

CABINET FOR HEALTH AND FAMILY SERVICES

Office of the Secretary (Amended After Comments)

915 KAR 1:080. Transportation and delivery of medicinal cannabis.

RELATES TO: KRS Chapter 218B, 304.39-110

STATUTORY AUTHORITY: KRS 218B.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218B.140 requires the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the secure transportation, including delivery services provided by dispensaries, of medicinal cannabis by cannabis businesses. This administrative regulation establishes those procedures.

Section 1. Transportation of Medicinal Cannabis Between Cannabis Businesses.

(1) A cannabis business shall only transport medicinal cannabis, including seeds, seedlings, and plants, to other cannabis businesses as follows:

(a) A cannabis business shall use a global positioning system (GPS) to ensure safe, efficient delivery of the medicinal cannabis to other cannabis businesses.

(b) Vehicles permitted to transport medicinal cannabis shall:

1. Be equipped with a locked storage compartment that is part of the transport vehicle or have a locked storage container that has a separate key or combination pad;
2. Have no markings that would either identify or indicate that the vehicle is being used to transport medicinal cannabis;
3. Maintain a current state vehicle registration;
4. Be equipped with an alarm system and a minimum of two (2) video cameras as required by subsection (1)(c) of this section; and
5. Be insured as required by Kentucky law, specifically KRS 304.39-110.

(c) A transport vehicle shall be staffed with a delivery driver, contain a minimum of two (2) video cameras, one (1) with a clear view of the driver and one (1) with a clear view of the location of the medicinal cannabis,~~team consisting of at least two (2) individuals~~ and comply with the following:

1. The delivery driver~~team~~ shall have a copy of the cannabis business license for the business transporting the medicinal cannabis;
2. ~~At least one (1) delivery team member shall remain with the vehicle at all times that the vehicle contains medicinal cannabis;~~
- ~~3.~~ Each delivery driver~~team member~~ shall have access to a secure form of communication, such as a cellular telephone, at all times that the vehicle contains medicinal cannabis in order to contact cannabis businesses and law enforcement through the 911 emergency system;
- ~~3.~~ ~~4.~~ Each delivery driver~~team member~~ shall conspicuously wear an employee identification badge at all times during transport of medicinal cannabis and shall, upon demand, produce it to the cabinet or its authorized agents, law enforcement, or other federal or state government officials if necessary to perform the government officials' functions and duties;
- ~~4.~~ ~~5.~~ Each delivery driver~~team member~~ shall have a valid driver's license; and
- ~~5.~~ ~~6.~~ While on duty, a delivery driver~~team member~~ shall not wear any clothing or symbols that may indicate ownership or possession of medicinal cannabis.

(d) A delivery driver~~team~~ shall proceed in a transport vehicle from a cannabis business facility, where the medicinal cannabis is loaded, directly to the other cannabis business, where the medicinal cannabis is unloaded, without making unnecessary

stops. A delivery ~~driver~~~~team~~ may deliver medicinal cannabis to multiple cannabis businesses during one (1) transport.

(e) A cannabis business shall immediately report to the cabinet, via electronic mail to kymedcanreporting@ky.gov, any vehicle accidents, diversions, losses, or other reportable events that occur during transport of medicinal cannabis.

(f) A transport vehicle is subject to inspection by the cabinet or its authorized agents, law enforcement, or other federal or state government officials if necessary to perform the government officials' functions and duties. A transport vehicle may be inspected by the cabinet or its authorized agents while on the premises of a cannabis business during the course of an inspection or investigation.

(g) Transport manifest. A cannabis business shall generate a printed or electronic transport manifest that accompanies every transport vehicle transporting medicinal cannabis to other cannabis businesses and contains the following information:

1. The date the transport manifest was created;
2. The name, address, telephone number, and license number of the cannabis business transporting the medicinal cannabis and the name of and contact information for a representative of the cannabis business who has direct knowledge of the transport;
3. If applicable, the name, address, and telephone number of the contracted third party that is transporting medicinal cannabis on behalf of the cannabis business and the name of and contact information for a representative of the third party who has direct knowledge of the transport;
4. The name, address, telephone number, and license number of the cannabis business receiving the delivery;
5. The quantity, by weight or unit, of the medicinal cannabis being transported to a cannabis business along with the unique identifier for each harvest batch, production batch, or package;
6. A statement regarding whether the medicinal cannabis being transported to a cannabis business has been tested and, if so, the unique identifier for the harvest batch or production batch test;
7. The date and approximate time of departure;
8. The date and approximate time of arrival;
9. The transport vehicle's make and model and license plate number;
10. The name of each ~~person~~~~member of the delivery team~~ accompanying the transport;
11. The driver's license number of the delivery ~~driver~~~~team member driving the transport vehicle~~;
12. The signature of ~~the~~~~a~~ delivery ~~driver~~~~team member~~ once delivery has been accomplished; and
13. The name and signature of a representative of the cannabis business receiving the medicinal cannabis that confirms receipt of the delivery.

(h) When a delivery ~~driver~~~~team~~ delivers medicinal cannabis to multiple cannabis businesses during one (1) transport, the transport manifest shall correctly reflect the specific medicinal cannabis in transit to each cannabis business location.

(i) A cannabis business shall provide a copy of the transport manifest to the cannabis business receiving the medicinal cannabis described in the transport manifest. To maintain confidentiality, a cannabis business may prepare separate manifests for each recipient.

(j) All medicinal cannabis in transport shall be shielded from public view and placed in a locked storage compartment that is part of the transport vehicle or in a locked storage container that has a separate key or combination pad.

- (k) A cannabis business shall, if requested, provide a copy of any printed or electronic transport manifest to the cabinet or its authorized agents, law enforcement, or other federal or state government officials if necessary to perform the government officials' functions and duties.
- (2) Evidence of adverse loss during transport.
- (a) ~~If a cannabis business receiving a delivery of medicinal cannabis discovers a discrepancy in the transport manifest upon delivery, the cannabis business shall report the discrepancy to the cabinet within eight (8) hours of discovery via electronic mail to kymedcanreporting@ky.gov.~~
- ~~(b)~~ If a cannabis business transporting medicinal cannabis discovers a discrepancy in the transport manifest, the cannabis business shall:
1. Conduct an investigation to determine the cause of the discrepancy and memorialize the investigation findings in writing, which shall be provided to the cabinet within seven (7) calendar days of receiving a request from the cabinet; and;
 2. Amend the cannabis business's standard plan of operation, if necessary, to prevent future discrepancies between the quantity or description of inventory listed in the transport manifest and the quantity or description of inventory delivered, ~~and~~
- ~~3. Electronically submit the following reports of the investigation to the cabinet via electronic mail to kymedcanreporting@ky.gov:~~
- ~~(a.) A written preliminary report of the investigation shall be submitted to the cabinet within seven (7) calendar days of discovering the discrepancy; and~~
- ~~(b.) A final written report of the investigation shall be submitted to the cabinet within thirty (30) calendar days of discovering the discrepancy.~~
- ~~(b)~~ ~~(e)~~ If a cannabis business transporting medicinal cannabis discovers evidence of, or reasonably suspects, a theft or diversion of medicinal cannabis during transport, the cannabis business shall report its findings or suspicions to the cabinet within eight (8) hours of discovery via electronic mail to kymedcanreporting@ky.gov.
- (3) An employee or agent of a safety compliance facility, cultivator, processor, producer, or third-party contractor who transports medicinal cannabis samples from a cultivator, processor, or producer to a safety compliance facility shall:
- (a) Protect the physical integrity of the sample;
 - (b) Keep the composition of the sample intact; and
 - (c) Protect the sample against factors that interfere with the validity of testing results, including the factors of time and temperature.
- (4) A cannabis business may contract with a third-party for transportation and delivery to other cannabis businesses if:
- (a) The third-party contractor complies with the transportation requirements of this section;
 - (b) The cannabis business conducts a criminal background check into the criminal history of each employee or agent of the third-party contractor that will transport medicinal cannabis on its behalf and shall not allow any such employee or agent to work for the cannabis business that:
 1. Was convicted of a disqualifying felony offense; or
 2. Is younger than twenty-one (21) years of age;
 - (c) The cannabis business provides the third-party contractor with a copy of its license and identification badges for the third-party contractor's employees or agents that will transport medicinal cannabis. The badges shall be conspicuously worn at all times during transport of medicinal cannabis and shall contain:
 1. The individual's name, photo, ~~and~~ an employee identification number, and the license number of the cannabis business;

2. A phone number and email address for the cannabis business; and
 3. A phone number and email address for the Kentucky Medical Cannabis Program;
- (d) The cannabis business notifies the cabinet via electronic mail to kymedcanreporting@ky.gov of all third parties it has contracted with to transport medicinal cannabis prior to the third party commencing with any transportation of medicinal cannabis and confirms that it has satisfied the requirements of subsection (b) and (c) of this subsection. The cannabis business shall provide the cabinet with any additional information requested by the cabinet regarding the contracted third party's operations.

Section 2. Delivery Services Provided by Dispensaries.

- (1) A dispensary may operate a delivery service for registered qualified patients and designated caregivers.
- (2) In order to deliver medicinal cannabis, medicinal cannabis accessories, and educational material to registered qualified patients and designated caregivers, a dispensary shall:
 - (a) Follow all requirements for dispensing and selling medicinal cannabis to registered qualified patients and designated caregivers in accordance with KRS Chapter 218B and 915 KAR 1:070 prior to delivery;
 - (b) Accomplish delivery on the date agreed upon by the dispensary and the registered qualified patient or designated caregiver~~{an order is received and processed through the Commonwealth's designated electronic monitoring system and seed-to-sale tracking system}~~;
 - (c) Accomplish delivery between the hours of 7:00 a.m. and 9:00 p.m.;
 - (d) Prepare a delivery manifest for each delivery or series of deliveries that includes the names of the delivery driver and any additional employees accompanying the transport~~{team members}~~, address for each delivery, estimated date and time of delivery, and actual date and time of delivery;
 - (e) Prepare a receipt for each delivery containing the following information:
 1. The dispensary's name, address, and license number;
 2. The name and address of the registered qualified patient or designated caregiver;
 3. The date the medicinal cannabis was dispensed;
 4. ~~{Any requirement or limitation noted by the medicinal cannabis practitioner on the registered qualified patient or designated caregiver's written certification as to the form or amount of medicinal cannabis that the individual should use}~~
 5. ~~{5.}~~ The form and the quantity of medicinal cannabis dispensed;
 5. ~~{6.}~~ Any medicinal cannabis accessories or educational materials included in the delivery order; and
 6. ~~{7.}~~ The amount paid by the registered qualified patient or designated caregiver for the medicinal cannabis and other items.
 - (f) At the time of delivery, check the registry identification card of the registered qualified patient or designated caregiver to verify the person accepting delivery is the same person who placed the order. The registered qualified patient or designated caregiver who placed the order shall sign the receipt to confirm receipt of all items delivered and receive a copy of the receipt;~~{and}~~
 - (g) Only deliver medicinal cannabis, medicinal cannabis accessories, and educational material to the Kentucky address identified for the individual in the Commonwealth's designated electronic monitoring system;~~{and}~~
 - (h) Delivery drivers may deliver medicinal cannabis to multiple registered qualified patients and designated caregivers during one (1) transport. When delivery drivers deliver to multiple registered qualified patients and designated

caregivers during one (1) transport, the transport manifest shall correctly reflect the specific medicinal cannabis in transit to each individual.

- (3) Delivery vehicle and delivery ~~driver~~**team** requirements.
- (a) Transport vehicles used for the delivery of medicinal cannabis by dispensaries to registered qualified patients or designated caregivers shall:
1. Be equipped with a locked storage compartment that is part of the transport vehicle or have a locked storage container that has a separate key or combination pad;
 2. Have no markings that would either identify or indicate that the vehicle is being used to transport medicinal cannabis;
 3. Maintain a current state vehicle registration;
 4. Be equipped with an alarm system **and a minimum of two (2) video cameras as required by subsection (3)(b) of this section**; and
 5. Be insured as required by Kentucky law, **specifically KRS 304.39-110**~~for commercial vehicles~~.
- (b) A transport vehicle shall be staffed with a delivery **driver and contain a minimum of two (2) video cameras, one (1) with a clear view of the driver and one (1) with a clear view of the location of the medicinal cannabis**~~team consisting of at least two (2) dispensary employees. At least one (1) delivery team member shall remain with the transport vehicle at any time that it contains medicinal cannabis~~.
- (c) Delivery ~~drivers~~**team members** delivering medicinal cannabis shall:
1. Have a copy of the cannabis business license for the dispensary delivering the medicinal cannabis;
 2. Have an employee identification badge issued by the dispensary that shall be conspicuously worn at all times during delivery of medicinal cannabis;
 3. Have a valid driver's license; and
 4. Not make unnecessary stops.
- (d) All medicinal cannabis in transport for delivery to registered qualified patients or designated caregivers shall be shielded from public view and placed in a locked storage compartment that is part of the transport vehicle or in a locked storage container that has a separate key or combination pad.
- (e) If a transport vehicle delivering medicinal cannabis is involved in any accident or experiences any type of failure rendering the vehicle immobile or requiring the use of a tow truck, the delivery ~~driver~~**team** shall notify the cabinet immediately via electronic mail to kymedcanreporting@ky.gov.

SAM FLYNN, Executive Director
ERIC FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 14, 2024

FILED WITH LRC: May 15, 2024 at 11:15 a.m.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-7476; fax 502-564-7091; email CHFSregs@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes procedures for the secure transportation, including delivery services provided by dispensaries, of medicinal cannabis by cannabis businesses and their employees or agents. In response to comments received by the cabinet, the Amended After Comments version of the administrative regulation will allow one delivery driver in the transport vehicle along with one camera focused on the driver and one camera focused on the location of the medicinal cannabis in the vehicle, remove a duplicative reporting requirement, require identification badges to display the license number of the cannabis business transporting the medicinal cannabis, and clarify the insurance requirements for delivery vehicles.

(b) The necessity of this administrative regulation:

This administrative regulation is necessary to carry out the requirements of KRS Chapter 218B, specifically KRS 218B.140.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

KRS 218B.140 authorizes the Cabinet for Health and Family Services to promulgate administrative regulations establishing procedures for the secure transportation, including delivery services provided by dispensaries, of medicinal cannabis by cannabis businesses and their employees or agents. This administrative regulation sets out those procedures.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation provides procedures for the secure transportation of medicinal cannabis by cannabis businesses and their employees or agents.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

Not applicable. This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation:

Not applicable. This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes:

Not applicable. This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes:

Not applicable. This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

This administrative regulation affects cannabis businesses that have applied for and subsequently received licenses to conduct medicinal cannabis activities in the commonwealth.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

Cannabis businesses must review and comply with the transportation procedures contained in this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Each cannabis business will decide how to transport medicinal cannabis in accordance with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

Cannabis businesses will be able to transport medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories throughout the commonwealth.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

It is anticipated that an increase in funding will be necessary to implement this administrative regulation as additional staff and resources are necessary to administer and enforce transportation procedures. The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories.

(b) On a continuing basis:

It is anticipated that an increase in funding will be necessary to administer this administrative regulation as additional staff and resources are necessary to enforce transportation procedures. The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis, medicinal cannabis products, and medicinal cannabis accessories.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

State general funds provided by the commonwealth.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

It is anticipated that an increase in funding will be necessary to implement this regulation as additional staff and resources are necessary to administer and enforce this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does not establish or increase any fees.

(9) TIERING: Is tiering applied?

Tiering is not applied. All cannabis businesses will be treated equally.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 218B.140(1)(c)(7)(d).

(2) Identify the promulgating agency and any other affected state units, parts, or divisions:

This administrative regulation is promulgated by the Kentucky Medical Cannabis Program within the Cabinet for Health and Family Services.

(a) Estimate the following for the first year:

Expenditures:The cabinet estimates that the total staffing costs for the program in the first year will be approximately \$1,800,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis.

Revenues:This administrative regulation is not expected to generate revenue in the first year.

Cost Savings:The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

The cabinet estimates that the total staffing costs for the program on a continuing basis following the first year will be approximately \$2,400,000, and a portion of those staffing costs will go toward regulating transportation of medicinal cannabis.

This administrative regulation is not expected to generate revenue in subsequent years. The cabinet does not anticipate any cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts):

If its application is approved, a proposed cannabis business will locate within a city or county in the commonwealth and be subject to the transportation requirements contained in this administrative regulation.

(a) Estimate the following for the first year:

Expenditures:Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Revenues:Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

Cost Savings:The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Unknown at this time. This response will depend on the number of licensed cannabis businesses located in a respective city or county and any ordinances and fees established by local authorities regulating licensed cannabis businesses in their jurisdiction as allowed by KRS 218B.130.

(4) Identify additional regulated entities not listed in questions (2) or (3):

Licensed cannabis businesses.

(a) Estimate the following for the first year:

Expenditures:Each cannabis business will decide how to transport medicinal cannabis in accordance with this administrative regulation.

Revenues:This administrative regulation is not expected to generate revenue in the first year.

Cost Savings:The cabinet does not anticipate any cost savings in the first year.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Each cannabis business will decide how to transport medicinal cannabis in accordance with this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation:

The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. A portion of the estimated staffing costs will go toward regulating transportation of medicinal cannabis.

(b) Methodology and resources used to determine the fiscal impact:

As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system and seed to sale tracking system required by KRS 218B.140.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). (\$500,000 or more, in aggregate)

. The annual cost estimate to administer all aspects of the Kentucky Medical Cannabis Program is \$9,135,398. A significant portion of those funds will go toward licensing and enforcement of cannabis businesses operating in the commonwealth as well implementation and continued operation of the electronic monitoring system and seed to sale tracking system required by KRS 218B.140. The Kentucky Medical Cannabis Program will have a major economic impact on the Cabinet for Health and Family Services.

(b) The methodology and resources used to reach this conclusion:

As part of its Biennial Budget Request, the Cabinet for Health and Family Services analyzed the cost to administer all aspects of the Kentucky Medical Cannabis Program, including estimated costs for staffing and implementation and ongoing maintenance and operations costs for the electronic monitoring system required by KRS 218B.140.