

AN ACT relating to medical cannabis.

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

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

*The General Assembly finds that:*

- (1) Cannabis's recorded use as a medicine goes back nearly five thousand (5,000) years. Modern medical research has confirmed the beneficial uses for cannabis in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis, and HIV/AIDS, as found by the National Academies' Institute of Medicine in March 1999;*
- (2) Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of cannabis in treating a wide array of debilitating medical conditions. These include relief of the neuropathic pain caused by multiple sclerosis, HIV/AIDS, and other illnesses and injuries that often fail to respond to conventional treatments, and relief of nausea, vomiting, and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens;*
- (3) Cannabis has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to more than five hundred thousand (500,000) patients in states with medical cannabis laws. Cannabis's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, the American College of Physicians, the American Nurses Association, the American Public Health Association, the Leukemia & Lymphoma Society, and many others;*
- (4) Data from the Federal Bureau of Investigation's Uniform Crime Reports and the*

Compendium of Federal Justice Statistics show that approximately ninety-nine (99) out of every one hundred (100) cannabis arrests in the United States are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use cannabis;

(5) The states of Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington, as well as the District of Columbia, have removed state-level criminal penalties from the medical use and cultivation of cannabis. Kentucky joins in this effort for the health and welfare of its citizens;

(6) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with Sections 1 to 29 of this Act does not put the state of Kentucky in violation of federal law; and

(7) State law should make a distinction between the medical and nonmedical uses of cannabis. Therefore, the purpose of Sections 1 to 29 of this Act is to protect patients with debilitating medical conditions, as well as their practitioners and providers, from arrest and prosecution, criminal and other penalties, and property forfeiture, if such patients engage in the medical use of cannabis.

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

For the purposes of Sections 1 to 29 of this Act, unless the context otherwise requires:

(1) "Bona fide practitioner-patient relationship" means that:

(a) A practitioner and patient have a treatment or consulting relationship, during the course of which the physician has completed an assessment of the patient's medical history and current medical condition, including an

- appropriate personal physical examination;
- (b) The practitioner has consulted with the patient with respect to the patient's debilitating medical condition; and
- (c) The practitioner is available to or offers to provide follow-up care and treatment to the patient, including but not limited to patient examinations;
- (2) "Cannabis" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "cannabis" does not include industrial hemp as defined in KRS 260.850;
- (3) "Cardholder" means a qualifying patient, visiting qualifying patient, or a designated caregiver who has been issued and possesses a valid registry identification card;
- (4) "Compassion center" means an entity registered pursuant to Section 18 of this Act that acquires, possesses, manufactures, delivers, transfers, transports, sells, supplies, or dispenses cannabis, usable cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients;
- (5) "Compassion center agent" means a principal officer, board member, employee, volunteer, or agent of a compassion center who is twenty-one (21) years of age or older and has not been convicted of a disqualifying felony offense and has been registered through the department;
- (6) "Cultivator" means a business entity registered pursuant to Section 19 of this Act that grows, processes, and delivers cannabis to a compassion center in accordance with Section 19 of this Act;
- (7) "Cultivator agent" means a principal officer, board member, employee, volunteer, or agent of a cultivator who is twenty-one (21) years of age or older

and has not been convicted of a disqualifying felony offense and has been registered through the department;

(8) "Debilitating medical condition" means:

(a) A terminal illness, peripheral neuropathy, anorexia, cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, substance use disorder, mood disorder, Alzheimer's disease, lupus, muscular dystrophy, post-traumatic stress disorder, diabetes, sleep disorder, fibromyalgia, autism, ulcerative colitis, arthritis, Parkinson's disease, traumatic brain injury, Tourette syndrome, anxiety disorder, attention deficit disorder, attention deficit hyperactivity disorder, or the treatment of these conditions;

(b) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or

(c) Any other medical condition or its treatment added by the department, as provided for in Section 6 of this Act;

(9) "Department" means the Department of Alcoholic Beverage and Cannabis Control or its successor agency;

(10) "Designated caregiver" means a person who:

(a) Is at least twenty-one (21) years of age;

(b) Has agreed to assist with a patient's medical use of cannabis;

(c) Has not been convicted of a disqualifying felony offense;

(d) Assists no more than five (5) qualifying patients with their medical use of cannabis; and

(e) Has been registered through the department;

(11) "Disqualifying felony offense" means:

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

(b) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, not including:

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

2. An offense that consisted of conduct for which Sections 1 to 29 of this Act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of Sections 1 to 29 of this Act or was prosecuted by an authority other than the Commonwealth of Kentucky;

(12) "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by the cardholder allowed to cultivate the plants or, in the case of a cultivator, the cultivator agents working for the cultivator. Two (2) or more qualifying patients or designated caregivers who reside in the same dwelling and have a registry identification card that removes state penalties for cannabis cultivation may share one (1) enclosed, locked facility for cultivation;

(13) "Mature cannabis plant" means a cannabis plant that has flowers;

(14) "Medical use" includes the acquisition, administration, cultivation, or manufacture in an enclosed, locked facility or the delivery, possession, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a qualifying patient's debilitating medical

condition or symptoms associated with the patient's debilitating medical condition. It does not include cultivation by a visiting qualifying patient or cultivation by a designated caregiver or registered patient who is not designated as being allowed to cultivate;

(15) "Practitioner" has the same meaning as in KRS 218A.010, except that if the qualifying patient's debilitating medical condition is post-traumatic stress disorder, the practitioner shall only be a licensed psychiatrist. In relation to a visiting qualifying patient, "practitioner" means a person who is licensed with authority to prescribe controlled substances to humans in the state of the patient's residence;

(16) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition;

(17) "Registry identification card" means a document issued by the department that identifies a person as a qualifying patient, visiting qualifying patient, or a registered designated caregiver, compassion center agent, cultivator agent, or safety compliance facility agent;

(18) "Safety compliance facility" means an entity registered under Section 20 of this Act by the department to provide one (1) or more of the following services:

(a) Testing cannabis produced for medical use, including for potency and contaminants; and

(b) Training cardholders, cultivator agents, and compassion center agents. The training may include but need not be limited to information related to one (1) or more of the following:

1. The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of cannabis;

2. Security and inventory accountability procedures; and

3. Up-to-date scientific and medical research findings related to medical

cannabis;

(19) "Safety compliance facility agent" means a principal officer, board member, employee, or agent of a safety compliance facility who is twenty-one (21) years of age or older and has not been convicted of a disqualifying felony offense;

(20) "Seedling" means a cannabis plant that has no flowers and is larger than eight (8) inches tall;

(21) "Usable cannabis" means the flowers of the cannabis plant and any mixture, concentrate, resin, or preparation thereof, but does not include the seeds, stalks, and roots of the plant. It does not include the weight of any non-cannabis ingredients combined with cannabis, including ingredients added to prepare a topical administration, food, or drink;

(22) "Verification system" means a telephone-based or Web-based system established and maintained by the department that is available to law enforcement personnel and compassion center agents on a twenty-four (24) hour basis for verification of registry identification cards;

(23) "Visiting qualifying patient" means a person who:

(a) Has been diagnosed with a debilitating medical condition;

(b) Possesses a valid registry identification card, or its equivalent, that was issued pursuant to the laws of another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and

(c) Is not a resident of Kentucky or who has been a resident of Kentucky for less than thirty (30) days; and

(24) "Written certification" means a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat

or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall affirm that it is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition.

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

(1) A qualifying patient shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for the medical use of cannabis pursuant to Sections 1 to 29 of this Act, if the registered qualifying patient does not possess more than:

(a) Twelve (12) ounces of usable cannabis at the site where it is cultivated or three (3) ounces elsewhere; and

(b) Twelve (12) mature cannabis plants and twelve (12) seedlings at the site where the cannabis is cultivated, if the qualifying patient has not specified that a designated caregiver will be allowed under state law to cultivate cannabis for the qualifying patient.

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

(a) Assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of cannabis if the designated caregiver does not possess more than:

1. Twelve (12) ounces of usable cannabis at the site where it is cultivated or three (3) ounces elsewhere for each qualifying patient to whom the registered caregiver is connected through the department's registration process; and



2. Twelve (12) mature cannabis plants and twelve (12) seedlings at the site where the cannabis is cultivated for each qualifying patient who has specified that the designated caregiver will be allowed under state law to cultivate cannabis for the qualifying patient; or
- (b) Receiving compensation for costs associated with assisting a qualifying patient's medical use of cannabis if the designated caregiver is connected to the qualifying patient through the department's registration process.
- (3) All mature cannabis plants and seedlings possessed pursuant to this section shall be kept in an enclosed, locked facility, unless they are being transported to a permissible location, including because the cardholder is moving, the qualifying patient has changed his or her designation of who can cultivate, or the plants are being given to someone allowed to possess them pursuant to Sections 1 to 29 of this Act. The three (3) ounce limits established in subsections (1) and (2) of this section may be exceeded during transportation under this subsection.
- (4) A visiting qualifying patient shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for the medical use of cannabis pursuant to Sections 1 to 29 of this Act, if the visiting qualifying patient does not possess more than twelve (12) ounces of usable cannabis.
- (5) A qualifying patient, visiting qualifying patient, or designated caregiver shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for:
- (a) Possession of cannabis that is incidental to medical use, but is not mature cannabis plants, seedlings, or usable cannabis;
- (b) Selling, transferring, or delivering cannabis seeds produced by the qualifying patient, visiting qualifying patient, or designated caregiver to a

compassion center;

(c) Transferring cannabis to a safety compliance facility for testing; or

(d) Giving cannabis to a qualifying patient, a compassion center, or a designated caregiver for a qualifying patient's medical use where nothing of value is transferred in return, or for offering to do the same, if the person giving the cannabis does not knowingly cause the recipient to possess more cannabis than is permitted by this section.

(6) (a) There shall be a presumption that a qualifying patient is engaged in, or a designated caregiver is assisting with, the medical use of cannabis in accordance with Sections 1 to 29 of this Act if the qualifying patient or designated caregiver:

1. Is in possession of a valid registry identification card, or, in the case of a visiting qualifying patient, its equivalent; and

2. Is in possession of an amount of cannabis that does not exceed the amount allowed under this section.

(b) The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition in compliance with Sections 1 to 29 of this Act.

(7) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Kentucky Board of Medical Licensure or by any other occupational or professional licensing board, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical

condition or symptoms associated with the debilitating medical condition, except that nothing in Sections 1 to 29 of this Act shall prevent a practitioner from being sanctioned for:

- (a) Issuing a written certification to a patient with whom the practitioner does not have a bona fide practitioner-patient relationship; or
- (b) Failing to properly evaluate a patient's medical condition.

(8) No person may be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for:

- (a) Selling cannabis paraphernalia to a cardholder upon presentation of a registry identification card in the recipient's name that has not expired or to a compassion center agent or safety compliance facility agent upon presentation of an unexpired copy of the entity's registration certificate;
- (b) Being in the presence or vicinity of the medical use of cannabis as allowed under Sections 1 to 29 of this Act; or
- (c) Assisting a qualifying patient with using or administering cannabis. For purposes of illustration and not limitation, this includes preparing a vaporizer for a registered qualifying patient's use or brewing tea for a qualifying patient. It does not include providing cannabis to a patient that the patient did not already possess.

(9) A compassion center shall not be subject to prosecution under state or local law, to search or inspection except by the department pursuant to Section 25 of this Act, to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for acting pursuant to Sections 1 to 29 of this Act and the department's administrative regulations for:

- (a) Selling cannabis seeds to similar entities that are registered to dispense

cannabis for medical use in other jurisdictions; or

(b) Acquiring, possessing, manufacturing, delivering, transferring, transporting, supplying, selling, or dispensing cannabis, usable cannabis, related supplies, and educational materials to qualifying patients, visiting qualifying patients who have designated the compassion center to provide for them, designated caregivers on behalf of the qualifying patients who have designated the compassion center, or to other compassion centers.

(10) A compassion center agent shall not be subject to prosecution, search, or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for working for a compassion center pursuant to Sections 1 to 29 of this Act and the department's administrative regulations to acquire, possess, manufacture, deliver, transfer, transport, supply, sell, or dispense cannabis or related supplies and educational materials to qualifying patients who have designated the compassion center to provide for them, to designated caregivers on behalf of the qualifying patients who have designated the compassion center, or to other compassion centers.

(11) A cultivator or cultivator agent acting on behalf of a cultivator shall not be subject to prosecution under state or local law, to search or inspection except by the department pursuant to Section 24 of this Act, or to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by court or business licensing board, for acting pursuant to Sections 1 to 29 of this Act and the department's administrative regulations for:

(a) Selling cannabis seeds to similar entities that are registered to cultivate cannabis for medical use in other jurisdictions; or

(b) Acquiring, possessing, cultivating, manufacturing, delivering, transferring,

transporting, supplying, or selling usable cannabis and related supplies to other registered cultivators or registered compassion centers.

(12) A safety compliance facility and safety compliance facility agents acting on behalf of a safety compliance facility shall not be subject to prosecution, search except by the department pursuant to Section 24 of this Act, seizure, or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, solely for acting in accordance with Sections 1 to 29 of this Act and the department's administrative regulations to provide the following services:

- (a) Acquiring or possessing cannabis obtained from cardholders, cultivators, or compassion centers;
- (b) Returning the cannabis to cardholders, cultivators, or compassion centers;
- (c) Transporting cannabis that was produced by cardholders, cultivators, and compassion centers to or from those cardholders, cultivators, and compassion centers;
- (d) The production or sale of educational materials related to medical cannabis;
- (e) The production, sale, or transportation of equipment or materials other than cannabis to compassion centers, cultivators, caregivers, or cardholders including lab equipment and packaging materials, that are used by compassion centers, cultivators, and cardholders;
- (f) Testing of medical cannabis samples, including for potency, pesticides, mold, and contamination;
- (g) Providing training to cardholders, prospective cultivator agents, and prospective compassion center agents, provided that only cardholders may be allowed to possess or cultivate cannabis and any possession or cultivation of cannabis must occur on the location registered with the

department; and

(h) Receiving compensation for actions allowed under this section.

(13) Any cannabis, cannabis paraphernalia, lawful property, or interest in lawful property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under Sections 1 to 29 of this Act, or acts incidental to such use, shall not be seized or forfeited. Sections 1 to 29 of this Act shall not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under Sections 1 to 29 of this Act, nor shall it prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used pursuant to Sections 1 to 29 of this Act.

(14) Mere possession of, or application for, a registry identification card or registration certificate shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person, property, or home of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

(15) For the purposes of Kentucky law and any provisions to the contrary of Sections 1 to 29 of this Act, the medical use of cannabis by a cardholder or compassion center shall be considered lawful as long as it is in accordance with Sections 1 to 29 of this Act.

(16) No law enforcement officer employed by an agency which receives state or local government funds shall expend any state or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any investigation, on the sole basis of activity the officer believes to constitute a violation of the federal Controlled Substances Act, 21 U.S.C. secs. 801 et seq., if the officer has reason to believe that such activity is in compliance with state

medical cannabis laws, nor shall any such officer expend any state or local resources, including the officer's time, to provide any information or logistical support related to such activity to any federal law enforcement authority or prosecuting entity.

(17) An attorney shall not be subject to disciplinary action by the Kentucky Bar Association or other professional licensing association for providing legal assistance to prospective or registered cultivators, compassion centers, or safety compliance facilities or others related to activity that is no longer subject to criminal penalties under state law pursuant to Sections 1 to 29 of this Act.

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

This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

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

(2) Possessing cannabis, or otherwise engaging in the medical use of cannabis:

(a) In a school bus;

(b) On the grounds of any preschool or primary or secondary school; or

(c) In any correctional facility;

(3) Smoking cannabis:

(a) On any form of public transportation; or

(b) In any public place;

(4) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat or personal watercraft while under the influence of cannabis, except that a qualifying patient or visiting qualifying patient shall not be considered to be under the influence of cannabis solely because of the

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

(5) Using cannabis, if that person does not have a debilitating medical condition.

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

(1) Except as provided in Sections 1 to 29 of this Act, a qualifying patient who uses cannabis for medical purposes shall be afforded all the same rights under state and local law, including those guaranteed under KRS Chapter 344, as the individual would have been afforded if he or she were solely prescribed pharmaceutical medications, as it pertains to:

(a) Any interaction with a person's employer;

(b) Drug testing by one's employer; or

(c) Drug testing required by any state or local law, agency, or government official.

(2) (a) The rights provided by this section do not apply to the extent that they conflict with an employer's obligations under federal law or regulations or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or regulations.

(b) No employer is required to allow the ingestion of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. A qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

(3) No school or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for his or her status as a qualifying patient or a designated caregiver, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under



federal law or regulations.

(4) For the purposes of medical care, including organ transplants, a qualifying patient's authorized use of cannabis in accordance with Sections 1 to 29 of this Act is the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.

(5) A person otherwise entitled to custody of or visitation or parenting time with a minor shall not be denied such a right, and there shall be no presumption of neglect or child endangerment, for conduct allowed under Sections 1 to 29 of this Act, unless the person's actions in relation to cannabis were such that they created an unreasonable danger to the safety of the minor as established by clear and convincing evidence.

(6) No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.

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

Any citizen may petition the department to add conditions to the list of debilitating medical conditions listed in Section 2 of this Act. The department shall consider petitions in the manner required by administrative regulations promulgated by the department, including public notice and hearing. The department shall approve or deny a petition within one hundred (100) days of its submission. The approval or denial of any petition is a final decision of the department subject to judicial review. Jurisdiction and venue are vested in the Franklin Circuit Court.

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

(1) Nothing in Sections 1 to 29 of this Act requires:

(a) A government medical assistance program or private insurer to reimburse a

person for costs associated with the medical use of cannabis; or

(b) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke cannabis on or in that property.

(2) Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or working while under the influence of cannabis.

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

(1) The Department of Alcoholic Beverage and Cannabis Control shall promulgate administrative regulations necessary for implementation of this chapter which shall include:

(a) Procedures for the issuance, renewal, suspension, and revocation of licenses issued pursuant to this chapter, with such procedures subject to all requirements of KRS Chapters 13A and 13B;

(b) Security requirements including lighting, physical security, video surveillance, and alarm requirements;

(c) Requirements for the secure transportation and storage of cannabis and cannabis products by licensees and their employees or agents;

(d) Employment and training requirements for licensees, their agents, or their employees, including requiring each licensee to create an identification badge for each of the licensee's agents or employees;

(e) Standards for cannabis product processors to determine the amount of cannabis that cannabis products are considered the equivalent to;

(f) Requirements for the packaging and labeling of cannabis and cannabis products sold or distributed by licensees including:

1. Warnings for the length of time it typically takes for the product to

- take effect and how long the effects will typically last;
2. The amount of cannabis the product is considered the equivalent to;
  3. Disclosing ingredients and possible allergens;
  4. A nutritional fact panel;
  5. Opaque, child resistant packaging; and
  6. A requirement that edible cannabis products be clearly marked with an identifiable and standardized symbol indicating that the product contains cannabis;
- (g) Health and safety requirements for the processing of cannabis and cannabis products and both the indoor and outdoor cultivation of cannabis by licensees;
- (h) Restrictions on advertising, marketing, and signage in regard to operations or establishments owned by licensees necessary to prevent the targeting of minors;
- (i) Restrictions on additives to cannabis and cannabis products that are toxic or increase the likelihood of addiction;
- (j) Restrictions on pesticides used during cannabis cultivation which pose a threat to human health and safety;
- (k) Restrictions on visits to cannabis cultivation and processing facilities, including requiring the use of visitor logs;
- (l) A definition of the amount of delta-9 tetrahydrocannabinol that constitutes a single serving in a cannabis product;
- (m) Standards for the safe processing of cannabis products created by extracting or concentrating compounds from plant materials;
- (n) Requirements that evidence-based educational materials regarding dosage and impairment be disseminated to consumers who purchase cannabis products;

- (o) Requirements for random sample testing of cannabis and cannabis products to ensure quality control, including testing for residual solvents, pesticides, poisons, toxins, mold, mildew, insects, bacteria, and any other dangerous adulterant; and
- (p) Standards for the operation of cannabis testing facilities including requirements for equipment and personnel qualifications.
- (2) The department shall promulgate the required administrative regulations within one hundred and eighty (180) days after the effective date of this Act.
- ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:
- (1) No person shall cultivate, possess, test, transfer, or sell cannabis in this state without first obtaining a license under this section except as provided in Section 3 of this Act.
- (2) The department shall create separate licenses allowing persons to operate either:
- (a) A cannabis cultivator;
- (b) A cannabis safety compliance facility; or
- (c) A cannabis compassion center.
- (3) No person may hold more than one (1) type of license issued pursuant to this section.
- (4) Licenses issued pursuant to this chapter shall permit the licensee to operate only one (1) type of cannabis-related entity.
- (5) A license issued pursuant to this chapter shall be valid for one (1) year from the date of issuance. The department shall notify each licensee ninety (90) days prior to the date the license expires to allow the licensee to begin the renewal procedure promulgated by the department pursuant to Section 8 of this Act.
- (6) The licensing and renewal fees for each license created under subsection (2) of this section shall be five thousand dollars (\$5,000).

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

- (1) The department shall create a uniform application form for licenses issued pursuant to this section.
- (2) A person applying for a license to operate a cannabis-related entity shall complete the application form prescribed by the department in subsection (1) of this section and return the application form to the department with the required nonrefundable application fee of one hundred dollars (\$100).
- (3) The department shall issue a license to a person who applies for one unless:
  - (a) The person has been convicted of a criminal offense which would qualify him or her as a violent offender as defined in KRS 439.3401;
  - (b) The person falsifies information on the application for a license; or
  - (c) The person has had a previous license issued pursuant to this section revoked by the department within the previous twelve (12) months prior to his or her reapplication.
- (4) The application fee required under subsection (2) of this section shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.
- (5) Licenses issued pursuant to this section shall not be transferrable.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) The Medical Cannabis Administration fund is hereby created as a trust and agency fund in the State Treasury. The fund shall consist of amounts received from appropriations and any other proceeds from gifts, grants, federal funds, donations from private sources, and application fees, license fees, registration fees and renewal fees imposed under Sections 10, 16, 18, 19, and 20 of this Act.
- (2) The Medical Cannabis Administration fund shall be administered by the

Department of Alcoholic Beverage and Cannabis Control or its successor agency.

- (3) Amounts deposited in the fund shall be used to offset the expenses of implementing and administering Sections 1 to 29 of this Act.
- (4) Notwithstanding KRS 45.229, the Medical Cannabis Administration fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (5) Any interest earnings of the Medical Cannabis Administration fund shall become a part of the fund and shall not lapse.
- (6) Moneys deposited in the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.

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

- (1) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's administrative regulations:
- (a) A written certification issued by a practitioner within ninety (90) days immediately preceding the date of an application;
- (b) If the patient is not a visiting qualifying patient, documentation required to reasonably establish proof of residency in Kentucky;
- (c) If the patient is a visiting qualifying patient, a copy of his or her registry identification card or its equivalent that was issued pursuant to the laws of the jurisdiction of the person's residence;
- (d) The application or renewal fee;
- (e) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless no address is required;
- (f) The name, address, and telephone number of the qualifying patient's

practitioner;

(g) The name, address, and date of birth of the designated caregiver, if any, chosen by the qualifying patient, except that a visiting qualifying patient may not have a designated caregiver;

(h) The name of the compassion center the qualifying patient designates, if any;

(i) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use;

(j) A statement, signed by the qualifying patient, pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to Sections 1 to 29 of this Act; and

(k) A signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to Sections 1 to 29 of this Act.

(2) The application for qualifying patients' registry identification cards shall ask whether the patient would like the department to notify him or her of any clinical studies needing human subjects for research on the medical use of cannabis. The department shall notify interested patients if it is notified of studies that will be conducted in the United States.

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

(1) Except as provided in subsection (2) of this section, the department shall:

(a) Verify the information contained in an application or renewal submitted pursuant to Section 12 of this Act, and approve or deny an application or

renewal, within fifteen (15) days of receiving a completed application or renewal application;

(b) Issue registry identification cards to a qualifying patient and his or her designated caregiver, if any, within five (5) days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his or her qualifying patients; and

(c) Enter the registry identification number of the compassion center the patient designates into the verification system.

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

(a) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and

(b) The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

1. Allow the qualifying patient's medical use of cannabis;

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

3. Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

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

(1) The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

(a) Did not provide the required information or materials;

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

(c) Provided false or falsified information.



- (2) The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:
- (a) The designated caregiver does not meet the requirements of Section 2 of this Act;
- (b) The applicant did not provide the information required;
- (c) The designated caregiver previously had a registry identification card revoked; or
- (d) The applicant or the designated caregiver provides false or falsified information.
- (3) The department may conduct a background check of the prospective designated caregiver in order to implement this section.
- (4) The department shall notify the qualifying patient who has designated someone to serve as his or her designated caregiver if a registry identification card will not be issued to the designated caregiver.
- (5) Denial of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Franklin Circuit Court.

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

- (1) Registry identification cards shall contain all of the following:
- (a) The name of the cardholder;
- (b) A designation of whether the cardholder is a designated caregiver or qualifying patient;
- (c) The date of issuance and expiration date of the registry identification card;
- (d) A random ten (10) character alphanumeric identification number, containing at least four (4) numbers and at least four (4) letters, that is

- unique to the cardholder;
- (e) If the cardholder is a designated caregiver, the random ten (10) character alphanumeric identification number of the qualifying patient the designated caregiver is receiving the registry identification card to assist;
- (f) A clear designation as to whether the cardholder will be allowed under state law to possess the cannabis plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference;
- (g) A photograph of the cardholder, if the department's administrative regulations require one; and
- (h) The telephone number or Web address for the verification system.
- (2) (a) Except as provided in this subsection, the expiration date shall be one (1) year after the date of issuance.
- (b) If the practitioner stated in the written certification that the qualifying patient would benefit from cannabis until a specified earlier date, then the registry identification card shall expire on that date.
- (3) The department may, at its discretion, electronically store in the card all of the information listed in subsection (1) of this section, along with the address and date of birth of the cardholder, to allow it to be read by law enforcement agents.

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

- (1) The following notifications and department responses are required:
- (a) A qualifying patient shall notify the department of any change in his or her name or address, or if the qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of the change;
- (b) A designated caregiver shall notify the department of any change in his or her name or address, or if the designated caregiver becomes aware that the

- qualifying patient has died, within ten (10) days of the change or of becoming aware of the qualifying patient's death;
- (c) Before a qualifying patient changes his or her designated caregiver, the qualifying patient shall notify the department of the change;
- (d) When a qualifying patient changes his or her preference as to who may cultivate cannabis for the qualifying patient, the qualifying patient shall notify the department of the change; and
- (e) If a cardholder loses his or her registry identification card, he or she shall notify the department within ten (10) days of becoming aware the card has been lost.
- (2) When a cardholder notifies the department of items listed in subsection (1) of this section, but remains eligible under Sections 1 to 29 of this Act, the department shall issue the cardholder a new registry identification card with a new random ten (10) character alphanumeric identification number within ten (10) days of receiving the updated information and a twenty dollar (\$20) fee. The department shall use this fee for the purposes expressed in subsection (5)(a) of Section 28 of this Act. If the person notifying the department is a qualifying patient, the department shall also issue his or her designated caregiver, if any, a new registry identification card within ten (10) days of receiving the updated information.
- (3) If a qualifying patient ceases to be a qualifying patient or changes his or her designated caregiver, the department shall promptly notify the designated caregiver. The designated caregiver's protections under Sections 1 to 29 of this Act as to that qualifying patient shall expire fifteen (15) days after notification by the department.
- (4) A cardholder who fails to make a notification to the department that is required by this section is subject to a violation, punishable by a penalty of no more than one hundred fifty dollars (\$150).

(5) A qualifying patient shall notify the department before changing his or her registered compassion center and pay a twenty dollar (\$20) fee. The department shall use this fee for the purposes expressed in subsection (5)(a) of Section 28 of this Act. The department shall, within five (5) business days of receiving the notification, update the qualifying patient's entry in the identification registry system to reflect the change in designation and notify the patient that the change has been processed.

(6) If the qualifying patient's certifying practitioner notifies the department in writing that either the qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card shall become void. However, the qualifying patient shall have fifteen (15) days to dispose of or give away his or her cannabis.

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

(1) Except as provided in Section 4 of this Act and this section, an individual may assert a medical purpose for using cannabis as a defense to any prosecution of an offense involving cannabis intended for the patient's medical use, and this defense shall be presumed valid and the prosecution shall be dismissed if the evidence shows that:

(a) A practitioner states that, in the practitioner's professional opinion, after having completed a full assessment of the individual's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from cannabis to treat or alleviate the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition;

- (b) The individual and the individual's designated caregiver, if any, were collectively in possession of a quantity of cannabis that was not more than was reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of treating or alleviating the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition;
- (c) The individual was engaged in the acquisition, possession, cultivation, manufacture, use, or transportation of cannabis, paraphernalia, or both cannabis and paraphernalia, relating to the administration of cannabis to treat or alleviate the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition; and
- (d) Any cultivation of cannabis occurred in an enclosed, locked area that only the person asserting the defense could access.
- (2) The defense and motion to dismiss shall not prevail if either of the following are proven:
- (a) The individual had a registry identification card revoked for misconduct; or
- (b) The purposes for the possession or cultivation of cannabis were not solely for palliative or therapeutic use by the individual with a debilitating medical condition who raised the defense.
- (3) An individual is not required to possess a registry identification card to raise the affirmative defense set forth in this section.
- (4) If an individual demonstrates the individual's medical purpose for using cannabis pursuant to this section, except as provided in Section 4 of this Act, the individual shall not be subject to the following for the individual's use of cannabis for medical purposes:
- (a) Disciplinary action by an occupational or professional licensing board; or
- (b) Forfeiture of any interest in or right to non-cannabis, lawful property.

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

(1) Compassion centers may only operate if they have been issued a valid registration certificate from the department. When applying for a compassion center registration certificate, the applicant shall submit the following in accordance with the department's administrative regulations:

(a) A nonrefundable application fee in an amount not to exceed four thousand dollars (\$4,000), to be used by the department for the purposes expressed in subsection (5)(a) of Section 28 of this Act;

(b) The proposed legal name of the compassion center;

(c) The proposed physical address of the compassion center and the proposed physical address of any additional locations, if any, where cannabis will be packaged, labeled, or otherwise prepared for distribution by the compassion center;

(d) The name, address, and date of birth of each principal officer and board member of the compassion center, except that all such individuals shall be at least twenty-one (21) years of age;

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

(f) Any information required by the department to evaluate the applicant pursuant to the competitive bidding process described in subsection (2) of this section.

(2) The department shall evaluate applications for compassion center registration certificates using an impartial and numerically scored competitive bidding process developed by the department in accordance with Sections 1 to 29 of this

Act. The registration considerations shall consist of the following criteria:

- (a) The suitability of the proposed location or locations, including compliance with any local zoning laws and the geographic convenience to patients from throughout the Commonwealth to compassion centers should the applicant be approved;
  - (b) The principal officers' and board members' relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation and preparation and their experience running businesses or not-for-profit entities;
  - (c) The proposed compassion center's plan for operations and services, including its staffing and training plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical cannabis to the registered patients in the state;
  - (d) The sufficiency of the applicant's plans for recordkeeping;
  - (e) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed;
  - (f) The applicant's plan for making medical cannabis available on an affordable basis to qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance; and
  - (g) The applicant's plan for safe and accurate packaging and labeling of medical cannabis, including the applicant's plan for ensuring that all medical cannabis is free of contaminants.
- (3) No later than one (1) year after the effective date of this Act, if at least five (5) applications have been submitted, the department shall issue compassion center registration certificates to the five (5) highest-scoring applicants, except that the department may divide the state into geographical areas and grant a registration

to the highest-scoring applicant in each geographical area.

(4) No later than two (2) years after the effective date of this Act, the department shall issue registration certifications to at least one (1) compassion center for each one hundred thousand (100,000) residents of Kentucky of the highest-scoring applicants not already awarded a registration certificate, if a sufficient number of additional applications have been submitted. The need to ensure an adequate geographic distribution may supersede the requirement that the approved applicants be granted registration certificates based solely on which applicants receive the highest scores. If the department determines, after reviewing the report issued pursuant to Section 27 of this Act, that additional compassion centers are needed to meet the needs of qualifying patients throughout the state, the department shall issue registration certifications to the corresponding number of applicants who score the highest.

(5) (a) At any time after two (2) years after the effective date of this Act that the number of outstanding and valid compassion center certificates is lower than the number of registration certificates the department is required to issue pursuant to subsections (3) and (4) of this section, the department shall accept applications for compassion centers and issue registration certifications to the corresponding number of additional applicants that score the highest, or that score the highest in given geographic areas.

(b) Notwithstanding this subsection, an application for a compassion center registration certificate shall be denied if any of the following conditions are met:

1. The applicant failed to submit the materials required by this section, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping administrative regulations promulgated by the department;



2. The applicant would not be in compliance with local zoning regulations issued in accordance with Section 22 of this Act;
  3. The applicant does not meet the requirements of Section 24 of this Act;
  4. One (1) or more of the prospective principal officers or board members has been convicted of a disqualifying felony offense;
  5. One (1) or more of the prospective principal officers or board members has served as a principal officer or board member for a compassion center, cultivator, or safety compliance facility that has had its registration certificate revoked; or
  6. One (1) or more of the principal officers or board members is younger than twenty-one (21) years of age.
- (6) After a compassion center is approved, but before it begins operations, it shall submit a registration fee to the department in the amount determined by the department's administrative regulations and, if a physical address had not been finalized when it applied, it shall submit a complete listing of all its physical addresses.
- (7) The department may issue a registration certificate to a compassion center without regard to its score and the population formula specified in this section if the center's activities are limited solely to manufacture and distribution of usable cannabis to other compassion centers.
- (8) The department shall issue each compassion center one (1) copy of its registration certificate for each compassion center location. Registration certificates shall include the compassion center's identification number. The department shall also provide each compassion center with the contact information for the verification system.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

TO READ AS FOLLOWS:

(1) Cultivators shall:

- (a) Only grow, process, and deliver cannabis to a compassion center for fair market value and subject to applicable taxes for the transfer of agricultural products;
- (b) Be subject to the same rights, responsibilities, and protections as a compassion center;
- (c) Supply the amount of cannabis required by the compassion centers; and
- (d) Only deliver usable cannabis after it has been checked by a safety compliance facility for cannabinoid contents and contaminants.

(2) Cultivators may only operate if they have been issued a valid registration certificate from the department. When applying for a registered cultivator certificate, the applicant shall submit the following in accordance with the department's administrative regulations:

- (a) A nonrefundable application fee in an amount not to exceed four thousand dollars (\$4,000), to be used by the department for the purposes expressed in subsection (5)(a) of Section 28 of this Act;
- (b) The proposed legal name of the cultivator;
- (c) The proposed physical address of the cultivator and the proposed physical address of any additional locations, if any, where cannabis will be cultivated, harvested, packaged, labeled, or otherwise prepared for distribution to a compassion center or a safety compliance facility;
- (d) The name, address, and date of birth of each principal officer and board member of the cultivator, except that all such individuals shall be at least twenty-one (21) years of age; and
- (e) Any instances in which a business or not-for-profit entity that any of the prospective board members managed or served on the board of was

convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding.

(3) The department shall evaluate applications for cultivator certificates using an impartial process developed by the department in accordance with Sections 1 to 29 of this Act. The registration considerations shall consist of the following criteria:

(a) The suitability of the proposed location or locations, including compliance with any local zoning laws;

(b) The principal officers' and board members' relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation and preparation and their experience running businesses or not-for-profit entities;

(c) The applicant's plan for operations and services, including its staffing and training plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical cannabis to compassion centers in the state;

(d) The sufficiency of the applicant's plans for recordkeeping;

(e) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed; and

(f) The applicant's plan for safe and accurate packaging and labeling of medical cannabis, including the applicant's plan for ensuring that all medical cannabis is free of contaminants.

(4) An application for a cultivator certificate shall be denied if any of the following conditions are met:

(a) The applicant failed to submit the materials required by this section, including if the applicant's plans do not satisfy the security, oversight, or

- recordkeeping administrative regulations promulgated by the department;
- (b) The applicant would not be in compliance with local zoning regulations issued in accordance with Section 22 of this Act;
- (c) The applicant does not meet the requirements of Section 24 of this Act;
- (d) One (1) or more of the prospective principal officers or board members has been convicted of a disqualifying felony offense;
- (e) One (1) or more of the prospective principal officers or board members has served as a principal officer or board member for a cultivator, compassion center, or safety compliance facility that has had its registration certificate revoked; or
- (f) One (1) or more of the principal officers or board members is younger than twenty-one (21) years of age.
- (5) After a cultivator is approved, but before it begins operations, it shall submit a registration fee to the department in the amount determined by the department's administrative regulations and, if a physical address had not been finalized when it applied, it shall submit a complete listing of all its physical addresses.
- (6) The department shall issue each cultivator one (1) copy of its registration certificate for each cultivator location. Registration certificates shall include the cultivator's identification number. The department shall also provide each cultivator with the contact information for the verification system.

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

- (1) Safety compliance facilities may only operate if they have been issued a valid registration certificate from the department. When applying for a safety compliance facility registration certificate, the applicant shall submit the following in accordance with the department's administrative regulations:
- (a) A nonrefundable application fee in an amount not to exceed four thousand

dollars (\$4,000);

(b) The proposed legal name of the safety compliance facility;

(c) The proposed physical address of the safety compliance facility;

(d) The name, address, and date of birth of each principal officer and board member of the safety compliance facility, except that all such individuals shall be at least twenty-one (21) years of age;

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

(f) Any information required by the department to evaluate the applicant pursuant to the competitive bidding process described in subsection (2) of this section.

(2) The department shall evaluate applications for safety compliance facility registration certificates using an impartial and numerically scored competitive bidding process developed by the department in accordance with Sections 1 to 29 of this Act. The registration considerations shall consist of the following criteria:

(a) The proposed principal officers' and board members' relevant experience, including any training or professional licensing related to analytical testing, medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation, preparation, and testing and their experience running businesses or not-for-profit entities;

(b) The suitability of the proposed location, including compliance with any local zoning laws and the geographic convenience to cardholders and compassion centers from throughout the Commonwealth to safety compliance facilities should the applicant be approved;

(c) The sufficiency of the applicant's plans for safety, security, and the

prevention of diversion, including proposed locations and security devices employed; and

(d) The proposed safety compliance facility's plan for operations and services, including its staffing and training plans, and whether it has sufficient capital to operate.

(3) The department shall issue at least one (1) safety compliance facility registration certificate to the highest-scoring applicant within one (1) year of the effective date of this Act.

(4) (a) The department may issue additional safety compliance facility registration certificates to the highest-scoring applicant or applicants, or to the highest-scoring applicant or applicants in a given geographic area. If the department determines, after reviewing the report issued pursuant to Section 27 of this Act, that additional safety compliance facilities are needed to meet the needs of cardholders, cultivators, and compassion centers throughout the state, the department shall issue registration certificates to the corresponding number of applicants who score the highest overall or in a geographic area.

(b) Notwithstanding this subsection and subsection (3) of this section, an application for a safety compliance facility registration certificate shall be denied if any of the following conditions are met:

1. The applicant failed to submit the materials required by this section, including if the plans do not satisfy the security, oversight, or recordkeeping administrative regulations issued by the department;
2. The applicant would not be in compliance with local zoning regulations issued in accordance with Section 22 of this Act;
3. The applicant does not meet the requirements of Section 24 of this Act;

4. One (1) or more of the prospective principal officers or board members has been convicted of a disqualifying felony offense;
  5. One (1) or more of the prospective principal officers or board members has served as a principal officer or board member for a cultivator, safety compliance facility, or compassion center that has had its registration certificate revoked; or
  6. One (1) or more of the principal officers or board members is younger than twenty-one (21) years of age.
- (5) After a safety compliance facility is approved, but before it begins operations, it shall submit a registration fee paid to the department in the amount determined by the department's administrative regulation and, if a physical address had not been finalized when it applied, its physical address.
- (6) The department shall issue each safety compliance facility a registration certificate, which shall include an identification number for the safety compliance facility. The department shall also provide the safety compliance facility with the contact information for the verification system.

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

- (1) The department may, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the compassion center, cultivator, or safety compliance facility has been afforded an opportunity to be heard pursuant to KRS Chapter 13B, suspend or revoke a registration certificate for multiple or serious violations by the registrant or any of its agents of Sections 1 to 29 of this Act or any administrative regulations promulgated pursuant to those sections.
- (2) The department shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing, by mailing the same in writing to the compassion center, cultivator, or safety compliance facility at the

address on the registration certificate. A suspension shall not be for a longer period than six (6) months.

(3) A cultivator may continue to cultivate and possess cannabis plants during a suspension, but it may not transfer or sell cannabis.

(4) A compassion center may possess cannabis during a suspension, but it may not dispense, transfer, or sell cannabis.

(5) A safety compliance facility may possess cannabis during a suspension, but it may not transfer or receive any new cannabis.

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

Nothing shall prohibit local governments from enacting ordinances not in conflict with Sections 1 to 29 of this Act or with the department's administrative regulations regulating the time, place, and manner of compassion center or cultivator operations and safety compliance facilities, except that no local government may prohibit compassion center operation altogether, either expressly or through the enactment of ordinances which make compassion center and safety compliance facility operation unreasonably impracticable in the jurisdiction.

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

(1) Each compassion center, cultivator, and safety compliance facility shall conduct a background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the compassion center, cultivator, or safety compliance facility. A compassion center, cultivator, or safety compliance facility may not employ any person who:

(a) Was convicted of a disqualifying felony offense; or

(b) Is under twenty-one (21) years of age.



(2) A compassion center, cultivator, or safety compliance facility agent shall have documentation when transporting cannabis on behalf of the safety compliance facility, cultivator, or compassion center that specifies the amount of cannabis being transported, the date the cannabis is being transported, the registry identification certificate number of the compassion center, cultivator, or safety compliance facility, and a contact number to verify that the cannabis is being transported on behalf of the compassion center, cultivator, or safety compliance facility.

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

(1) The operating documents of a compassion center, safety compliance facility, or a cultivator shall include procedures for its oversight and procedures to ensure accurate recordkeeping.

(2) A compassion center, cultivator, or safety compliance facility shall implement appropriate security measures to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.

(3) A compassion center, cultivator, or safety compliance facility shall not be located within one thousand (1,000) feet of the property line of a pre-existing public or private school.

(4) A compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing cannabis for the purposes of distributing cannabis to any person except qualifying patients directly or through their designated caregivers.

(5) All cultivation of cannabis for compassion centers shall be grown by cultivators and take place in an enclosed, locked location at the physical address or addresses provided to the department during the registration process, which can only be accessed by cultivator agents working on behalf of the cultivator.

- (6) A compassion center shall not acquire usable cannabis or mature cannabis plants from any person other than another cultivator, a qualifying patient, or a designated caregiver.
- (7) Before cannabis may be dispensed to a designated caregiver or a registered qualifying patient, a compassion center agent shall make a diligent effort to verify each of the following:
- (a) That the registry identification card presented to the compassion center is valid, including by checking the verification system if it is operational;
  - (b) That the person presenting the card is the person identified on the registry identification card presented to the compassion center agent, by examining government-issued photo identification; and
  - (c) That the compassion center is the designated compassion center for the designated caregiver or qualifying patient.
- (8) A compassion center shall not dispense more than three (3) ounces of cannabis to a qualifying patient, directly or through a designated caregiver, in any fourteen (14) day period. Compassion centers shall ensure compliance with this limitation by maintaining internal, confidential records that include specific notations of how much cannabis is being dispensed to the qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the caregiver. Each entry shall include the date and time the cannabis was dispensed.
- (9) A compassion center or compassion center agent may only dispense cannabis to a visiting qualifying patient if he or she possesses a valid registry identification card and if the procedures in this section are otherwise followed.
- (10) No person may advertise medical cannabis sales in printed materials, on radio or television, or by paid in-person solicitation of customers. This shall not prevent appropriate signs on the property of the registered compassion center, listings in business directories including telephone books, listings in cannabis-related or

medical publications, or the sponsorship of health or not-for-profit charity or advocacy events.

(11) A compassion center shall not share office space with nor refer patients to a practitioner.

(12) A practitioner shall not refer patients to a compassion center or designated caregiver, advertise in a compassion center, or, if the practitioner issues written certifications, hold any financial interest in a compassion center.

(13) No person who has been convicted of a disqualifying felony offense may be a compassion center agent, safety compliance facility agent, or cultivator agent.

(14) Compassion centers, cultivators, and safety compliance facilities shall display their registration certificates on the premises at all times.

(15) The department may issue a civil fine of up to three thousand dollars (\$3,000) for violations of this section.

(16) The suspension or revocation of a certificate is a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Franklin Circuit Court.

(17) Any cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under Sections 1 to 29 of this Act shall have his or her registry identification card revoked and shall be subject to other penalties for the unauthorized sale of cannabis.

(18) The department may revoke the registry identification card of any cardholder who knowingly commits multiple or serious violations of Sections 1 to 29 of this Act.

(19) Compassion centers, safety compliance facilities, and cultivators are subject to reasonable inspection pursuant to the department's administrative regulations. The department shall give reasonable notice of an inspection under this subsection.

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

(1) The following information received and records kept pursuant to the department's administrative regulations for purposes of administering Sections 1 to 29 of this Act are confidential and exempt from the Open Records Act, and not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the department to perform official duties pursuant to Sections 1 to 29 of this Act:

(a) Applications and renewals, their contents, and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and practitioners;

(b) Applications and renewals, their contents, and supporting information submitted by or on behalf of compassion centers, cultivators, and safety compliance facilities in compliance with Sections 1 to 29 of this Act, including their physical addresses;

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

(d) Any dispensing information required to be kept under Section 24 of this Act or the department's administrative regulation which shall only identify cardholders, cultivators, and compassion centers by their registry identification numbers and shall not contain names or other personal identifying information; and

(e) Any department hard drives or other data-recording media that are no longer in use and that contain cardholder information. These hard drives and other media shall be destroyed.

Data subject to this section shall not be combined or linked in any manner with any other list or database and shall not be used for any purpose not provided for

in Sections 1 to 29 of this Act.

(2) Nothing in this section precludes the following:

(a) Notification by the department's employees to state or local law enforcement about falsified or fraudulent information submitted to the department or of other apparently criminal violations of Sections 1 to 29 of this Act if the employee who suspects that falsified or fraudulent information has been submitted conferred with his or her supervisor, and both agree that circumstances exist that warrant reporting;

(b) Notification by the department's employees to the Kentucky Board of Medical Licensure or other appropriate licensure board if the department has reasonable suspicion to believe a practitioner did not have a bona fide practitioner-patient relationship with a patient for whom he or she signed a written certification, if the department has reasonable suspicion to believe the practitioner violated the standard of care, or for other suspected violations of Sections 1 to 29 of this Act by a practitioner;

(c) Notification by compassion center agents to the department of a suspected violation or attempted violation of Sections 1 to 29 of this Act or the administrative regulations issued thereunder;

(d) Verification by the department of registry identification cards pursuant to Section 26 of this Act; and

(e) The submission of the report required by Section 27 of this Act to the General Assembly.

(3) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$1,000) fine for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to Sections 1 to 29 of this Act.

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

- (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards and their addresses, telephone numbers, and registry identification numbers. This confidential list shall not be combined or linked in any manner with any other list or database, nor shall it be used for any purpose not provided for in Sections 1 to 29 of this Act.
- (2) Within one hundred twenty (120) days of the effective date of this Act, the department shall establish a verification system. The verification system shall allow law enforcement personnel, compassion center agents, cultivator agents, and safety compliance facility agents to enter a registry identification number to determine whether or not the number corresponds with a current, valid registry identification card. The system shall only disclose whether the identification card is valid, whether the cardholder is a qualifying patient or designated caregiver, whether the cardholder is permitted to cultivate cannabis under Sections 1 to 29 of this Act, and the registry identification number of the compassion center designated to serve the qualifying patient who holds the card or the registry identification number of the patient who is assisted by the designated caregiver who holds the card.
- (3) The department shall, at a cardholder's request, confirm his or her status as a qualifying patient or designated caregiver to a third party, such as a landlord, employer, school, medical professional, or court.
- (4) The department shall disclose the fact that a registry identification card was revoked to a prosecutor or court personnel in any case where the prosecutor or court personnel inquires about a specific person who is seeking to assert the protections of Section 17 of this Act. The prosecutor or court personnel shall provide the department with the person's name and date of birth.

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

- (1) (a) The department shall appoint a thirteen (13) member oversight committee composed of: one (1) member of the House of Representatives; one (1) member of the Senate; one (1) representative of the department; one (1) practitioner with experience in medical cannabis issues; one (1) nurse; one (1) board member or principal officer of a compassion center; one (1) board member or principal officer of a cultivator; one (1) board member or principal officer of a registered safety compliance facility; one (1) individual with experience in policy development or implementation in the field of medical cannabis; one (1) peace officer; and three (3) registered patients.
- (b) The oversight committee shall meet at least two (2) times per year for the purpose of evaluating and making recommendations to the General Assembly and the department regarding:
1. The ability of qualifying patients in all areas of the state to obtain timely access to high-quality medical cannabis;
  2. The effectiveness of the compassion centers, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the qualifying patients of the Commonwealth;
  3. The effectiveness of the registered safety compliance facility or facilities, including whether a sufficient number is operating;
  4. The sufficiency of the regulatory and security safeguards contained in Sections 1 to 29 of this Act and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to

cardholders;

5. Any recommended additions or revisions to the department's administrative regulations or Sections 1 to 29 of this Act, including those relating to security, safe handling, labeling, and nomenclature;
6. Any research studies regarding health effects of medical cannabis for patients; and
7. The effectiveness of the cultivators individually and together, in serving the needs of the compassion centers, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the compassion centers of the Commonwealth.

(2) The department shall submit to the Legislative Research Commission an annual report that does not disclose any identifying information about cardholders, compassion centers, cultivators, caregivers, or practitioners, but does contain, at a minimum, all of the following information:

- (a) The number of applications and renewals filed for registry identification cards;
- (b) The number of qualifying patients who are residents of Kentucky at the time of the report;
- (c) The number of registry identification cards that were issued to visiting qualifying patients at the time of the report;
- (d) The nature of the debilitating medical conditions of the qualifying patients;
- (e) The number of registry identification cards revoked for misconduct;
- (f) The number of practitioners providing written certifications for qualifying patients;
- (g) The number of compassion centers and their agents;
- (h) The number of cultivators and their agents at the time of the report;



- (i) The number of caregivers and their agents at the time of the report;
- (j) The number of safety compliance facilities and their agents at the time of the report;
- (k) The amount of revenue generated from compassion centers, cultivators, safety compliance facilities, and qualifying patient fees, permits, and licenses; and
- (l) The total cost of cannabis program enforcement at the time of the report.

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

The department shall promulgate administrative regulations:

- (1) Governing the manner in which the department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in Section 2 of this Act, including public notice of and an opportunity to comment in public hearings on the petitions;
- (2) Establishing the form and content of registration and renewal applications submitted under Sections 1 to 29 of this Act;
- (3) Governing the manner in which it shall consider applications for and renewals of registry identification cards, which may include creating a standardized written certification form;
- (4) Governing the following matters related to safety compliance facilities, compassion centers, and cultivators, with the goal of protecting against diversion and theft, without imposing an undue burden on the safety compliance facilities, compassion centers, or cultivators or compromising the confidentiality of cardholders:
  - (a) Oversight requirements for compassion centers;
  - (b) Recordkeeping requirements for safety compliance facilities, compassion centers, and cultivators;

- (c) Security requirements for safety compliance facilities, compassion centers, and cultivators, which shall include, at a minimum, lighting, video security, alarm requirements, on-site parking, and measures to prevent loitering;
- (d) Electrical safety requirements;
- (e) The competitive scoring process addressed in Section 18 of this Act;
- (f) Procedures for suspending or terminating the registration certificates or registry identification cards of cardholders, compassion centers, cultivators, and safety compliance facilities that commit multiple or serious violations of the provisions of Sections 1 to 29 of this Act or the administrative regulations promulgated thereunder; and
- (g) Labeling requirements for cannabis and cannabis products sold by compassion centers; and
- (5) Establishing application and renewal fees for registry identification cards, caregiver registration, and application and registration fees for compassion center, cultivator, and safety compliance facility certificates, according to the following:

  - (a) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering Sections 1 to 29 of this Act, except that fee revenues may be offset or supplemented by private donations;
  - (b) The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income; and
  - (c) The department may accept donations from private sources to reduce application and renewal fees.

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

- (1) If the department fails to promulgate administrative regulations to implement

Sections 1 to 29 of this Act within the times provided for in Sections 1 to 29 of this Act, any citizen may commence an action in the Franklin Circuit Court to compel the department to perform the actions mandated pursuant to the provisions of Sections 1 to 29 of this Act.

(2) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to Sections 1 to 29 of this Act within twenty (20) days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal and proof of receipt of the mailing shall be deemed a valid registry identification card.

(3) If, at any time after one hundred forty (140) days following the effective date of this Act, the department has not established a process for accepting and approving or denying applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to Section 12 of this Act, together with a written certification issued by a practitioner within ninety (90) days immediately preceding the notarized statement, shall be deemed a valid registry identification card for all purposes under Sections 1 to 29 of this Act.

➔Section 30. KRS 218A.010 is amended to read as follows:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
  - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
  - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and

pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and antioestrogens;

- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Child" means any person under the age of majority as specified in KRS 2.015;
- (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
  1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
  2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
  3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
- (b) Such term does not include:
  1. Any substance for which there is an approved new drug application;
  2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to

the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
  - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
  - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
  - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

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

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

- (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
  - (b) Poses a fire hazard; or
  - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (17) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (18) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's

- usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;
- (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (20) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
  - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;~~for~~
  - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (21) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:
- (a) Industrial hemp as defined in KRS 260.850;
  - (b) The substance cannabidiol, when transferred, dispensed, or administered

pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or

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

**(d) *The medical use of cannabis pursuant to KRS Chapter 218A.***

- (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (25) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (26) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
- (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids



- of opium;
- (c) Opium poppy and poppy straw;
  - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
  - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
  - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
  - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (28) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (29) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (30) "Physical injury" has the same meaning it has in KRS 500.080;
- (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (32) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed,

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

- (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (36) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (37) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and

- effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (39) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (41) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (42) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;

- (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:
- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the

indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylindeles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
- (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole) structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,

1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

- (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
  - (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or
  - (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;
- (45) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or

thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

- (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxcathinone (bk-MDA);
  - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
  - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);  
or
  - (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (47) "Telehealth" has the same meaning it has in KRS 311.550;
- (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
  - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

- (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (50) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (51) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 31. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.



- (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
  - (4) Department of Law.
    - (a) Attorney General.
  - (5) Department of the Treasury.
    - (a) Treasurer.
  - (6) Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
  - (7) Auditor of Public Accounts.
- II. Program cabinets headed by appointed officers:
- (1) Justice and Public Safety Cabinet:
    - (a) Department of Kentucky State Police.
    - (b) Department of Criminal Justice Training.
    - (c) Department of Corrections.
    - (d) Department of Juvenile Justice.
    - (e) Office of the Secretary.
    - (f) Office of Drug Control Policy.
    - (g) Office of Legal Services.
    - (h) Office of the Kentucky State Medical Examiner.
    - (i) Parole Board.
    - (j) Kentucky State Corrections Commission.
    - (k) Office of Legislative and Intergovernmental Services.
    - (l) Office of Management and Administrative Services.
    - (m) Department for Public Advocacy.
  - (2) Education and Workforce Development Cabinet:

- (a) Office of the Secretary.
  - 1. Governor's Scholars Program.
- (b) Office of Legal and Legislative Services.
  - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Budget and Administration.
  - 1. Division of Human Resources.
  - 2. Division of Administrative Services.
- (e) Office of Technology Services.
- (f) Office of Educational Programs.
- (g) Office for Education and Workforce Statistics.
- (h) Board of the Kentucky Center for Education and Workforce Statistics.
- (i) Board of Directors for the Center for School Safety.
- (j) Department of Education.
  - 1. Kentucky Board of Education.
  - 2. Kentucky Technical Education Personnel Board.
- (k) Department for Libraries and Archives.
- (l) Department of Workforce Investment.
  - 1. Office for the Blind.
  - 2. Office of Vocational Rehabilitation.
  - 3. Office of Employment and Training.
    - a. Division of Grant Management and Support.
    - b. Division of Workforce and Employment Services.
    - c. Division of Unemployment Insurance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Office for the Blind State Rehabilitation Council.
- (o) Kentucky Workforce Investment Board.

- (p) Statewide Council for Vocational Rehabilitation.
  - (q) Statewide Independent Living Council.
  - (r) Unemployment Insurance Commission.
  - (s) Education Professional Standards Board.
    - 1. Division of Educator Preparation.
    - 2. Division of Certification.
    - 3. Division of Professional Learning and Assessment.
    - 4. Division of Legal Services.
  - (t) Kentucky Commission on the Deaf and Hard of Hearing.
  - (u) Kentucky Educational Television.
  - (v) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
- (a) Office of the Secretary.
    - 1. Office of Legislative and Intergovernmental Affairs.
    - 2. Office of General Counsel.
    - 3. Office of Administrative Hearings.
    - 4. Mine Safety Review Commission.
    - 5. Kentucky State Nature Preserves Commission.
    - 6. Kentucky Environmental Quality Commission.
    - 7. Kentucky Public Service Commission.
  - (b) Department for Environmental Protection.
    - 1. Office of the Commissioner.
    - 2. Division for Air Quality.
    - 3. Division of Water.
    - 4. Division of Environmental Program Support.
    - 5. Division of Waste Management.
    - 6. Division of Enforcement.

7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
  2. Division of Technical and Administrative Support.
  3. Division of Mine Permits.
  4. Division of Mine Reclamation and Enforcement.
  5. Division of Abandoned Mine Lands.
  6. Division of Oil and Gas.
  7. Division of Mine Safety.
  8. Division of Forestry.
  9. Division of Conservation.
  10. Office of the Reclamation Guaranty Fund.
  11. Kentucky Mining Board.
- (d) Department for Energy Development and Independence.
1. Division of Efficiency and Conservation.
  2. Division of Renewable Energy.
  3. Division of Biofuels.
  4. Division of Energy Generation Transmission and Distribution.
  5. Division of Carbon Management.
  6. Division of Fossil Energy Development.
- (4) Public Protection Cabinet.
- (a) Office of the Secretary.
1. Office of Communications and Public Outreach.
  2. Office of Legal Services.
    - a. Insurance Legal Division.
    - b. Charitable Gaming Legal Division.
    - c. Alcoholic Beverage Control Legal Division.

- d. Housing, Buildings and Construction Legal Division.
- e. Financial Institutions Legal Division.
- (b) Crime Victims Compensation Board.
- (c) Board of Claims.
- (d) Kentucky Board of Tax Appeals.
- (e) Kentucky Boxing and Wrestling Authority.
- (f) Kentucky Horse Racing Commission.
  - 1. Division of Licensing.
  - 2. Division of Incentives and Development.
  - 3. Division of Veterinary Services.
  - 4. Division of Security and Enforcement.
- (g) Department of Alcoholic Beverage and Cannabis Control.
  - 1. Division of Distilled Spirits.
  - 2. Division of Malt Beverages.
  - 3. Division of Enforcement.
  - 4. Division of Cannabis.**
- (h) Department of Charitable Gaming.
  - 1. Division of Licensing and Compliance.
  - 2. Division of Enforcement.
- (i) Department of Financial Institutions.
  - 1. Division of Depository Institutions.
  - 2. Division of Non-Depository Institutions.
  - 3. Division of Securities.
- (j) Department of Housing, Buildings and Construction.
  - 1. Division of Fire Prevention.
  - 2. Division of Plumbing.
  - 3. Division of Heating, Ventilation, and Air Conditioning.

4. Division of Building Code Enforcement.
- (k) Department of Insurance.
1. Property and Casualty Division.
  2. Health and Life Division.
  3. Division of Financial Standards and Examination.
  4. Division of Agent Licensing.
  5. Division of Insurance Fraud Investigation.
  6. Consumer Protection Division.
  7. Division of Kentucky Access.
- (l) Office of Occupations and Professions.
- (5) Labor Cabinet.
- (a) Office of the Secretary.
1. Division of Management Services.
  2. Office of General Counsel.
- (b) Office of General Administration and Program Support for Shared Services.
1. Division of Human Resource Management.
  2. Division of Fiscal Management.
  3. Division of Budgets.
  4. Division of Information Services.
- (c) Office of Inspector General for Shared Services.
- (d) Department of Workplace Standards.
1. Division of Employment Standards, Apprenticeship, and Mediation.
  2. Division of Occupational Safety and Health Compliance.
  3. Division of Occupational Safety and Health Education and Training.

4. Division of Workers' Compensation Funds.
- (e) Department of Workers' Claims.
1. Office of General Counsel for Workers' Claims.
  2. Office of Administrative Law Judges.
  3. Division of Claims Processing.
  4. Division of Security and Compliance.
  5. Division of Information and Research.
  6. Division of Ombudsman and Workers' Compensation Specialist Services.
  7. Workers' Compensation Board.
  8. Workers' Compensation Advisory Council.
  9. Workers' Compensation Nominating Commission.
- (f) Workers' Compensation Funding Commission.
- (g) Kentucky Labor-Management Advisory Council.
- (h) Occupational Safety and Health Standards Board.
- (i) Prevailing Wage Review Board.
- (j) Apprenticeship and Training Council.
- (k) State Labor Relations Board.
- (l) Employers' Mutual Insurance Authority.
- (m) Kentucky Occupational Safety and Health Review Commission.
- (6) Transportation Cabinet:
- (a) Department of Highways.
    1. Office of Project Development.
    2. Office of Project Delivery and Preservation.
    3. Office of Highway Safety.
    4. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.

- (c) Department of Aviation.
  - (d) Department of Rural and Municipal Aid.
    - 1. Office of Local Programs.
    - 2. Office of Rural and Secondary Roads.
  - (e) Office of the Secretary.
    - 1. Office of Public Affairs.
    - 2. Office for Civil Rights and Small Business Development.
    - 3. Office of Budget and Fiscal Management.
    - 4. Office of Inspector General.
  - (f) Office of Support Services.
  - (g) Office of Transportation Delivery.
  - (h) Office of Audits.
  - (i) Office of Human Resource Management.
  - (j) Office of Information Technology.
  - (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
- (a) Office of the Secretary.
    - 1. Office of Legal Services.
    - 2. Department for Business Development.
      - a. Office of Entrepreneurship.
        - i. Commission on Small Business Advocacy.
      - b. Office of Research and Public Affairs.
      - c. Bluegrass State Skills Corporation.
    - 3. Office of Financial Services.
      - a. Kentucky Economic Development Finance Authority.
      - b. Division of Finance and Personnel.
      - c. Division of Network Administration.



- d. Compliance Division.
  - e. Incentive Assistance Division.
- (8) Cabinet for Health and Family Services:
- (a) Office of the Secretary.
  - (b) Office of Health Policy.
  - (c) Office of Legal Services.
  - (d) Office of Inspector General.
  - (e) Office of Communications and Administrative Review.
  - (f) Office of the Ombudsman.
  - (g) Office of Policy and Budget.
  - (h) Office of Human Resource Management.
  - (i) Office of Administrative and Technology Services.
  - (j) Department for Public Health.
  - (k) Department for Medicaid Services.
  - (l) Department for Behavioral Health, Developmental and Intellectual Disabilities.
  - (m) Department for Aging and Independent Living.
  - (n) Department for Community Based Services.
  - (o) Department for Income Support.
  - (p) Department for Family Resource Centers and Volunteer Services.
  - (q) Kentucky Commission on Community Volunteerism and Service.
  - (r) Kentucky Commission for Children with Special Health Care Needs.
  - (s) Governor's Office of Electronic Health Information.
- (9) Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.

- (d) Office of Public Information.
  - (e) Office of Policy and Audit.
  - (f) Department for Facilities and Support Services.
  - (g) Department of Revenue.
  - (h) Commonwealth Office of Technology.
  - (i) State Property and Buildings Commission.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) Kentucky Employees Retirement Systems.
  - (l) Commonwealth Credit Union.
  - (m) State Investment Commission.
  - (n) Kentucky Housing Corporation.
  - (o) Kentucky Local Correctional Facilities Construction Authority.
  - (p) Kentucky Turnpike Authority.
  - (q) Historic Properties Advisory Commission.
  - (r) Kentucky Tobacco Settlement Trust Corporation.
  - (s) Kentucky Higher Education Assistance Authority.
  - (t) Kentucky River Authority.
  - (u) Kentucky Teachers' Retirement System Board of Trustees.
  - (v) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Travel and Tourism.
    - 1. Division of Tourism Services.
    - 2. Division of Marketing and Administration.
    - 3. Division of Communications and Promotions.
  - (b) Kentucky Department of Parks.
    - 1. Division of Information Technology.
    - 2. Division of Human Resources.

3. Division of Financial Operations.
  4. Division of Facilities Management.
  5. Division of Facilities Maintenance.
  6. Division of Customer Services.
  7. Division of Recreation.
  8. Division of Golf Courses.
  9. Division of Food Services.
  10. Division of Rangers.
  11. Division of Resort Parks.
  12. Division of Recreational Parks and Historic Sites.
- (c) Department of Fish and Wildlife Resources.
1. Division of Law Enforcement.
  2. Division of Administrative Services.
  3. Division of Engineering.
  4. Division of Fisheries.
  5. Division of Information and Education.
  6. Division of Wildlife.
  7. Division of Public Affairs.
- (d) Kentucky Horse Park.
1. Division of Support Services.
  2. Division of Buildings and Grounds.
  3. Division of Operational Services.
- (e) Kentucky State Fair Board.
1. Office of Administrative and Information Technology Services.
  2. Office of Human Resources and Access Control.
  3. Division of Expositions.
  4. Division of Kentucky Exposition Center Operations.

5. Division of Kentucky International Convention Center.
  6. Division of Public Relations and Media.
  7. Division of Venue Services.
  8. Division of Personnel Management and Staff Development.
  9. Division of Sales.
  10. Division of Security and Traffic Control.
  11. Division of Information Technology.
  12. Division of the Louisville Arena.
  13. Division of Fiscal and Contract Management.
  14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
  2. Office of Research and Administration.
  3. Office of Governmental Relations and Tourism Development.
  4. Office of the Sports Authority.
  5. Kentucky Sports Authority.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Creative Services.
- (k) Office of Capital Plaza Operations.
- (l) Office of Arts and Cultural Heritage.
- (m) Kentucky African-American Heritage Commission.
- (n) Kentucky Foundation for the Arts.
- (o) Kentucky Humanities Council.
- (p) Kentucky Heritage Council.
- (q) Kentucky Arts Council.

- (r) Kentucky Historical Society.
    - 1. Division of Museums.
    - 2. Division of Oral History and Educational Outreach.
    - 3. Division of Research and Publications.
    - 4. Division of Administration.
  - (s) Kentucky Center for the Arts.
    - 1. Division of Governor's School for the Arts.
  - (t) Kentucky Artisans Center at Berea.
  - (u) Northern Kentucky Convention Center.
  - (v) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
- (a) Office of the Secretary.
  - (b) Department of Human Resources Administration.
  - (c) Office of Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Governmental Services Center.
  - (h) Department of Employee Insurance.
  - (i) Office of Diversity and Equality.
  - (j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.

- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.

➔Section 32. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced;
- (2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
  - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
  - (b) Patented, patent, and proprietary medicines;
  - (c) Toilet, medicinal, and antiseptic preparations and solutions;
  - (d) Flavoring extracts and syrups;
  - (e) Denatured alcohol or denatured rum;
  - (f) Vinegar and preserved sweet cider;
  - (g) Wine for sacramental purposes; and
  - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use;
- (3) (a) "Alcohol vaporizing device" or "AWOL device" means any device, machine,

- or process that mixes liquor, spirits, or any other alcohol product with pure oxygen or by any other means produces a vaporized alcoholic product used for human consumption;
- (b) "Alcohol vaporizing device" or "AWOL device" does not include an inhaler, nebulizer, atomizer, or other device that is designed and intended by the manufacturer to dispense a prescribed or over-the-counter medication or a device installed and used by a licensee under this chapter to demonstrate the aroma of an alcoholic beverage;
- (4) "Automobile race track" means a facility primarily used for vehicle racing that has a seating capacity of at least thirty thousand (30,000) people;
- (5) "Board" means the State Alcoholic Beverage and Cannabis Control Board created by KRS 241.030;
- (6) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail;
- (7) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either alone or through an agent;
- (8) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept;
- (9) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership;

- (10) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests;
- (11) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes;
- (12) "Cider" means any fermented fruit-based beverage containing seven percent (7%) or more alcohol by volume and includes hard cider and perry cider;
- (13) "City administrator" means city alcoholic beverage control administrator;
- (14) "Commercial airport" means an airport through which more than five hundred thousand (500,000) passengers arrive or depart annually;
- (15) "Commissioner" means the commissioner of the Department of Alcoholic Beverage and Cannabis Control;
- (16) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions;
- (17) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment;
- (18) "County administrator" means county alcoholic beverage control administrator;



- (19) "Department" means the Department of Alcoholic Beverage Control;
- (20) "Dining car" means a railroad passenger car that serves meals to consumers on any railroad or Pullman car company;
- (21) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages;
- (22) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky;
- (23) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse;
- (24) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail;
- (25) "Dry" means a territory in which a majority of the electorate voted to prohibit all forms of retail alcohol sales through a local option election held under KRS Chapter 242;
- (26) "Election" means:
- (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
  - (b) Any other election not pertaining to alcohol;
- (27) "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the

main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes;

- (28) "Horse racetrack" means a facility licensed to conduct a horse race meeting under KRS Chapter 230;
- (29) "Hotel" means a hotel, motel, or inn for accommodation of the traveling public, designed primarily to serve transient patrons;
- (30) "License" means any license issued pursuant to KRS Chapters 241 to 244;
- (31) "Licensee" means any person to whom a license has been issued, pursuant to KRS Chapters 241 to 244;
- (32) "Limited restaurant" means:
- (a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a wet or moist territory under KRS 242.1244(2); or
  - (b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross receipts from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a wet or moist territory under KRS 242.1244;
- (33) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and includes weak cider;
- (34) "Manufacture" means distill, rectify, brew, bottle, and operate a winery;

- (35) "Manufacturer" means a winery, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages;
- (36) "Minor" means any person who is not twenty-one (21) years of age or older;
- (37) "Moist" means a territory in which a majority of the electorate voted to permit limited alcohol sales by any one (1) or a combination of special limited local option elections authorized by KRS 242.022, 242.123, 242.1238, 242.124, 242.1242, 242.1244, or 242.1292;
- (38) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998, shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license;
- (39) "Private club" means a nonprofit social, fraternal, military, or political organization, club, or entity maintaining or operating a club room, club rooms, or premises from which the general public is excluded;
- (40) "Public nuisance" means a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by a community or neighborhood or by any considerable number of persons;
- (41) "Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served within a commercial district listed in the National Register of Historic Places, or a site that is

listed as a National Historic Landmark or in the National Register of Historic Places with dining facilities for at least fifty (50) persons at tables, booths, or bars where food may be served. Notwithstanding the provisions of this subsection:

- (a) A distillery which is listed as a National Historic Landmark and which conducts souvenir retail package sales under KRS 243.0305; and
- (b) A not-for-profit or nonprofit facility listed on the National Register of Historic Places;

shall be deemed a "qualified historic site" under this section;

- (42) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name;
- (43) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made;
- (44) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its food and beverage receipts from the sale of food;
- (45) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not;
- (46) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers;
- (47) "Retail sale" means any sale where delivery is made in Kentucky to any consumers;
- (48) "Retailer" means any person who sells at retail any alcoholic beverage for the sale

- of which a license is required;
- (49) "Riverboat" means any boat or vessel with a regular place of mooring in this state that is licensed by the United States Coast Guard to carry one hundred (100) or more passengers for hire on navigable waters in or adjacent to this state;
- (50) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage;
- (51) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited;
- (52) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage;
- (53) "Small farm winery" means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year;
- (54) "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer;
- (55) "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires;
- (56) "State park" means a state park that has a:
- (a) Nine (9) or eighteen (18) hole golf course; or
  - (b) Full-service lodge and dining room, and may include a nine (9) or eighteen (18) hole golf course;
- (57) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the

licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures;

- (58) "Territory" means a county, city, district, or precinct;
- (59) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages;
- (60) "Warehouse" means any place in which alcoholic beverages are housed or stored;
- (61) "Weak cider" means any fermented fruit-based beverage containing more than one percent (1%) but less than seven percent (7%) alcohol by volume;
- (62) "Wet" means a territory in which a majority of the electorate voted to permit all forms of retail alcohol sales by a local option election under KRS 242.050, 242.125, or 242.1292 on the following question: "Are you in favor of the sale of alcoholic beverages in (name of territory)?";
- (63) "Wholesale sale" means a sale to any person for the purpose of resale;
- (64) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet;
- (65) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes sake, cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It does not include weak cider; and
- (66) "Winery" means any place or premises in which wine is manufactured from any

fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, except a place or premises that manufactures wine for sacramental purposes exclusively.

→Section 33. KRS 241.015 is amended to read as follows:

There is created a Department of Alcoholic Beverage and Cannabis Control, which shall constitute a statutory administrative department of the state government within the meaning of KRS Chapter 12. The department consists of the commissioner of alcoholic beverage and cannabis control and the Alcoholic Beverage and Cannabis Control Board. The commissioner shall head the department, shall be its executive officer, and shall have charge of the administration of the department and perform all functions of the department not specifically assigned to the board. The Governor shall appoint as commissioner a person with administrative experience in the field of alcoholic beverage control. The commissioner shall be appointed for a term of four (4) years.

→Section 34. KRS 241.020 is amended to read as follows:

- (1) The department shall administer statutes relating to, and regulate traffic in, alcoholic beverages, cannabis, and cannabis products except that the collection of taxes shall be administered by the Department of Revenue.
- (2) A Division of Distilled Spirits, under the supervision of the board, shall administer the laws in relation to traffic in distilled spirits and wine.
- (3) A Division of Malt Beverages, under the supervision of the board, shall administer the laws in relation to traffic in malt beverages.
- (4) A Division of Cannabis, under the supervision of the board, shall administer the laws in relation to cultivation, processing, testing, and sale of cannabis and cannabis products under KRS Chapter 218A.**

→Section 35. KRS 241.030 is amended to read as follows:

The Alcoholic Beverage and Cannabis Control Board shall consist of the commissioner of alcoholic beverage and cannabis control and three (3)~~two (2)~~ persons appointed by

the secretary of the Public Protection Cabinet with the approval of the Governor, who shall be persons with administrative experience in the field of alcoholic beverage **and Cannabis** control and who shall serve for terms of four (4) years each. One (1) of such persons shall serve as director of the Division of Distilled Spirits, **one (1) of such persons** ~~[and the other]~~ shall serve as director of the Division of Malt Beverages, **and one (1) of such persons shall serve as the director of the Division of Cannabis**. The commissioner shall be chairman of the board.

➔Section 36. KRS 218A.040 is amended to read as follows:

The Cabinet for Health and Family Services shall place a substance in Schedule I if it finds that the substance:

- (1) Has high potential for abuse; and
- (2) **Except for marijuana**, has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

➔Section 37. KRS 12.252 is amended to read as follows:

- (1) There is established within the Public Protection Cabinet a Department of Financial Institutions, a Department of Insurance, a Department of Housing, Buildings and Construction, a Department of Charitable Gaming, and a Department of Alcoholic Beverage **and Cannabis** Control. Each department shall be headed by a commissioner appointed by the Governor as required by KRS 12.040 and, where appropriate, by KRS 238.510, 241.015, and 304.2-020. Commissioners shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.
- (2) There is established within the Public Protection Cabinet an Office of Occupations and Professions, which shall be headed by an executive director appointed by the secretary with the approval of the Governor as required by KRS 12.050. The executive director shall be directly responsible to the secretary and shall perform the functions, powers, and duties provided by law and prescribed by the secretary.



- (3) The secretary of the Public Protection Cabinet shall be appointed by the Governor in accordance with KRS 12.255. The Office of the Secretary shall contain the following entities:
  - (a) The Office of Communications and Public Outreach, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
  - (b) The Office of Legal Services, which shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210.
- (4) The following agencies are attached to the Public Protection Cabinet for administrative purposes only, except as provided in KRS 131.330:
  - (a) Crime Victims Compensation Board;
  - (b) Board of Claims;
  - (c) Kentucky Board of Tax Appeals;
  - (d) Kentucky Boxing and Wrestling Authority; and
  - (e) Kentucky Horse Racing Commission.

➔Section 38. KRS 15.300 is amended to read as follows:

- (1) As used in this section, "consent order" means the consent order of December 21, 1998, agreed to in Commonwealth of Kentucky v. Philip Morris Inc. et al., Docket Number 98-CI-01579, Franklin Circuit Court.
- (2) There is created the Tobacco Master Settlement Agreement Compliance Advisory Board in the Department of Law. The board shall be composed of six (6) members as follows:
  - (a) The Attorney General, or the Attorney General's designee;
  - (b) The secretary of the Cabinet for Health and Family Services, or the secretary's designee;
  - (c) The Commissioner of Agriculture, or the Commissioner's designee;

- (d) The secretary of the Public Protection Cabinet, or the secretary's designee; and
  - (e) Two (2) citizens at large appointed by the Attorney General.
- (3) The citizen members of the board shall serve for terms of one (1) year and until their successors are appointed. The citizen members shall be eligible for successive terms on the board.
- (4) The board shall annually elect a member to serve as its chair and shall meet at least quarterly on a date set by the board. Board members shall be reimbursed for necessary expenses incurred in serving on the board.
- (5) The board may adopt rules governing the conduct of its meetings, the creation of meeting agendas, and other procedural matters it deems necessary. The board may adopt reporting forms, which shall be developed in consultation with participating agencies.
- (6) The Office of the Attorney General shall:
- (a) Enter into a memorandum of agreement with the Department of Public Health of the Cabinet for Health and Family Services, the Department of Alcoholic Beverage and Cannabis Control in the Public Protection Cabinet, and the Department of Agriculture to identify and report possible violations of the consent order;
  - (b) Attempt to secure funding under the master settlement agreement to reimburse the agencies specified in paragraph (a) of this subsection for any compliance activity that they perform; and
  - (c) Provide necessary funding and staff for administrative expenses related to the operation of the board. The board may request assistance from other state agencies.
- (7) The Tobacco Master Settlement Agreement Compliance Advisory Board shall:
- (a) Identify activities for which training is required for personnel of the state agencies specified in paragraph (a) of subsection (6) of this section that are

- responsible for identifying and reporting possible violations of the consent order;
- (b) Determine eligible compliance training costs and seek reimbursement for the costs; and
  - (c) Notify the appropriate tobacco manufacturer, in writing, of any alleged violation of the consent order and request a response and, if applicable, a corrective action plan within thirty (30) days from the date of the notice. If the manufacturer fails to respond or to satisfactorily resolve the matter, the board shall review the matter at its next meeting and may refer the matter to the Office of the Attorney General for enforcement action, if warranted.

➔Section 39. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
  - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
  - (b) City, county, and urban-county police officers;
  - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
  - (d) State or public university police officers appointed pursuant to KRS 164.950;
  - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
  - (f) Airport safety and security officers appointed under KRS 183.880;
  - (g) Department of Alcoholic Beverage and Cannabis Control field representatives and investigators appointed under KRS 241.090;
  - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
  - (i) County detectives appointed in a county containing a consolidated local

government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.

- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
  - (a) Deputy coroners;
  - (b) Deputy constables;
  - (c) Deputy jailers;
  - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
  - (e) Officers appointed under KRS 61.360;
  - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
  - (g) Private security officers;
  - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
  - (i) Investigators employed by the Department of Charitable Gaming in accordance with KRS 238.510; and
  - (j) Commonwealth detectives employed under KRS 69.110 and county detectives employed under KRS 69.360.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

- (a) Sheriffs;
  - (b) Coroners;
  - (c) Constables;
  - (d) Jailers;
  - (e) Kentucky Horse Racing Commission security officers employed under KRS 230.240; and
  - (f) Commissioner of the State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

➔Section 40. KRS 15.398 is amended to read as follows:

The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to KRS 15.380 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all instances the provisions of all statutes specified below shall prevail:

- (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- (3) KRS Chapter 78, relating to county police;
- (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county police;
- (5) KRS Chapter 183, relating to airport safety and security officers;
- (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;
- (7) KRS Chapter 18A, relating to all state peace officers;
- (8) KRS 241.090, relating to Department of Alcoholic Beverage and Cannabis Control field representatives and investigators;
- (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- (10) Any other statutes affecting peace officers not specifically cited herein.

➔Section 41. KRS 15A.340 is amended to read as follows:

- (1) As used in this section and KRS 15A.342 and 15A.344, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.
- (2) The Office of Drug Control Policy shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. The Office of Drug Control Policy may expend endowment principal, if necessary in its discretion, to carry out the purposes of this section and KRS 15A.342 and 15A.344. These expenditures from the endowment principal are hereby appropriated for this purpose.
- (3) (a) The Office of Drug Control Policy shall oversee the activities specified in this section and KRS 15A.342 and 15A.344 and provide administrative support to the seventeen (17) member KY-ASAP Board, which is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:
  1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;
  2. One (1) member representing the Kentucky Health Department Association, or a designee;
  3. The secretary of the Cabinet for Health and Family Services, or designee;
  4. The secretary of the Justice and Public Safety Cabinet, or a designee;
  5. One (1) member representing the Division of Behavioral Health within the Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, or a designee;
  6. The commissioner of the Department for Public Health, Cabinet for Health and Family Services, or a designee;
  7. The commissioner of the Department of Alcoholic Beverage ***and*** ***Cannabis*** Control, or a designee;

8. The commissioner of the Department of Education;
  9. The director of the Administrative Office of the Courts, or a designee;
  10. One (1) member representing the Kentucky Association of Regional Programs, or a designee;
  11. One (1) member representing the Kentucky Heart Association, or a designee;
  12. One (1) member representing the Kentucky Lung Association, or a designee;
  13. One (1) member representing the Kentucky Cancer Society, or a designee;
  14. Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and
  15. Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.
- (b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.
- (c) The board shall meet at least quarterly. A quorum of nine (9) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (d) The board shall:
1. Oversee deposits and expenditures from the endowment;
  2. Request, in its discretion, an audit relating to the expenditure of endowment funds;

3. Receive quarterly reports from the commissioner of the Department of Alcoholic Beverage and Cannabis Control regarding KY-ASAP's activities;
  4. Progress toward development and implementation of the strategic plan;
  5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;
  6. Recommend matters for review and analysis by KY-ASAP; and
  7. Perform other duties as necessary for the oversight of KY-ASAP.
- (4) The Office of Drug Control Policy and KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.
- (5) The Office of Drug Control Policy and KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

➔Section 42. KRS 17.150 is amended to read as follows:

- (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the intellectually disabled; Department of Kentucky State Police; state fire marshal; Board of Alcoholic Beverage and Cannabis Control; Cabinet for Health and Family Services; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice and the Department for Public Advocacy, public or private, dealing with crimes or criminals or with



delinquency or delinquents, when requested by the cabinet, shall:

- (a) Install and maintain records needed for reporting data required by the cabinet;
  - (b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;
  - (c) Give the cabinet or its accredited agent access for purpose of inspection; and
  - (d) Cooperate with the cabinet to the end that its duties may be properly performed.
- (2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:
- (a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;
  - (b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;
  - (c) Information which may endanger the life or physical safety of law enforcement personnel; or
  - (d) Information contained in the records to be used in a prospective law enforcement action.
- (3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.
- (4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the

Justice and Public Safety Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice and Public Safety Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

- (5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.
- (6) The secretary of justice and public safety shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of Kentucky State Police.
- (7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice and public safety, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice and public safety.

➔Section 43. KRS 61.592 is amended to read as follows:

- (1) (a) "Hazardous position" for employees participating in the Kentucky Employees

Retirement System, and for employees who begin participating in the County Employees Retirement System before September 1, 2008, means:

1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning;
  2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates; and
  3. Positions of employees who elect coverage under KRS 196.167(3)(b)2. and who continue to provide educational services and support to inmates as a Department of Corrections employee.
- (b) "Hazardous position" for employees who begin participating in the County Employees Retirement System on or after September 1, 2008, means police officers and firefighters as defined in KRS 61.315(1), paramedics, correctional officers with duties that routinely and regularly require face-to-face contact with inmates, and emergency medical technicians if:
1. The employee's duties require frequent exposure to a high degree of danger or peril and a high degree of physical conditioning; and
  2. The employee's duties are not primarily clerical or administrative.
- (c) The effective date of participation under hazardous duty coverage for positions in the Department of Alcoholic Beverage and Cannabis Control shall be April 1, 1998. The employer and employee contributions shall be paid

by the employer and forwarded to the retirement system for the period not previously reported.

- (2) (a) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section. This process shall not be required for employees who elect coverage under KRS 196.167(3)(b)2.
- (b) Each employer desiring to provide hazardous duty coverage to employees who begin participating in the County Employees Retirement System on or after September 1, 2008, may request that the board approve hazardous duty coverage for those positions that meet the criteria set forth in subsection (1)(b) of this section. Each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1)(b) of this section for which coverage is requested and a job description for each position or employee. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. Each employer shall also certify, under

penalty of perjury in accordance with KRS Chapter 523, that each employee's actual job duties are accurately reflected in the job description provided to the system. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as defined in subsection (1)(b) of this section. The board shall have the authority to remove any employee from hazardous duty coverage if the board determines the employee is not working in a hazardous duty position or if the employee is classified in a hazardous duty position but has individual job duties that do not meet the definition of a hazardous duty position or are not accurately reflected in the job descriptions filed by the employer with the system.

- (3) (a) An employee who elects coverage under KRS 196.167(3)(b)2., and an employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section, shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.
- (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565.
- (c) If the employer participated in the system prior to electing hazardous duty

coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous. The provisions of this paragraph shall not apply to members who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014.

- (4) The normal retirement age, retirement allowance, hybrid cash balance plans, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.505 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.510 to 61.705, or 78.510 to 78.852, or 16.505 to 16.652.

➔Section 44. KRS 62.160 is amended to read as follows:

(1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage and Cannabis Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

(2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State .....	\$10,000
Attorney General .....	10,000
State Treasurer .....	300,000
Secretary for economic development .....	10,000
Commissioner of Agriculture .....	10,000
Secretary for education .....	10,000
Auditor of Public Accounts .....	25,000
Adjutant general .....	10,000
Secretary of finance and administration .....	100,000
Commissioner of revenue .....	50,000
Secretary of transportation .....	50,000

Commissioner of highways .....50,000

Secretary of justice and public safety .....50,000

Secretary of corrections .....25,000

Commissioner for public health services .....10,000

Secretary of labor .....5,000

Commissioner for natural resources .....50,000

State librarian .....5,000

Commissioner of alcoholic beverage and Cannabis control .....10,000

Commissioner of financial institutions .....25,000

Secretary for energy and environment .....50,000

Commissioner of insurance .....50,000

Commissioner of vehicle regulation .....10,000

Commissioner of fish and wildlife resources .....5,000

Secretary for health and family services .....20,000

Commissioner of environmental protection .....10,000

Secretary of public protection .....10,000

Secretary of tourism, arts and heritage .....25,000

Commissioner for community based services .....20,000

Member of the Public Service Commission .....10,000

Member of State Fair Board .....10,000

Member of Fish and Wildlife Resources Commission .....1,000

Member of Kentucky Board of Tax Appeals .....10,000

Associate member of Alcoholic Beverage and Cannabis Control Board .....5,000

Commissioner of local government .....100,000

➔Section 45. KRS 131.1815 is amended to read as follows:

- (1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter 243, is a delinquent taxpayer as defined in subsection (2) of this section, the



department may, after giving notice as provided in subsection (3) of this section, submit the name of the taxpayer to the Department of Alcoholic Beverage and Cannabis Control for revocation of any license issued under KRS Chapter 243.

- (2) Any of the following situations shall be sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:
- (a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the manufacture, sale, transportation, or distribution of alcoholic beverages, for which all protest and appeal rights granted by law have expired, and the taxpayer has been contacted by the department concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the department;
  - (b) When a taxpayer has not filed a required tax return as of ninety (90) days after the due date or after the extended due date, and the taxpayer has been contacted by the department concerning the delinquent return; or
  - (c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS Chapter 243 held a similar position in a business whose license was revoked as a "delinquent taxpayer," and the tax liability remains unpaid as of ninety (90) days after the due date.
- (3) At least twenty (20) days before submitting a taxpayer's name to the Department of Alcoholic Beverage and Cannabis Control as provided in subsection (1) of this section, the department shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance that must be satisfied in order to prevent the submission of his name to the Department of Alcoholic Beverage and Cannabis Control as a delinquent taxpayer.

→Section 46. KRS 211.285 is amended to read as follows:

- (1) There is hereby created the malt beverage educational fund which shall provide moneys on a matching basis for educational information and materials that deter or eliminate underage drinking. The fund shall consist of moneys generated from one percent (1%) of the excise tax collected from the sale and distribution of malt beverages under KRS 243.720 and one percent (1%) of the wholesale tax collected from distributors of malt beverages under KRS 243.884.
- (2) The malt beverage educational fund shall be established in the State Treasury as a trust and revolving account under KRS 45.253. Moneys in the account shall be distributed by the State Treasurer to the Malt Beverage Educational Corporation, a nonprofit organization that is organized under the laws of this state, upon the authorization of the secretary of the Cabinet for Health and Family Services. The moneys shall be awarded to the corporation solely to fund educational programs to deter or eliminate underage drinking.
- (3) The secretary of the Cabinet for Health and Family Services shall authorize that moneys from the fund be disbursed to the corporation upon the secretary's receipt of a certification from the corporation showing the moneys the corporation has received from malt beverage distributors and other private sources since the last certification. The moneys disbursed from the fund shall be equal to the contributions that the corporation has received from its members and other private sources during that period. The moneys in the fund shall be disbursed in accordance with a schedule established by the secretary, and shall be disbursed until the moneys in the fund are exhausted or until the moneys in the fund lapse in accordance with subsection (4) of this section, whichever comes first.
- (4) Moneys that are credited to the fund and not issued to the corporation shall lapse at the end of the fiscal year and shall be returned to the general fund.
- (5) As a condition of receiving the governmental funds, the corporation's board of

directors shall include the following among its directors:

- (a) The Governor or his or her designee;
  - (b) The Attorney General or his or her designee;
  - (c) The President of the Senate or his or her designee;
  - (d) The Speaker of the House or his or her designee;
  - (e) The secretary of the Cabinet for Health and Family Services or his or her designee; and
  - (f) The commissioner of the Department of Alcoholic Beverage *and Cannabis* Control or his or her designee.
- (6) All expenditures of moneys from the fund shall be approved by a majority of those persons set out in subsection (5)(a) to (f) of this section. If the moneys from the fund are not expended in their entirety, any moneys that remain unused by the corporation at the end of the fiscal year shall be returned to the general fund.
- (7) Any moneys from the fund that are not expended shall be returned to the general fund upon the dissolution of the corporation.
- (8) Any high school in the Commonwealth of Kentucky that was registered with the Department of Education as of July 1, 1997, may make an application to the Malt Beverage Education Corporation by February 28 of each year and shall be granted a minimum of five hundred dollars (\$500) annually from the funds contributed by the malt beverage educational fund for the single purpose of supporting "Project Graduation" events.

➔Section 47. KRS 241.065 is amended to read as follows:

- (1) The number of quota retail package licenses issued by the Alcoholic Beverage *and Cannabis* Control Board to licensees in counties containing cities of the first class, and including such cities, shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.
- (2) The number of quota retail drink licenses issued by the Alcoholic Beverage *and*

**Cannabis** Control Board to licensees in counties containing cities of the first class, and including such cities shall not exceed a number equal to one (1) for every one thousand five hundred (1,500) persons resident in such county.

- (3) In order that a fixed and approved standard of population as prescribed in subsections (1) and (2) of this section may be adopted the annual estimates of population as determined by chambers of commerce of cities of the first class shall be used in every year except a census year, and during a census year the United States government census figures of population shall be controlling.

➔Section 48. KRS 241.075 is amended to read as follows:

- (1) The State Alcoholic Beverage **and Cannabis** Control Board shall, for the purpose of regulating the location of quota retail package licenses and quota retail drink licenses in cities of the first class or consolidated local governments, divide such cities or consolidated local governments into "downtown business areas" and "combination business and residential areas."
- (2) No quota retail package or quota retail drink license shall be granted or issued to any licensee who proposes to sell distilled spirits and wine by the package or by the drink at a location within seven hundred (700) feet of the location of any similar establishment in any combination business and residential area, nor shall such license be granted or issued to any licensee who proposes to operate at a location in a combination business and residential area within seven hundred (700) feet of a similar establishment located in a downtown business area. This section shall not affect location of such establishments in downtown business areas of such cities or consolidated local governments.
- (3) The distance between locations of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of

any such place of business. The measurement shall be taken from the entrance of the existing licensed premises to the entrance of any proposed location.

- (4) The location of all establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on June 17, 1954, shall not be affected by the terms of this section and this section shall not apply to existing licensed locations or to the renewal of licenses therefor, or to transfers thereof. The distance limitation prescribed by this section shall not affect any existing licensed location, nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through failure of the landlord to renew such lease may be transferred to a location which is not closer than half the distance between the existing licensed premises and the nearest similar licensed premises.

➔Section 49. KRS 243.025 is amended to read as follows:

- (1) All of the fees paid into the State Treasury for licenses issued under KRS 243.030 and 243.040 shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage and Cannabis Control.
- (2) All fees associated with the department's server training program, except for board-ordered fees, shall be collected on a cost recovery basis and shall be credited to the revolving trust and agency account established under subsection (1) of this section.
- (3) These moneys shall be used solely for the administration and enforcement of KRS Chapters 241, 242, 243, and 244. The moneys in the account shall not lapse at the close of the fiscal year.

➔Section 50. KRS 243.038 is amended to read as follows:

- (1) The Department of Alcoholic Beverage and Cannabis Control shall not issue a license to an applicant authorized to apply for a license to sell alcoholic beverages

by the drink under KRS 243.039 unless the applicant and the golf course, if different from the applicant, agree to voluntarily comply with the provisions of KRS Chapter 344, whether or not the applicant and the golf course would otherwise be covered by the provisions of KRS Chapter 344.

- (2) The department shall revoke or suspend any license issued under KRS 243.039 if the department or the Kentucky Commission on Human Rights makes a finding that the applicant or the golf course, if different from the applicant, has violated a requirement specified in this section.

➔Section 51. KRS 243.075 is amended to read as follows:

- (1) (a) Notwithstanding the provisions of KRS 243.060 and 243.070, in any qualified city in which the discontinuance of prohibition is effective by virtue of a local option election held under KRS Chapter 242, the governing body of the city and the governing body of the county containing a qualified city is authorized to impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment therein licensed to sell alcoholic beverages.
- (b) The regulatory license fee may be levied at the beginning of each budget period at a percentage rate as shall be reasonably estimated to fully reimburse the local government for the estimated costs of any additional policing, regulatory, or administrative expenses related to the sale of alcoholic beverages in the city and county.
- (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, except:
  1. A credit against a regulatory license fee in a city shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070; and
  2. In a county in which the city and county both levy a regulatory license

fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.

- (2) (a) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.060 or 243.070, a city or county that is moist through a local option election held under KRS 242.1244, or that issues licenses under KRS 243.072 may by ordinance impose a regulatory license fee upon the gross receipts of the sale of alcoholic beverages of each establishment located therein and licensed to sell distilled spirits, wine, or malt beverages by the drink for consumption on the premises.
  - (b) The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses.
  - (c) The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county pursuant to KRS 243.060 or 243.070.
  - (d) In a county in which the city and county both levy a regulatory license fee, the county license fee shall only be applicable outside the jurisdictional boundaries of those cities which levy a license fee.
- (3) (a) For any election held after July 15, 2014, any new fee authorized under subsection (1) or (2) of this section shall be enacted by the city or county no later than two (2) years from the date of the local option election held under KRS Chapter 242.
  - (b) For any new ordinance enacted pursuant to KRS 243.072 after July 15, 2014, the fee authorized by subsection (2) of this section shall be enacted within two (2) years of the date of the enactment of an ordinance pursuant to KRS

243.072.

- (4) After July 15, 2014, any fee authorized under subsections (1) and (2) of this section shall be established at a rate that will generate revenue that does not exceed the total of the reasonable expenses actually incurred by the city or county in the immediately previous fiscal year for the additional cost, as demonstrated by reasonable evidence, of:
- (a) Policing;
  - (b) Regulation; and
  - (c) Administration;
- as a result of the sale of alcoholic beverages within the city or county.
- (5) (a) The Kentucky Department of Alcoholic Beverage and Cannabis Control shall promulgate administrative regulations which set forth the process by which a city or county, in the first year following the discontinuance of prohibition, may estimate any additional policing, regulation, and administrative expenses by a city or county directly and solely related to the discontinuance of prohibition. This subsection shall apply to any discontinuance of prohibition occurring after the promulgation of administrative regulations required by this subsection.
- (b) After the first year, the regulatory license fee for each subsequent year shall conform to the requirements of subsection (4) of this section.
- (6) The revenue received from the imposition of the regulatory license fee authorized under subsections (1) and (2) of this section shall be:
- (a) Deposited into a segregated fund of the city or county;
  - (b) Spent only in accordance with the requirements of subsections (1) and (2) of this section; and
  - (c) Audited under an annual audit performed pursuant to KRS 43.070, 64.810, and 91A.040.



- (7) Any city or county found by a court to have violated the provisions of this section shall:
- (a) Provide a refund as determined by the court to any licensee that has been harmed in an amount equal to its prorated portion of the excess revenues collected by the city or county that are directly attributable to a violation occurring after July 15, 2014;
  - (b) Be responsible for the payment of the reasonable attorney fees directly incurred by a party to a litigation in an amount ordered by the court upon its finding of an intentional and willful violation of this section by a city or county occurring after July 15, 2014; and
  - (c) Upon the finding by a court of a second intentional and willful violation of the provisions of this section, lose the ability to impose the regulatory fee provided by this section for a period of five (5) years and, upon the finding by a court of a third intentional and willful violation, forfeit the right to impose the regulatory license fee authorized by this section.
- (8) Any party bringing suit against a city or county for an alleged violation of this section occurring after July 15, 2014, shall be responsible for the payment of the reasonable attorney fees of the city or county in an amount determined by the court upon a finding by the court that the city or county did not violate this section.
- (9) (a) As used in this section, "qualified city" means a city on the registry maintained by the Department for Local Government under paragraph (b) of this subsection.
- (b) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the third or fourth class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 52. KRS 243.090 is amended to read as follows:

- (1) All licenses issued by the department, except special event licenses, temporary licenses, or licenses listed in subsection (4) of this section, shall be valid for a period of no more than a year. The department shall promulgate administrative regulations establishing the year-round system for renewal of licenses. The system shall be designed to distribute the workload as uniformly as possible within the offices of the local administrators and the Department of Alcoholic Beverage and Cannabis Control.
- (2) When any person applies for a new license authorized under KRS Chapters 241 to 244, he or she shall be charged, if the license is issued, the full fee for the respective license if six (6) months or more remain before the license is due to be renewed and one-half (1/2) the fee if less than six (6) months remain before the license is due to be renewed. No abatement of license fees shall be permitted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under the license during the last month of the preceding license period.
- (3) The renewal by the department of the certificate or permit of any alcoholic beverage license shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee.
- (4) All alcoholic beverage producers, wholesalers, or distributors may obtain or renew their licenses for either a one (1) year term or a two (2) year term.

➔Section 53. KRS 243.360 is amended to read as follows:

- (1) Any person, corporation, partnership, or any other entity, except an applicant for the same license for the same premises, or an applicant for an out-of-state malt beverage supplier's license, limited out-of-state malt beverage supplier's license, out-of-state distilled spirits and wine supplier's license, limited out-of-state distilled spirits and wine supplier's license, micro out-of-state distilled spirits and wine

supplier's license, supplemental bar license, extended hours supplemental license, a special agent or solicitor's license, a special nonbeverage alcohol license, a transporter's license, a special Sunday drink license, or a special temporary drink license shall, before applying for a license under KRS 243.030 and 243.040, advertise by publication under KRS 424.130(1)(b) his or her intention to apply for a license.

- (2) The notice shall conform in all material respects to the following requirements:
  - (a) The notice shall state: the name and address of the applicant if the applicant is an individual, the name and address of each partner and the name of the business and its address if the applicant is a partnership, and the name and address of each principal officer and director and the name and business address of the corporation if the applicant is a corporation;
  - (b) The notice shall specifically state the location of the premises for which the license is sought and the type of license being requested; and
  - (c) The notice shall state the date the application will be filed and shall contain the following statement: "Any person, association, corporation, or body politic may protest the granting of the license by writing the Department of Alcoholic Beverage and Cannabis Control, 1003 Twilight Trail, Frankfort, Kentucky 40601, within thirty (30) days of the date of legal publication."
- (3) Any protest received after the thirty (30) day period has expired shall not be considered a valid legal protest by the board.

➔Section 54. KRS 243.480 is amended to read as follows:

- (1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage and Cannabis Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the

alternative, subject to the approval of the Alcoholic Beverage and Cannabis Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, wineries, and brewers, one thousand dollars (\$1,000) per day; wholesale liquor licensees, four hundred dollars (\$400) per day; wholesale beer licensees, four hundred dollars (\$400) per day; retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars (\$50) per day; and all remaining licensees, fifty dollars (\$50) per day.

- (2) Payments in lieu of suspension or for board-ordered agency server training, collected on a cost recovery basis, collected by the Alcoholic Beverage and Cannabis Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.
- (3) In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the department's server training program.
- (4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

➔Section 55. KRS 243.490 is amended to read as follows:

- (1) Any license issued under KRS 243.020 to 243.670 may be revoked by the state board if the licensee shall have violated any of the provisions of KRS Chapter 241, 243, or 244, or any rule or regulation of the board or of the Department of Revenue relating to the regulation of the manufacture, sale, and transportation or taxation of alcoholic beverages or if the licensee shall have violated or shall violate any Act of Congress or any rule or regulation of any federal board, agency, or commission, or any ordinance now, heretofore, or hereafter in effect relating to the regulation of the

manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local alcoholic beverage authority or any similar body heretofore in existence or authorized by the terms of KRS Chapters 241, 243, and 244 to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations, or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any license may be revoked for any cause which the Alcoholic Beverage and Cannabis Control Board in the exercise of its sound discretion deems sufficient. A license may be revoked for any of the reasons for which the administrator would have been required to refuse a license if the facts had been known.

- (2) If it is determined that an applicant for a license or license renewal under the provisions of this chapter is a delinquent taxpayer as defined in KRS 131.1815, the Department of Alcoholic Beverage and Cannabis Control may refuse to issue or renew the license to the applicant.

➔Section 56. KRS 243.895 is amended to read as follows:

- (1) All licensed retail vendors of alcoholic beverages shall post in a prominent place easily seen by patrons a printed sign at least eleven (11) inches by fourteen (14) inches in size, with letters at least one (1) inch high, supplied by the Department of Alcoholic Beverage and Cannabis Control, and with gender-neutral language supplied by the Cabinet for Health and Family Services, which shall warn that drinking alcoholic beverages prior to conception or during pregnancy can cause birth defects.
- (2) A person who violates subsection (1) of this section shall be subject to a fine of not less than ten dollars (\$10) nor more than fifty dollars (\$50).

➔Section 57. KRS 244.050 is amended to read as follows:

- (1) No retail licensee shall give away any alcoholic beverage in any quantity or deliver

it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.157, and subsection (2) of this section.

- (2) The holder of a quota retail drink license, a quota retail package license, an NQ2 license, or a distillery license may, after acquiring a sampling license, allow customers to sample distilled spirits and wine under the following conditions:
  - (a) Sampling shall be permitted only on licensed premises and by licensees holding a sampling license, during regular business hours;
  - (b) A licensee shall not charge for the samples provided to customers;
  - (c) Sample sizes shall not exceed:
    1. One (1) ounce for wine; and
    2. One-half (1/2) ounce for distilled spirits; and
  - (d) A licensee shall limit a customer to:
    1. Two (2) distilled spirits samples per day; and
    2. Six (6) wine samples per day.
- (3) Retailers holding a sampling license shall:
  - (a) Notify the Department of Alcoholic Beverage and Cannabis Control at least seven (7) days in advance of conducting a sampling event; and
  - (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

➔Section 58. KRS 244.167 is amended to read as follows:

- (1) It is unlawful:
  - (a) For any distiller, rectifier, winery, brewer, or importer to solicit, accept, or fill any order for any distilled spirits, wine, or malt beverage from any wholesaler or distributor in the Commonwealth of Kentucky unless the supplier is the primary source of supply for the brand of alcoholic beverage sold or sought to be sold;
  - (b) For any wholesaler, distributor, or any other licensee in this Commonwealth to

- order, purchase, or receive any alcoholic beverage from any supplier unless the supplier is the primary source of supply for the brand ordered, purchased, or received;
- (c) For a retailer to order, purchase, or receive any distilled, vinous, or malt alcoholic beverage from any source other than any of the following:
1. A wholesaler or distributor who has purchased the brand from the primary source of supply; or
  2. A wholesaler or distributor who is the designated representative of the primary source of supply in this Commonwealth and who has purchased the alcoholic beverage from the designated representative of the primary source of supply within or without this Commonwealth; and
- (d) For alcoholic beverages to be transported from a wholesaler's or distributor's warehouse within twenty-four (24) hours of the time they are unloaded.
- (2) The Department of Alcoholic Beverage and Cannabis Control may suspend for a period not to exceed one (1) year the license of any wholesaler, distributor, or retailer who violates the provisions of this section.
- (3) Upon determination by the Department of Alcoholic Beverage and Cannabis Control that a primary source of supply has violated the provisions of this section, no wholesaler, distributor, or retailer may accept any shipment of alcoholic beverages from the primary source of supply for a period of one (1) year.
- (4) For the purposes of this section, "primary source of supply" or "supplier" means the distiller, producer, brewer, owner of the commodity at the time it becomes a marketable product, bottler, or authorized agent of the brand owner. In the case of imported products, the primary source of supply means either the foreign producer, owner, bottler, or agent of the prime importer from, or the exclusive agent in, the United States of the foreign distiller, producer, bottler, or owner.
- ➔Section 59. KRS 339.230 is amended to read as follows:

A minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age may be employed, permitted, or suffered to work in, about, or in connection with any gainful occupation, except:

- (1) If he or she is under sixteen (16) years of age, he or she may not be employed during regular school hours, unless:
  - (a) The school authorities have made arrangements for him or her to attend school at other than the regular hours, in which event he or she may be employed subject to regulations of the commissioner of workplace standards during such of the regular school hours as he or she is not required to be in attendance under the arrangement; or
  - (b) He or she has graduated from high school.
- (2) A minor who has passed his or her fourteenth birthday but is under eighteen (18) years of age, may not be employed, permitted, or suffered to work:
  - (a) In any place of employment or at any occupation, that the commissioner of workplace standards shall determine to be hazardous or injurious to the life, health, safety, or welfare of such minor unless:
    1. The minor is at least sixteen (16) years of age;
    2. The minor is employed by his or her parent or a person standing in place of a parent and works under adult supervision; and
    3. The minor is engaged in nonhazardous aspects of the electrical trades, including but not limited to activities such as pulling wire, setting boxes, or bending conduit;
  - (b) More than the number of days per week, nor more than the number of hours per day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States



- Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments, but in no event may he or she make them less restrictive;
- (c) During the hours of the day that the commissioner of workplace standards shall determine to be injurious to the life, health, safety, or welfare of such minor. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive; and
- (d) In, about, or in connection with any establishment where alcoholic liquors are distilled, rectified, compounded, brewed, manufactured, bottled, sold for consumption, or dispensed unless permitted by the rules and regulations of the Alcoholic Beverage and Cannabis Control Board (except that he or she may be employed in places where the sale of alcoholic beverages by the package is merely incidental to the main business actually conducted); or in a pool or billiard room.
- (3) The commissioner of workplace standards shall promulgate regulations to properly protect the life, health, safety, or welfare of minors. He or she may consider sex, age, premises of employment, substances to be worked with, machinery to be operated, number of hours, hours of the day, nature of the employment, and other pertinent factors. The commissioner of workplace standards in promulgating these regulations may make them more restrictive than those promulgated by the United States Secretary of Labor under provisions of the Fair Labor Standards Act and its amendments but in no event may he or she make them less restrictive, provided, however, these regulations shall have no effect on the definition of "gainful occupation" under KRS 339.210. To advise the commissioner with respect to the regulations, the Governor shall appoint a committee of four (4) persons which shall

consist of a representative from the Cabinet for Health and Family Services, the Department of Education, the Kentucky Commission on Human Rights and the Personnel Cabinet. The regulations promulgated in accordance with this section shall be reviewed by such committee whenever deemed necessary by the commissioner of workplace standards.

➔Section 60. KRS 438.310 is amended to read as follows:

- (1) No person shall sell or cause to be sold any tobacco product, alternative nicotine product, or vapor product at retail to any person under the age of eighteen (18), or solicit any person under the age of eighteen (18) to purchase any tobacco product, alternative nicotine product, or vapor product at retail.
- (2) Any person who sells tobacco products, alternative nicotine products, or vapor products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products, alternative nicotine products, or vapor products to persons under age eighteen (18).
- (3) Any person selling tobacco products, alternative nicotine products, or vapor products shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of eighteen (18).
- (4) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for a first violation and a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for any subsequent violation. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control using a civil enforcement procedure.

➔Section 61. KRS 438.311 is amended to read as follows:

- (1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to

attempt to purchase or accept receipt of a tobacco product, alternative nicotine product, or vapor product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product, alternative nicotine product, or vapor product. It shall not be unlawful for such a person to accept receipt of a tobacco product, alternative nicotine product, or vapor product from an employer when required in the performance of the person's duties.

- (2) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- (3) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage and Cannabis Control may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 62. KRS 438.313 is amended to read as follows:

- (1) No wholesaler, retailer, or manufacturer of cigarettes, tobacco products, alternative nicotine products, or vapor products may distribute cigarettes, tobacco products, alternative nicotine products, or vapor products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).
- (2) Any person who distributes cigarettes, tobacco products, alternative nicotine products, or vapor products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).
- (3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars

(\$2,500) for each offense. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

- (4) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage and Cannabis Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 63. KRS 438.315 is amended to read as follows:

- (1) The sale of tobacco products, alternative nicotine products, or vapor products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.
- (2) The purchase of tobacco products, alternative nicotine products, or vapor products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.
- (3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, any vending machine from which tobacco products, alternative nicotine products, or vapor products are dispensed shall be located in the line of sight of the cashier for the retail establishment.
- (4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control using a civil enforcement procedure for

persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

- (5) All peace officers with general law enforcement authority and employees of the Department of Alcoholic Beverage and Cannabis Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

➔Section 64. KRS 438.317 is amended to read as follows:

- (1) No person shall sell or cause to be sold at retail cigarettes packaged in units of fewer than twenty (20) cigarettes.
- (2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available to a retail establishment cigarettes packaged for retail sale in units of less than twenty (20) cigarettes.
- (3) Any person violating subsection (1) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500). Any person violating subsection (2) of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500). These penalties shall be enforced by the Department of Alcoholic Beverage and Cannabis Control through civil enforcement procedures.

➔Section 65. KRS 438.320 is amended to read as follows:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the Department of Alcoholic Beverage and Cannabis Control in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

→Section 66. KRS 438.325 is amended to read as follows:

- (1) Each owner of a retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products, alternative nicotine products, or vapor products to any person under the age of eighteen (18) years and the purchase of tobacco products, alternative nicotine products, or vapor products by any person under the age of eighteen (18) years are prohibited.
- (2) Each owner of a retail establishment selling or distributing tobacco products, alternative nicotine products, or vapor products shall notify each individual employed in the retail establishment as a retail sales clerk that proof of age is required from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).
- (3) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on April 10, 2014, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products, alternative nicotine products, or vapor products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products, alternative nicotine products, or vapor products."
- (4) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (3) of this section in a place and in a manner so as to be easily accessible to any employee of the Department of Alcoholic Beverage *and Cannabis* Control or the Department of Agriculture conducting an inspection

of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products, alternative nicotine products, or vapor products to persons under the age of eighteen (18) as provided in KRS 438.305 to 438.340.

- (5) Any owner of the retail establishment violating subsections (1) to (4) of this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Department of Alcoholic Beverage and Cannabis Control in a civil enforcement procedure.

➔Section 67. KRS 438.330 is amended to read as follows:

- (1) The Department of Alcoholic Beverage and Cannabis Control and the Department of Agriculture shall carry out annually conducted random, unannounced inspections of retail establishments where tobacco products, alternative nicotine products, or vapor products are sold or distributed for the purpose of enforcing the provisions of KRS 438.305 to 438.340. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The Department of Alcoholic Beverage and Cannabis Control and the Department of Agriculture shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products, alternative nicotine products, or vapor products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of KRS 438.305 to 438.340 only if the testing is conducted under the direct supervision of the Department of Alcoholic Beverage and Cannabis Control, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department of Alcoholic Beverage and Cannabis Control shall prepare annually, for submission by the Governor to the Secretary of the United

States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

- (2) The Department of Alcoholic Beverage Control shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

➔Section 68. KRS 438.337 is amended to read as follows:

- (1) Except for violations of the provisions of KRS 438.311, 438.313, and 438.315 by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage and Cannabis Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.
- (2) The Department of Alcoholic Beverage and Cannabis Control shall be entitled to the revenue produced by one-twentieth of one cent (\$0.0005) of the three-cent (\$0.03) per pack revenue collected by the Finance and Administration Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 to be deposited in a trust and agency account created in the State Treasury, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.
- (3) The Department of Alcoholic Beverage and Cannabis Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.
- (4) The Department of Alcoholic Beverage and Cannabis Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors.

➔Section 69. KRS 438.340 is amended to read as follows:

The Department of Alcoholic Beverage and Cannabis Control and the Department of Agriculture are authorized to promulgate administrative regulations pursuant to KRS



Chapter 13A as necessary to implement and carry out the provisions of KRS 438.305 to 438.340.

→Section 70. This Act shall be known and may be cited as the Cannabis Compassion Act.