day supply of medicinal cannabis,

if the medicinal cannabis practitioner reasonably believes that the standard thirty (30) day supply would be insufficient in providing the patient with uninterrupted therapeutic or palliative relief;

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

a. Recordkeeping and inventory control requirements, including the use of the electronic monitoring systems established pursuant to Section 38 of this Act;

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

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

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

e. Employment and training requirements for licensees and their agents, including requiring each licensee to create an identification badge for each of the licensee's agents or

employees; and

f. Restrictions on visits to licensed cultivation and processing facilities, including requiring the use of visitor logs;

8. Procedures to establish, publish, and annually update a list of varieties of cannabis that possess a low but effective level of tetrahydrocannabinol, including the substance cannabidiol, by comparing percentages of chemical compounds within a given variety against other varieties of cannabis;

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

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

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

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

a. Requirements for equipment;

b. Personnel qualifications; and

c. Requiring facilities to be accredited by a relevant certifying

entity;

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

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

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

c. The amount of medicinal cannabis the product is considered the equivalent to;

d. Disclosing ingredients, possible allergens, and certain bioactive components, including cannabinoids and terpenoids, as determined by the cabinet;

e. A nutritional fact panel;

f. Opaque, child-resistant packaging;

g. A requirement that all raw plant material packaged or sold in this state be marked or labeled as "NOT INTENDED FOR CONSUMPTION BY SMOKING";

h. A requirement that medicinal cannabis products be clearly marked with an identifiable and standardized symbol indicating that the product contains cannabis;

i. A requirement that all medicinal cannabis product packaging include an expiration date; and

j. A requirement that medicinal cannabis products and their packaging not be visually reminiscent of major brands of edible

noncannabis products or otherwise present an attractive nuisance to minors;

14. Health and safety requirements for the processing of medicinal cannabis and the indoor cultivation of medicinal cannabis by licensees;

15. Restrictions on:

a. Additives to medicinal cannabis that are toxic, including vitamin E acetate, or increase the likelihood of addiction; and

b. Pesticides, fertilizers, and herbicides used during medicinal cannabis cultivation which pose a threat to human health and safety;

16. Standards for the safe processing of medicinal cannabis products created by extracting or concentrating compounds from raw plant material;

17. Standards for determining the amount of unprocessed raw plant material that medicinal cannabis products are considered the equivalent to;

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

19. The requirement that evidence-based educational materials regarding dosage and impairment be disseminated to registered qualified patients, visiting qualified patients, and designated caregivers who purchase medicinal cannabis products;

20. Policies governing insurance requirements for cultivators, dispensaries, processors, producers, and safety compliance facilities; and

21. Standards, procedures, or restrictions that the cabinet deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program, except that the cabinet shall not promulgate any administrative regulation that would impose an undue burden or make cannabis business operations unreasonable or impractical.

(2) Except as provided in subsection (1)(q) of Section 6 of this Act, subsection (2)(b) of Section 18 of this Act, subsection (2)(d) of Section 21 of this Act, subsection (2) of Section 22 of this Act, subsection (3) of Section 23 of this Act, and subsection (1)(c)10., 13., 15., and 16. of this section, the cabinet shall not restrict or limit methods of delivery, use, or consumption of medicinal cannabis or the types of products that may be acquired, produced, processed, possessed, sold, or distributed by a cannabis business.

(3) If a need for additional cannabis cultivation in this state is demonstrated by cannabis businesses or the cabinet's own analysis, the cabinet may through the promulgation of administrative regulations increase the cultivation area square footage limits for either cultivators or producers, or both by up to three (3) times the limits established in Sections 20 and 23 of this Act. Any increase in the cultivation square footage limits adopted by the cabinet pursuant to this section shall not result in an increase in the licensure application or renewal fees established by the cabinet.

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

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

If the Kentucky Center for Cannabis established in KRS 164.983, or its successor,

determines that sufficient scientific data and evidence exists to demonstrate that an individual diagnosed with that specific medical condition or disease is likely to receive medical, therapeutic, or palliative benefits from the use of medicinal cannabis, the center shall notify the cabinet, the Kentucky Board of Medical Licensure, and the Kentucky Board of Nursing of its determination and the specific medical condition or disease shall be considered to be a qualifying medical condition as defined in Section 1 of this Act.

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

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

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

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

(1) Any amount of medicinal cannabis that is necessary or reasonably necessary for use of a license or registry identification card issued by the cabinet; or

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

➔Section 31. KRS 138.870 is amended to read as follows:

As used in KRS 138.870 to 138.889, unless the context requires otherwise:

(1) "Marijuana"***:***

(a) Means marijuana, whether real or counterfeit, as defined in KRS 218A.010***; and***

(b) Does not include medicinal cannabis as defined in Section 1 of this Act.

(2) "Controlled substance" means any controlled substance, whether real or counterfeit, as defined in KRS 218A.010 or any regulation promulgated thereunder, except that it shall not include marijuana ***or medicinal cannabis***.

(3) "Offender" means a person who engages in this state in a taxable activity as defined in subsection (4) of this section.

(4) "Taxable activity" means producing, cultivating, manufacturing, importing, transporting, distributing, acquiring, purchasing, storing, selling, using, or otherwise possessing, in violation of KRS Chapter 218A, more than five (5) marijuana plants with foliation, 42.5 grams of marijuana which has been detached from the plant on which it grew, seven (7) grams of any controlled substance, or fifty (50) or more dosage units of any controlled substance which is not sold by weight. The weight or dosage units in this subsection shall include the weight of marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. A quantity of a controlled substance is diluted if it consists of a detectable quantity of a pure controlled substance and any excipients or fillers.

(5) "Dosage unit" means a tablet, capsule, vial, or ampule of a controlled substance or, in cases of mass volume or diluted quantities, the proper dose or quantity of a controlled substance to be taken all at one (1) time or in fractional amounts within a given period, as defined and adopted by the United States Pharmacopeia.

(6) "Possessing" includes either actual possession or constructive possession, or a combination of both actual and constructive possession. Mere possession or ownership of real estate or an interest therein does not establish constructive possession.

➔Section 32. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) (a) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining and any related distribution, transmission, and transportation services for this energy that are billed to the user, to the extent that the cost of the energy or energy-producing fuels used, and related distribution, transmission, and transportation services for this energy that are billed to the user exceed three percent (3%) of the cost of production.

(b) Cost of production shall be computed on the basis of a plant facility, which shall include all operations within the continuous, unbroken, integrated manufacturing or industrial processing process that ends with a product packaged and ready for sale.

(c) A person who performs a manufacturing or industrial processing activity for a fee and does not take ownership of the tangible personal property that is incorporated into, or becomes the product of, the manufacturing or industrial processing activity is a toller. For periods on or after July 1, 2018, the costs of the tangible personal property shall be excluded from the toller's cost of production at a plant facility with tolling operations in place as of July 1, 2018.

(d) For plant facilities that begin tolling operations after July 1, 2018, the costs of tangible personal property shall be excluded from the toller's cost of production if the toller:

1. Maintains a binding contract for periods after July 1, 2018, that governs the terms, conditions, and responsibilities with a separate legal entity, which holds title to the tangible personal property that is incorporated

into, or becomes the product of, the manufacturing or industrial processing activity;

2. Maintains accounting records that show the expenses it incurs to fulfill the binding contract that include but are not limited to energy or energy-producing fuels, materials, labor, procurement, depreciation, maintenance, taxes, administration, and office expenses;

3. Maintains separate payroll, bank accounts, tax returns, and other records that demonstrate its independent operations in the performance of its tolling responsibilities;

4. Demonstrates one (1) or more substantial business purposes for the tolling operations germane to the overall manufacturing, industrial processing activities, or corporate structure at the plant facility. A business purpose is a purpose other than the reduction of sales tax liability for the purchases of energy and energy-producing fuels; and

5. Provides information to the department upon request that documents fulfillment of the requirements in subparagraphs 1. to 4. of this paragraph and gives an overview of its tolling operations with an explanation of how the tolling operations relate and connect with all other manufacturing or industrial processing activities occurring at the plant facility;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be

applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery":

(a) Means machinery used exclusively and directly in the occupation of:

1. Tilling the soil for the production of crops as a business;

2. Raising and feeding livestock or poultry for sale; or

3. Producing milk for sale;

(b) Includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used, including but not limited to combine header wagons, combine header trailers, or any other implements specifically designed and used to move or transport a combine head; and

(c) Does not include:

1. Automobiles;

2. Trucks;

3. Trailers, except combine header trailers; or

4. Truck-trailer combinations;

(12) Tombstones and other memorial grave markers;

(13) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(14) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply but not be limited to vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

(a) Operate farm machinery as defined in subsection (11) of this section;

(b) Operate on-farm grain or soybean drying facilities as defined in subsection (13) of this section;

(c) Operate on-farm poultry or livestock facilities defined in subsection (14) of this section;

(d) Operate on-farm ratite facilities defined in subsection (23) of this section;

(e) Operate on-farm llama or alpaca facilities as defined in subsection (25) of this section; or

(f) Operate on-farm dairy facilities;

(16) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(17) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(18) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(19) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(20) (a) 1. Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures as part of an approved supplemental project, as defined by KRS 154.26-010; and

2. Materials, supplies, and repair or replacement parts purchased for use in the operation and maintenance of a blast furnace and related carbon steel-making operations as part of an approved supplemental project, as defined by KRS 154.26-010.

(b) The exemptions provided in this subsection shall be effective for sales made:

1. On and after July 1, 2018; and

2. During the term of a supplemental project agreement entered into pursuant to KRS 154.26-090;

(21) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(22) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(23) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(24) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(25) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for

the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(26) Baling twine and baling wire for the baling of hay and straw;

(27) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, cervids or aquatic organisms;

(28) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(29) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquefied petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(30) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

(c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(31) (a) Repair or replacement parts for the direct operation or maintenance of a motor vehicle, including any towed unit, used exclusively in interstate commerce for the conveyance of property or passengers for hire, provided the motor vehicle is licensed for use on the highway and its declared gross vehicle weight with any towed unit is forty-four thousand and one (44,001) pounds or greater. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(b) Repair or replacement parts for the direct operation and maintenance of a motor vehicle operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281, or under similar authority granted by the United States Department of Transportation; and

(c) For the purposes of this subsection, "repair or replacement parts" means tires, brakes, engines, transmissions, drive trains, chassis, body parts, and their components. "Repair or replacement parts" shall not include fuel, machine oils, hydraulic fluid, brake fluid, grease, supplies, or accessories not essential

to the operation of the motor vehicle itself, except when sold as part of the assembled unit, such as cigarette lighters, radios, lighting fixtures not otherwise required by the manufacturer for operation of the vehicle, or tool or utility boxes;

(32) Food donated by a retail food establishment or any other entity regulated under KRS 217.127 to a nonprofit organization for distribution to the needy;~~[and]~~

(33) Drugs and over-the counter drugs, as defined in KRS 139.472, that are purchased by a person regularly engaged in the business of farming and used in the treatment of cattle, sheep, goats, swine, poultry, ratite birds, llamas, alpacas, buffalo, aquatic organisms, or cervids***; and***

(34) Medicinal cannabis as defined in Section 1 of this Act when sold, used, stored, or consumed in accordance with Sections 1 to 30 of this Act.

➔Section 33. KRS 216B.402 is amended to read as follows:

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

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

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

(c)~~[(3)]~~ The local community mental health center may provide an on-call service in the hospital emergency department or hospital emergency room for

the person who was treated for a drug overdose to provide information about services and connect the person to substance use disorder treatment, as funds are available. These services, when provided on the grounds of a hospital, shall be coordinated with appropriate hospital staff.

(2) When a person, who is a registered qualified patient or a visiting qualified patient as defined in Section 1 of this Act, is admitted to a hospital emergency department or a hospital emergency room for treatment of cannabinoid hyperemesis syndrome, the hospital shall notify the cabinet within forty-eight (48) hours. Notification shall include the registered qualified patient's or a visiting qualified patient's name and registry identification card number, if available. The cabinet shall record all cases of cannabinoid hyperemesis syndrome in the electronic monitoring system established pursuant to Section 38 of this Act.

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

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

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

(a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;

(3) "Cabinet" means the Cabinet for Health and Family Services;

(4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of

its salts, isomers, or salts of isomers;

(5) "Certified community based palliative care program" means a palliative care program which has received certification from the Joint Commission;

(6) "Child" means any person under the age of majority as specified in KRS 2.015;

(7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;

(8) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;

(9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such

exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

(10) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(11) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

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

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

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

(15) "Drug" means:

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

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

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

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

subsection.

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

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

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

(a) By substitution:

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

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

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

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

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

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

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

(18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is

physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;

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

(a) Poses an explosion hazard;

(b) Poses a fire hazard; or

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

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

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

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

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

(22) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;

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

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

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

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

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

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

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

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

(28) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these

substances. The term "marijuana" does not include:

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

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

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

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

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

(f) For the purpose of conducting scientific research, a cannabinoid product derived from industrial hemp, as defined in KRS 260.850;~~[or]~~

(g) A cannabinoid product approved as a prescription medication by the United States Food and Drug Administration; ***or***

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

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

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

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

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

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

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

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

(c) Opium poppy and poppy straw;

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

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

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

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

(34) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does

include its racemic and levorotatory forms;

(35) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds;

(36) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(37) "Physical injury" has the same meaning it has in KRS 500.080;

(38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(39) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, physician assistant as authorized under KRS 311.858, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

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

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

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

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

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

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

(47) "Salvia" means Salvia divinorum or Salvinorin A and includes all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of

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

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

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

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

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

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

the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;

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

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

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

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the

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

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

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

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

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

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

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

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

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

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a

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

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

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

(54) "Telehealth" has the same meaning it has in KRS ***211.332*** ~~[311.550]~~;

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

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

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

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

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

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

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

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

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

unlawfully traffics in marijuana***, and the trafficking is not in compliance with, or otherwise authorized by, Sections 1 to 30 of this Act***.

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

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

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

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

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

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

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

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

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

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

(6) This section does not apply to:

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

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

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

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

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

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

(3) This section does not apply to:

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

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

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

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

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

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

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

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

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

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

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

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

➔Section 38. KRS 218A.202 is amended to read as follows:

(1) ***As used in this section:***

(a) "Cabinet" means the cabinet for Health and Family Services;

(b) "Cannabis business" has the same meaning as in Section 1 of this Act;

(c) "Controlled substance" means any Schedule II, III, IV, or V controlled substance and does not include medicinal cannabis;

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

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

(f) "Disqualifying felony offense" has the same meaning as in Section 1 of this Act;

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

(h) "Medical cannabis practitioner" has the same meaning as in Section 1 of this Act;

(i) "Registry identification card" has the same meaning as in Section 1 of this Act;

(j) "State licensing board" has the same meaning as in Section 1 of this Act;

(k) "Use of medicinal cannabis" has the same meaning as in Section 1 of this Act; and

(l) "Written certification" has the same meaning as in Section 1 of this Act.

(2) The cabinet~~[for Health and Family Services]~~ shall establish and maintain an electronic system for monitoring Schedules II, III, IV, and V controlled substances ***and medicinal cannabis***. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.

(3)~~[(2)]~~ ***For the purpose of monitoring the prescribing and dispensing of Schedule***

II, III, IV, or V controlled substances:

(a) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system**;**~~[.]~~

(b)~~[(3)]~~ Every practitioner or pharmacy which dispenses a controlled substance to a person in Kentucky, or to a person at an address in Kentucky, shall report to the cabinet ~~[for Health and Family Services]~~the data required by this section, which includes the reporting of any Schedule II controlled substance dispensed at a facility licensed by the cabinet and a Schedule II through Schedule V controlled substance regardless of dosage when dispensed by the emergency department of a hospital to an emergency department patient. Reporting shall not be required for:

1.~~[(a)]~~ A drug administered directly to a patient in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;

2.~~[(b)]~~ A Schedule III through Schedule V controlled substance dispensed by a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours and is not dispensed by the emergency department of a hospital; or

3.~~[(c)]~~ A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections,

where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health**;**~~[.]~~

(c)~~[(4)]~~ In addition to the data required by ***paragraph (d) of this*** subsection ~~[(5) of this section]~~, a Kentucky-licensed acute care hospital or critical access hospital shall report to the cabinet all positive toxicology screens that were performed by the hospital's emergency department to evaluate the patient's suspected drug overdose**;**~~[.]~~

(d)~~[(5)]~~ Data for each controlled substance that is reported shall include but not be limited to the following:

1.~~[(a)]~~ Patient identifier;

2.~~[(b)]~~ National drug code of the drug dispensed;

3.~~[(c)]~~ Date of dispensing;

4.~~[(d)]~~ Quantity dispensed;

5.~~[(e)]~~ Prescriber; and

6.~~[(f)]~~ Dispenser**;**~~[.]~~

(e)~~[(6)]~~ The data shall be provided in the electronic format specified by the cabinet~~[for Health and Family Services]~~ unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates**;**~~[.]~~

(f)~~[(7)]~~ The cabinet~~[for Health and Family Services]~~ shall only disclose data to persons and entities authorized to receive that data under this ***subsection***~~[section]~~. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either

for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The cabinet~~[for Health and Family Services]~~ shall be authorized to provide data to:

1.~~[(a)]~~ A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

2.~~[(b)]~~ Employees of the Office of the Inspector General of the cabinet~~[for Health and Family Services]~~ who have successfully completed training for the electronic system and who have been approved to use the system, federal prosecutors, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal agent whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

3.~~[(c)]~~ A state-operated Medicaid program in conformity with ***paragraph (g) of this*** subsection~~[(8) of this section]~~;

4.~~[(d)]~~ A properly convened grand jury pursuant to a subpoena properly issued for the records;

5.~~[(e)]~~ A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who certifies that the requested information is for the purpose of:

a~~[1]~~. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient;

b~~[2]~~. Reviewing data on controlled substances that have been reported for the birth mother of an infant who is currently being treated by the practitioner for neonatal abstinence syndrome, or has symptoms that suggest prenatal drug exposure; or

c~~[3]~~. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;

6.~~[(f)]~~ The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;

7.~~[(g)]~~ In addition to the purposes authorized under ***subparagraph 1. of this*** paragraph~~[(a) of this subsection]~~, the Kentucky Board of Medical Licensure, for any physician who is:

a~~[1]~~. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;

b~~[2]~~. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or

dispensing may be occurring; or

c~~[3]~~. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

8.~~[(h)]~~ In addition to the purposes authorized under ***subparagraph 1. of this*** paragraph~~[(a) of this subsection]~~, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

a~~[1]~~. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing or dispensing practices;

b~~[2]~~. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;

c~~[3]~~. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or

d~~[4]~~. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

9.~~[(i)]~~ A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-

ordered drug diversion or probation program; or

10.~~[(j)]~~ A medical examiner engaged in a death investigation pursuant to KRS 72.026***;***~~[.]~~

(g)~~[(8)]~~ The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:

1.~~[(a)]~~ Appropriately managed by a single outpatient pharmacy or primary care physician; or

2.~~[(b)]~~ Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient***;***~~[.]~~

(h)~~[(9)]~~ A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this ***subsection***~~[section]~~, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

1.~~[(a)]~~ A person specified in ***paragraph (f)2. of this*** subsection~~[(7)(b) of this section]~~ who is authorized to receive data or a report may share that information with any other persons specified in ***paragraph (f)2. of this*** subsection~~[(7)(b) of this section]~~ authorized to receive data or a report if the persons specified in ***paragraph (f)2. of this*** subsection~~[(7)(b) of this section]~~ are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this ***subparagraph***~~[paragraph]~~ shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been

given or received. This document shall be maintained in a file by each agency engaged in the investigation;

2.~~[(b)]~~ A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in ***paragraph (f)1. of this*** subsection ~~[(7)(a) of this section]~~, or with a law enforcement officer designated in ***paragraph (f)2. of this*** subsection~~[(7)(b) of this section]~~;

3.~~[(c)]~~ The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;

4.~~[(d)]~~ If a state licensing board as defined in KRS 218A.205 initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and

5.~~[(e)]~~ A practitioner, pharmacist, or employee who obtains data under ***paragraph (f)5. of this*** subsection ~~[(7)(e) of this section]~~may share the report with the patient or person authorized to act on the patient's behalf. Any practitioner, pharmacist, or employee who obtains data under ***paragraph (f)5. of this*** subsection~~[(7)(e) of this section]~~ may place the report in the patient's medical record, in which case the individual report shall then be deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section***:***~~[.]~~

(i)~~[(10)]~~ The cabinet~~[for Health and Family Services]~~, all peace officers specified in ***paragraph (f)2. of this*** subsection~~[(7)(b) of this section]~~, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated***;***~~[.]~~

(j)~~[(11) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.~~

~~(12)]~~ Intentional failure to comply with the reporting requirements of this ***subsection***~~[section]~~ shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense***; and***~~[.]~~

(k) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the license.

(4) For the purpose of monitoring the cultivation, processing, production, recommending, and dispensing of medical cannabis:

(a) Every medicinal cannabis practitioner who is authorized, pursuant to Section 9 of this Act, to provide written certifications for the use of medicinal cannabis and every cannabis business licensed under Sections 15, 16, and 17 of this Act shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the medicinal practitioner's authorization to provide written certifications or a cannabis business's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the

system;

(b) No later than July 1, 2024, the cabinet shall ensure that the system provided for in this section allows:

1. Medicinal cannabis practitioners to record the issuance of written certifications to a patient as required by Section 9 of this Act;

2. The cabinet, law enforcement personnel, and dispensary agents to verify the validity of registry identification cards issued by the cabinet. When verifying the validity of an identification card, the system shall only disclose whether the identification card is valid and whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;

3. Dispensary agents to record the amount of medicinal cannabis that is dispensed to a cardholder during each transaction, as required by Section 21 of this Act;

4. Law enforcement personnel and dispensary agents to access medicinal cannabis sales data recorded by dispensary agents pursuant to Section 21 of this Act;

5. The sharing of dispensing data recorded by dispensary agents, pursuant to Section 21 of this Act, with all licensed dispensaries in real time;

6. Licensed cannabis businesses to record data required by administrative regulations promulgated pursuant to with Section 27 of this Act to facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders; and

7. The cabinet to track all medicinal cannabis in the state from the point of cultivation to the point of sale to a cardholder;

(c) The cabinet shall only disclose data related to the cultivation, production,

recommending, and dispensing of medical cannabis to persons and entities authorized to receive that data under this subsection. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this subsection. The cabinet shall be authorized to provide data to:

1. Any person or entity authorized to receive data pursuant to paragraph (b) of this subsection;

2. A designated representative of a state licensing board responsible for the licensure, regulation, or discipline of medicinal cannabis practitioners and who is involved in a bona fide specific investigation involving a designated person;

3. Employees of the Office of the Inspector General of the cabinet who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, and county attorneys and assistant county attorneys who are engaged in a bona fide specific investigation involving a designated person;

4. A properly convened grand jury pursuant to a subpoena properly issued for the records;

5. A medicinal cannabis practitioner or an employee of a medicinal cannabis practitioner's practice acting under the specific direction of the medicinal cannabis practitioner, who certifies that the request for information is for the purpose of complying with subsection (4)(c) of Section 9 of this Act;

6. The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the

chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;

7. In addition to the purposes authorized under subparagraph 2. of this paragraph, the Kentucky Board of Medical Licensure, for any physician who is:

a. Associated in a partnership, other business entity, or supervision agreement established pursuant to KRS 311.854 with a physician who is already under investigation by the Board of Medical Licensure for improper issuance of written certifications;

b. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper issuance of written certifications;

c. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring; or

d. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring in that area;

8. In addition to the purposes authorized under subparagraph 2. of this paragraph, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

a. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper issuance of written certifications;

b. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper issuance of written certifications;

c. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring; or

d. In a designated geographic area for which a report on another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring in that area;

9. A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program;

10. A medical examiner engaged in a death investigation pursuant to KRS 72.026; or

11. The Legislative Research Commission, the University of Kentucky College of Medicine, or the Kentucky Center for Cannabis established in KRS 164.983 if the cabinet determines that disclosing data related to the cultivation, production, recommending, and dispensing of medical cannabis to the Legislative Research Commission, the

University of Kentucky College of Medicine, or the Kentucky Center for Cannabis is necessary to comply with the reporting requirements established in subsection (8) of Section 3 of this Act; and

(d) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

1. A person specified in paragraph (c)3. of this subsection who is authorized to receive data or a report may share that information with any other persons specified in paragraph (c)3. of this subsection authorized to receive data or a report if the persons specified in paragraph (c)3. of this subsection are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this subparagraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;

2. If a state licensing board initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and

3. A medicinal cannabis practitioner or an employee of a medicinal

cannabis practitioner's practice acting under the specific direction of the medicinal cannabis practitioner who obtains data under paragraph (c)5. of this subsection may share the report with the patient or person authorized to act on the patient's behalf. Any medicinal cannabis practitioner or employee who obtains data under paragraph (c)5. of this subsection may place the report in the patient's medical record, in which case the individual report shall then be deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.

(5) The data contained in, and any report obtained from, the electronic system for monitoring established pursuant to this section shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(6)~~[(13)]~~ Intentional disclosure of transmitted data to a person not authorized by ***subsection (3)(f) to (h) or subsection (4)(c) and (d)***~~[subsections (7) to (9)]~~ of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide current or prospective patient or a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

(7)~~[(14)]~~ The cabinet~~[for Health and Family Services]~~ may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(8)~~[(15)]~~ (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners,

pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) ***The cabinet shall work with each board responsible for the licensure, regulation, or discipline of medicinal cannabis practitioners for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.***

(c) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(d)~~[(c)]~~ The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.

(e) The cabinet shall develop a training program for cannabis business agents about the purposes and uses of the electronic system for monitoring established in this section.

~~[(16) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.]~~

(9)~~[(17)]~~ The cabinet ~~[for Health and Family Services]~~, Office of Inspector General, shall conduct quarterly reviews to identify patterns of potential improper, inappropriate, or illegal prescribing or dispensing of a controlled substance**,** ***issuance of written certifications, or cultivation, processing, or dispensing of***

medicinal cannabis. The Office of Inspector General may independently investigate and submit findings and recommendations to the appropriate boards of licensure or other reporting agencies.

(10) ~~[(18)]~~ The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:

(a) An error resolution process allowing a patient to whom a report had been disclosed under ***subsections (3) and (4)*** ~~[subsection (9)]~~ of this section to request the correction of inaccurate information contained in the system relating to that patient; and

(b) A requirement that data be reported to the system under subsection (3)***(b)*** of this section within one (1) day of dispensing.

(11) ~~[(19)]~~ ***(a)*** Before July 1, 2018, the Administrative Office of the Courts shall forward data regarding any felony or Class A misdemeanor conviction that involves the trafficking or possession of a controlled substance or other prohibited acts under KRS Chapter 218A for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after July 1, 2018, such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received into the system so that a query by patient name indicates any prior drug conviction.

(b) Before July 1, 2024, the Administrative Office of the Courts shall forward date regarding any disqualifying felony offense for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after July 1, 2024, such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received in to the system so that a query by patient name indicates any prior disqualifying

felony conviction.

➔Section 39. KRS 218A.500 is amended to read as follows:

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

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. ***The term "drug paraphernalia" does not include medicinal cannabis accessories as defined in Section 1 of this Act.*** It includes but is not limited to:

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

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

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

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

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in

removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

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

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

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

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

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

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

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

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

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

to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.

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

(7) (a) This section shall not prohibit the retail sale of hypodermic syringes and needles without a prescription in pharmacies.

(b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed drug paraphernalia under this section.

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

➔Section 40. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869:

(1) "Commissioner" means the Commissioner of the Kentucky Department of Agriculture;

(2) "Cultivating" means planting, growing, and harvesting a plant or crop;

(3) "Department" means the Kentucky Department of Agriculture;

(4) "Handling" means possessing or storing hemp for any period of time on premises owned, operated, or controlled by a person licensed to cultivate or process hemp. "Handling" also includes possessing or storing hemp in a vehicle for any period of time other than during its actual transport from the premises of a licensed person to cultivate or process hemp to the premises of another licensed person;

(5) "Hemp" or "industrial hemp"**:**

(a) Means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis; ***and***

(b) Does not include medicinal cannabis as defined in Section 1 of this Act;

(6) "Hemp products" or "industrial hemp products"***:***

(a) Means products derived from, or made by, processing hemp plants or plant parts; ***and***

(b) Does not include medicinal cannabis products as defined in Section 1 of this Act;

(7) "Licensee" means an individual or business entity possessing a license issued by the department under the authority of this chapter to grow, handle, cultivate, process, or market hemp or hemp products;

(8) "Marketing" means promoting or selling a product within the Commonwealth, in another state, or outside of the United States. "Marketing" includes efforts to advertise and gather information about the needs or preferences of potential consumers or suppliers;

(9) "Processing" means converting an agricultural commodity into a marketable form; and

(10) "University" means an accredited institution of higher education located in the Commonwealth.

➔Section 41. KRS 342.815 is amended to read as follows:

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

soundness and solvency.

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

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

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

➔Section 42. Section 2, Sections 4 to 8, Section 10, Sections 12 to 14, Sections 17 to 24, Section 30, Section 32, and Sections 35 to 37 of this Act take effect January 1, 2025.