

1       AN ACT relating to cannabis.

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

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

5       (1) A person twenty-one (21) years of age or older who knowingly and unlawfully  
6       possesses, traffics, or cultivates a personal use quantity of cannabis shall not be  
7       subject to any penalty for that activity.

8       (2) Possession, trafficking, or cultivation of a personal use quantity of cannabis  
9       under this section shall not be considered a criminal offense.

10       (3) A person shall not be subject to arrest for possession, trafficking, or cultivation of  
11       a personal use quantity of cannabis.

12       (4) If a person has been released on probation, parole, conditional release, or other  
13       form of release and is subject to conditions of supervision, then the possession,  
14       trafficking, or cultivation of a personal use quantity of cannabis shall not  
15       constitute grounds for revocation or other sanctions.

16           ➔ Section 2. KRS 218A.010 is amended to read as follows:

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

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

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

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

25       (2) "Anabolic steroid" means any drug or hormonal substance chemically and  
26       pharmacologically related to testosterone that promotes muscle growth and includes  
27       those substances classified as Schedule III controlled substances pursuant to KRS

- 1        218A.020 but does not include estrogens, progestins, and anticosteroids;
- 2        (3) "Cabinet" means the Cabinet for Health and Family Services;
- 3        (4) *"Cannabis" 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 "cannabis" does not include:*
- 4                (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;*
- 5                (b) *Industrial hemp products that do not include any living plants, viable seeds, or leaf materials;*
- 6                (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;*
- 7                (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;*
- 8                (e) *A cannabidiol product derived from industrial hemp, as defined in KRS 260.850;*
- 9                (f) *For the purpose of conducting scientific research, a cannabinoid product derived from industrial hemp, as defined in KRS 260.850;*
- 10                (g) *A cannabinoid product approved as a prescription medication by the United States Food and Drug Administration; or*
- 11                (h) *Medicinal cannabis as defined in KRS 218B.010;*
- 12        (5) *"Cannabis accessory" means drug paraphernalia for the ingestion, inhalation, or*

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

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

1                    prevention of disease in man or animals;

2                    (c) Substances (other than food) intended to affect the structure or any function of

3                    the body of man or animals; and

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

5                    subsection.

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

7        **(18)** "Fentanyl" means a substance containing any quantity of fentanyl, or any of  
8                its salts, isomers, or salts of isomers;

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

13 (a) By substitution:

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

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

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

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

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

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

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

1       (20)~~(18)~~ "Good-faith prior examination," as used in KRS Chapter 218A and for  
2        criminal prosecution only, means an in-person medical examination of the patient  
3        conducted by the prescribing practitioner or other health-care professional routinely  
4        relied upon in the ordinary course of his or her practice, at which time the patient is  
5        physically examined and a medical history of the patient is obtained. "In-person"  
6        includes telehealth examinations. This subsection shall not be applicable to hospice  
7        providers licensed pursuant to KRS Chapter 216B;

8       (21)~~(19)~~ "Hazardous chemical substance" includes any chemical substance used or  
9        intended for use in the illegal manufacture of a controlled substance as defined in  
10       this section or the illegal manufacture of methamphetamine as defined in KRS  
11       218A.1431, which:

- 12       (a) Poses an explosion hazard;  
13       (b) Poses a fire hazard; or  
14       (c) Is poisonous or injurious if handled, swallowed, or inhaled;

15       (22)~~(20)~~ "Heroin" means a substance containing any quantity of heroin, or any of its  
16        salts, isomers, or salts of isomers;

17       (23)~~(21)~~ "Hydrocodone combination product" means a drug with:

- 18       (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
19        its salts, per one hundred (100) milliliters or not more than fifteen (15)  
20        milligrams per dosage unit, with a fourfold or greater quantity of an  
21        isoquinoline alkaloid of opium; or  
22       (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
23        its salts, per one hundred (100) milliliters or not more than fifteen (15)  
24        milligrams per dosage unit, with one (1) or more active, nonnarcotic  
25        ingredients in recognized therapeutic amounts;

26       (24)~~(22)~~ "Immediate precursor" means a substance which is the principal compound  
27        commonly used or produced primarily for use, and which is an immediate chemical

1       intermediary used or likely to be used in the manufacture of a controlled substance  
2       or methamphetamine, the control of which is necessary to prevent, curtail, or limit  
3       manufacture;

4       (25)~~(23)~~ "Industrial hemp" has the same meaning as in KRS 260.850;

5       (26)~~(24)~~ "Industrial hemp products" has the same meaning as in KRS 260.850;

6       (27)~~(25)~~ "Intent to manufacture" means any evidence which demonstrates a person's  
7       conscious objective to manufacture a controlled substance or methamphetamine.  
8       Such evidence includes but is not limited to statements and a chemical substance's  
9       usage, quantity, manner of storage, or proximity to other chemical substances or  
10      equipment used to manufacture a controlled substance or methamphetamine;

11      (28)~~(26)~~ "Isomer" means the optical isomer, except the Cabinet for Health and Family  
12      Services may include the optical, positional, or geometric isomer to classify any  
13      substance pursuant to KRS 218A.020;

14      (29)~~(27)~~ "Manufacture," except as provided in KRS 218A.1431, means the production,  
15      preparation, propagation, compounding, conversion, or processing of a controlled  
16      substance, either directly or indirectly by extraction from substances of natural  
17      origin or independently by means of chemical synthesis, or by a combination of  
18      extraction and chemical synthesis, and includes any packaging or repackaging of  
19      the substance or labeling or relabeling of its container except that this term does not  
20      include activities:

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

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

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

- 1        (30){(28)} "Marijuana" has the same meaning as "cannabis" in subsection (4) of this  
2        section{means all parts of the plant Cannabis sp., whether growing or not; the seeds  
3        thereof; the resin extracted from any part of the plant; and every compound,  
4        manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin  
5        or any compound, mixture, or preparation which contains any quantity of these  
6        substances. The term "marijuana" does not include:
- 7        (a) Industrial hemp that is in the possession, custody, or control of a person who  
8        holds a license issued by the Department of Agriculture permitting that person  
9        to cultivate, handle, or process industrial hemp;
- 10       (b) Industrial hemp products that do not include any living plants, viable seeds,  
11       leaf materials, or floral materials;
- 12       (c) The substance cannabidiol, when transferred, dispensed, or administered  
13       pursuant to the written order of a physician practicing at a hospital or  
14       associated clinic affiliated with a Kentucky public university having a college  
15       or school of medicine;
- 16       (d) For persons participating in a clinical trial or in an expanded access program,  
17       a drug or substance approved for the use of those participants by the United  
18       States Food and Drug Administration;
- 19       (e) A cannabidiol product derived from industrial hemp, as defined in KRS  
20       260.850;
- 21       (f) For the purpose of conducting scientific research, a cannabinoid product  
22       derived from industrial hemp, as defined in KRS 260.850;
- 23       (g) A cannabinoid product approved as a prescription medication by the United  
24       States Food and Drug Administration; or
- 25       (h) Medicinal cannabis as defined in KRS 218B.010];
- 26       (31){(29)} "Medical history," as used in KRS Chapter 218A and for criminal prosecution  
27       only, means an accounting of a patient's medical background, including but not

1 limited to prior medical conditions, prescriptions, and family background;

2 (32)~~(30)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution

3 only, means a lawful order of a specifically identified practitioner for a specifically

4 identified patient for the patient's health-care needs. "Medical order" may or may

5 not include a prescription drug order;

6 (33)~~(31)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution

7 only, means a record, other than for financial or billing purposes, relating to a

8 patient, kept by a practitioner as a result of the practitioner-patient relationship;

9 (34)~~(32)~~ "Methamphetamine" means any substance that contains any quantity of

10 methamphetamine, or any of its salts, isomers, or salts of isomers;

11 (35)~~(33)~~ "Narcotic drug" means any of the following, whether produced directly or

12 indirectly by extraction from substances of vegetable origin, or independently by

13 means of chemical synthesis, or by a combination of extraction and chemical

14 synthesis:

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

16 opium or opiate;

17 (b) Any salt, compound, isomer, derivative, or preparation thereof which is

18 chemically equivalent or identical with any of the substances referred to in

19 paragraph (a) of this subsection, but not including the isoquinoline alkaloids

20 of opium;

21 (c) Opium poppy and poppy straw;

22 (d) Coca leaves, except coca leaves and extracts of coca leaves from which

23 cocaine, ecgonine, and derivatives of ecgonine or their salts have been

24 removed;

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

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

27 (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;

**(36)** "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;

8     (37)-(35) "Opium poppy" means the plant of the species *papaver somniferum* L., except  
9           its seeds;

10    (38)~~(36)~~ "Person" means individual, corporation, government or governmental  
11        subdivision or agency, business trust, estate, trust, partnership or association, or any  
12        other legal entity;

13 (39) "*Personal use quantity of cannabis*" means:

14 (a) *One (1) ounce or less of cannabis in plant form;*

15                   (b) Five (5) grams or less of resin or concentrates derived from hemp,  
16                   cannabis, or cannabinoids, excluding the estimated weight of any  
17                   noncannabis ingredients combined with the cannabis;

18        (c) Cannabis products containing one thousand (1,000) milligrams or less of  
19        delta-9 tetrahydrocannabinol and one thousand (1,000) milligrams or less  
20        of delta-8 tetrahydrocannabinol; or

21 (d) *Five (5) or fewer plants of cannabis;*

22 (40)[37] "Physical injury" has the same meaning as[it has] in KRS 500.080.

23 (41)[(38)] "Poppy straw" means all parts, except the seeds, of the opium poppy, after  
24 mowing:

25 (42)[(39)] "Pharmacist" means a natural person licensed by this state to engage in the  
26 practice of the profession of pharmacy:

27 (43)(40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific

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

13 (44)~~(41)~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for  
14 criminal prosecution only, means a medical relationship that exists between a  
15 patient and a practitioner or the practitioner's designee, after the practitioner or his  
16 or her designee has conducted at least one (1) good-faith prior examination;

17 (45)~~(42)~~ "Prescription" means a written, electronic, or oral order for a drug or  
18 medicine, or combination or mixture of drugs or medicines, or proprietary  
19 preparation, signed or given or authorized by a medical, dental, chiropody,  
20 veterinarian, optometric practitioner, or advanced practice registered nurse, and  
21 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of  
22 disease in man or other animals;

23 (46)~~(43)~~ "Prescription blank," with reference to a controlled substance, means a  
24 document that meets the requirements of KRS 218A.204 and 217.216;

25 (47)~~(44)~~ "Presumptive probation" means a sentence of probation not to exceed the  
26 maximum term specified for the offense, subject to conditions otherwise authorized  
27 by law, that is presumed to be the appropriate sentence for certain offenses

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

6       (48)~~(45)~~ "Production" includes the manufacture, planting, cultivation, growing, or  
7       harvesting of a controlled substance;

8       (49)~~(46)~~ "Recovery program" means an evidence-based, nonclinical service that assists  
9       individuals and families working toward sustained recovery from substance use and  
10       other criminal risk factors. This can be done through an array of support programs  
11       and services that are delivered through residential and nonresidential means;

12       (50)~~(47)~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the  
13       plant presently classified botanically as *Salvia divinorum*, whether growing or not,  
14       the seeds thereof, any extract from any part of that plant, and every compound,  
15       manufacture, derivative, mixture, or preparation of that plant, its seeds, or its  
16       extracts, including salts, isomers, and salts of isomers whenever the existence of  
17       such salts, isomers, and salts of isomers is possible within the specific chemical  
18       designation of that plant, its seeds, or extracts. The term shall not include any other  
19       species in the genus *salvia*;

20       (51)~~(48)~~ "Second or subsequent offense" means that for the purposes of this chapter an  
21       offense is considered as a second or subsequent offense, if, prior to his or her  
22       conviction of the offense, the offender has at any time been convicted under this  
23       chapter, or under any statute of the United States, or of any state relating to  
24       substances classified as controlled substances or counterfeit substances, except that  
25       a prior conviction for a nontrafficking offense shall be treated as a prior offense  
26       only when the subsequent offense is a nontrafficking offense. For the purposes of  
27       this section, a conviction voided under KRS 218A.275 or 218A.276 shall not

1       constitute a conviction under this chapter;

2       (52)~~(49)~~ "Sell" means to dispose of a controlled substance to another person for  
3       consideration or in furtherance of commercial distribution;

4       (53)~~(50)~~ "Serious physical injury" has the same meaning as~~it has~~ in KRS 500.080;

5       (54)~~(51)~~ "Synthetic cannabinoids or piperazines" means any chemical compound  
6       which is not approved by the United States Food and Drug Administration or, if  
7       approved, which is not dispensed or possessed in accordance with state and federal  
8       law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine  
9       (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-  
10      Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-  
11      211); or any compound in the following structural classes:

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

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

27      (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with

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

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

15 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-  
16 naphthyl)methane structure with substitution at the nitrogen atom of the  
17 indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
18 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
19 or not further substituted in the indole ring to any extent and whether or not  
20 substituted in the naphthyl ring to any extent. Examples of this structural class  
21 include but are not limited to JWH-175, JWH-184, and JWH-185;

22 (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole  
23 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,  
24 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
25 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
26 substituted in the pyrrole ring to any extent and whether or not substituted in  
27 the naphthyl ring to any extent. Examples of this structural class include but

1 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

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

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

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

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

27 (55) "Synthetic cathinones" means any chemical compound which is not approved

1 by the United States Food and Drug Administration or, if approved, which is not  
2 dispensed or possessed in accordance with state and federal law (not including  
3 bupropion or compounds listed under a different schedule) structurally derived from  
4 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,  
5 or thiophene ring systems, whether or not the compound is further modified in one  
6 (1) or more of the following ways:

- 7 (a) By substitution in the ring system to any extent with alkyl, alkylenedioxy,  
8 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further  
9 substituted in the ring system by one (1) or more other univalent substituents.  
10 Examples of this class include but are not limited to 3,4-  
11 Methylenedioxycathinone (bk-MDA);  
12 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples  
13 of this class include but are not limited to 2-methylamino-1-phenylbutan-1-  
14 one (buphedrone);  
15 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or  
16 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a  
17 cyclic structure. Examples of this class include but are not limited to  
18 Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);  
19 or  
20 (d) Any other synthetic cathinone which is not approved by the United States  
21 Food and Drug Administration or, if approved, is not dispensed or possessed  
22 in accordance with state or federal law;

23 (56)~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any  
24 synthetic cathinones;

25 (57)~~(54)~~ "Telehealth" has the same meaning as~~it has~~ in KRS 211.332;

26 (58)~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances  
27 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or

1 synthetic substances, derivatives, and their isomers with similar chemical structure  
2 and pharmacological activity such as the following:

- 3 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;  
4 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and  
5 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

6 (59)~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,  
7 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,  
8 dispense, or sell a controlled substance;

9 (60)~~(57)~~ "Transfer" means to dispose of a controlled substance to another person  
10 without consideration and not in furtherance of commercial distribution; and

11 (61)~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance  
12 for his or her own use or for the use of a member of his or her household or for  
13 administering to an animal owned by him or her or by a member of his or her  
14 household.

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

16 (1) A person is guilty of possession of cannabis~~marijuana~~ when he or she knowingly  
17 and unlawfully possesses cannabis~~marijuana~~, and the possession is not in  
18 compliance with, or otherwise authorized by, KRS Chapter 218B.

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

22 (3) This section does not apply to:

23 (a) A cannabis business or a cannabis business agent, as defined in KRS  
24 218B.010, when acting in compliance with KRS Chapter 218B;~~or~~

25 (b) A cardholder, as defined in KRS 218B.010, whose use of medicinal cannabis  
26 is in compliance with KRS Chapter 218B;or

27 (c) A person who possesses a personal use quantity of cannabis.

- 1            ➔Section 4. KRS 218A.1421 is amended to read as follows:
- 2        (1) A person is guilty of trafficking in cannabis~~marijuana~~ when he or she knowingly  
3            and unlawfully traffics in cannabis~~marijuana~~, and the trafficking is not in  
4            compliance with, or otherwise authorized by, KRS Chapter 218B.
- 5        (2) Unless authorized by KRS Chapter 218B, trafficking in less than eight (8) ounces of  
6            cannabis~~marijuana~~ is:
- 7            (a) For a first offense a Class A misdemeanor; and~~;~~
- 8            (b) For a second or subsequent offense a Class D felony.
- 9        (3) Unless authorized by KRS Chapter 218B, trafficking in eight (8) or more ounces  
10            but less than five (5) pounds of cannabis~~marijuana~~ is:
- 11            (a) For a first offense a Class D felony; and~~;~~
- 12            (b) For a second or subsequent offense a Class C felony.
- 13        (4) Unless authorized by KRS Chapter 218B, trafficking in five (5) or more pounds of  
14            cannabis~~marijuana~~ is:
- 15            (a) For a first offense a Class C felony; and~~;~~
- 16            (b) For a second or subsequent offense a Class B felony.
- 17        (5) Unless authorized by KRS Chapter 218B, the unlawful possession by any person of  
18            eight (8) or more ounces of cannabis~~marijuana~~ shall be prima facie evidence that  
19            the person possessed the cannabis~~marijuana~~ with the intent to sell or transfer it.
- 20        (6) This section does not apply to:
- 21            (a) A cannabis business or a cannabis business agent, as defined in KRS  
22            218B.010, when acting in compliance with KRS Chapter 218B;~~;~~or
- 23            (b) A cardholder, as defined in KRS 218B.010, whose use of medicinal cannabis  
24            is in compliance with KRS Chapter 218B;or
- 25            (c) A person who traffics a personal use quantity of cannabis.
- 26            ➔Section 5. KRS 218A.1423 is amended to read as follows:
- 27        (1) A person is guilty of cannabis~~marijuana~~ cultivation when he or she knowingly

1 and unlawfully plants, cultivates, or harvests cannabis[marijuana] with the intent to  
2 sell or transfer it, and the cultivation is not in compliance with, or otherwise  
3 authorized by, KRS Chapter 218B.

4 (2) Unless authorized by KRS Chapter 218B, cannabis[marijuana] cultivation of five  
5 (5) or more plants of cannabis[marijuana] is:

- 6 (a) For a first offense a Class D felony;and[.]  
7 (b) For a second or subsequent offense a Class C felony.

8 (3) [~~Unless authorized by KRS Chapter 218B, marijuana~~]Cultivation of a personal  
9 use quantity of cannabis shall not:

- 10 (a) Be subject to any penalty;  
11 (b) Be considered a criminal offense; or  
12 (c) Subject a person to arrest for cannabis cultivation[fewer than five (5) plants  
13 is:

- 14 (a) ~~For a first offense a Class A misdemeanor.~~  
15 (b) ~~For a second or subsequent offense a Class D felony].~~

16 (4) Unless authorized by KRS Chapter 218B, the planting, cultivating, or harvesting of  
17 more than five (5)[or more] cannabis[marijuana] plants shall be prima facie  
18 evidence that the cannabis[marijuana] plants were planted, cultivated, or harvested  
19 for the purpose of sale or transfer.

20 (5) This section does not apply to:

21 (a) A cannabis business or a cannabis business agent, as defined in KRS  
22 218B.010, when acting in compliance with KRS Chapter 218B;or

23 (b) A person who cultivates a personal use quantity of cannabis.

24 ➔Section 6. KRS 218A.500 is amended to read as follows:

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

26 (1) "Drug paraphernalia" means all equipment, products and materials of any kind  
27 which are used, intended for use, or designed for use in planting, propagating,

1 cultivating, growing, harvesting, manufacturing, compounding, converting,  
2 producing, processing, preparing, testing, analyzing, packaging, repackaging,  
3 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise  
4 introducing into the human body a controlled substance in violation of this chapter.  
5 The term "drug paraphernalia" does not include medicinal cannabis accessories as  
6 defined in KRS 218B.010. It includes but is not limited to:

- 7 (a) Kits used, intended for use, or designed for use in planting, propagating,  
8 cultivating, growing, or harvesting of any species of plant which is a  
9 controlled substance or from which a controlled substance can be derived;
- 10 (b) Kits used, intended for use, or designed for use in manufacturing,  
11 compounding, converting, producing, processing, or preparing controlled  
12 substances;
- 13 (c) Isomerization devices used, intended for use, or designed for use in increasing  
14 the potency of any species of plant which is a controlled substance;
- 15 (d) Except as provided in subsection (7) of this section, testing equipment used,  
16 intended for use, or designed for use in analyzing the strength, effectiveness,  
17 or purity of controlled substances;
- 18 (e) Scales and balances used, intended for use, or designed for use in weighing or  
19 measuring controlled substances;
- 20 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,  
21 dextrose and lactose, used, intended for use, or designed for use in cutting  
22 controlled substances;
- 23 (g) Separation gins and sifters used, intended for use, or designed for use in  
24 removing twigs and seeds from, or in otherwise cleaning or refining  
25 cannabis[marijuana];
- 26 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for  
27 use, or designed for use in compounding controlled substances;

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

- 1        produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,  
2        ingest, inhale, or otherwise introduce into the human body a controlled substance in  
3        violation of this chapter.
- 4        (4) It is unlawful for any person to place in any newspaper, magazine, handbill, or  
5        other publication any advertisement, knowing, or under circumstances where one  
6        reasonably should know, that the purpose of the advertisement, in whole or in part,  
7        is to promote the sale of objects designed or intended for use as drug paraphernalia.
- 8        (5) (a) This section shall not prohibit a local health department from operating a  
9        substance abuse treatment outreach program which allows participants to  
10       exchange hypodermic needles and syringes.
- 11       (b) To operate a substance abuse treatment outreach program under this  
12       subsection, the local health department shall have the consent, which may be  
13       revoked at any time, of the local board of health and:
- 14       1. The legislative body of the first or home rule class city in which the  
15       program would operate if located in such a city; and
- 16       2. The legislative body of the county, urban-county government, or  
17       consolidated local government in which the program would operate.
- 18       (c) Items exchanged at the program shall not be deemed drug paraphernalia under  
19       this section while located at the program.
- 20       (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace  
21       officer may inquire as to the presence of needles or other sharp objects in the  
22       areas to be searched that may cut or puncture the officer and offer to not  
23       charge a person with possession of drug paraphernalia if the person declares  
24       to the officer the presence of the needle or other sharp object. If, in response  
25       to the offer, the person admits to the presence of the needle or other sharp  
26       object prior to the search, the person shall not be charged with or prosecuted  
27       for possession of drug paraphernalia for the needle or sharp object or for

- 1 possession of a controlled substance for residual or trace drug amounts  
2 present on the needle or sharp object.
- 3 (b) The exemption under this subsection shall not apply to any other drug  
4 paraphernalia that may be present and found during the search or to controlled  
5 substances present in other than residual or trace amounts.
- 6 (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and  
7 needles without a prescription in pharmacies.
- 8 (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed  
9 drug paraphernalia under this section.
- 10 (c) 1. Except as provided in subparagraph 2. of this paragraph, narcotic drug  
11 testing products utilized in determining whether a controlled substance  
12 contains a synthetic opioid or its analogues shall not be deemed drug  
13 paraphernalia under this section.  
14 2. A narcotic drug testing product that is utilized in conjunction with the  
15 importation, manufacture, or selling of fentanyl or a fentanyl analogue  
16 in violation of this chapter shall be deemed drug paraphernalia under  
17 this section.
- 18 (d) Notwithstanding any other statute to the contrary, possession of a narcotic  
19 drug testing product used in accordance with paragraph (c)1. of this  
20 subsection that contains residual or trace amounts of a synthetic opioid or an  
21 analogue thereof shall not be prosecuted as possession of a controlled  
22 substance under any provision of this chapter.
- 23 (8) Any person who violates any provision of this section shall be guilty of a Class A  
24 misdemeanor.
- 25 ➔Section 7. KRS 218A.410 is amended to read as follows:
- 26 (1) The following are subject to forfeiture:
- 27 (a) Controlled substances listed in Schedule I that are possessed, transferred, sold,

- 1                   or offered for sale in violation of this chapter are contraband and shall be  
2                   seized and summarily forfeited to the state;
- 3                   (b) Controlled substances listed in Schedule I, which are seized or come into the  
4                   possession of the state, the owners of which are unknown, are contraband and  
5                   shall be summarily forfeited to the state;
- 6                   (c) Species of plants from which controlled substances in Schedules I and II may  
7                   be derived which have been planted or cultivated in violation of this chapter,  
8                   or of which the owners or cultivators are unknown, or which are wild  
9                   growths, may be seized and summarily destroyed or forfeited to the state. The  
10                  failure, upon demand by the law enforcement agency or its authorized agent,  
11                  of the person in occupancy or in control of land or premises upon which the  
12                  species of plants are growing or being stored, to produce an appropriate  
13                  registration, or proof that he or she is the holder thereof, constitutes authority  
14                  for the seizure and forfeiture of the plants;
- 15                  (d) All substances, machinery, or devices used for the manufacture, packaging,  
16                  repackaging, or marking, and books, papers, and records, and all vehicles  
17                  owned and used by the seller or distributor for the manufacture, distribution,  
18                  sale, or transfer of substances in violation of KRS 218A.350 shall be seized  
19                  and forfeited to the state. Substances manufactured, held, or distributed in  
20                  violation of KRS 218A.350 shall be deemed contraband;
- 21                  (e) All controlled substances which have been manufactured, distributed,  
22                  dispensed, possessed, being held, or acquired in violation of this chapter;
- 23                  (f) All raw materials, products, and equipment of any kind which are used, or  
24                  intended for use, in manufacturing, compounding, processing, delivering,  
25                  importing, or exporting any controlled substance in violation of this chapter;
- 26                  (g) All property which is used, or intended for use, as a container for property  
27                  described in paragraph (e) or (f) of this subsection;

- 1 (h) All conveyances, including aircraft, vehicles, or vessels, which are used, or  
2 intended for use, to transport, or in any manner to facilitate the transportation,  
3 for the purpose of sale or receipt of property described in paragraph (e) or (f)  
4 of this subsection, but:

5 1. No conveyance used by any person as a common carrier in the  
6 transaction of business as a common carrier is subject to forfeiture under  
7 this section unless it is proven beyond a reasonable doubt that the owner  
8 or other person in charge of the conveyance is a consenting party or  
9 privy to a violation of this chapter;

10 2. No conveyance is subject to forfeiture under this section by reason of  
11 any act or omission established by the owner thereof to have been  
12 committed or omitted without his or her knowledge or consent;

13 3. A forfeiture of a conveyance encumbered by a bona fide security  
14 interest is subject to the interest of the secured party if he or she neither  
15 had knowledge of nor consented to the act or omission; and

16 4. The forfeiture provisions of this paragraph shall not apply to any  
17 misdemeanor offense relating to cannabis[marijuana] or salvia;

18 (i) All books, records, and research products and materials, including formulas,  
19 microfilm, tapes, and data which are used, or intended for use, in violation of  
20 this chapter;

21 (j) Everything of value furnished, or intended to be furnished, in exchange for a  
22 controlled substance in violation of this chapter, all proceeds, including real  
23 and personal property, traceable to the exchange, and all moneys, negotiable  
24 instruments, and securities used, or intended to be used, to facilitate any  
25 violation of this chapter; except that no property shall be forfeited under this  
26 paragraph, to the extent of the interest of an owner, by reason of any act or  
27 omission established by him or her to have been committed or omitted

1 without his or her knowledge or consent. It shall be a rebuttable presumption  
2 that all moneys, coin, and currency found in close proximity to controlled  
3 substances, to drug manufacturing or distributing paraphernalia, or to records  
4 of the importation, manufacture, or distribution of controlled substances, are  
5 presumed to be forfeitable under this paragraph. The burden of proof shall be  
6 upon claimants of personal property to rebut this presumption by clear and  
7 convincing evidence. The burden of proof shall be upon the law enforcement  
8 agency to prove by clear and convincing evidence that real property is  
9 forfeitable under this paragraph; and

10 (k) All real property, including any right, title, and interest in the whole of any lot  
11 or tract of land and any appurtenances or improvements, which is used or  
12 intended to be used, in any manner or part, to commit, or to facilitate the  
13 commission of, a violation of this chapter excluding any misdemeanor offense  
14 relating to cannabis~~[marijuana]~~, synthetic drugs, or salvia, except that  
15 property shall be forfeited under this paragraph, to the extent of an interest of  
16 an owner, by reason of any act or omission established by the Commonwealth  
17 to have been committed or omitted with the knowledge or consent of the  
18 owner.

19 (2) Title to all property, including all interests in the property, forfeit under this section  
20 vests in the Commonwealth on the commission of the act or omission giving rise to  
21 forfeiture under this section together with the proceeds of the property after the  
22 time. Any property or proceeds subsequently transferred to any person shall be  
23 subject to forfeiture and thereafter shall be ordered forfeited, unless the transferee  
24 establishes in the forfeiture proceeding that he or she is a subsequent bona fide  
25 purchaser for value without actual or constructive notice of the act or omission  
26 giving rise to the forfeiture.

27 (3) If any of the property described in this section cannot be located; has been

1 transferred to, sold to, or deposited with a third party; has been placed beyond the  
2 jurisdiction of the court; has been substantially diminished in value by any act or  
3 omission of the defendant; or, has been commingled with any property which  
4 cannot be divided without difficulty, the court shall order the forfeiture of any other  
5 property of the defendant up to the value of any property subject to forfeiture under  
6 this section.

7 **(4) The forfeiture provisions of this section shall not apply to a personal use quantity**  
8 **of cannabis.**

9 ➔Section 8. KRS 533.030 is amended to read as follows:

- 10 (1) The conditions of probation and conditional discharge shall be such as the court, in  
11 its discretion, deems reasonably necessary to ensure that the defendant will lead a  
12 law-abiding life or to assist him or her to do so. The court shall provide as an  
13 explicit condition of every sentence to probation or conditional discharge that the  
14 defendant not commit another offense during the period for which the sentence  
15 remains subject to revocation.
- 16 (2) When imposing a sentence of probation or conditional discharge, the court may, in  
17 addition to any other reasonable condition, require that the defendant:
- 18 (a) Avoid injurious or vicious habits;
- 19 (b) Avoid persons or places of disreputable or harmful character;
- 20 (c) Work faithfully at suitable employment as far as possible;
- 21 (d) Undergo available medical or psychiatric treatment and remain in a specific  
22 institution as required for that purpose;
- 23 (e) Post a bond, without surety, conditioned on performance of any of the  
24 prescribed conditions;
- 25 (f) Support his or her dependents and meet other family responsibilities;
- 26 (g) Pay the cost of the proceeding as set by the court;
- 27 (h) Remain within a specified area;



1                   penalty provided for the commission of the offense in a case where a victim  
2                   of a crime:  
3

- 4                   1. Has suffered monetary damage as a result of the crime due to his or her  
5                   property having been converted, stolen, or unlawfully obtained, or its  
6                   value substantially decreased as a result of the crime:{, or where the  
victim}]
  - 7                   2. Suffered actual medical expenses, direct out-of-pocket losses, or loss of  
8                   earning as a direct result of the crime:{, or where the victim}
  - 9                   3. Incurred expenses in relocating for the purpose of the victim's safety or  
10                   the safety of a member of the victim's household:{, or if}
  - 11                   4. As a direct result of the crime {the victim} incurred medical expenses  
12                   that were paid by the Cabinet for Health and Family Services, the Crime  
13                   Victims Compensation Board, or any other governmental entity:{, the  
court shall order the defendant to make restitution in addition to any  
other penalty provided for the commission of the offense}.
- 16                   (b) Payment of restitution to the victim shall have priority over payment of  
17                   restitution to any government agency. Restitution shall be ordered in the full  
18                   amount of the damages, unless the damages exceed one hundred thousand  
19                   dollars (\$100,000) or twice the amount of the gain from the commission of the  
20                   offense, whichever is greater, in which case the higher of these two (2)  
21                   amounts shall be awarded.
- 22                   (c) The court may, in lieu of ordering monetary restitution, order the defendant to  
23                   make restitution by working for or on behalf of the victim. The court shall  
24                   determine the number of hours of work necessary by applying the then-  
25                   prevailing federal minimum wage to the total amount of monetary damage  
26                   caused by or incidental to the commission of the crime. The court may, with  
27                   the consent of the agency, order the defendant to work as specified in KRS

1                   533.070. Any work ordered pursuant to this section shall not be deemed  
2                   employment for any purpose, nor shall the person performing the work be  
3                   deemed an employee for any purpose.

4                   **(d)** Where there is more than one (1) defendant or more than one (1) victim,  
5                   restitution may be apportioned.

6                   **(e)** Restitution shall be subject to the following additional terms and conditions:

7                   **1.[(a)]** Where property which is unlawfully in the possession of the  
8                   defendant is in substantially undamaged condition from its condition at  
9                   the time of the taking, return of the property shall be ordered in lieu of  
10                  monetary restitution;

11                  **2.[(b)]** The circuit clerk shall assess an additional fee of five percent (5%)  
12                  to defray the administrative costs of collection of payments or property.  
13                  This fee shall be paid by the defendant and shall inure to a trust and  
14                  agency account which shall not lapse and which shall be used to hire  
15                  additional deputy clerks and office personnel or increase deputy clerk or  
16                  office personnel salaries, or combination thereof;

17                  **3.[(e)]** When a defendant fails to make restitution ordered to be paid  
18                  through the circuit clerk or a court-authorized program run by the  
19                  county attorney or the Commonwealth's attorney, the circuit clerk or  
20                  court-authorized program shall notify the court; and

21                  **4.[(d)]** An order of restitution shall not preclude the owner of property or  
22                  the victim who suffered personal physical or mental injury or out-of-  
23                  pocket loss of earnings or support or other damages from proceeding in  
24                  a civil action to recover damages from the defendant. A civil verdict  
25                  shall be reduced by the amount paid under the criminal restitution order.

26                  (4) When requiring fees for controlled substances or alcohol tests, or other fees and  
27                  payments authorized by this section or other statute, except restitution, to be paid by

1       the defendant, the court shall not order the payments to be paid through the circuit  
2       clerk.

3       (5) When a defendant is sentenced to probation or conditional discharge, he or she shall  
4       be given a written statement explicitly setting forth the conditions under which he  
5       or she is being released.

6       (6) When imposing a sentence of probation or conditional discharge, the court, in  
7       addition to conditions imposed under this section, may require as a condition of the  
8       sentence that the defendant submit to a period of imprisonment in the county jail or  
9       to a period of home incarceration at whatever time or intervals, consecutive or  
10       nonconsecutive, the court shall determine. The time actually spent in confinement  
11       or home incarceration pursuant to this provision shall not exceed twelve (12)  
12       months or the maximum term of imprisonment assessed pursuant to KRS Chapter  
13       532, whichever is the shorter. Time spent in confinement or home incarceration  
14       under this subsection shall be credited against the maximum term of imprisonment  
15       assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional  
16       discharge is revoked and the defendant is sentenced to imprisonment. Any  
17       prohibitions against probation, shock probation, or conditional discharge under  
18       KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor  
19       or Class D felony and sentenced to a period of confinement or home incarceration  
20       under this section.

21       ➔Section 9. KRS 138.872 is amended to read as follows:

22       (1) A tax is hereby levied on each offender engaging in a taxable activity in this state.

23       The tax shall be paid at the following rates:

24       (a) One thousand dollars (\$1,000) per plant, whether growing or detached from  
25       the soil, on each cannabis~~[marijuana]~~ plant with foliation which exceeds a  
26       personal use quantity of cannabis as defined in Section 2 of this Act;

27       (b) Three dollars and fifty cents (\$3.50) on each gram, or portion thereof, of

1                   cannabis[marijuana] which has been detached from the plant on which it  
2                   grew and which exceeds a personal use quantity of cannabis as defined in  
3                   Section 2 of this Act;

- 4                   (c) Two hundred dollars (\$200) on each gram, or portion thereof, of controlled  
5                   substances; and
- 6                   (d) Two thousand dollars (\$2,000) on each fifty (50) dosage units, or portion  
7                   thereof, of a controlled substance that is not sold by weight.
- 8                   (2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c),  
9                   and (1)(d) of this section, the quantity shall be measured by the weight of the  
10                  cannabis[marijuana] or controlled substance, whether pure, impure, or diluted, or  
11                  by dosage units when a controlled substance is not sold by weight.
- 12                  (3) An offender lawfully engaged in a taxable activity shall be exempt from the tax  
13                  imposed by this section if the offender is not in violation of any law which  
14                  authorizes him or her to engage in the activity.

15                  ➔Section 10. KRS 218A.276 is amended to read as follows:

- 16                  (1) A court may request the Division of Probation and Parole to perform a risk and  
17                  needs assessment for any person found guilty of possession of marijuana or  
18                  cannabis pursuant to KRS 218A.1422, synthetic drugs pursuant to KRS  
19                  218A.1430, or salvia pursuant to KRS 218A.1451. The assessor shall make a  
20                  recommendation to the court as to whether treatment is indicated by the assessment,  
21                  and, if so, the most appropriate treatment or recovery program environment. If  
22                  treatment is indicated for the person, the court may order him or her to the  
23                  appropriate treatment or recovery program as indicated by the assessment that will  
24                  effectively respond to the person's level of risk, criminal risk factors, and individual  
25                  characteristics as designated by the secretary of the Cabinet for Health and Family  
26                  Services where a program of treatment or recovery not to exceed ninety (90) days in  
27                  duration may be prescribed. The person ordered to the designated treatment or

1       recovery program shall present himself or herself for registration and initiation of  
2       the treatment or recovery program within five (5) days of the date of sentencing. If,  
3       without good cause, the person fails to appear at the designated treatment or  
4       recovery program within the specified time, or if any time during the program of  
5       treatment or recovery prescribed, the authorized director of the treatment or  
6       recovery program finds that the person is unwilling to participate in his or her  
7       treatment, the director shall notify the sentencing court. Upon receipt of  
8       notification, the court shall cause the person to be brought before it and may  
9       continue the order of treatment, or may rescind the treatment order and impose a  
10      sentence for the possession offense. Upon discharge of the person from the  
11      treatment or recovery program by the secretary of the Cabinet for Health and  
12      Family Services, or his or her designee, prior to the expiration of the ninety (90)  
13      day period or upon satisfactory completion of ninety (90) days of treatment, the  
14      person shall be deemed finally discharged from sentence. The secretary, or his or  
15      her designee, shall notify the sentencing court of the date of such discharge from  
16      the treatment or recovery program.

- 17      (2) The secretary of the Cabinet for Health and Family Services, or his or her designee,  
18      shall inform each court of the identity and location of the treatment or recovery  
19      program to which a person sentenced by that court under this chapter shall be  
20      initially ordered.
- 21      (3) In the case of a person ordered to an inpatient facility for treatment pursuant to this  
22      chapter, transportation to the facility shall be provided by order of the court when  
23      the court finds the person unable to convey himself or herself to the facility within  
24      five (5) days of sentencing by reason of physical infirmity or financial incapability.
- 25      (4) The sentencing court shall immediately notify the designated treatment or recovery  
26      program of the sentence and its effective date.
- 27      (5) The secretary of the Cabinet for Health and Family Services, or his or her designee,

1 may authorize transfer of the person from the initially designated treatment or  
2 recovery program to another treatment or recovery program for therapeutic  
3 purposes. The sentencing court shall be notified of termination of treatment by the  
4 terminating treatment or recovery program and shall be notified by the secretary or  
5 his or her designee of the new treatment or recovery program to which the person  
6 was transferred.

7 (6) Responsibility for payment for treatment services rendered to persons pursuant to  
8 this section shall be as under the statutes pertaining to payment by patients and  
9 others for services rendered by the Cabinet for Health and Family Services, unless  
10 the person and the treatment or recovery program shall arrange otherwise.

11 (7) ~~[None of the provisions of ]~~This section shall **not** be deemed to preclude the court  
12 from exercising its usual discretion with regard to ordering probation, presumptive  
13 probation, or conditional discharge.

14 (8) In the case of any person who has been convicted of possession of marijuana **or**  
15 **cannabis**, synthetic drugs, or salvia, the court may set aside and void the conviction  
16 upon satisfactory completion of treatment, probation, or other sentence, and issue to  
17 the person a certificate to that effect. A conviction voided under this subsection  
18 shall not be deemed a first offense for purposes of this chapter or deemed a  
19 conviction for purposes of disqualifications or disabilities imposed by law upon  
20 conviction of a crime.

21 (9) If the court voids a conviction under this section, the court shall order the sealing of  
22 all records in the custody of the court and any records in the custody of any other  
23 agency or official, including law enforcement records, except as provided in KRS  
24 27A.099. The court shall order the sealing on a form provided by the  
25 Administrative Office of the Courts. Every agency with records relating to the  
26 arrest, charge, or other matters arising out of the arrest or charge that is ordered to  
27 seal records, shall certify to the court within sixty (60) days of the entry of the order

1           that the required sealing action has been completed.

2       (10) After the sealing of the record, the proceedings in the matter shall not be used  
3           against the defendant. The court and other agencies shall reply to any inquiry that  
4           no record exists on the matter. The person whose record is sealed shall not have to  
5           disclose the fact of the record or any matter relating thereto on an application for  
6           employment, credit, or other type of application.

7       (11) Inspection of the sealed records may thereafter be permitted by the court or upon a  
8           motion by the person who is the subject of the records and only to those persons  
9           named in the motion.

10           ➔ SECTION 11. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO  
11           READ AS FOLLOWS:

12       (1) As used in this section:

13       (a) "Cannabis accessory" has the same meaning as in Section 2 of this Act;

14       (b) "Eligible conviction" means:

15           1. Any criminal conviction for a violation of Section 3 of this Act,  
16           subsection (2) of Section 4 of this Act, subsection (2) of Section 5 of  
17           this Act, or Section 6 of this Act; or

18           2. A conviction for an offense prior to July 14, 1992, for possession,  
19           cultivation, or trafficking of marijuana which was punishable by not  
20           more than five (5) years' incarceration;

21       (c) "Expungeable conviction" means any eligible conviction for which the  
22           available record does not indicate that the offense involved a quantity of  
23           marijuana in excess of the personal use quantity of cannabis, or, for a  
24           conviction pursuant to Section 6 of this Act, the record does not indicate  
25           that the offense involved drug paraphernalia other than cannabis  
26           accessories; and

27       (d) "Personal use quantity of cannabis" has the same meaning as in Section 2

1 *of this Act.*

(2) The Administrative Office of the Courts shall establish a process for identifying all eligible convictions and communicating each eligible conviction to the court in which the conviction occurred, and to the office of the Commonwealth's attorney or county attorney that prosecuted the case. All eligible convictions shall be communicated to the office of the Commonwealth's attorney or county attorney that prosecuted the case within ninety (90) days of the effective date of this Act.

9       (3) Within ninety (90) days of the receipt of an eligible conviction, the office of the  
10      Commonwealth's attorney or county attorney that prosecuted the case may file  
11      with the court in which the conviction occurred an objection to the expungement  
12      of any eligible conviction which is not an expungeable conviction.

13 (4) Within two hundred (200) days of the effective date of this Act, for any eligible  
14 conviction to which the office of the Commonwealth's attorney or county attorney  
15 that prosecuted the case has not filed an objection, the court shall order the  
16 judgment vacated, and dismiss with prejudice any charges which are eligible for  
17 expungement under this section, and order expunged all records in the custody of  
18 the court and any records in the custody of any other agency or official, including  
19 law enforcement records.

20        (5) (a) Any person who has an eligible conviction prior to the effective date of this  
21        Act and whose records have not been expunged pursuant to subsection (4)  
22        of this section may at any time after one (1) year after the effective date of  
23        this Act petition the court in which the conviction occurred to expunge all  
24        eligible convictions

25 (b) *There shall be no filing fee for a petition pursuant to this subsection.*

1                   prosecuted the case, and the court shall notify the county and  
2                   Commonwealth's attorneys of an opportunity for a response to the petition.  
3                   The response shall be filed within ninety (90) days after the filing of the  
4                   petition.

5                   (d) If a response is not filed within ninety (90) days after the filing of the  
6                   petition, the court shall order the judgment vacated, and dismiss with  
7                   prejudice any charges which are eligible for expungement under this  
8                   section.

9                   (e) If a response is filed objecting to the expungement of the eligible conviction,  
10                   the court shall within ninety (90) days of the receipt of the objection  
11                   schedule a hearing on the petition. If, at the hearing, the court finds that the  
12                   eligible conviction is an expungeable conviction, the court shall order the  
13                   judgment vacated, and dismiss with prejudice any charges which are  
14                   eligible for expungement under this section.

15                   (6) (a) Upon entry of an order vacating and expunging a conviction, the original  
16                   conviction shall be vacated and the record shall be expunged. The court and  
17                   other agencies shall cause records to be deleted or removed from their  
18                   computer systems so that the matter shall not appear on official state-  
19                   performed background checks. The court and other agencies shall reply to  
20                   any inquiry that no record exists on the matter.

21                   (b) The person whose record is expunged shall not have to disclose the fact of  
22                   the record or any matter relating thereto on an application for employment,  
23                   credit, or other type of application.

24                   (c) If the expunged conviction was a felony, and the person is not prohibited  
25                   from voting for any other reason, the person's ability to vote shall be  
26                   restored and the person may register to vote.

27                   (7) The Administrative Office of the Courts shall, by December 1, 2027, submit a

1        *report to the Legislative Research Commission for referral to the Interim Joint*  
2        *Committee on Judiciary, providing data by county on the numbers of eligible*  
3        *convictions identified, objections filed with the court, and the number of*  
4        *expungements granted.*

5        *(8) This section shall be retroactive.*