

1 AN ACT relating to medicinal cannabis and making an appropriation therefor.

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

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

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

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

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

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

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

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

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

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

22 *(4) "Cardholder" means:*

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

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

1 another state, district, territory, commonwealth, insular possession of the
2 United States, or country recognized by the United States that allows the
3 person to use cannabis for medicinal purposes in the jurisdiction of
4 issuance;

5 (5) "Cultivator" means an entity licensed under this chapter that cultivates, harvests,
6 and delivers raw plant material to another cultivator, dispensary, processor,
7 producer, or safety compliance facility;

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

10 (7) "Department" means the Department for Public Health as established in KRS
11 12.020;

12 (8) "Designated caregiver" means a person who has registered as such with the
13 department as required by this chapter;

14 (9) "Dispensary" means an entity licensed under this chapter that acquires,
15 possesses, delivers, transfers, transports, sells, supplies, or dispenses medicinal
16 cannabis to cardholders;

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

19 (11) "Disqualifying felony offense" means:

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

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

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

27 2. An offense that consisted of conduct for which Sections 1 to 30 of this

1 Act would likely have prevented a conviction, but the conduct either
2 occurred prior to the enactment of Sections 1 to 30 of this Act or was
3 prosecuted by an authority other than the Commonwealth of
4 Kentucky;

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

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

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

13 (15) "Marijuana" means the same as defined in KRS 218A.010;

14 (16) "Medicinal cannabis" means marijuana as defined in KRS 218A.010 when
15 cultivated, harvested, processed, produced, transported, dispensed, distributed,
16 sold, possessed, or used in accordance with Sections 1 to 30 of this Act. The term
17 "medicinal cannabis" includes medicinal cannabis products and raw plant
18 material;

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

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

1 Sections 1 to 30 of this Act;

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

3 (20) "Pharmacist" means the same as in KRS 315.010;

4 (21) "Practitioner" means a physician who is authorized to prescribe controlled
5 substances under KRS 320.240, or an advanced practice registered nurse who is
6 authorized to prescribe controlled substances under KRS 314.042, who is
7 authorized by a state licensing board to provide written certifications pursuant to
8 Section 5 of this Act;

9 (22) "Processor" means an entity licensed under this chapter that acquires raw plant
10 material from a cultivator in order to prepare, trim, manipulate, blend,
11 manufacture, or otherwise modify the raw plant material, and package products
12 containing or derived from the raw plant material for sale to a licensed
13 dispensary;

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

16 (24) "Producer" means an entity licensed under this chapter that is permitted to
17 operate as and engage in the permitted activities of both a cultivator and
18 processor;

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

21 (26) "Qualified patient" means a person who has obtained a written certification from
22 a practitioner with whom he or she has a bona fide practitioner-patient
23 relationship;

24 (27) "Qualifying medical condition" means a disease or medical condition that
25 appears on the list of qualifying medical conditions for which a practitioner may
26 provide a patient with a written certification approved by the department
27 pursuant to Sections 3 and 28 of this Act and in accordance with administrative

1 regulations promulgated thereunder;

2 (28) "Raw plant material" means the trichome-covered part of the female plant
3 Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the
4 Cannabis sp. plant;

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

8 (30) "Registered qualified patient" means a qualified patient who has applied for,
9 obtained, and possesses a valid registry identification card or provisional
10 licensure receipt issued by the department;

11 (31) "Safety compliance facility" means an entity licensed under this chapter that
12 provides at least one (1) of the following services:

13 (a) Testing medicinal cannabis produced by a cannabis business licensed under
14 this chapter; or

15 (b) Training cardholders and cannabis business agents;

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

18 (33) "Seedling" means a cannabis plant that has no flowers and is taller than eight
19 (8) inches;

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

22 (35) "State licensing board" means any of the following:

23 (a) The Kentucky Board of Medical Licensure; and

24 (b) The Kentucky Board of Nursing;

25 (36) "Use of medicinal cannabis" or "medicinal use of cannabis" includes the
26 acquisition, administration, possession, transfer, transportation, or consumption
27 of medicinal cannabis or medicinal cannabis accessories by a cardholder in

1 accordance with Sections 1 to 30 of this Act. The terms "use of medicinal
2 cannabis" and "medicinal use of cannabis" do not include:

3 (a) Cultivation of marijuana by a cardholder; or

4 (b) The use or consumption of marijuana by smoking;

5 (37) "Visiting qualified patient" means a person who has registered as such through
6 the department as required under this chapter or who possesses a valid registry
7 identification card, or an equivalent document, that was issued pursuant to the
8 laws of another state, district, territory, commonwealth, insular possession of the
9 United States, or country recognized by the United States that allows the person
10 to use medicinal cannabis in the jurisdiction of issuance; and

11 (38) "Written certification" means a document dated and signed by a practitioner,
12 that:

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

15 (b) Specifies the qualifying medical condition or conditions for which the
16 practitioner believes that the patient may receive therapeutic or palliative
17 benefit; and

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

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

22 Notwithstanding any provisions to the contrary:

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

26 (2) A registered qualified patient or visiting qualified patient shall not be considered
27 to be under the influence of cannabis solely because of the presence of

1 metabolites or components of cannabis that appear in insufficient concentration
2 to cause impairment;

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

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

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

22 (6) A pharmacist shall not be subject to arrest, prosecution, or penalty in any
23 manner, or denied any right or privilege, including but not limited to a civil
24 penalty or disciplinary action by the Kentucky Board of Pharmacy or by any
25 other professional licensing board, for consulting with or providing information
26 with respect to the possible risks or side effects of medicinal cannabis, including
27 any potentially harmful or dangerous interactions between medicinal cannabis

1 and any other drug; and

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

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

11 (1) The Department for Public Health is hereby charged with the implementation,
12 operation, oversight, and regulation of the medicinal cannabis program
13 established in Sections 1 to 30 of this Act, and there is hereby created within the
14 department a Division of Medicinal Cannabis. The Division of Medicinal
15 Cannabis shall consist of a director and the necessary staff to fulfill its statewide
16 regulatory responsibilities.

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

22 (3) (a) There is hereby established in the Department for Public Health a Board of
23 Physicians and Advisors which for administrative purposes shall be
24 attached to the department.

25 (b) The board shall consist of:

26 1. Eight (8) physicians or surgeons who are knowledgeable about the
27 medicinal use of cannabis and certified by the appropriate board in

one (1) of the following specialties:

a. Addiction medicine;

b. Anesthesiology;

c. Gastroenterology;

d. Obstetrics and gynecology;

e. Infectious disease;

f. Neurology;

g. Oncology;

h. Pain management;

i. Pain medicine;

j. Pediatrics;

k. Physical Medicine and Rehabilitation; or

l. Psychiatry;

2. One (1) pharmacist licensed by the Kentucky Board of Pharmacy; and

3. Four (4) patient advocates.

(c) The commissioner of the department shall appoint members to the board.

Seven (7) of the members first appointed shall serve for a term of three (3)

years, and six (6) of the members first appointed shall serve for a term of

four (4) years. Thereafter, members of the board shall serve for a term of

four (4) years and shall be eligible for reappointment. A member of the

board whose term has expired may continue to serve until a successor has

been appointed. The commissioner and the director of the Division of

Medicinal Cannabis shall serve as non-voting ex officio members of the

board. The commissioner shall select a chairperson from among the

physicians and surgeons appointed to the board.

(d) The board shall:

1. Review and recommend to the department an approved list of

- 1 qualifying medical conditions for which a practitioner may provide a
2 patient with a written certification;
- 3 2. Accept and review petitions to add diseases or medical conditions to
4 the list of qualifying medical conditions for which a practitioner may
5 provide a patient with a written certification;
- 6 3. Convene at least twice per year to conduct public hearings and to
7 evaluate petitions, which shall be maintained as confidential pursuant
8 to paragraph (e) of this subsection, for the purpose of adding diseases
9 or medical conditions to the list of qualifying medical conditions for
10 which a practitioner may provide a patient with a written certification;
- 11 4. Review and recommend to the department protocols for determining
12 the amount of medicinal cannabis that shall constitute daily supply,
13 an uninterrupted ten (10) day supply, and an uninterrupted thirty (30)
14 day supply as well as the amount of raw plant material that medicinal
15 cannabis products are considered equivalent to;
- 16 5. Review and recommend to the department protocols, evolving
17 continuous quality improvement metrics, and minimal performance
18 standards for the biennial accreditation process of licensed cannabis
19 businesses;
- 20 6. Review relevant scientific data related to the delta-9
21 tetrahydrocannabinol content limits established in subsection (2)(b) of
22 Section 19 of this Act and make recommendations to the General
23 Assembly regarding revisions to the limits as the board deems
24 appropriate;
- 25 7. Review relevant scientific data related to the various methods of use
26 and consumption of medicinal cannabis and make recommendations
27 to the General Assembly to approve or restrict certain methods as the

1 board deems appropriate; and

2 8. Perform other duties related to the medicinal use of cannabis upon
3 request by the commissioner of the department or the director of the
4 Division of Medicinal Cannabis.

5 (e) When considering which diseases and medical conditions to recommend to
6 the department for inclusion on an approved list of qualifying medical
7 conditions for which a practitioner may provide a patient with a written
8 certification and when reviewing petitions to add diseases or medical
9 conditions to the list of qualifying medical conditions for which a
10 practitioner may provide a patient with a written certification, the board
11 shall prioritize consideration of, but not limit their consideration to, end of
12 life conditions and terminal illnesses as defined in KRS 217.5401.

13 (f) Any individually identifiable health information contained in a petition
14 received by the department, the division, or the board shall be confidential
15 and shall not be subject to disclosure under the Open Records Act, KRS
16 61.870 to 61.884.

17 (g) The department shall promulgate administrative regulations to implement
18 the provisions of this subsection, including but not limited to the process by
19 which petitions shall be received, reviewed, and considered.

20 (4) No later than December 1 of each year beginning in 2021, the department, in
21 consultation with the University of Kentucky, College of Medicine shall submit
22 an annual report to the Legislative Research Commission. The report submitted
23 by the department shall, at a minimum, include:

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

27 (b) The number of applications and renewals for registry identification cards

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

1 individually and collectively, in serving the needs of cardholders,
2 including the provision of educational and support services, the
3 reasonableness of their fees, whether they are generating any
4 complaints or security problems, and the sufficiency of the number
5 operating to serve cardholders in the Commonwealth; and

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

13 (j) The profits and expenditures by cannabis businesses, individually and
14 collectively;

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

16 (l) The total amount of revenue generated from cannabis business licensure
17 and cardholder fees for each calendar year and aggregated by prior years;

18 (m) The total amount of revenue generated by the excise tax established in
19 Section 33 of this Act;

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

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

27 (p) Any recommended additions or revisions to Sections 1 to 30 of this Act or

- 1 administrative regulations promulgated thereunder, including those
2 relating to security, safe handling, labeling, and nomenclature;
3 (q) The results of any scientific research studies regarding the health effects of
4 cannabis; and
5 (r) Any other data requested by the Legislative Research Commission relating
6 to the medicinal cannabis program and Sections 1 to 30 of this Act.
7 (5) The department shall provide the University of Kentucky, College of Medicine
8 with all information necessary to allow collaboration with the department on the
9 preparation of this report. The University of Kentucky, College of Medicine may
10 also produce its own report regarding the medicinal cannabis program
11 established in Sections 1 to 30 of this Act which, if produced, shall be submitted
12 to the Legislative Research Commission upon completion.
13 (6) The information contained in the report described in subsection (2) of this section
14 shall be presented in a manner that does not disclose any identifying information
15 about cardholders or licensed cannabis businesses.
16 (7) Nothing in Sections 1 to 30 of this Act shall require the department to assume
17 duties in relation to the medicinal cannabis program that are more than
18 administrative in nature if federal law or a current and clear directive from the
19 federal government indicates that duties assumed by the department that are
20 more than administrative could result in federal prosecution or invalidation of
21 the medicinal cannabis program established in Sections 1 to 30 of this Act.
22 (8) If the department makes a determination that it is required by Sections 1 to 30 of
23 this Act to conduct duties that are more than administrative in nature, then it
24 shall continue to conduct duties that are administrative in nature and designate
25 or enter into a contract with a qualified nongovernmental entity to conduct any
26 duties required by Sections 1 to 30 of this Act that are more than administrative
27 in nature. The department may reimburse the state for any costs involved in

1 working with outside consultants to implement the program.

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

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

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

11 (b) An amount of medicinal cannabis determined by the department to
12 constitute an uninterrupted ten (10) day supply on his or her person, except
13 that an amount greater than a ten (10) day supply, including up to a thirty
14 (30) day supply, may be transported by a registered qualified patient from a
15 dispensary to his or her residence if the medicinal cannabis is contained in
16 a sealed package that requires at least a two (2) step process for initial
17 opening.

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

23 (3) A visiting qualified patient shall not be subject to arrest, prosecution, or denial of
24 any right or privilege, including but not limited to civil penalty or disciplinary
25 action by a court or occupational or professional licensing board, for the use of
26 medicinal cannabis, if the visiting qualified patient does not possess more than an
27 amount of medicinal cannabis determined by the department to constitute an

1 uninterrupted ten (10) day supply on his or her person.

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

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

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

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

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

27 (5) (a) All medicinal cannabis possessed by a cardholder in accordance with

1 subsections (1), (3), and (4) of this section shall be kept in the original
2 container in which the cardholder received the medicinal cannabis from a
3 dispensary.

4 (b) The penalty for a violation of paragraph (a) of this subsection shall be a
5 fine of not more than one hundred dollars (\$100) per violation.

6 (6) Notwithstanding subsections (1), (3), and (4) of this section:

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

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

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

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

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

25 (b) Possession of medicinal cannabis accessories; or

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

27 (8) No person shall be subject to arrest, prosecution, or denial of any right or

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

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

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

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

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

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

24 (b) Sections 1 to 30 of this Act shall not prevent the seizure or forfeiture of
25 marijuana exceeding the amounts allowed under Section 4 of this Act nor
26 shall it prevent seizure or forfeiture if the basis for that action is unrelated
27 to the medicinal use of cannabis in accordance with Sections 1 to 30 of this

1 Act and any administrative regulation promulgated thereunder.

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

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

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

18 2. Possesses an amount of medicinal cannabis that does not exceed the
19 amount allowed under Section 4 of this Act.

20 (b) The presumption may be rebutted by evidence that conduct was unrelated to
21 the medicinal use of cannabis or was otherwise in violation of Sections 1 to
22 30 of this Act.

23 (4) No law enforcement officer employed by an agency which receives state or local
24 government funds shall expend any state or local resources, including the
25 officer's time, to effect any arrest or seizure of medicinal cannabis, or conduct
26 any investigation, on the sole basis of activity the officer believes to constitute a
27 violation of the federal Controlled Substances Act, 21 U.S.C. secs. 801 et seq., if

1 the officer should have reason to believe that such activity is in compliance with
2 Sections 1 to 30 of this Act.

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

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

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

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

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

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

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

27 1. On a school bus, except as permitted under Section 8 of this Act;

- 1 2. On the grounds of any preschool or primary or secondary school,
2 except as permitted under Section 8 of this Act;
- 3 3. In any correctional facility; or
- 4 4. On any property of the federal government;
- 5 (f) Using marijuana, if that person is not a registered qualified patient or
6 visiting qualified patient;
- 7 (g) Using or consuming marijuana by smoking; or
- 8 (h) Cultivating marijuana unless that person is licensed by the department as a
9 cannabis cultivator or cannabis producer pursuant to Sections 16 to 18 of
10 this Act or is a cultivator or producer agent.
- 11 (2) The penalty for a violation of subsection (1)(a) or (b) of this section shall be the
12 same as those established for operating a motor vehicle under the influence of
13 alcohol or any other substance in KRS 189A.010.
- 14 (3) (a) An individual who violates subsection (1)(g) of this section shall not be
15 considered to be in possession of medicinal cannabis or engaged in the use
16 of medicinal cannabis and shall not benefit from the legal protections
17 afforded by Sections 1 to 30 of this Act.
- 18 (b) The odor or smell of cannabis shall not constitute evidence of use or
19 consumption of cannabis by smoking.
- 20 (c) If an individual uses or consumes marijuana by smoking while on any form
21 of public transportation, in any public place as defined in KRS 525.010, or
22 in any place of public accommodation, resort, or amusement as defined in
23 KRS 344.130:
- 24 1. The department may revoke the individual's registry identification
25 card; and
- 26 2. The individual may be subject to prosecution under Section 38 of this
27 Act.

1 (d) Notwithstanding paragraph (a) of this subsection, if an individual violates
2 subsection (1)(g) of this subsection by using or consuming marijuana by
3 smoking on residential property owned or leased by that individual or with
4 the permission of the owner or lessee of residential property, the penalty
5 shall be a fine of not more than one hundred dollars (\$100) per violation.

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

10 (5) As used in this section:

11 (a) "Aircraft" means the same as defined in KRS 183.011;

12 (b) "Vehicle" means the same as defined in KRS 189.010; and

13 (c) "Vessel" means the same as defined in KRS 235.010.

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

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

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

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

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

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

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

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

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

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

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

17 (3) No employer may be penalized or denied any benefit under state law for
18 employing a cardholder.

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

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

26 (2) A cardholder otherwise entitled to custody of, visitation time, or parenting time
27 with a minor child shall not be denied that right, and there shall be no

1 presumption of abuse, neglect or dependency, for conduct permitted under
2 Sections 1 to 30 of this Act unless the person's actions in relation to medicinal
3 cannabis created an unreasonable danger to the safety of the minor child as
4 established by clear and convincing evidence.

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

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

13 (4) (a) No school may refuse to enroll, or otherwise penalize, a person solely for his
14 or her status as a cardholder, unless failing to do so would violate federal
15 law or regulations and cause the school to lose a monetary or licensing-
16 related benefit under federal law or regulations.

17 (b) No school may be penalized or denied any benefit under state law for
18 enrolling a cardholder.

19 (c) A local school board may develop regulations to permit a pupil who is a
20 cardholder and over eighteen (18) years of age to possess medicinal
21 cannabis on a school bus and to possess and use medicinal cannabis on the
22 premises of a school.

23 (5) (a) No landlord may refuse to lease to, or otherwise penalize, a person solely for
24 his or her status as a cardholder, unless failing to do so would violate
25 federal law or regulations and cause the landlord to lose a monetary or
26 licensing-related benefit under federal law or regulations.

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

1 leasing to a cardholder.

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

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

6 (1) Except as provided in subsection (11) of this section, a physician who is
7 authorized to prescribe controlled substances under KRS 320.240, or an
8 advanced practice registered nurse who is authorized to prescribe controlled
9 substances under KRS 314.042 seeking to provide written certifications for the
10 use of medicinal cannabis shall apply to the same state licensing board that
11 issued his or her professional practice license, on a form prescribed by the state
12 licensing board, for authorization to provide written certifications for the use of
13 medicinal cannabis.

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

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

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

1 (4) A practitioner authorized by a state licensing board to provide written
2 certifications for the use of medicinal cannabis may only provide a patient with a
3 written certification after the practitioner has:

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

5 (b) Diagnosed the patient with a qualifying medical condition or confirmed a
6 diagnosis for a qualifying medical condition provided by another health
7 care provider;

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

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

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

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

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

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

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

5 (c) For the purpose of applying for a registry identification card, a written
6 certification provided under this section shall be valid for a period of not
7 more than ninety (90) days. The practitioner may renew a written
8 certification for not more than three (3) additional periods of not more than
9 ninety (90) days each. Thereafter, the practitioner may issue another
10 certification to the patient only after an in-person examination or an
11 examination conducted via telehealth, as defined in KRS 304.17A-005, of
12 the patient by the practitioner.

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

17 (7) A practitioner shall not:

18 (a) Dispense medicinal cannabis; or

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

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

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

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

27 (c) Failing to properly evaluate a patient's medical history and current medical

1 condition prior to issuing a written certification;

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

3 (e) Any other violation of this section.

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

8 (10) The state licensing boards shall:

9 (a) No later than January 1, 2021, promulgate administrative regulations to
10 carry out the provisions of this section, including but not limited to:

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

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

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

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

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

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

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

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

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

7 (a) A research protocol;

8 (b) A clinical trial;

9 (c) An investigational new drug application; or

10 (d) An expanded access submission.

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

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

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

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

1 (3) A pharmacist who wishes to be authorized by the Kentucky Board of Pharmacy to
2 provide medicinal cannabis consultation services to cardholders or to enter into a
3 collaborative agreement with dispensaries, as required by Section 22 of this Act,
4 shall apply to the board on a form prescribed by the board.

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

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

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

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

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

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

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

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

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

1 based upon any act that is conducted in accordance with this section and
2 administrative regulations promulgated thereunder.

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

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

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

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

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

1 (5) A person with a valid registry identification card, or its equivalent, that was
2 issued pursuant to the laws of another state, district, territory, commonwealth,
3 insular possession of the United States, or country recognized by the United
4 States that allows the person to use medicinal cannabis in the jurisdiction of
5 issuance may use that registry identification card, or its equivalent, for all
6 purposes established in Sections 1 to 30 of this Act and shall not be required to
7 apply for or receive a visiting qualified patient registry identification card from
8 the department.

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

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

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

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

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

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

27 (f) A statement, signed by the individuals chosen by the qualified patient to be

- 1 designated as a caregiver, if any, agreeing to be designated as the patient's
2 designated caregiver and pledging not to divert medicinal cannabis to
3 anyone other than the registered qualified patient to whom the caregiver is
4 connected through the department's registration process. The statement
5 shall contain a listing of potential penalties, including criminal prosecution,
6 for diverting medicinal cannabis; and
7 (g) The application or renewal fee for a registry identification card for a
8 qualified patient and the application or renewal fee for a registry
9 identification card for any designated caregiver chosen by the qualified
10 patient.
11 (7) To apply for or renew a registry identification card, a qualified patient who is
12 under eighteen (18) years of age shall, in addition to the information required
13 under subsection (6) of this section, submit a statement signed by the custodial
14 parent or legal guardian with responsibility for health care decisions for the
15 qualified patient attesting to the fact that the custodial parent or legal guardian
16 agrees to:
17 (a) Allow the qualified patient to use medicinal cannabis;
18 (b) Serve as the qualified patient's designated caregiver; and
19 (c) Control the acquisition, dosage, and frequency of use of medicinal cannabis
20 by the qualified patient.
21 (8) To apply for or renew a registry identification card, a visiting qualified patient
22 shall submit the following, in accordance with administrative regulations
23 promulgated by the department:
24 (a) The name, address, and date of birth of the visiting qualified patient, except
25 that if the applicant is homeless an address where the applicant may be
26 reached shall be provided to the department;
27 (b) A copy of his or her valid registry identification card or its equivalent that

1 was issued pursuant to the laws of the jurisdiction of the person's residence;
2 (c) The application or renewal fee for a registry identification card for a
3 visiting qualified patient; and
4 (d) A statement, signed by the visiting qualified patient, pledging not to divert
5 medicinal cannabis to anyone who is not permitted to possess medicinal
6 cannabis pursuant to Sections 1 to 30 of this Act. The statement shall
7 contain a listing of potential penalties, including criminal prosecution, for
8 diverting medicinal cannabis.

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

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

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

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

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

24 (a) The name of the cardholder;
25 (b) A designation of whether the cardholder is a registered qualified patient,
26 visiting qualified patient, or designated caregiver;
27 (c) The date of issuance and expiration date of the registry identification card;

- 1 (d) A random alphanumeric identification number of at least ten (10)
2 characters, containing at least four (4) numbers and at least four (4) letters,
3 that is unique to the cardholder;
- 4 (e) A bar code or other marking that can be scanned electronically;
- 5 (f) A photograph of the cardholder, if the department's administrative
6 regulations require one;
- 7 (g) The telephone number and Web site address for the electronic verification
8 system developed by the department pursuant to subsection (1)(a) of Section
9 28 of this Act;
- 10 (h) If the cardholder is a designated caregiver, the random alphanumeric
11 identification number of the registered qualified patient the designated
12 caregiver is receiving the registry identification card to assist; and
- 13 (i) If the cardholder is under eighteen (18) years of age, a clear and obvious
14 designation or identifier indicating that the cardholder is under eighteen
15 (18) years of age.
- 16 (3) (a) Except as provided in this subsection, the expiration date for registry
17 identification cards shall be one (1) year after the date of issuance.
- 18 (b) If a practitioner states in the written certification that the qualified patient
19 would benefit from the use of medicinal cannabis until a specified earlier
20 date, then the registry identification card shall expire on that date.
- 21 (4) The department may, at its discretion, electronically store in the card all of the
22 information listed in subsection (2) of this section, along with the address and
23 date of birth of the cardholder, to allow it to be read electronically by law
24 enforcement agents and licensed cannabis businesses.
- 25 (5) The registry identification card application and renewal fees shall be as follows:
- 26 (a) A registry identification card for a qualified patient who is a Kentucky
27 resident shall be sixty dollars (\$60);

1 (b) A registry identification card for a visiting qualified patient shall be sixty
2 dollars (\$60); and

3 (c) A registry identification card for a designated caregiver shall be twenty
4 dollars (\$20) per registered qualified patient to whom the designated
5 caregiver is connected unless the designated caregiver is the parent, legal
6 guardian, spouse or adult child of the qualified patient, in which case there
7 shall be no fee for a registry identification card.

8 (6) (a) The department shall operate a provisional licensure receipt system for
9 registered qualified patients, designated caregivers, and visiting qualified
10 patients that shall be valid for forty-five (45) days, or until a permanent card
11 can be issued, as if it is a registry identification card issued pursuant to this
12 section and Sections 11 and 13 of this Act. This program shall be
13 implemented and operational simultaneously with the department's
14 implementation of the registry identification card program established in
15 this section. A provisional licensure receipt shall contain the following:

- 16 1. A temporary licensure number;
- 17 2. A barcode or other marking that can be scanned electronically;
- 18 3. The name of the applicant;
- 19 4. A designation of whether the cardholder is a registered qualified
20 patient, visiting qualified patient, or designated caregiver;
- 21 5. If the cardholder is under eighteen (18) years of age, a clear and
22 obvious designation or identifier indicating that the cardholder is
23 under eighteen (18) years of age;
- 24 6. The effective date of the receipt;
- 25 7. The expiration date of the receipt;
- 26 8. An indication that the cardholder fee has been paid;
- 27 9. An indication that the application has been submitted and is

1 apparently complete; and

2 10. The name of the certifying practitioner.

3 (b) The licensure receipt system shall be designed so that this provisional
4 licensure receipt shall be produced by the application Web site upon
5 completion of an application that includes a practitioner recommendation
6 and payment of the cardholder fee. To reduce application errors and
7 processing time, a recommending practitioner or a dispensary may offer a
8 service that allows an applicant to use a computer and printer on the
9 premises of the practitioner's office or dispensary to complete an
10 application and receive a provisional licensure receipt pursuant to this
11 subsection.

12 (c) Notwithstanding any other provision of Sections 1 to 30 of this Act, a valid
13 provisional licensure receipt issued pursuant to this subsection shall convey
14 to the individual whose name appears on the provisional licensure receipt
15 all of the same rights and privileges as a registry identification card issued
16 pursuant to this section and Sections 11 and 13 of this Act and shall be
17 accepted by a cannabis business in place of a registry identification card.

18 (7) All registry identification card fees collected by the department pursuant to
19 subsection (5) of this section shall be forwarded to the medicinal cannabis trust
20 fund established in Section 31 of this Act.

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

23 (1) Except as provided in subsections (2) to (4) of this section, the department shall:

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

27 (b) Issue registry identification cards to a qualified patient and any individual

1 designated by the qualified patient as a designated caregiver, or a visiting
2 qualified patient within five (5) days of approving the application or
3 renewal. An individual designated as a caregiver shall be issued a
4 designated caregiver registry identification card for each registered
5 qualified patient to whom he or she is connected through the department's
6 registration process.

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

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

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

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

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

15 (b) The designated caregiver application for the custodial parent or legal
16 guardian with responsibility for health care decisions for the qualified
17 patient is approved.

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

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

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

25 (c) Provided false or falsified information; or

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

- 1 (4) The department may deny an application or renewal for a designated caregiver's
2 registration card for any reason that the department, in the exercise of sound
3 discretion, deems sufficient, including but not limited to if the applicant:
4 (a) Is already registered as a designated caregiver for more than three (3)
5 registered qualified patients;
6 (b) Does not meet the eligibility requirements established in Section 11 of this
7 Act;
8 (c) Did not provide the information or materials required by Section 11 of this
9 Act;
10 (d) Previously had a registry identification card revoked;
11 (e) Provided false or falsified information;
12 (f) Was previously convicted of a disqualifying felony offense; or
13 (g) Has applied as a designated caregiver for a qualified patient whose
14 application or renewal for a registry identification card was denied.
15 (5) The department may deny an application or renewal for a visiting qualified
16 patient's registration card for any reason that the department, in the exercise of
17 sound discretion, deems sufficient, including but not limited to if the applicant:
18 (a) Did not provide the information or materials required by Section 11 of this
19 Act;
20 (b) Previously had a registry identification card revoked;
21 (c) Provided false or falsified information; or
22 (d) Does not meet the eligibility requirements established in Section 11 of this
23 Act.
24 (6) The department may conduct a criminal background check of any applicant if the
25 criminal background check is conducted solely to determine whether the
26 applicant was previously convicted of a disqualifying felony offense.
27 (7) The department shall notify the registered qualified patient who has designated

1 someone to serve as his or her designated caregiver if the individual designated as
2 a caregiver is denied a registry identification card.

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

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

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

14 (1) Cardholders shall be required to make the following notifications to the
15 department:

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

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

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

24 (d) A designated caregiver shall notify the department within thirty (30) days if
25 he or she becomes aware that a registered qualified patient to whom the
26 caregiver is connected through the department's registration process has
27 died or has ceased to suffer from the qualified medical condition for which

1 a practitioner provided a written certification; and

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

5 (2) When a cardholder notifies the department of items listed in paragraphs (b) or (d)
6 of subsection (1) of this section, the cardholder shall, within ten (10) days of
7 notification, return any unused medicinal marijuana products to a licensed
8 dispensary for destruction.

9 (3) When a cardholder notifies the department of items listed in subsection (1) of this
10 section, but remains eligible under Sections 1 to 30 of this Act, the department
11 shall issue the cardholder a new registry identification card with a new random
12 ten (10) character alphanumeric identification number. If the department issues
13 a new registry identification card to a registered qualified patient, the department
14 shall also issue a new registry identification card with a new ten (10) character
15 alphanumeric number to the registered qualified patient's designated caregiver.
16 New registry identification cards issued under this subsection shall be issued by
17 the department within ten (10) days of receiving the updated information and a
18 twenty dollar (\$20) fee for each new registry identification card to be issued.

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

24 (5) If a practitioner who provided a written certification notifies the department in
25 writing either that the registered qualified patient has died, ceased to suffer from
26 the qualifying medical condition for which a practitioner provided a written
27 certification, or that the practitioner no longer believes the patient might receive

1 therapeutic or palliative benefit from the use of medicinal cannabis, the
2 department shall promptly notify the registered qualified patient in writing. The
3 registered qualified patient's protections under Sections 1 to 30 of this Act shall
4 expire fifteen (15) days after notification by the department, and the registered
5 qualified patient shall have fifteen (15) days to dispose of or donate his or her
6 medicinal cannabis to a dispensary.

7 (6) All fees and penalties collected pursuant to this section shall be forwarded to the
8 medicinal cannabis trust fund established in Section 31 of this Act.

9 (7) A cardholder who fails to make a notification to the department that is required
10 by this section is subject to a violation, punishable by a penalty of no more than
11 one hundred fifty dollars (\$150).

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

14 (1) Any cardholder who sells, distributes, or dispenses medicinal cannabis to a
15 person who is not permitted to possess or use medicinal cannabis under Sections
16 1 to 30 of this Act shall have his or her registry identification card revoked and
17 shall be subject to other penalties, including but not limited to criminal
18 prosecution under this chapter and KRS 138.870 to 138.889.

19 (2) The department may revoke the registry identification card of any cardholder
20 who knowingly commits multiple violations or a serious violation of Sections 1 to
21 30 of this Act.

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

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

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

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

9 (2) The department shall create separate licenses allowing persons to operate a
10 cannabis business, pursuant to Sections 1 to 30 of this Act and any administrative
11 regulations promulgated thereunder, as:

12 (a) A cannabis cultivator, for which the license shall be tiered as follows:

13 1. Tier I, for which the initial licensing fee shall be five thousand dollars
14 (\$5,000);

15 2. Tier II, for which the initial licensing fee shall be ten thousand dollars
16 (\$10,000);

17 3. Tier III, for which the initial licensing fee shall be twenty-five
18 thousand dollars (\$25,000); and

19 4. Tier IV, for which the initial licensing fee shall be fifty thousand
20 dollars (\$50,000);

21 (b) A cannabis dispensary, for which the initial licensing fee shall be ten
22 thousand dollars (\$10,000);

23 (c) A cannabis processor, for which the initial licensing fee shall be twenty
24 thousand dollars (\$20,000);

25 (d) A cannabis producer, for which the initial licensing fee shall be seventy-five
26 thousand dollars (\$75,000); or

27 (e) A cannabis safety compliance facility, for which the initial licensing fee

1 shall be two thousand five hundred dollars (\$2,500).

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

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

8 (4) (a) A cannabis business license issued under this section and Sections 17 and
9 18 of this Act shall be valid for one (1) year from the date of issuance. The
10 department shall notify each licensee ninety (90) days prior to the date the
11 license expires to allow the licensee to begin the renewal procedure
12 promulgated by the department pursuant to Section 28 of this Act.

13 (b) The renewal of a cannabis business license shall be contingent upon
14 successful achievement of minimal performance standards established by
15 the department as part of the biennial accreditation process established by
16 the department pursuant to Section 3 of this Act.

17 (c) Cannabis business licensure renewal fees shall be:

18 1. Five hundred dollars (\$500) plus one percent (1%) of all gross receipts
19 during the previous calendar year for a cannabis business that, upon
20 applying for renewal of a cannabis business license, had no more than
21 two million dollars (\$2,000,000) of gross receipts during the previous
22 calendar year;

23 2. Two thousand dollars (\$2,000) plus one and one-half percent (1.5%)
24 of all gross receipts during the previous calendar year for a cannabis
25 business that, upon applying for renewal of a cannabis business
26 license, had more than two million dollars (\$2,000,000) but not more
27 than eight million dollars (\$8,000,000) of gross receipts during the

1 previous calendar year; and
2 3. Four thousand dollars (\$4,000) plus two percent (2%) of all gross
3 receipts during the previous calendar year for a cannabis business
4 that, upon applying for renewal of a cannabis business license, had
5 over eight million dollars (\$8,000,000) of gross receipts during the
6 previous calendar year.

7 (5) All licensure fees collected pursuant to this section shall be forwarded to the
8 medicinal cannabis trust fund established in Section 31 of this Act.

9 (6) The department shall approve a license holder's sale of a license issued pursuant
10 to this section and Sections 17 and 18 of this Act if the purchaser and any new
11 facilities meet the requirements of Sections 1 to 30 of this Act.

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

14 (1) The department shall create a uniform application form for the cannabis
15 business licenses established in Section 16 of this Act.

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

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

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

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

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

27 (e) Any information required by the department to evaluate the applicant

1 pursuant to the competitive application process described in Section 18 of
2 this Act; and

3 (f) A nonrefundable licensure application fee of one hundred dollars (\$100).

4 (3) The application fee required under subsection (2) of this section shall be applied
5 to the initial licensing fee if the license is approved; otherwise it shall be retained
6 by the department for administrative purposes.

7 (4) If a cannabis business license application is approved:

8 (a) The cannabis business shall, before it begins operations:

9 1. Submit the initial license fee established in Section 16 of this Act,
10 minus the one hundred dollars (\$100) application fee, to the
11 department; and

12 2. If a physical address or the global positioning system coordinates for
13 any cultivation activities had not been finalized when it applied, it
14 shall submit its complete physical address and the global positioning
15 system coordinates for any cultivation activities; and

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

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

22 (1) The department shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 a. Staffing and training plans;

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

26 c. Whether it has sufficient capital to operate; and

27 d. The ability to assist with the provision of an adequate supply of

1 medicinal cannabis to the cardholders in its locality, area
2 development district, or the state;

3 4. The sufficiency of the applicant's plans for recordkeeping;

4 5. The sufficiency of the applicant's plans for safety, security, and the
5 prevention of diversion, including proposed locations and security
6 devices employed;

7 6. The applicant's plan for making medicinal cannabis available on an
8 affordable basis to registered qualified patients who are veterans, or
9 who are enrolled in Medicaid or receiving Supplemental Security
10 Income or Social Security disability insurance;

11 7. The applicant's plan for safe and accurate packaging and labeling of
12 medicinal cannabis, including the applicant's plan for ensuring that
13 all medicinal cannabis is free of contaminants; and

14 8. The absence of violations by the applicant or one (1) or more of its
15 principal officers of any local, state, or federal tax, criminal, public
16 safety, food safety, discrimination, workplace safety, employment, or
17 other laws relevant to the operation of its business.

18 (4) Notwithstanding subsection (1)(b) of this section, if the department utilizes the
19 competitive application process described in subsection (3) of this section, the
20 department shall provide notification to the cannabis business license applicant
21 as to whether the application for a cannabis business license has been approved
22 or denied within ninety (90) days of receiving a completed application.

23 (5) Notwithstanding subsection (3)(a) of this section:

24 (a) No later than one (1) year after the effective date of this section, if a
25 sufficient number of cannabis business license applications has been
26 submitted to the department, the department shall:

27 1. Approve and issue at least:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (b) Acquire, possess, cultivate, process, manufacture, deliver, transfer,

1 transport, supply, dispense, or sell:

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

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

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

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

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

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

16 (e) Employ, have as a board member, or be owned by, in part or in whole, a
17 practitioner who has been authorized by a state licensing board to provide
18 patients with a written certification; or

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

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

1 control.

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

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

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

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

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

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

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

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

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

26 (1) Cannabis businesses shall be subject to reasonable inspection by the department
27 pursuant to the department's procedures or administrative regulations. The

1 department may inspect any licensed cannabis business premises without having
2 to first obtain a search warrant.

3 (2) Except as provided in Section 22 of this Act, the department may issue a civil fine
4 of up to three thousand dollars (\$3,000) to a cannabis business for a violation of
5 Sections 1 to 30 of this Act or any administrative regulations promulgated
6 thereunder. All fines collected pursuant to this section shall be forwarded to the
7 medicinal cannabis trust fund established in Section 31 of this Act.

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

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

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

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

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

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

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

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

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

18 (1) A cultivator or cultivator agent acting on behalf of a cultivator shall not be
19 subject to prosecution under state or local law, to search or inspection except by
20 the department pursuant to Section 20 of this Act, or to seizure or penalty in any
21 manner, or be denied any right or privilege, including but not limited to civil
22 penalty or disciplinary action by a court or business licensing board, for acting
23 pursuant to Sections 1 to 30 of this Act and the department's administrative
24 regulations for:

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

27 (b) Delivering, transporting, transferring, supplying, or selling raw plant

1 material or related supplies to other licensed cannabis businesses in this
2 state; or

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

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

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

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

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

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

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

20 (b) A Tier II cultivator shall not exceed an indoor growth area of ten thousand
21 (10,000) square feet.

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

24 (d) A Tier IV cultivator shall not exceed an growth area of fifty thousand
25 (50,000) square feet.

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

1 (1) A dispensary or dispensary agent acting on behalf of a dispensary shall not be
2 subject to prosecution under state or local law, to search or inspection except by
3 the department pursuant to Section 20 of this Act, to seizure or penalty in any
4 manner, or be denied any right or privilege, including but not limited to a civil
5 penalty or disciplinary action by a court or business licensing board, for acting
6 pursuant to Sections 1 to 30 of this Act and the department's administrative
7 regulations for:

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

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

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

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

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

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

25 (a) Maintain records that include specific notations of the amount of medicinal
26 cannabis being dispensed to a cardholder and whether it was dispensed
27 directly to a registered qualified patient or visiting qualified patient, or to a

1 registered qualified patient's designated caregiver. Each entry shall include
2 the date and time the medicinal cannabis was dispensed. The data required
3 to be recorded by this paragraph shall be entered into the electronic system
4 developed by the department pursuant to subsection (1)(a) of Section 28 of
5 this Act in accordance with administrative regulations promulgated by the
6 department for the record of medicinal cannabis dispensing;

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

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

14 1. That the registry identification card, or its equivalent for a visiting
15 qualified patient, presented to the dispensary is valid, including by
16 checking the verification system, if it is operational, or other
17 department-designated databases;

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

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

26 4. The amount of medicinal cannabis the person is legally permitted to
27 purchase at the time of verification pursuant to subsection (4) of

- 1 Section 4 of this Act by checking the electronic system developed by
2 the department pursuant to subsection (1)(a) of Section 28 of this Act,
3 if it is operational, or other department-designated databases;
- 4 (d) Not acquire, possess, dispense, sell, offer for sale, transfer, or transport:
- 5 1. Raw plant material with a delta-9 tetrahydrocannabinol content of
6 more than thirty-five percent (35%);
- 7 2. Medicinal cannabis products intended for oral consumption as an
8 edible, oil, or tincture with more than ten (10) milligrams of delta-9
9 tetrahydrocannabinol per serving;
- 10 3. Any medicinal cannabis product not described in subparagraph 1. or
11 2. of this paragraph with a delta-9 tetrahydrocannabinol content of
12 more than seventy percent (70%); or
- 13 4. Any medicinal cannabis product that contains vitamin E acetate;
- 14 (e) Not acquire medicinal cannabis from any person other than a cannabis
15 business licensed under this chapter, or an agent thereof, a registered
16 qualified patient, or a designated caregiver;
- 17 (f) Not sell or dispense medicinal cannabis products intended for consumption
18 by vaporizing to a cardholder who is less than twenty-one (21) years of age;
- 19 (g) Not dispense or sell medicinal cannabis to a minor;
- 20 (h) Not dispense or sell more medicinal cannabis to a cardholder than he or she
21 is legally permitted to purchase at the time of the transaction; and
- 22 (i) Not rent office space to a practitioner.
- 23 (3) A dispensary shall be required to establish and maintain a collaborative
24 agreement, as described in Section 10 of this Act, with a pharmacist authorized
25 by the Kentucky Board of Pharmacy to engage in a collaborative agreement with
26 a dispensary.
- 27 (4) (a) A dispensary may operate a delivery service for cardholders and may deliver

1 medicinal cannabis, medicinal cannabis accessories, and educational
2 material to cardholders at the address identified on the cardholder's registry
3 identification.

4 (b) All delivery services operated or offered by a dispensary shall comply with
5 administrative regulations promulgated by the department pursuant to this
6 section and Section 28 of this Act.

7 (5) If a dispensary fails to comply with subsection (2)(c) of this section, the
8 department may issue the dispensary a civil fine of up to fifty thousand dollars
9 (\$50,000), except that the fine shall be one hundred thousand dollars (\$100,000)
10 if the person purchasing or attempting to purchase medicinal cannabis is a
11 minor. All fines collected pursuant to this subsection shall be forwarded to the
12 medicinal cannabis trust fund established in Section 31 of this Act.

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

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

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

pursuant to Sections 1 to 30 of this Act and the department's administrative regulations for:

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

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

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

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

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

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

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

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

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

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

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

1 penalty or disciplinary action by a court or business licensing board, for acting
2 pursuant to Sections 1 to 30 of this Act and the department's administrative
3 regulations for:

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

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

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

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

13 (e) Possessing, processing, preparing, manufacturing, manipulating, blending,
14 preparing, or packaging medicinal cannabis;

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

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

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

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

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

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

1 manufacture:

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

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

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

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

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

13 A safety compliance facility or safety compliance facility agent acting on behalf of a
14 safety compliance facility shall not be subject to prosecution, search except by the
15 department pursuant to Section 20 of this Act, seizure, or penalty in any manner, or be
16 denied any right or privilege, including but not limited to civil penalty or disciplinary
17 action by a court or business licensing board, for acting in accordance with Sections 1
18 to 30 of this Act and the department's administrative regulations to provide the
19 following services:

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

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

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

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

1 (5) The production, sale, or transportation of equipment or materials other than
2 medicinal cannabis, including but not limited to lab equipment and packaging
3 materials that are used by cannabis businesses and cardholders, to cardholders or
4 cannabis businesses licensed under this chapter;

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

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

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

12 (b) Security and inventory accountability procedures; and

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

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

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

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

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

23 (2) A local government may:

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

1 business operations unreasonable or impractical;

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

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

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

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

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

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

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

25 (a) Before a petition for submission of the proposal may be presented for
26 signatures, an intent to circulate the petition, including a copy of the
27 unsigned petition, shall be filed with the county clerk of the affected

1 territory by any person or group of persons seeking the submission of the
2 public question. The statement of intent shall include the addresses of the
3 person or group of persons and shall specify the person or group of persons,
4 as well as the address, to whom all notices are to be sent. Within ten (10)
5 days after the intent to circulate the petition is filed, the county clerk shall
6 deliver a copy of the intent to circulate the petition, including a copy of the
7 unsigned petition, to the legislative body of the affected territory;

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

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

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

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

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

1 opportunity before signing to read the full text of the proposal;

2 (g) No signer of the petition may withdraw his or her name or have it taken
3 from the petition after the petition has been filed. If the name of any person
4 has been placed on the petition for submission of the public question
5 without that person's authority, the person may, at any time prior to
6 certification of sufficiency of the petition by the county clerk as required by
7 paragraph (h) of this subsection, request the removal of his or her name by
8 the county board of elections and, upon proof that the person's name was
9 placed on the petition without his or her authority, the person's name and
10 personal information shall be eliminated, and he or she shall not be
11 counted as a petitioner;

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

26 (i) A final determination as to the sufficiency of a petition shall be subject to
27 review in the Circuit Court of the county of the affected territory and shall

1 be limited to the validity of the county clerk's determination. A final
2 determination of insufficiency shall not prejudice the filing of a new
3 petition for the same purpose; and

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

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

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

24 (8) In circumstances where a county, consolidated local government, charter county
25 government, or unified local government prohibits cannabis business operations
26 but a city within that county, consolidated local government, charter county
27 government, or unified local government approves cannabis business operations

1 either through the adoption of an ordinance or following the affirmative vote of a
2 public question allowing cannabis business operations, then:

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

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

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

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

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

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

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

1 court.

2 (3) The following information received and records kept pursuant to the
3 department's administrative regulations promulgated for purposes of
4 administering Sections 1 to 30 of this Act shall be confidential and exempt from
5 the Open Records Act, KRS 61.870 to 61.884, and shall not be subject to
6 disclosure to any individual or public or private entity, except as necessary for
7 authorized employees of the department to perform official duties pursuant to
8 Sections 1 to 30 of this Act:

9 (a) Applications and renewals, their contents, and supporting information
10 submitted by qualified patients, visiting qualified patients, and designated
11 caregivers in compliance with Section 11 of this Act, including information
12 regarding their designated caregivers and practitioners;

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

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

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

23 Data subject to this section shall not be combined or linked in any manner with
24 any other list or database maintained by the department or the Public Protection
25 Cabinet and shall not be used for any purpose not provided for in Sections 1 to 30
26 of this Act.

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

- 1 (a) Notification by the department's employees to state or local law enforcement
2 about falsified or fraudulent information submitted to the department or of
3 other apparently criminal violations of Sections 1 to 30 of this Act if the
4 employee who suspects that falsified or fraudulent information has been
5 submitted has conferred with his or her supervisor and both agree that
6 circumstances exist that warrant reporting;
- 7 (b) Notification by the department's employees to state licensing board if the
8 department has reasonable suspicion to believe a practitioner did not have a
9 bona fide practitioner-patient relationship with a patient for whom he or
10 she signed a written certification, if the department has reasonable
11 suspicion to believe the practitioner violated the standard of care, or for
12 other suspected violations of Sections 1 to 30 of this Act by a practitioner;
- 13 (c) Notification by dispensary agents to the department of a suspected violation
14 or attempted violation of Sections 1 to 30 of this Act or the administrative
15 regulations promulgated thereunder;
- 16 (d) Verification by the department of registry identification cards issued
17 pursuant to Sections 11 to 13 of this Act; and
- 18 (e) The submission of the report required by Section 3 of this Act to the
19 General Assembly.
- 20 (5) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in
21 jail and a one thousand dollar (\$1,000) fine for any person, including an
22 employee or official of the department or another state agency or local
23 government, to knowingly breach the confidentiality of information obtained
24 pursuant to Sections 1 to 30 of this Act.

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

- 27 (1) No later than January 1, 2021, the department shall:

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

4 1. Practitioners to record the issuance of written certifications to
5 qualified patients, as required by Section 11 of this Act;

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

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

10 4. Department personnel, law enforcement personnel, and dispensary
11 agents to verify the validity of registry identification cards issued by
12 the department by entering a registry identification number to
13 determine whether or not the identification number corresponds with
14 a current, valid registry identification card. The system shall only
15 disclose whether the identification card is valid and whether the
16 cardholder is a registered qualified patient, visiting qualified patient,
17 or designated caregiver;

18 5. Law enforcement personnel and dispensary agents to access medicinal
19 cannabis sales data record by dispensary agents pursuant to Section
20 22 of this Act;

21 6. Dispensary agents to record the amount of medicinal cannabis that is
22 dispensed to a cardholder during each transaction as required by
23 Section 22 of this Act; and

24 7. The sharing of dispensing data recorded by dispensary agents
25 pursuant to Section 22 of this Act with all dispensaries in real time;

26 (b) Establish, maintain, and operate an electronic inventory tracking system
27 that is capable of tracking medicinal cannabis from the point of cultivation

1 to the point of sale to cardholders; and

2 (c) Promulgate administrative regulations to establish:

3 1. A list of qualifying medical conditions for which practitioners may
4 provide a patient with a written certification for the use of medicinal
5 cannabis, pursuant to Section 3 of this Act. The list shall, at a
6 minimum, include the following:

7 a. Chronic pain;

8 b. Epilepsy;

9 c. Multiple sclerosis; and

10 d. Nausea or vomiting;

11 2. Procedures for the issuance, renewal, suspension, and revocation of
12 registry identification cards, including the creation of a standardized
13 written certification form and a uniform application form;

14 3. Procedures for the issuance and revocation of registry identification
15 cards;

16 4. Procedures for the issuance, renewal, suspension, and revocation of
17 cannabis business licenses, including the creation of a uniform
18 licensure application form and the competitive application process
19 described in Section 18 of this Act, with all such procedures subject to
20 the requirements of KRS Chapters 13A and 13B;

21 5. A convenience fee to be assessed and collected by dispensaries for
22 visiting qualified patients who do not possess a valid registry
23 identification card issued by the department and who purchase
24 medicinal cannabis with a registry identification card or its equivalent
25 issued pursuant to the laws of another state, district, territory,
26 commonwealth, insular possession of the United States, or country
27 recognized by the United States that allows the person to use

1 medicinal cannabis in the jurisdiction of issuance. The convenience
2 fee established pursuant to this subparagraph shall not exceed fifteen
3 dollars (\$15) per transaction;

4 6. A definition of the amount of medicinal cannabis or delta-9
5 tetrahydrocannabinol that constitutes a daily supply, a ten (10) day
6 supply, and a thirty (30) day supply as well as the amount of raw plant
7 material that medicinal cannabis products are considered to be
8 equivalent to, in collaboration with the Board of Physicians in
9 accordance with Section 3 of this Act;

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

15 a. Recordkeeping and inventory control requirements including the
16 use of the electronic systems developed by the department
17 pursuant to paragraphs (a) and (b) of this subsection;

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

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

- 1 d. Procedures for the secure transportation, including delivery
2 services provided by dispensaries, and storage of medicinal
3 cannabis by cannabis business licensees and their employees or
4 agents;
- 5 e. Employment and training requirements for licensees and their
6 agents, including requiring each licensee to create an
7 identification badge for each of the licensee's agents or
8 employees; and
- 9 f. Restrictions on visits to licensed cultivation and processing
10 facilities, including requiring the use of visitor logs;
- 11 8. Procedures to establish, publish, and annually update a list of varieties
12 of cannabis that possess a low but effective level of
13 tetrahydrocannabinol, including the substance cannabidiol, by
14 comparing percentages of chemical compounds within a given variety
15 against other varieties of cannabis;
- 16 9. A rating system that tracks the terpene content of at least the twelve
17 (12) major terpenoids within each strain of cannabis available for
18 medicinal use within the Commonwealth;
- 19 10. Requirements for random sample testing of medicinal cannabis to
20 ensure quality control, including testing for cannabinoids, terpenoids,
21 residual solvents, pesticides, poisons, toxins, mold, mildew, insects,
22 bacteria, and any other dangerous adulterant;
- 23 11. Requirements for licensed cultivators, producers, and processors to
24 contract with an independent safety compliance facility to test the
25 medicinal cannabis before it is sold at a dispensary. The department
26 may approve the safety compliance facility chosen by a cultivator,
27 producer, or processor and require that the safety compliance facility

1 report test results for a designated quantity of medicinal cannabis to
2 the cultivator, producer, or processor and department;

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

5 a. Requirements for equipment;

6 b. Personnel qualifications; and

7 c. Requiring facilities to be accredited by a relevant certifying
8 entity;

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

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

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

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

20 d. Disclosing ingredients, possible allergens, and certain bioactive
21 components, including cannabinoids and terpenoids, as
22 determined by the department;

23 e. A nutritional fact panel;

24 f. Opaque, child-resistant packaging;

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

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

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

6 j. A requirement that medicinal cannabis products and their
7 packaging not be visually reminiscent of major brands of edible
8 noncannabis products or otherwise present an attractive
9 nuisance to minors;

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

13 15. Restrictions on:

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

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

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

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

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

- 1 19. The requirement that evidence-based educational materials regarding
2 dosage and impairment be disseminated to registered qualified
3 patients, visiting qualified patients, and designated caregivers who
4 purchase medicinal cannabis products;
- 5 20. Policies governing insurance requirements for cultivators,
6 dispensaries, processors, producers, and safety compliance facilities;
- 7 21. The process by which the board will consider adding additional
8 diseases and medical conditions to the list of qualifying medical
9 conditions established in Section 1 of this Act; and
- 10 22. Standards, procedures, or restrictions that the department deems
11 necessary to ensure the efficient, transparent, and safe operation of
12 the medicinal cannabis program, except that the department shall not
13 promulgate any administrative regulation that would impose an undue
14 burden or make cannabis business operations unreasonable or
15 impractical.
- 16 (2) The department shall perform all acts necessary or advisable for the purpose of
17 contracting with a third party for the development and maintenance of the
18 electronic systems described in subsection (1)(a) and (b) of this section.
- 19 (3) Except as provided in subsection (1)(g) of Section 5 of this Act, subsection (2)(b)
20 of Section 19 of this Act, subsection (2)(d) of Section 22 of this Act, subsection (2)
21 of Section 23 of this Act, subsection (3) of Section 24 of this Act, and paragraph
22 (c)10., 13., 15., and 16. of this section, the department shall not restrict or limit
23 methods of delivery, use, or consumption of medicinal cannabis or the types of
24 products that may be acquired, produced, processed, possessed, sold, or
25 distributed by a cannabis business.
- 26 (4) If a need for additional cannabis cultivation in this state is demonstrated by
27 cannabis businesses or the department's own analysis, the department may

through the promulgation of administrative regulations increase the cultivation area square footage limits for either cultivators or producers, or both by up to three (3) times the limits established in Sections 21 and 24 of this Act. Any increase in the cultivation square footage limits adopted by the department pursuant to this section shall not result in an increase in the licensure application or renewal fees established in Section 16 of this Act.

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

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

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

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

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

(1) Any amount of medicinal cannabis that is necessary or reasonably necessary for use of a license or registry identification card issued pursuant to Sections 1 to 30 of this Act; or

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

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

1 (1) The medicinal cannabis trust fund is hereby created within the State Treasury.
2 The fund shall consist of funds collected from registration fees, licensing fees,
3 finances, and penalties established pursuant to Sections 1 to 26 and Section 28 of
4 this Act and any administrative regulations promulgated thereunder, a portion of
5 the excise taxes imposed under Section 33 of this Act, and any proceeds from
6 grants, contributions, appropriations, or other moneys made available for
7 purposes of this fund.

8 (2) The medicinal cannabis trust fund shall be administered by the Finance and
9 Administration Cabinet.

10 (3) The Finance and Administration Cabinet shall, no later than the fifteenth
11 calendar day of each calendar quarter, distribute the funds deposited into the
12 medicinal cannabis trust fund during the previous calendar quarter. Trust fund
13 moneys shall be distributed as follows:

14 (a) Sixty percent (60%) shall be transferred to the Department for Public
15 Health to offset the department's actual cost and expenses for operating the
16 medicinal cannabis program and enforcement activities established in
17 Sections 1 to 30 of this Act;

18 (b) Two and one-half percent (2.5%) shall be transferred to the Department for
19 Public Health for the purpose of developing, implementing, and
20 administering a grant program to further education and scientific and
21 clinical research on the medicinal use of cannabis;

22 (c) Thirteen and three-quarters percent (13.75%) shall be transferred to the
23 Office of Drug Control Policy, as established in KRS 15A.020, for the
24 purpose of developing, implementing, and administering a grant program
25 for city and county law enforcement agencies to enforce medicinal cannabis
26 laws, hire and train additional drug recognition experts (DRE), and provide
27 advanced roadside impaired driving enforcement (ARIDE) training;

1 (d) Thirteen and three-quarters percent (13.75%) shall be returned equally to
2 dispensaries for the use of indigent persons who are registered qualified
3 patients enrolled in Medicaid, receiving Supplemental Security Income or
4 Social Security disability insurance, or veterans of the United States Armed
5 Forces; and

6 (e) The remaining ten percent (10%) shall be retained by the Finance and
7 Administration Cabinet in the fund to cover any additional administrative
8 costs that the Department for Public Health may incur related to its
9 operational and enforcement responsibilities as established in Sections 1 to
10 30 of this Act. If the department is able to demonstrate to the Finance and
11 Administration Cabinet a need for any portion of the retained funds, the
12 Finance and Administration Cabinet shall distribute the additional funds
13 for which the department has demonstrated need no later than the fifteenth
14 calendar day of the next calendar quarter. If the department cannot
15 demonstrate a need for the additional funding described in this paragraph,
16 the retained funds shall be equally divided between the grant programs and
17 the indigent patient program described in paragraphs (b), (c), and (d) of
18 subsection (3) of this section at the close of each fiscal year.

19 (4) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the
20 fiscal year shall not lapse but shall be equally divided between the grant
21 programs and the indigent patient program described in paragraphs (b), (c), and
22 (d) of subsection (3) of this section.

23 (5) Any interest earnings of the trust fund shall become part of the fund and shall
24 not lapse.

25 (6) Moneys transferred to the fund are hereby appropriated for the purposes set forth
26 in this section.

27 ➔SECTION 32. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

1 TO READ AS FOLLOWS:

2 (1) The local medicinal cannabis trust fund is hereby created within the State
3 Treasury. The fund shall consist of funds collected from a portion of the excise
4 taxes imposed under Section 33 of this Act.

5 (2) The local medicinal cannabis trust fund shall be administered by the Finance
6 and Administration Cabinet.

7 (3) The Finance and Administration Cabinet shall, no later than the fifteenth
8 calendar day of each calendar quarter, distribute the funds deposited into the
9 local medicinal cannabis trust fund during the calendar quarter immediately
10 preceding the most recent calendar quarter. Funds shall be distributed among
11 those cities and counties in which at least one (1) cannabis business licensed as a
12 cultivator, dispensary, processor, or producer operated during the calendar
13 quarter immediately preceding the most recent calendar quarter as follows:

14 (a) 1. The funds deposited into the local medicinal cannabis trust fund
15 during the calendar quarter immediately preceding the most recent
16 calendar quarter shall be divided into two (2) equal parts;

17 2. Half of the funds deposited into the local medicinal cannabis trust
18 fund during the calendar quarter immediately preceding the most
19 recent calendar quarter shall be distributed to cities and counties in
20 which at least one (1) cannabis business licensed as a cultivator,
21 processor, or producer operated during the calendar quarter
22 immediately preceding the most recent calendar quarter as follows:

23 a. i. A city in which at least one (1) cannabis business licensed
24 as a cultivator, processor, or producer operated during the
25 calendar quarter immediately preceding the most recent
26 calendar quarter shall receive an amount equal to seven
27 and one-half percent (7.5%) of the total excise tax revenue

1 collected from all cannabis businesses licensed to operate
2 inside the territory of the city during the calendar quarter
3 immediately preceding the most recent calendar quarter; or

4 ii. If the county in which the city is located has prohibited the
5 operation of cannabis businesses, then the city shall receive
6 an amount equal to ten percent (10%) of the total excise tax
7 revenue collected from all cannabis businesses licensed to
8 operate inside the territory of the city during the calendar
9 quarter immediately preceding the most recent calendar
10 quarter; and

11 b. A county that has not prohibited the operation of cannabis
12 businesses, pursuant to Section 26 of this Act, and in which at
13 least one (1) cannabis business licensed as a cultivator,
14 processor, or producer operated during the calendar quarter
15 immediately preceding the most recent calendar quarter shall
16 receive an amount equal to ten percent (10%) of the total excise
17 tax revenue collected from all cannabis businesses licensed to
18 operate within the territory of the county, but outside the
19 territory of any city in that county, during the calendar quarter
20 immediately preceding the most recent calendar quarter plus two
21 and one-half percent (2.5%) of the total excise tax revenue
22 collected from all cannabis businesses licensed to operate inside
23 the territory of an incorporated municipality inside the territory
24 of the county during the calendar quarter immediately preceding
25 the most recent calendar quarter; and

26 3. The other half of the funds deposited into the local medicinal
27 cannabis trust fund during the calendar quarter immediately

1 preceding the most recent calendar quarter shall be distributed to
2 cities and counties in which at least one (1) cannabis business licensed
3 as a dispensary was operated during the calendar quarter immediately
4 preceding the most recent calendar quarter as follows:

5 a. i. A city in which at least one (1) cannabis business licensed
6 as a dispensary operated during the calendar quarter
7 immediately preceding the most recent calendar quarter
8 shall receive a percentage of the funds described in this
9 subparagraph equal to seventy-five percent (75%) of the
10 city's proportionate share of gross receipts derived from the
11 retail sales of medicinal cannabis products by licensed
12 dispensaries in the territory of that city divided by the total
13 statewide retail sales of medicinal cannabis products by all
14 licensed dispensaries in the state during the calendar
15 quarter immediately preceding the most recent calendar
16 quarter; or

17 ii. If the county in which the city is located has prohibited the
18 operation of cannabis businesses, then the city shall receive
19 a percentage of the funds described in this subparagraph
20 equal to one hundred percent (100%) of the city's
21 proportionate share of gross receipts derived from the retail
22 sales of medicinal cannabis products by licensed
23 dispensaries in the territory of that city divided by the total
24 statewide retail sales of medicinal cannabis products by all
25 licensed dispensaries in the state during the calendar
26 quarter immediately preceding the most recent calendar
27 quarter; and

1 b. A county that has not prohibited the operation of cannabis
2 businesses, pursuant to Section 26 of this Act, and in which at
3 least one (1) cannabis business licensed as a dispensary operated
4 during the calendar quarter immediately preceding the most
5 recent calendar quarter shall receive a percentage of the funds
6 described in this subparagraph equal to one hundred percent
7 (100%) of the county's proportionate share of gross receipts
8 derived from the retail sales of medicinal cannabis products by
9 licensed dispensaries within the territory of that county, but
10 outside the territory of any city in that county, divided by the total
11 statewide retail sales of medicinal cannabis products by all
12 licensed dispensaries in the state during the calendar quarter
13 immediately preceding the most recent calendar quarter plus a
14 percentage of the funds described in this subparagraph equal to
15 twenty-five percent (25%) of the proportionate share of gross
16 receipts derived from the retail sales of medicinal cannabis
17 products by licensed dispensaries within the territory of all cities
18 in the county divided by the total statewide retail sales of
19 medicinal cannabis products by all licensed dispensaries in the
20 state during the calendar quarter immediately preceding the
21 most recent calendar quarter.

22 (4) Trust fund moneys may be used for the purposes of local enforcement of
23 medicinal cannabis laws by local law enforcement agencies, local medicinal
24 cannabis licensing, the hiring or training of additional drug recognition experts
25 (DRE), advanced roadside impaired driving enforcement (ARIDE) training, local
26 evidence-based drug addiction rehabilitation projects, or educational activities
27 within local jails.

1 (5) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the
2 fiscal year shall not lapse but shall be carried forward to the next fiscal year.

3 (6) Any interest earnings of the trust fund shall become part of the fund and shall
4 not lapse.

5 (7) Moneys transferred to the fund are hereby appropriated for the purposes set forth
6 in this section.

7 (8) As used in this section, "county" has the same meaning as in KRS 65A.010.

8 ➔SECTION 33. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) As used in this section:

11 (a) "Cultivator" has the same meaning as in Section 1 of this Act;

12 (b) "Department" means the Department of Revenue;

13 (c) "Dispensary" has the same meaning as in Section 1 of this Act;

14 (d) "Medicinal cannabis" has the same meaning as in Section 1 of this Act;

15 (e) "Processor" has the same meaning as in Section 1 of this Act; and

16 (f) "Producer" has the same meaning as in Section 1 of this Act.

17 (2) Effective January 1, 2021:

18 (a) An excise tax is hereby imposed on the gross receipts of a cultivator,
19 processor, or producer received from the sale of medicinal cannabis by a
20 cultivator, processor, or producer to a dispensary, to be paid by the
21 cultivator, processor, or producer at a rate of twelve percent (12%) of the
22 actual price for which a cultivator, processor, or producer sells medicinal
23 cannabis to a dispensary in this state.

24 (b) The tax shall be charged against and be paid by the cultivator, processor, or
25 producer and shall not be added as a separate charge or line item on any
26 sales slip, invoice, receipt, or other statement or memorandum of the price
27 paid by the dispensary.

1 (3) (a) Eighty percent (80%) of the revenue from the excise tax established in this
2 paragraph shall be deposited in the medicinal cannabis trust fund
3 established in Section 31 of this Act for the purpose of administration of the
4 medicinal cannabis program and for the purposes established in that
5 section.

6 (b) Twenty percent (20%) of the revenue from the excise tax established in this
7 paragraph shall be deposited in the local medicinal cannabis trust fund
8 established in Section 32 of this Act for the purposes of distributing tax
9 proceeds among participating local governments and for the purposes
10 established in that section; and

11 (4) Cultivators, processors, and producers licensed under KRS Chapter 218A shall:

12 (a) Register with the department;

13 (b) Report and pay the tax levied under this section on or before the twentieth
14 day of the calendar month immediately following the month in which the
15 medicinal cannabis was sold. A tax return shall be filed for each reporting
16 period whether or not tax is due; and

17 (c) Identify the county and city, if any, in which the medicinal cannabis
18 business is located.

19 (5) Any person who violates any provision of this section shall be subject to the
20 uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax
21 interest rate as defined in KRS 131.010(6) from the date due until the date of
22 payment.

23 (6) (a) Notwithstanding any other provision of this section, the president, vice
24 president, secretary, treasurer, or any other person holding any equivalent
25 corporate office of any corporation subject to the provisions of this section
26 shall be personally and individually liable, both jointly and severally, for the
27 taxes imposed under this section.

- 1 **(b) Corporate dissolution, withdrawal of the corporation from the state, or the**
2 **cessation of holding any corporate office shall not discharge the liability of**
3 **any person. The personal and individual liability shall apply to every person**
4 **holding a corporate office at the time the tax becomes or became due.**
- 5 **(c) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-**
6 **306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of**
7 **a limited liability company, the partners of a limited liability partnership,**
8 **and the general partners of a limited liability limited partnership, or any**
9 **other person holding any equivalent office of a limited liability company,**
10 **limited liability partnership, or limited liability limited partnership subject to**
11 **the provisions of this section shall be personally and individually liable,**
12 **both jointly and severally, for the tax imposed under this section.**
- 13 **(d) Dissolution, withdrawal of the limited liability company, limited liability**
14 **partnership, or limited liability limited partnership from the state, or the**
15 **cessation of holding any office shall not discharge the liability of any**
16 **person. The personal and individual liability shall apply to every manager**
17 **of a limited liability company, partner of a limited liability partnership, or**
18 **general partner of a limited liability limited partnership at the time the tax**
19 **becomes or became due.**
- 20 **(e) No person shall be personally and individually liable under this section who**
21 **had no authority to truthfully account for, or pay over, any tax imposed by**
22 **this section at the time the tax imposed becomes or became due.**
- 23 **(f) "Taxes" as used in this section includes interest accrued at the rate**
24 **provided by KRS 131.183, all applicable penalties imposed under the**
25 **provisions of this chapter, and all applicable penalties imposed under KRS**
26 **131.180, 131.410 to 131.445, and 131.990.**
- 27 **(7) The department shall administer the provisions of this chapter and shall have all**

1 of the powers, rights, duties, and authority with respect to the assessment,
2 collection, refunding, and administration of the taxes levied by this section,
3 conferred generally upon the department by the Kentucky Revised Statutes,
4 including KRS Chapters 131, 134, and 135.

5 (8) Every cultivator, processor, and producer shall keep records, receipts, invoices,
6 and other pertinent papers in such form as the department may require for not
7 less than four (4) years from the making of such records, receipts, invoices, and
8 other pertinent papers.

9 ➔Section 34. KRS 342.815 is amended to read as follows:

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

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

17 (a) The employer owes undisputed premiums to a previous workers'
18 compensation carrier or to a workers' compensation residual market
19 mechanism; or

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

22 ➔Section 35. KRS 139.470 is amended to read as follows:

23 There are excluded from the computation of the amount of taxes imposed by this chapter:

24 (1) Gross receipts from the sale of, and the storage, use, or other consumption in this
25 state of, tangible personal property or digital property which this state is prohibited
26 from taxing under the Constitution or laws of the United States, or under the
27 Constitution of this state;

1 (2) Gross receipts from sales of, and the storage, use, or other consumption in this state
2 of:

3 (a) Nonreturnable and returnable containers when sold without the contents to
4 persons who place the contents in the container and sell the contents together
5 with the container; and

6 (b) Returnable containers when sold with the contents in connection with a retail
7 sale of the contents or when resold for refilling;

8 As used in this section the term "returnable containers" means containers of a kind
9 customarily returned by the buyer of the contents for reuse. All other containers are
10 "nonreturnable containers";

11 (3) Gross receipts from occasional sales of tangible personal property or digital
12 property and the storage, use, or other consumption in this state of tangible personal
13 property or digital property, the transfer of which to the purchaser is an occasional
14 sale;

15 (4) Gross receipts from sales of tangible personal property to a common carrier,
16 shipped by the retailer via the purchasing carrier under a bill of lading, whether the
17 freight is paid in advance or the shipment is made freight charges collect, to a point
18 outside this state and the property is actually transported to the out-of-state
19 destination for use by the carrier in the conduct of its business as a common carrier;

20 (5) Gross receipts from sales of tangible personal property sold through coin-operated
21 bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the
22 retailer is primarily engaged in making the sales and maintains records satisfactory
23 to the department. As used in this subsection, "bulk vending machine" means a
24 vending machine containing unsorted merchandise which, upon insertion of a coin,
25 dispenses the same in approximately equal portions, at random and without
26 selection by the customer;

27 (6) Gross receipts from sales to any cabinet, department, bureau, commission, board, or

1 other statutory or constitutional agency of the state and gross receipts from sales to
2 counties, cities, or special districts as defined in KRS 65.005. This exemption shall
3 apply only to purchases of tangible personal property, digital property, or services
4 for use solely in the government function. A purchaser not qualifying as a
5 governmental agency or unit shall not be entitled to the exemption even though the
6 purchaser may be the recipient of public funds or grants;

7 (7) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky
8 residents for use in heating, water heating, cooking, lighting, and other
9 residential uses. As used in this subsection, "fuel" shall include but not be
10 limited to natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood.
11 Determinations of eligibility for the exemption shall be made by the
12 department;

13 (b) In making the determinations of eligibility, the department shall exempt from
14 taxation all gross receipts derived from sales:

- 15 1. Classified as "residential" by a utility company as defined by applicable
16 tariffs filed with and accepted by the Public Service Commission;
- 17 2. Classified as "residential" by a municipally owned electric distributor
18 which purchases its power at wholesale from the Tennessee Valley
19 Authority;
- 20 3. Classified as "residential" by the governing body of a municipally owned
21 electric distributor which does not purchase its power from the
22 Tennessee Valley Authority, if the "residential" classification is
23 reasonably consistent with the definitions of "residential" contained in
24 tariff filings accepted and approved by the Public Service Commission
25 with respect to utilities which are subject to Public Service Commission
26 regulation.

27 If the service is classified as residential, use other than for "residential"

1 purposes by the customer shall not negate the exemption;

2 (c) The exemption shall not apply if charges for sewer service, water, and fuel are
3 billed to an owner or operator of a multi-unit residential rental facility or
4 mobile home and recreational vehicle park other than residential
5 classification; and

6 (d) The exemption shall apply also to residential property which may be held by
7 legal or equitable title, by the entireties, jointly, in common, as a
8 condominium, or indirectly by the stock ownership or membership
9 representing the owner's or member's proprietary interest in a corporation
10 owning a fee or a leasehold initially in excess of ninety-eight (98) years;

11 (8) Gross receipts from sales to an out-of-state agency, organization, or institution
12 exempt from sales and use tax in its state of residence when that agency,
13 organization, or institution gives proof of its tax-exempt status to the retailer and the
14 retailer maintains a file of the proof;

15 (9) (a) Gross receipts derived from the sale of, the following tangible personal
16 property to a manufacturer or industrial processor if the property is to be
17 directly used in the manufacturing or industrial processing process of tangible
18 personal property at a plant facility and which will be for sale:

19 1. Materials which enter into and become an ingredient or component part
20 of the manufactured product;

21 2. Other tangible personal property which is directly used in the
22 manufacturing or industrial processing process, if the property has a
23 useful life of less than one (1) year. Specifically these items are
24 categorized as follows:

25 a. Materials. This refers to the raw materials which become an
26 ingredient or component part of supplies or industrial tools exempt
27 under subdivisions b. and c. below;

- 1 b. Supplies. This category includes supplies such as lubricating and
2 compounding oils, grease, machine waste, abrasives, chemicals,
3 solvents, fluxes, anodes, filtering materials, fire brick, catalysts,
4 dyes, refrigerants, and explosives. The supplies indicated above
5 need not come in direct contact with a manufactured product to be
6 exempt. "Supplies" does not include repair, replacement, or spare
7 parts of any kind; and
- 8 c. Industrial tools. This group is limited to hand tools such as jigs,
9 dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns
10 and to tools attached to a machine such as molds, grinding balls,
11 grinding wheels, dies, bits, and cutting blades. Normally, for
12 industrial tools to be considered directly used in the manufacturing
13 or industrial processing process, they shall come into direct contact
14 with the product being manufactured or processed; and
- 15 3. Materials and supplies that are not reusable in the same manufacturing
16 or industrial processing process at the completion of a single
17 manufacturing or processing cycle. A single manufacturing cycle shall
18 be considered to be the period elapsing from the time the raw materials
19 enter into the manufacturing process until the finished product emerges
20 at the end of the manufacturing process.
- 21 (b) The property described in paragraph (a) of this subsection shall be regarded as
22 having been purchased for resale.
- 23 (c) For purposes of this subsection, a manufacturer or industrial processor
24 includes an individual or business entity that performs only part of the
25 manufacturing or industrial processing activity, and the person or business
26 entity need not take title to tangible personal property that is incorporated into,
27 or becomes the product of, the activity.

1 (d) The exemption provided in this subsection does not include repair,
2 replacement, or spare parts;

3 (10) Any water use fee paid or passed through to the Kentucky River Authority by
4 facilities using water from the Kentucky River basin to the Kentucky River
5 Authority in accordance with KRS 151.700 to 151.730 and administrative
6 regulations promulgated by the authority;

7 (11) Gross receipts from the sale of newspaper inserts or catalogs purchased for storage,
8 use, or other consumption outside this state and delivered by the retailer's own
9 vehicle to a location outside this state, or delivered to the United States Postal
10 Service, a common carrier, or a contract carrier for delivery outside this state,
11 regardless of whether the carrier is selected by the purchaser or retailer or an agent
12 or representative of the purchaser or retailer, or whether the F.O.B. is retailer's
13 shipping point or purchaser's destination.

14 (a) As used in this subsection:

15 1. "Catalogs" means tangible personal property that is printed to the special
16 order of the purchaser and composed substantially of information
17 regarding goods and services offered for sale; and

18 2. "Newspaper inserts" means printed materials that are placed in or
19 distributed with a newspaper of general circulation.

20 (b) The retailer shall be responsible for establishing that delivery was made to a
21 non-Kentucky location through shipping documents or other credible evidence
22 as determined by the department;

23 (12) Gross receipts from the sale of water used in the raising of equine as a business;

24 (13) Gross receipts from the sale of metal retail fixtures manufactured in this state and
25 purchased for storage, use, or other consumption outside this state and delivered by
26 the retailer's own vehicle to a location outside this state, or delivered to the United
27 States Postal Service, a common carrier, or a contract carrier for delivery outside

1 this state, regardless of whether the carrier is selected by the purchaser or retailer or
2 an agent or representative of the purchaser or retailer, or whether the F.O.B. is the
3 retailer's shipping point or the purchaser's destination.

4 (a) As used in this subsection, "metal retail fixtures" means check stands and
5 belted and nonbelted checkout counters, whether made in bulk or pursuant to
6 specific purchaser specifications, that are to be used directly by the purchaser
7 or to be distributed by the purchaser.

8 (b) The retailer shall be responsible for establishing that delivery was made to a
9 non-Kentucky location through shipping documents or other credible evidence
10 as determined by the department;

11 (14) Gross receipts from the sale of unenriched or enriched uranium purchased for
12 ultimate storage, use, or other consumption outside this state and delivered to a
13 common carrier in this state for delivery outside this state, regardless of whether the
14 carrier is selected by the purchaser or retailer, or is an agent or representative of the
15 purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or
16 purchaser's destination;

17 (15) Amounts received from a tobacco buydown. As used in this subsection, "buydown"
18 means an agreement whereby an amount, whether paid in money, credit, or
19 otherwise, is received by a retailer from a manufacturer or wholesaler based upon
20 the quantity and unit price of tobacco products sold at retail that requires the retailer
21 to reduce the selling price of the product to the purchaser without the use of a
22 manufacturer's or wholesaler's coupon or redemption certificate;

23 (16) Gross receipts from the sale of tangible personal property or digital property
24 returned by a purchaser when the full sales price is refunded either in cash or credit.
25 This exclusion shall not apply if the purchaser, in order to obtain the refund, is
26 required to purchase other tangible personal property or digital property at a price
27 greater than the amount charged for the property that is returned;

- 1 (17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS
2 Chapter 138;
- 3 (18) The amount of any tax imposed by the United States upon or with respect to retail
4 sales, whether imposed on the retailer or the consumer, not including any
5 manufacturer's excise or import duty;
- 6 (19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which
7 is:
- 8 (a) Sold to a Kentucky resident, registered for use on the public highways, and
9 upon which any applicable tax levied by KRS 138.460 has been paid; or
- 10 (b) Sold to a nonresident of Kentucky if the nonresident registers the motor
11 vehicle in a state that:
- 12 1. Allows residents of Kentucky to purchase motor vehicles without
13 payment of that state's sales tax at the time of sale; or
- 14 2. Allows residents of Kentucky to remove the vehicle from that state
15 within a specific period for subsequent registration and use in Kentucky
16 without payment of that state's sales tax;
- 17 (20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and
18 trailer as defined in KRS 189.010(17);
- 19 (21) Gross receipts from the collection of:
- 20 (a) Any fee or charge levied by a local government pursuant to KRS 65.760;
- 21 (b) The charge imposed by KRS 65.7629(3);
- 22 (c) The fee imposed by KRS 65.7634; and
- 23 (d) The service charge imposed by KRS 65.7636;
- 24 (22) Gross receipts derived from charges for labor or services to apply, install, repair, or
25 maintain tangible personal property directly used in manufacturing or industrial
26 processing process, and that is not otherwise exempt under subsection (9) of this
27 section or KRS 139.480(10), if the charges for labor or services are separately stated

1 on the invoice, bill of sale, or similar document given to purchaser;

2 (23) (a) For persons selling services included in KRS 139.200(2)(g) to (q) prior to
3 January 1, 2019, gross receipts derived from the sale of those services if the
4 gross receipts were less than six thousand dollars (\$6,000) during calendar
5 year 2018. When gross receipts from these services exceed six thousand
6 dollars (\$6,000) in a calendar year:

7 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
8 calendar year; and

9 2. All gross receipts are subject to tax in subsequent calendar years.

10 (b) The exemption provided in this subsection shall not apply to a person also
11 engaged in the business of selling tangible personal property, digital property,
12 or services included in KRS 139.200(2)(a) to (f);~~and~~

13 (24) (a) For persons that first begin making sales of services included in KRS
14 139.200(2)(g) to (q) on or after January 1, 2019, gross receipts derived from
15 the sale of those services if the gross receipts are less than six thousand dollars
16 (\$6,000) within the first calendar year of operation. When gross receipts from
17 these services exceed six thousand dollars (\$6,000) in a calendar year:

18 1. All gross receipts over six thousand dollars (\$6,000) are taxable in that
19 calendar year; and

20 2. All gross receipts are subject to tax in subsequent calendar years.

21 (b) The exemption provided in this subsection shall not apply to a person that is
22 also engaged in the business of selling tangible personal property, digital
23 property, or services included in KRS 139.200(2)(a) to (f); and

24 **(25) Gross receipts from the sale of medicinal cannabis as defined in Section 1 of this**
25 **Act and subject to tax under Section 33 of this Act.**

26 ➔Section 36. KRS 218A.010 is amended to read as follows:

27 As used in this chapter:

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

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

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

9 (b) Such term does not include:

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

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

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

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

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

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

5 (15) "Drug" means:

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

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

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

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

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

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

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

22 (a) By substitution:

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

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

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

- 1 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
2 haloalkyl, hydroxyl, or halide substituents;
 - 3 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
4 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
5 positions;
 - 6 3. By substitution on the piperadine ring to any extent with a phenyl,
7 alkoxy, or carboxylate ester substituent at the 4- position; or
 - 8 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
9 hydroxy substituents;
- 10 (18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
11 prosecution only, means an in-person medical examination of the patient conducted
12 by the prescribing practitioner or other health-care professional routinely relied
13 upon in the ordinary course of his or her practice, at which time the patient is
14 physically examined and a medical history of the patient is obtained. "In-person"
15 includes telehealth examinations. This subsection shall not be applicable to hospice
16 providers licensed pursuant to KRS Chapter 216B;
- 17 (19) "Hazardous chemical substance" includes any chemical substance used or intended
18 for use in the illegal manufacture of a controlled substance as defined in this section
19 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
20 which:
- 21 (a) Poses an explosion hazard;
 - 22 (b) Poses a fire hazard; or
 - 23 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- 24 (20) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
25 isomers, or salts of isomers;
- 26 (21) "Hydrocodone combination product" means a drug with:
- 27 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of

- 1 its salts, per one hundred (100) milliliters or not more than fifteen (15)
2 milligrams per dosage unit, with a fourfold or greater quantity of an
3 isoquinoline alkaloid of opium; or
- 4 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
5 its salts, per one hundred (100) milliliters or not more than fifteen (15)
6 milligrams per dosage unit, with one (1) or more active, nonnarcotic
7 ingredients in recognized therapeutic amounts;
- 8 (22) "Immediate precursor" means a substance which is the principal compound
9 commonly used or produced primarily for use, and which is an immediate chemical
10 intermediary used or likely to be used in the manufacture of a controlled substance
11 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
12 manufacture;
- 13 (23) "Industrial hemp" has the same meaning as in KRS 260.850;
- 14 (24) "Industrial hemp products" has the same meaning as in KRS 260.850;
- 15 (25) "Intent to manufacture" means any evidence which demonstrates a person's
16 conscious objective to manufacture a controlled substance or methamphetamine.
17 Such evidence includes but is not limited to statements and a chemical substance's
18 usage, quantity, manner of storage, or proximity to other chemical substances or
19 equipment used to manufacture a controlled substance or methamphetamine;
- 20 (26) "Isomer" means the optical isomer, except the Cabinet for Health and Family
21 Services may include the optical, positional, or geometric isomer to classify any
22 substance pursuant to KRS 218A.020;
- 23 (27) "Manufacture," except as provided in KRS 218A.1431, means the production,
24 preparation, propagation, compounding, conversion, or processing of a controlled
25 substance, either directly or indirectly by extraction from substances of natural
26 origin or independently by means of chemical synthesis, or by a combination of
27 extraction and chemical synthesis, and includes any packaging or repackaging of the

1 substance or labeling or relabeling of its container except that this term does not
2 include activities:

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

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

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

10 (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the
11 seeds thereof; the resin extracted from any part of the plant; and every compound,
12 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
13 or any compound, mixture, or preparation which contains any quantity of these
14 substances. The term "marijuana" does not include:

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

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

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

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

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

1 260.850;[~~or~~]

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

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

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

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

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

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

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

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

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

26 (c) Opium poppy and poppy straw;

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

1 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
2 removed;

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

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

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

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

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

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

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

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

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

22 (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
23 investigator, optometrist as authorized in KRS 320.240, advanced practice
24 registered nurse as authorized under KRS 314.011, or other person licensed,
25 registered, or otherwise permitted by state or federal law to acquire, distribute,
26 dispense, conduct research with respect to, or to administer a controlled substance
27 in the course of professional practice or research in this state. "Practitioner" also

- 1 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered
2 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
3 a state other than Kentucky and who is licensed and has prescriptive authority for
4 controlled substances under the professional licensing laws of another state, unless
5 the person's Kentucky license has been revoked, suspended, restricted, or probated,
6 in which case the terms of the Kentucky license shall prevail;
- 7 (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
8 prosecution only, means a medical relationship that exists between a patient and a
9 practitioner or the practitioner's designee, after the practitioner or his or her
10 designee has conducted at least one (1) good faith prior examination;
- 11 (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
12 combination or mixture of drugs or medicines, or proprietary preparation, signed or
13 given or authorized by a medical, dental, chiropractic, veterinarian, optometric
14 practitioner, or advanced practice registered nurse, and intended for use in the
15 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
16 animals;
- 17 (43) "Prescription blank," with reference to a controlled substance, means a document
18 that meets the requirements of KRS 218A.204 and 217.216;
- 19 (44) "Presumptive probation" means a sentence of probation not to exceed the maximum
20 term specified for the offense, subject to conditions otherwise authorized by law,
21 that is presumed to be the appropriate sentence for certain offenses designated in
22 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
23 presumption shall only be overcome by a finding on the record by the sentencing
24 court of substantial and compelling reasons why the defendant cannot be safely and
25 effectively supervised in the community, is not amenable to community-based
26 treatment, or poses a significant risk to public safety;
- 27 (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting

- 1 of a controlled substance;
- 2 (46) "Recovery program" means an evidence-based, nonclinical service that assists
3 individuals and families working toward sustained recovery from substance use and
4 other criminal risk factors. This can be done through an array of support programs
5 and services that are delivered through residential and nonresidential means;
- 6 (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant
7 presently classified botanically as *Salvia divinorum*, whether growing or not, the
8 seeds thereof, any extract from any part of that plant, and every compound,
9 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
10 extracts, including salts, isomers, and salts of isomers whenever the existence of
11 such salts, isomers, and salts of isomers is possible within the specific chemical
12 designation of that plant, its seeds, or extracts. The term shall not include any other
13 species in the genus *salvia*;
- 14 (48) "Second or subsequent offense" means that for the purposes of this chapter an
15 offense is considered as a second or subsequent offense, if, prior to his or her
16 conviction of the offense, the offender has at any time been convicted under this
17 chapter, or under any statute of the United States, or of any state relating to
18 substances classified as controlled substances or counterfeit substances, except that
19 a prior conviction for a nontrafficking offense shall be treated as a prior offense
20 only when the subsequent offense is a nontrafficking offense. For the purposes of
21 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
22 constitute a conviction under this chapter;
- 23 (49) "Sell" means to dispose of a controlled substance to another person for
24 consideration or in furtherance of commercial distribution;
- 25 (50) "Serious physical injury" has the same meaning it has in KRS 500.080;
- 26 (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is
27 not approved by the United States Food and Drug Administration or, if approved,

1 which is not dispensed or possessed in accordance with state and federal law, that
2 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
3 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
4 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
5 compound in the following structural classes:

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

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

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

- 1 (d) Cyclohexylphenols: Any compound containing a 2-(3-
2 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
3 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
4 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
5 group whether or not substituted in the cyclohexyl ring to any extent.
6 Examples of this structural class include but are not limited to CP 47,497 and
7 its C8 homologue (cannabicyclohexanol);
- 8 (e) Naphthylmethylinroles: Any compound containing a 1H-indol-3-yl-(1-
9 naphthyl)methane structure with substitution at the nitrogen atom of the indole
10 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
11 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
12 further substituted in the indole ring to any extent and whether or not
13 substituted in the naphthyl ring to any extent. Examples of this structural class
14 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 15 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole
16 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
17 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
18 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
19 substituted in the pyrrole ring to any extent and whether or not substituted in
20 the naphthyl ring to any extent. Examples of this structural class include but
21 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 22 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
23 naphthylmethyl)indene structure with substitution at the 3-position of the
24 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
25 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether
26 or not further substituted in the indene ring to any extent and whether or not
27 substituted in the naphthyl ring to any extent. Examples of this structural class

1 include but are not limited to JWH-176;

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

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

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

20 (52) "Synthetic cathinones" means any chemical compound which is not approved by the
21 United States Food and Drug Administration or, if approved, which is not dispensed
22 or possessed in accordance with state and federal law (not including bupropion or
23 compounds listed under a different schedule) structurally derived from 2-
24 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or
25 thiophene ring systems, whether or not the compound is further modified in one (1)
26 or more of the following ways:

27 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,

- 1 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
2 substituted in the ring system by one (1) or more other univalent substituents.
3 Examples of this class include but are not limited to 3,4-
4 Methylenedioxycathinone (bk-MDA);
- 5 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of
6 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one
7 (buphedrone);
- 8 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
9 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
10 cyclic structure. Examples of this class include but are not limited to
11 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
12 or
- 13 (d) Any other synthetic cathinone which is not approved by the United States
14 Food and Drug Administration or, if approved, is not dispensed or possessed
15 in accordance with state or federal law;
- 16 (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
17 cathinones;
- 18 (54) "Telehealth" has the same meaning it has in KRS 311.550;
- 19 (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
20 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
21 substances, derivatives, and their isomers with similar chemical structure and
22 pharmacological activity such as the following:
- 23 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 24 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 25 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- 26 (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
27 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,

1 or sell a controlled substance;

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

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

8 ➔Section 37. KRS 218A.1421 is amended to read as follows:

9 (1) A person is guilty of trafficking in marijuana when he or she knowingly and
10 unlawfully traffics in marijuana, and the trafficking is not in compliance with, or
11 otherwise authorized by, Sections 1 to 30 of this Act.

12 (2) Unless authorized by Sections 1 to 30 of this Act, trafficking in less than eight (8)
13 ounces of marijuana is:

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

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

16 (3) Unless authorized by Sections 1 to 30 of this Act, trafficking in eight (8) or more
17 ounces but less than five (5) pounds of marijuana is:

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

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

20 (4) Unless authorized by Sections 1 to 30 of this Act, trafficking in five (5) or more
21 pounds of marijuana is:

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

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

24 (5) Unless authorized by Sections 1 to 30 of this Act, the unlawful possession by any
25 person of eight (8) or more ounces of marijuana shall be prima facie evidence that
26 the person possessed the marijuana with the intent to sell or transfer it.

27 (6) This section does not apply to:

1 (a) A cannabis business or a cannabis business agent, as defined in Section 1
2 of this Act, when acting in compliance with Sections 1 to 30 of this Act; or

3 (b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of
4 cannabis is in compliance with Sections 1 to 30 of this Act.

5 ➔Section 38. KRS 218A.1422 is amended to read as follows:

6 (1) A person is guilty of possession of marijuana when he or she knowingly and
7 unlawfully possesses marijuana, and the possession is not in compliance with, or
8 otherwise authorized by, Sections 1 to 30 of this Act.

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

12 (3) This section does not apply to:

13 (a) A cannabis business or a cannabis business agent, as defined in Section 1
14 of this Act, when acting in compliance with Sections 1 to 30 of this Act; or

15 (b) A cardholder, as defined in Section 1 of this Act, whose medicinal use of
16 cannabis is in compliance with Sections 1 to 30 of this Act.

17 ➔Section 39. KRS 218A.1423 is amended to read as follows:

18 (1) A person is guilty of marijuana cultivation when he or she knowingly and
19 unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer
20 it, and the cultivation is not in compliance with, or otherwise authorized by,
21 Sections 1 to 30 of this Act.

22 (2) Unless authorized by Sections 1 to 30 of this Act, marijuana cultivation of five (5)
23 or more plants of marijuana is:

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

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

26 (3) Unless authorized by Sections 1 to 30 of this Act, marijuana cultivation of fewer
27 than five (5) plants is:

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

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

3 (4) Unless authorized by Sections 1 to 30 of this Act, the planting, cultivating, or
4 harvesting of five (5) or more marijuana plants shall be prima facie evidence that
5 the marijuana plants were planted, cultivated, or harvested for the purpose of sale or
6 transfer.

7 (5) This section does not apply to a cannabis business or a cannabis business agent,
8 as defined in Section 1 of this Act, when acting in compliance with Sections 1 to
9 30 of this Act.

10 ➔Section 40. KRS 218A.500 is amended to read as follows:

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

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

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

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

23 (b) Kits used, intended for use, or designed for use in manufacturing,
24 compounding, converting, producing, processing, or preparing controlled
25 substances;

26 (c) Isomerization devices used, intended for use, or designed for use in increasing
27 the potency of any species of plant which is a controlled substance;

- 1 (d) Testing equipment used, intended for use, or designed for use in identifying,
2 or in analyzing the strength, effectiveness or purity of controlled substances;
- 3 (e) Scales and balances used, intended for use, or designed for use in weighing or
4 measuring controlled substances;
- 5 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
6 dextrose and lactose, used, intended for use, or designed for use in cutting
7 controlled substances;
- 8 (g) Separation gins and sifters used, intended for use, or designed for use in
9 removing twigs and seeds from, or in otherwise cleaning or refining
10 marijuana;
- 11 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
12 use, or designed for use in compounding controlled substances;
- 13 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
14 designed for use in packaging small quantities of controlled substances;
- 15 (j) Containers and other objects used, intended for use, or designed for use in
16 storing or concealing controlled substances;
- 17 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
18 designed for use in parenterally injecting controlled substances into the human
19 body; and
- 20 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
21 otherwise introducing marijuana, cocaine, hashish, or hashish oil into the
22 human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic
23 pipes with or without screens, permanent screens, hashish heads, or punctured
24 metal bowls; water pipes; carburetion tubes and devices; smoking and
25 carburetion masks; roach clips which mean objects used to hold burning
26 material, such as marijuana cigarettes, that have become too small or too short
27 to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber

1 pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice
2 pipes or chillers.

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

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

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

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

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

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

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

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

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

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

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

20 ➔Section 41. KRS 216B.402 is amended to read as follows:

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

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

27 ~~(b)(2)~~ The hospital may obtain permission from the person when stabilized, or

1 the person's legal representative, to contact any available substance use
2 disorder treatment programs offered by that hospital, other local hospitals, the
3 local community mental health center, or any other local treatment programs
4 licensed pursuant to KRS 222.231, on behalf of the person to connect him or
5 her to treatment; and

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

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

21 ➔Section 42. Section 2, Sections 4 to 8, Section 11, Sections 13 to 15, Sections
22 18 to 25, Section 30, and Sections 37 to 39 of this Act take effect July 1, 202