

AN ACT relating to synthetic drugs and declaring an emergency.

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

➔Section 1. KRS 218A.1430 is amended to read as follows:

- (1) (a) A person is guilty of trafficking in synthetic drugs when he or she knowingly and unlawfully traffics in synthetic drugs.
- (b) Trafficking in synthetic drugs is a **Class D felony**~~[Class A misdemeanor]~~ for the first offense and a Class ~~C~~**D** felony for **a second or**~~each~~ subsequent offense.
- (c) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for any offense under this subsection the court may impose a maximum fine of double the defendant's gain from the commission of the offense, in which case any fine money collected shall be divided between the same parties, in the same ratio, and for the same purposes as established for forfeited property under KRS 218A.420.
- (d) It shall be an affirmative defense to an offense under this subsection that the defendant committed the offense during the course of the defendant's employment as an employee of a retail store and that the defendant did not know and should not have known that the trafficked substance was a synthetic drug.
- (2) (a) A person is guilty of possession of synthetic drugs when he or she knowingly and unlawfully possesses synthetic drugs.
- (b) Possession of synthetic drugs is a Class ~~A~~**B** misdemeanor **for the first offense and a Class D felony for a second or subsequent offense, except that, KRS 532.060 to the contrary notwithstanding, the maximum sentence to be imposed shall be no greater than three (3) years**~~[, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than thirty (30) days].~~

➔Section 2. KRS 218A.1401 is amended to read as follows:

- (1) A person is guilty of selling controlled substances to a minor when he or she, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of a controlled substance other than ~~synthetic drugs or~~ salvia to any person under eighteen (18) years of age.
- (2) Selling controlled substances to a minor is a Class C felony for a first offense, and a Class B felony for each subsequent offense, unless a more severe penalty for trafficking in controlled substances is applicable, in which case the higher penalty shall apply.

➔Section 3. KRS 530.064 is amended to read as follows:

- (1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:
  - (a) Illegal sexual activity; or
  - (b) Illegal controlled substances activity other than activity involving marijuana~~, synthetic drugs,~~ or salvia, as defined in KRS 218A.010;

Except those offenses involving minors in KRS Chapter 531 and in KRS 529.100 where that offense involves commercial sexual activity.

- (2) Unlawful transaction with a minor in the first degree is a:
  - (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
  - (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
  - (c) Class A felony if the minor so used incurs physical injury thereby.

➔Section 4. KRS 530.065 is amended to read as follows:

- (1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana~~, synthetic drugs,~~ illegal gambling activity,

or any other criminal activity constituting a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony.

➔Section 5. Whereas synthetic drugs pose an immediate risk to the health and safety of the citizens of this Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.