

1 AN ACT relating to drug paraphernalia.

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

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

4 As used in this chapter:

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

1 subsection, means a substance:

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

13 (b) Such term does not include:

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

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

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

1 subject by or pursuant to the lawful order of a practitioner, including the packaging,
2 labeling, or compounding necessary to prepare the substance for that delivery;

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

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

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

9 (15) "Drug" means:

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

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

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

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

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

20 (16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its
21 salts, isomers, or salts of isomers, **but does not include any quantity of fentanyl**
22 **found on testing equipment as allowed in subsection (7) of Section 2 of this Act;**

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

27 (a) By substitution:

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

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

- 1 (27) "Manufacture," except as provided in KRS 218A.1431, means the production,
2 preparation, propagation, compounding, conversion, or processing of a controlled
3 substance, either directly or indirectly by extraction from substances of natural
4 origin or independently by means of chemical synthesis, or by a combination of
5 extraction and chemical synthesis, and includes any packaging or repackaging of
6 the substance or labeling or relabeling of its container except that this term does not
7 include activities:
- 8 (a) By a practitioner as an incident to his or her administering or dispensing of a
9 controlled substance in the course of his or her professional practice;
 - 10 (b) By a practitioner, or by his or her authorized agent under his supervision, for
11 the purpose of, or as an incident to, research, teaching, or chemical analysis
12 and not for sale; or
 - 13 (c) By a pharmacist as an incident to his or her dispensing of a controlled
14 substance in the course of his or her professional practice;
- 15 (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
16 seeds thereof; the resin extracted from any part of the plant; and every compound,
17 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
18 or any compound, mixture, or preparation which contains any quantity of these
19 substances. The term "marijuana" does not include:
- 20 (a) Industrial hemp that is in the possession, custody, or control of a person who
21 holds a license issued by the Department of Agriculture permitting that person
22 to cultivate, handle, or process industrial hemp;
 - 23 (b) Industrial hemp products that do not include any living plants, viable seeds,
24 leaf materials, or floral materials;
 - 25 (c) The substance cannabidiol, when transferred, dispensed, or administered
26 pursuant to the written order of a physician practicing at a hospital or
27 associated clinic affiliated with a Kentucky public university having a college

- 1 or school of medicine;
- 2 (d) For persons participating in a clinical trial or in an expanded access program,
3 a drug or substance approved for the use of those participants by the United
4 States Food and Drug Administration;
- 5 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
6 260.850;
- 7 (f) For the purpose of conducting scientific research, a cannabinoid product
8 derived from industrial hemp, as defined in KRS 260.850; or
- 9 (g) A cannabinoid product approved as a prescription medication by the United
10 States Food and Drug Administration;
- 11 (29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
12 means an accounting of a patient's medical background, including but not limited to
13 prior medical conditions, prescriptions, and family background;
- 14 (30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,
15 means a lawful order of a specifically identified practitioner for a specifically
16 identified patient for the patient's health-care needs. "Medical order" may or may
17 not include a prescription drug order;
- 18 (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
19 means a record, other than for financial or billing purposes, relating to a patient,
20 kept by a practitioner as a result of the practitioner-patient relationship;
- 21 (32) "Methamphetamine" means any substance that contains any quantity of
22 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 23 (33) "Narcotic drug" means any of the following, whether produced directly or indirectly
24 by extraction from substances of vegetable origin, or independently by means of
25 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 26 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
27 opium or opiate;

- 1 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
2 chemically equivalent or identical with any of the substances referred to in
3 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
4 of opium;
- 5 (c) Opium poppy and poppy straw;
- 6 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
7 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
8 removed;
- 9 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 10 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 11 (g) Any compound, mixture, or preparation which contains any quantity of any of
12 the substances referred to in paragraphs (a) to (f) of this subsection;
- 13 (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining
14 liability similar to morphine or being capable of conversion into a drug having
15 addiction-forming or addiction-sustaining liability. It does not include, unless
16 specifically designated as controlled under KRS 218A.020, the dextrorotatory
17 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
18 include its racemic and levorotatory forms;
- 19 (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
20 seeds;
- 21 (36) "Person" means individual, corporation, government or governmental subdivision
22 or agency, business trust, estate, trust, partnership or association, or any other legal
23 entity;
- 24 (37) "Physical injury" has the same meaning it has in KRS 500.080;
- 25 (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 26 (39) "Pharmacist" means a natural person licensed by this state to engage in the practice
27 of the profession of pharmacy;

- 1 (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
2 investigator, optometrist as authorized in KRS 320.240, advanced practice
3 registered nurse as authorized under KRS 314.011, physician assistant as authorized
4 under KRS 311.858, or other person licensed, registered, or otherwise permitted by
5 state or federal law to acquire, distribute, dispense, conduct research with respect to,
6 or to administer a controlled substance in the course of professional practice or
7 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,
8 veterinarian, or advanced practice registered nurse authorized under KRS 314.011
9 who is a resident of and actively practicing in a state other than Kentucky and who
10 is licensed and has prescriptive authority for controlled substances under the
11 professional licensing laws of another state, unless the person's Kentucky license
12 has been revoked, suspended, restricted, or probated, in which case the terms of the
13 Kentucky license shall prevail;
- 14 (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
15 prosecution only, means a medical relationship that exists between a patient and a
16 practitioner or the practitioner's designee, after the practitioner or his or her
17 designee has conducted at least one (1) good faith prior examination;
- 18 (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
19 combination or mixture of drugs or medicines, or proprietary preparation, signed or
20 given or authorized by a medical, dental, chiropody, veterinarian, optometric
21 practitioner, or advanced practice registered nurse, and intended for use in the
22 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
23 animals;
- 24 (43) "Prescription blank," with reference to a controlled substance, means a document
25 that meets the requirements of KRS 218A.204 and 217.216;
- 26 (44) "Presumptive probation" means a sentence of probation not to exceed the maximum
27 term specified for the offense, subject to conditions otherwise authorized by law,

1 that is presumed to be the appropriate sentence for certain offenses designated in
2 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
3 presumption shall only be overcome by a finding on the record by the sentencing
4 court of substantial and compelling reasons why the defendant cannot be safely and
5 effectively supervised in the community, is not amenable to community-based
6 treatment, or poses a significant risk to public safety;

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

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

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

21 (48) "Second or subsequent offense" means that for the purposes of this chapter an
22 offense is considered as a second or subsequent offense, if, prior to his or her
23 conviction of the offense, the offender has at any time been convicted under this
24 chapter, or under any statute of the United States, or of any state relating to
25 substances classified as controlled substances or counterfeit substances, except that
26 a prior conviction for a nontrafficking offense shall be treated as a prior offense
27 only when the subsequent offense is a nontrafficking offense. For the purposes of

1 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
2 constitute a conviction under this chapter;

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

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

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

13 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
14 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
15 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
16 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
17 substituted in the indole ring to any extent and whether or not substituted in
18 the naphthyl ring to any extent. Examples of this structural class include but
19 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-
20 122, JWH-200, and AM-2201;

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

- 1 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
2 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
3 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
4 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
5 substituted in the indole ring to any extent and whether or not substituted in
6 the phenyl ring to any extent. Examples of this structural class include but are
7 not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and
8 RCS-4;
- 9 (d) Cyclohexylphenols: Any compound containing a 2-(3-
10 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
11 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
12 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
13 group whether or not substituted in the cyclohexyl ring to any extent.
14 Examples of this structural class include but are not limited to CP 47,497 and
15 its C8 homologue (cannabicyclohexanol);
- 16 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
17 naphthyl)methane structure with substitution at the nitrogen atom of the
18 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
19 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
20 or not further substituted in the indole ring to any extent and whether or not
21 substituted in the naphthyl ring to any extent. Examples of this structural class
22 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 23 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole
24 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
25 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
26 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
27 substituted in the pyrrole ring to any extent and whether or not substituted in

1 the naphthyl ring to any extent. Examples of this structural class include but
2 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

3 (g) Naphthylmethylenes: Any compound containing a 1-(1-
4 naphthylmethyl)indene structure with substitution at the 3-position of the
5 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
6 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
7 or not further substituted in the indene ring to any extent and whether or not
8 substituted in the naphthyl ring to any extent. Examples of this structural class
9 include but are not limited to JWH-176;

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

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

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

- 1 (52) "Synthetic cathinones" means any chemical compound which is not approved by
2 the United States Food and Drug Administration or, if approved, which is not
3 dispensed or possessed in accordance with state and federal law (not including
4 bupropion or compounds listed under a different schedule) structurally derived from
5 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,
6 or thiophene ring systems, whether or not the compound is further modified in one
7 (1) or more of the following ways:
- 8 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,
9 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
10 substituted in the ring system by one (1) or more other univalent substituents.
11 Examples of this class include but are not limited to 3,4-
12 Methylenedioxcathinone (bk-MDA);
- 13 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples
14 of this class include but are not limited to 2-methylamino-1-phenylbutan-1-
15 one (buphedrone);
- 16 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
17 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
18 cyclic structure. Examples of this class include but are not limited to
19 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
20 or
- 21 (d) Any other synthetic cathinone which is not approved by the United States
22 Food and Drug Administration or, if approved, is not dispensed or possessed
23 in accordance with state or federal law;
- 24 (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
25 cathinones;
- 26 (54) "Telehealth" has the same meaning it has in KRS 311.550;
- 27 (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained

1 in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
2 substances, derivatives, and their isomers with similar chemical structure and
3 pharmacological activity such as the following:

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

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

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

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

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

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

16 ➔Section 2. KRS 218A.500 is amended to read as follows:

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

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

24 It includes but is not limited to:

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

- 1 (b) Kits used, intended for use, or designed for use in manufacturing,
2 compounding, converting, producing, processing, or preparing controlled
3 substances;
- 4 (c) Isomerization devices used, intended for use, or designed for use in increasing
5 the potency of any species of plant which is a controlled substance;
- 6 (d) Except as provided for in subsection (7), testing equipment used, intended for
7 use, or designed for use in ~~identifying, or in~~ analyzing the strength,
8 effectiveness, or purity of controlled substances;
- 9 (e) Scales and balances used, intended for use, or designed for use in weighing or
10 measuring controlled substances;
- 11 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
12 dextrose and lactose, used, intended for use, or designed for use in cutting
13 controlled substances;
- 14 (g) Separation gins and sifters used, intended for use, or designed for use in
15 removing twigs and seeds from, or in otherwise cleaning or refining
16 marijuana;
- 17 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
18 use, or designed for use in compounding controlled substances;
- 19 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
20 designed for use in packaging small quantities of controlled substances;
- 21 (j) Containers and other objects used, intended for use, or designed for use in
22 storing or concealing controlled substances;
- 23 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
24 designed for use in parenterally injecting controlled substances into the human
25 body; and
- 26 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
27 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the

1 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
2 pipes with or without screens, permanent screens, hashish heads, or punctured
3 metal bowls; water pipes; carburetion tubes and devices; smoking and
4 carburetion masks; roach clips which mean objects used to hold burning
5 material, such as marijuana cigarettes, that have become too small or too short
6 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber
7 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
8 pipes or chillers.

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

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

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

26 (5) (a) This section shall not prohibit a local health department from operating a
27 substance abuse treatment outreach program which allows participants to

1 exchange hypodermic needles and syringes.

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

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

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

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

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

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

24 (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and
25 needles without a prescription in pharmacies.

26 (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed
27 drug paraphernalia under this section.

1 *(c) Testing equipment utilized in determining whether a controlled substance*
2 *contains chemicals, toxic substances, or hazardous compounds which can*
3 *cause physical harm or death shall not be deemed drug paraphernalia*
4 *under this section. This includes but is not limited to fentanyl test strips.*

5 (8) Any person who violates any provision of this section shall be guilty of a Class A
6 misdemeanor.

7 ➔Section 3. The Cabinet for Health and Family Services in coordination with the
8 Justice and Public Safety Cabinet shall conduct or have conducted a Fentanyl Education
9 and Awareness campaign. The campaign shall begin no later than 90 days after the
10 effective date of this Act.