

1 AN ACT relating to controlled substances.

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

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

4 As used in this chapter:

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

1 subsection, means a substance:

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

13 (b) **"Controlled substance analogue"**~~[Such term]~~ does not include:

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

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

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

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

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

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

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

9 (15) "Drug" means:

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

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

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

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

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

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

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

26 (a) By substitution:

27 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or

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

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

1 plant presently classified botanically as *Mitragyna speciosa*, whether growing or  
 2 not, the seeds thereof, any extract from any part of that plant, and every  
 3 compound, manufacture, derivative, mixture, or preparation of that plant, its  
 4 seeds, or its extracts, including salts, isomers, and salts of isomers whenever the  
 5 existence of such salts, isomers, and salts of isomers is possible within the specific  
 6 chemical designation of that plant, its seeds, or extracts. The term does not  
 7 include any other species in the genus *Mitragyna*;

8 ~~(28)~~~~(27)~~ "Manufacture," except as provided in KRS 218A.1431, means the production,  
 9 preparation, propagation, compounding, conversion, or processing of a controlled  
 10 substance, either directly or indirectly by extraction from substances of natural  
 11 origin or independently by means of chemical synthesis, or by a combination of  
 12 extraction and chemical synthesis, and includes any packaging or repackaging of the  
 13 substance or labeling or relabeling of its container except that this term does not  
 14 include activities:

- 15 (a) By a practitioner as an incident to his or her administering or dispensing of a  
 16 controlled substance in the course of his or her professional practice;
- 17 (b) By a practitioner, or by his or her authorized agent under his supervision, for  
 18 the purpose of, or as an incident to, research, teaching, or chemical analysis  
 19 and not for sale; or
- 20 (c) By a pharmacist as an incident to his or her dispensing of a controlled  
 21 substance in the course of his or her professional practice;

22 ~~(29)~~~~(28)~~ "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or  
 23 not; the seeds thereof; the resin extracted from any part of the plant; and every  
 24 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its  
 25 seeds or resin or any compound, mixture, or preparation which contains any  
 26 quantity of these substances. The term "marijuana" does not include:

- 27 (a) Industrial hemp that is in the possession, custody, or control of a person who

- 1 holds a license issued by the Department of Agriculture permitting that person  
2 to cultivate, handle, or process industrial hemp;
- 3 (b) Industrial hemp products that do not include any living plants, viable seeds,  
4 leaf materials, or floral materials;
- 5 (c) The substance cannabidiol, when transferred, dispensed, or administered  
6 pursuant to the written order of a physician practicing at a hospital or  
7 associated clinic affiliated with a Kentucky public university having a college  
8 or school of medicine;
- 9 (d) For persons participating in a clinical trial or in an expanded access program,  
10 a drug or substance approved for the use of those participants by the United  
11 States Food and Drug Administration;
- 12 (e) A cannabidiol product derived from industrial hemp, as defined in KRS  
13 260.850;
- 14 (f) For the purpose of conducting scientific research, a cannabinoid product  
15 derived from industrial hemp, as defined in KRS 260.850; or
- 16 (g) A cannabinoid product approved as a prescription medication by the United  
17 States Food and Drug Administration;
- 18 ~~(30)~~~~(29)~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution  
19 only, means an accounting of a patient's medical background, including but not  
20 limited to prior medical conditions, prescriptions, and family background;
- 21 ~~(31)~~~~(30)~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution  
22 only, means a lawful order of a specifically identified practitioner for a specifically  
23 identified patient for the patient's health-care needs. "Medical order" may or may  
24 not include a prescription drug order;
- 25 ~~(32)~~~~(31)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution  
26 only, means a record, other than for financial or billing purposes, relating to a  
27 patient, kept by a practitioner as a result of the practitioner-patient relationship;

1 ~~(33)~~~~(32)~~ "Methamphetamine" means any substance that contains any quantity of  
2 methamphetamine, or any of its salts, isomers, or salts of isomers;

3 ~~(34)~~~~(33)~~ "Narcotic drug" means any of the following, whether produced directly or  
4 indirectly by extraction from substances of vegetable origin, or independently by  
5 means of chemical synthesis, or by a combination of extraction and chemical  
6 synthesis:

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

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

13 (c) Opium poppy and poppy straw;

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

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

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

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

21 ~~(35)~~~~(34)~~ "Opiate" means any substance having an addiction-forming or addiction-  
22 sustaining liability similar to morphine or being capable of conversion into a drug  
23 having addiction-forming or addiction-sustaining liability. It does not include,  
24 unless specifically designated as controlled under KRS 218A.020, the  
25 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts  
26 (dextromethorphan). It does include its racemic and levorotatory forms;

27 ~~(36)~~~~(35)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except



1 its seeds;

2 ~~(37)~~~~(36)~~ "Person" means individual, corporation, government or governmental  
3 subdivision or agency, business trust, estate, trust, partnership or association, or any  
4 other legal entity;

5 ~~(38)~~~~(37)~~ "Physical injury" has the same meaning it has in KRS 500.080;

6 ~~(39)~~~~(38)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after  
7 mowing;

8 ~~(40)~~~~(39)~~ "Pharmacist" means a natural person licensed by this state to engage in the  
9 practice of the profession of pharmacy;

10 ~~(41)~~~~(40)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific  
11 investigator, optometrist as authorized in KRS 320.240, advanced practice  
12 registered nurse as authorized under KRS 314.011, physician assistant as authorized  
13 under KRS 311.858, or other person licensed, registered, or otherwise permitted by  
14 state or federal law to acquire, distribute, dispense, conduct research with respect to,  
15 or to administer a controlled substance in the course of professional practice or  
16 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,  
17 veterinarian, or advanced practice registered nurse authorized under KRS 314.011  
18 who is a resident of and actively practicing in a state other than Kentucky and who  
19 is licensed and has prescriptive authority for controlled substances under the  
20 professional licensing laws of another state, unless the person's Kentucky license  
21 has been revoked, suspended, restricted, or probated, in which case the terms of the  
22 Kentucky license shall prevail;

23 ~~(42)~~~~(41)~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for  
24 criminal prosecution only, means a medical relationship that exists between a  
25 patient and a practitioner or the practitioner's designee, after the practitioner or his  
26 or her designee has conducted at least one (1) good faith prior examination;

27 ~~(43)~~~~(42)~~ "Prescription" means a written, electronic, or oral order for a drug or

1 medicine, or combination or mixture of drugs or medicines, or proprietary  
2 preparation, signed or given or authorized by a medical, dental, chiropody,  
3 veterinarian, optometric practitioner, or advanced practice registered nurse, and  
4 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of  
5 disease in man or other animals;

6 ~~(44)~~~~[(43)]~~ "Prescription blank," with reference to a controlled substance, means a  
7 document that meets the requirements of KRS 218A.204 and 217.216;

8 ~~(45)~~~~[(44)]~~ "Presumptive probation" means a sentence of probation not to exceed the  
9 maximum term specified for the offense, subject to conditions otherwise authorized  
10 by law, that is presumed to be the appropriate sentence for certain offenses  
11 designated in this chapter, notwithstanding contrary provisions of KRS Chapter  
12 533. That presumption shall only be overcome by a finding on the record by the  
13 sentencing court of substantial and compelling reasons why the defendant cannot be  
14 safely and effectively supervised in the community, is not amenable to community-  
15 based treatment, or poses a significant risk to public safety;

16 ~~(46)~~~~[(45)]~~ "Production" includes the manufacture, planting, cultivation, growing, or  
17 harvesting of a controlled substance;

18 ~~(47)~~~~[(46)]~~ "Recovery program" means an evidence-based, nonclinical service that assists  
19 individuals and families working toward sustained recovery from substance use and  
20 other criminal risk factors. This can be done through an array of support programs  
21 and services that are delivered through residential and nonresidential means;

22 ~~(48)~~~~[(47)]~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the  
23 plant presently classified botanically as *Salvia divinorum*, whether growing or not,  
24 the seeds thereof, any extract from any part of that plant, and every compound,  
25 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its  
26 extracts, including salts, isomers, and salts of isomers whenever the existence of  
27 such salts, isomers, and salts of isomers is possible within the specific chemical

1 designation of that plant, its seeds, or extracts. The term shall not include any other  
2 species in the genus salvia;

3 ~~(49)~~~~(48)~~ "Second or subsequent offense" means that for the purposes of this chapter an  
4 offense is considered as a second or subsequent offense, if, prior to his or her  
5 conviction of the offense, the offender has at any time been convicted under this  
6 chapter, or under any statute of the United States, or of any state relating to  
7 substances classified as controlled substances or counterfeit substances, except that  
8 a prior conviction for a nontrafficking offense shall be treated as a prior offense  
9 only when the subsequent offense is a nontrafficking offense. For the purposes of  
10 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not  
11 constitute a conviction under this chapter;

12 ~~(50)~~~~(49)~~ "Sell" means to dispose of a controlled substance to another person for  
13 consideration or in furtherance of commercial distribution;

14 ~~(51)~~~~(50)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

15 ~~(52)~~~~(51)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which  
16 is not approved by the United States Food and Drug Administration or, if approved,  
17 which is not dispensed or possessed in accordance with state and federal law, that  
18 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-  
19 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-  
20 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any  
21 compound in the following structural classes:

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

- 1 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,  
2 JWH-122, JWH-200, and AM-2201;
- 3 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole  
4 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
5 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
6 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
7 substituted in the indole ring to any extent and whether or not substituted in  
8 the phenyl ring to any extent. Examples of this structural class include but are  
9 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- 10 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with  
11 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,  
12 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
13 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the  
14 indole ring to any extent and whether or not substituted in the phenyl ring to  
15 any extent. Examples of this structural class include but are not limited to  
16 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- 17 (d) Cyclohexylphenols: Any compound containing a 2-(3-  
18 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the  
19 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,  
20 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
21 group whether or not substituted in the cyclohexyl ring to any extent.  
22 Examples of this structural class include but are not limited to CP 47,497 and  
23 its C8 homologue (cannabicyclohexanol);
- 24 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-  
25 naphthyl)methane structure with substitution at the nitrogen atom of the indole  
26 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-  
27 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not

- 1 further substituted in the indole ring to any extent and whether or not  
2 substituted in the naphthyl ring to any extent. Examples of this structural class  
3 include but are not limited to JWH-175, JWH-184, and JWH-185;
- 4 (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole  
5 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,  
6 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
7 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
8 substituted in the pyrrole ring to any extent and whether or not substituted in  
9 the naphthyl ring to any extent. Examples of this structural class include but  
10 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- 11 (g) Naphthylmethylenes: Any compound containing a 1-(1-  
12 naphthylmethyl)indene structure with substitution at the 3-position of the  
13 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
14 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
15 or not further substituted in the indene ring to any extent and whether or not  
16 substituted in the naphthyl ring to any extent. Examples of this structural class  
17 include but are not limited to JWH-176;
- 18 (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-  
19 tetramethylcyclopropoyl)indole structure with substitution at the nitrogen  
20 atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl,  
21 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl  
22 group, whether or not further substituted in the indole ring to any extent and  
23 whether or not further substituted in the tetramethylcyclopropyl ring to any  
24 extent. Examples of this structural class include but are not limited to UR-144  
25 and XLR-11;
- 26 (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole  
27 structure with substitution at the nitrogen atom of the indole ring by an alkyl,

1 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
2 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
3 substituted in the indole ring to any extent and whether or not substituted in  
4 the adamantyl ring system to any extent. Examples of this structural class  
5 include but are not limited to AB-001 and AM-1248; or

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

9 ~~(53)~~~~(52)~~ "Synthetic cathinones" means any chemical compound which is not approved  
10 by the United States Food and Drug Administration or, if approved, which is not  
11 dispensed or possessed in accordance with state and federal law (not including  
12 bupropion or compounds listed under a different schedule) structurally derived from  
13 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,  
14 or thiophene ring systems, whether or not the compound is further modified in one  
15 (1) or more of the following ways:

16 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,  
17 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further  
18 substituted in the ring system by one (1) or more other univalent substituents.  
19 Examples of this class include but are not limited to 3,4-  
20 Methylenedioxcathinone (bk-MDA);

21 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of  
22 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one  
23 (buphedrone);

24 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or  
25 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a  
26 cyclic structure. Examples of this class include but are not limited to  
27 Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);

1 or

2 (d) Any other synthetic cathinone which is not approved by the United States  
3 Food and Drug Administration or, if approved, is not dispensed or possessed  
4 in accordance with state or federal law;

5 ~~(54)~~~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any  
6 synthetic cathinones;

7 ~~(55)~~~~(54)~~ "Telehealth" has the same meaning it has in KRS 311.550;

8 ~~(56)~~~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances  
9 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or  
10 synthetic substances, derivatives, and their isomers with similar chemical structure  
11 and pharmacological activity such as the following:

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

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

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

15 ~~(57)~~~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,  
16 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,  
17 dispense, or sell a controlled substance;

18 ~~(58)~~~~(57)~~ "Transfer" means to dispose of a controlled substance to another person  
19 without consideration and not in furtherance of commercial distribution; and

20 ~~(59)~~~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance  
21 for his or her own use or for the use of a member of his or her household or for  
22 administering to an animal owned by him or her or by a member of his or her  
23 household.

24 ➔Section 2. KRS 218A.1412 is amended to read as follows:

25 (1) A person is guilty of trafficking in a controlled substance in the first degree when he  
26 or she knowingly and unlawfully traffics in:

27 (a) Four (4) grams or more of cocaine;

- 1 (b) Two (2) grams or more of methamphetamine;
- 2 (c) Ten (10) or more dosage units of a controlled substance that is classified in  
3 Schedules I or II and is a narcotic drug, or a controlled substance analogue;
- 4 (d) Any quantity of heroin, fentanyl, carfentanil, or fentanyl derivatives; lysergic  
5 acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB),  
6 including its salts, isomers, salts of isomers, and analogues; kratom; or  
7 flunitrazepam, including its salts, isomers, and salts of isomers; or
- 8 (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of  
9 this subsection in an amount less than the amounts specified in those  
10 paragraphs.
- 11 (2) The amounts specified in subsection (1) of this section may occur in a single  
12 transaction or may occur in a series of transactions over a period of time not to  
13 exceed ninety (90) days that cumulatively result in the quantities specified in this  
14 section.
- 15 (3) (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of  
16 this section shall be guilty of a Class C felony for the first offense and a Class  
17 B felony for a second or subsequent offense.
- 18 (b) Any person who violates the provisions of subsection (1)(e) of this section  
19 shall be guilty of a Class D felony for the first offense and a Class C felony for  
20 a second or subsequent offense.
- 21 (c) Any person convicted of a Class C felony offense or higher under this section  
22 shall not be released on probation, shock probation, parole, conditional  
23 discharge, or other form of early release until he or she has served at least fifty  
24 percent (50%) of the sentence imposed in cases where the trafficked substance  
25 was heroin, fentanyl, carfentanil, or fentanyl derivatives.

26 ➔Section 3. KRS 218A.1415 is amended to read as follows:

- 27 (1) A person is guilty of possession of a controlled substance in the first degree when



1 he or she knowingly and unlawfully possesses:

2 (a) A controlled substance that is classified in Schedules I or II and is a narcotic  
3 drug;

4 (b) A controlled substance analogue;

5 (c) Methamphetamine;

6 (d) Lysergic acid diethylamide;

7 (e) Phencyclidine;

8 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of  
9 isomers, and analogues;~~or~~

10 (g) Flunitrazepam, including its salts, isomers, and salts of isomers; **or**

11 **(h) Kratom.**

12 (2) Possession of a controlled substance in the first degree is a Class D felony subject to  
13 the following provisions:

14 (a) The maximum term of incarceration shall be no greater than three (3) years,  
15 notwithstanding KRS Chapter 532;

16 (b) For a person's first or second offense under this section, he or she may be  
17 subject to a period of:

18 1. Deferred prosecution pursuant to KRS 218A.14151; or

19 2. Presumptive probation;

20 (c) Deferred prosecution under paragraph (b) of this subsection shall be the  
21 preferred alternative for a first offense; and

22 (d) If a person does not enter a deferred prosecution program for his or her first or  
23 second offense, he or she shall be subject to a period of presumptive  
24 probation, unless a court determines the defendant is not eligible for  
25 presumptive probation as defined in KRS 218A.010.