

AN ACT proposing to create a new section of the Constitution of Kentucky relating to the possession of cannabis.

WHEREAS, cannabis is a naturally occurring plant that has a number of medical uses; and

WHEREAS, far too many citizens of the Commonwealth have been incarcerated for minor crimes involving the possession of small amounts of cannabis and the vast majority of the citizens of the Commonwealth want to have a say on the legality of cannabis;

NOW, THEREFORE,

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

➔SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AS FOLLOWS:

(1) The right of an individual twenty-one years of age or older to possess, use, buy, or sell one ounce or less of cannabis shall be guaranteed in this state and shall not be subject to any criminal sanction.

(2) The right of an individual twenty-one years of age or older to cultivate, harvest, or store up to five cannabis plants for personal use shall be guaranteed in this state and shall not be subject to any criminal sanction.

(3) The General Assembly may by general law regulate and control the production, processing, and sale of cannabis and cannabis-derived products.

➔Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The following shall be printed on the ballot:

"Are you in favor of amending the present Constitution of Kentucky to add a new section of the Constitution of Kentucky to allow individuals twenty-one years of age or older to possess, use, buy, or sell one ounce or less of cannabis, to cultivate, harvest, or store up to five cannabis plants for personal use, and for the production, processing, and

sale of cannabis to be regulated and controlled by the General Assembly?

Proposed New Section

(1) The right of an individual twenty-one years of age or older to possess, use, buy, or sell one ounce or less of cannabis shall be guaranteed in this state and shall not be subject to any criminal sanction.

(2) The right of an individual twenty-one years of age or older to cultivate, harvest, or store up to five cannabis plants for personal use shall be guaranteed in this state and shall not be subject to any criminal sanction.

(3) The General Assembly may by general law regulate and control the production, processing, and sale of cannabis and cannabis-derived products."

→Section 3. Notwithstanding any language in KRS 118.415 to the contrary, the Secretary of State shall cause the entirety of the proposed amendment to the Constitution of Kentucky contained in Section 1 of this Act to be published at least one (1) time in a newspaper of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication required by this section and KRS 118.415 shall be made no later than the first Tuesday in August preceding the election at which the amendment is to be voted on.

→Section 4. Notwithstanding any language in KRS 118.415 to the contrary, the Secretary of State, not later than the second Monday after the second Tuesday in August preceding the next regular election at which members of the General Assembly are to be chosen in a year in which there is not an election for President and Vice President of the United States, or not later than the Thursday after the first Tuesday in September preceding a regular election in a year in which there is an election for President and Vice President of the United States, shall certify the entirety of the proposed amendment to the Constitution of Kentucky contained in Section 1 of this Act to the county clerk of each

county, and the county clerk shall have the entirety of the amendment, as so certified, indicated on the ballots provided to the voters in paper or electronic form as applicable to the voting machines in use in each county or precinct.

1 AN ACT relating to cannabis.

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

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

5 ***(1) A person twenty-one (21) years of age or older who knowingly and unlawfully***
6 ***possesses, traffics, or cultivates a personal use quantity of cannabis shall not be***
7 ***subject to any penalty for that activity.***

8 ***(2) Possession, trafficking, or cultivation of a personal use quantity of cannabis***
9 ***under this section shall not be considered a criminal offense.***

10 ***(3) No person shall be subject to arrest for possession, trafficking, or cultivation of a***
11 ***personal use quantity of cannabis.***

12 ***(4) If a person has been released on probation, parole, conditional release, or other***
13 ***form of release and is subject to conditions of supervision, then the possession,***
14 ***trafficking, or cultivation of a personal use quantity of cannabis shall not***
15 ***constitute grounds for revocation or other sanctions.***

16 ➔Section 2. KRS 218A.010 is amended to read as follows:

17 As used in this chapter:

18 (1) "Administer" means the direct application of a controlled substance, whether by
19 injection, inhalation, ingestion, or any other means, to the body of a patient or
20 research subject by:

21 (a) A practitioner or by his or her authorized agent under his or her immediate
22 supervision and pursuant to his or her order; or

23 (b) The patient or research subject at the direction and in the presence of the
24 practitioner;

25 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
26 pharmacologically related to testosterone that promotes muscle growth and includes
27 those substances classified as Schedule III controlled substances pursuant to KRS

1 218A.020 but does not include estrogens, progestins, and antioestrogens;

2 (3) "Cabinet" means the Cabinet for Health and Family Services;

3 (4) "Cannabis" means all parts of the plant Cannabis sp., whether growing or not;
4 the seeds thereof; the resin extracted from any part of the plant; and every
5 compound, manufacture, salt, derivative, mixture, or preparation of the plant, its
6 seeds or resin, or any compound, mixture, or preparation which contains any
7 quantity of these substances. The term "cannabis" does not include:

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

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

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

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

20 (e) A cannabidiol product derived from industrial hemp, as defined in KRS
21 260.850;

22 (f) For the purpose of conducting scientific research, a cannabinoid product
23 derived from industrial hemp, as defined in KRS 260.850; or

24 (g) A cannabinoid product approved as a prescription medication by the United
25 States Food and Drug Administration;

26 (5) "Cannabis accessory" means drug paraphernalia for the ingestion, inhalation,
27 or storage of a personal use quantity of cannabis;

1 **(6)** "Carfentanil" means any substance containing any quantity of carfentanil, or any of
2 its salts, isomers, or salts of isomers;

3 ~~(7)(5)~~ "Certified community based palliative care program" means a palliative care
4 program which has received certification from the Joint Commission;

5 ~~(8)(6)~~ "Child" means any person under the age of majority as specified in KRS
6 2.015;

7 ~~(9)(7)~~ "Cocaine" means a substance containing any quantity of cocaine, its salts,
8 optical and geometric isomers, and salts of isomers;

9 ~~(10)(8)~~ "Controlled substance" means methamphetamine, or a drug, substance, or
10 immediate precursor in Schedules I through V and includes a controlled substance
11 analogue;

12 ~~(11)(9)~~ (a) "Controlled substance analogue," except as provided in paragraph (b) of
13 this subsection, means a substance:

14 1. The chemical structure of which is substantially similar to the structure
15 of a controlled substance in Schedule I or II; and

16 2. Which has a stimulant, depressant, or hallucinogenic effect on the
17 central nervous system that is substantially similar to or greater than the
18 stimulant, depressant, or hallucinogenic effect on the central nervous
19 system of a controlled substance in Schedule I or II; or

20 3. With respect to a particular person, which such person represents or
21 intends to have a stimulant, depressant, or hallucinogenic effect on the
22 central nervous system that is substantially similar to or greater than the
23 stimulant, depressant, or hallucinogenic effect on the central nervous
24 system of a controlled substance in Schedule I or II.

25 (b) Such term does not include:

26 1. Any substance for which there is an approved new drug application;

27 2. With respect to a particular person, any substance if an exemption is in

1 effect for investigational use for that person pursuant to federal law to
2 the extent conduct with respect to such substance is pursuant to such
3 exemption; or

4 3. Any substance to the extent not intended for human consumption before
5 the exemption described in subparagraph 2. of this paragraph takes
6 effect with respect to that substance;

7 ~~(12)~~~~(10)~~ "Counterfeit substance" means a controlled substance which, or the container
8 or labeling of which, without authorization, bears the trademark, trade name, or
9 other identifying mark, imprint, number, or device, or any likeness thereof, of a
10 manufacturer, distributor, or dispenser other than the person who in fact
11 manufactured, distributed, or dispensed the substance;

12 ~~(13)~~~~(11)~~ "Dispense" means to deliver a controlled substance to an ultimate user or
13 research subject by or pursuant to the lawful order of a practitioner, including the
14 packaging, labeling, or compounding necessary to prepare the substance for that
15 delivery;

16 ~~(14)~~~~(12)~~ "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or
17 V controlled substance to or for the use of an ultimate user;

18 ~~(15)~~~~(13)~~ "Distribute" means to deliver other than by administering or dispensing a
19 controlled substance;

20 ~~(16)~~~~(14)~~ "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
21 administration available as a single unit;

22 ~~(17)~~~~(15)~~ "Drug" means:

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

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

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

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

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

6 ~~(18)~~[(16)] "Fentanyl" means a substance containing any quantity of fentanyl, or any of its
7 salts, isomers, or salts of isomers;

8 ~~(19)~~[(17)] "Fentanyl derivative" means a substance containing any quantity of any
9 chemical compound, except compounds specifically scheduled as controlled
10 substances by statute or by administrative regulation pursuant to this chapter, which
11 is structurally derived from 1-ethyl-4-(N-phenylamido) piperadine:

12 (a) By substitution:

- 13 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or
14 ethyloxotetrazole ring system; and
- 15 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
16 or furanyl group; and

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

- 18 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
19 haloalkyl, hydroxyl, or halide substituents;
- 20 2. By substitution on the piperadine ring to any extent with alkyl, allyl,
21 alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
22 positions;
- 23 3. By substitution on the piperadine ring to any extent with a phenyl,
24 alkoxy, or carboxylate ester substituent at the 4- position; or
- 25 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
26 hydroxy substituents;

27 ~~(20)~~[(18)] "Good faith prior examination," as used in KRS Chapter 218A and for

1 criminal prosecution only, means an in-person medical examination of the patient
2 conducted by the prescribing practitioner or other health-care professional routinely
3 relied upon in the ordinary course of his or her practice, at which time the patient is
4 physically examined and a medical history of the patient is obtained. "In-person"
5 includes telehealth examinations. This subsection shall not be applicable to hospice
6 providers licensed pursuant to KRS Chapter 216B;

7 ~~(21)~~~~(19)~~ "Hazardous chemical substance" includes any chemical substance used or
8 intended for use in the illegal manufacture of a controlled substance as defined in
9 this section or the illegal manufacture of methamphetamine as defined in KRS
10 218A.1431, which:

- 11 (a) Poses an explosion hazard;
- 12 (b) Poses a fire hazard; or
- 13 (c) Is poisonous or injurious if handled, swallowed, or inhaled;

14 ~~(22)~~~~(20)~~ "Heroin" means a substance containing any quantity of heroin, or any of its
15 salts, isomers, or salts of isomers;

16 ~~(23)~~~~(21)~~ "Hydrocodone combination product" means a drug with:

- 17 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
18 its salts, per one hundred (100) milliliters or not more than fifteen (15)
19 milligrams per dosage unit, with a fourfold or greater quantity of an
20 isoquinoline alkaloid of opium; or
- 21 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of
22 its salts, per one hundred (100) milliliters or not more than fifteen (15)
23 milligrams per dosage unit, with one (1) or more active, nonnarcotic
24 ingredients in recognized therapeutic amounts;

25 ~~(24)~~~~(22)~~ "Immediate precursor" means a substance which is the principal compound
26 commonly used or produced primarily for use, and which is an immediate chemical
27 intermediary used or likely to be used in the manufacture of a controlled substance

1 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
2 manufacture;

3 ~~(25)~~~~(23)~~ "Industrial hemp" has the same meaning as in KRS 260.850;

4 ~~(26)~~~~(24)~~ "Industrial hemp products" has the same meaning as in KRS 260.850;

5 ~~(27)~~~~(25)~~ "Intent to manufacture" means any evidence which demonstrates a person's
6 conscious objective to manufacture a controlled substance or methamphetamine.
7 Such evidence includes but is not limited to statements and a chemical substance's
8 usage, quantity, manner of storage, or proximity to other chemical substances or
9 equipment used to manufacture a controlled substance or methamphetamine;

10 ~~(28)~~~~(26)~~ "Isomer" means the optical isomer, except the Cabinet for Health and Family
11 Services may include the optical, positional, or geometric isomer to classify any
12 substance pursuant to KRS 218A.020;

13 ~~(29)~~~~(27)~~ "Manufacture," except as provided in KRS 218A.1431, means the production,
14 preparation, propagation, compounding, conversion, or processing of a controlled
15 substance, either directly or indirectly by extraction from substances of natural
16 origin or independently by means of chemical synthesis, or by a combination of
17 extraction and chemical synthesis, and includes any packaging or repackaging of the
18 substance or labeling or relabeling of its container except that this term does not
19 include activities:

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

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

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

27 ~~(30)~~~~(28)~~ "Marijuana" ***has the same meaning as "cannabis" in subsection (4) of this***

1 ~~**section**~~ [means all parts of the plant Cannabis sp., whether growing or not; the seeds
2 thereof; the resin extracted from any part of the plant; and every compound,
3 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
4 or any compound, mixture, or preparation which contains any quantity of these
5 substances. The term "marijuana" does not include:

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

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

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

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

17 (e) ~~A cannabidiol product derived from industrial hemp, as defined in KRS 260.850;~~

18 (f) ~~For the purpose of conducting scientific research, a cannabinoid product derived
19 from industrial hemp, as defined in KRS 260.850; or~~

20 (g) ~~A cannabinoid product approved as a prescription medication by the United States
21 Food and Drug Administration];~~

22 **(31)**[(29)] "Medical history," as used in KRS Chapter 218A and for criminal prosecution
23 only, means an accounting of a patient's medical background, including but not
24 limited to prior medical conditions, prescriptions, and family background;

25 **(32)**[(30)] "Medical order," as used in KRS Chapter 218A and for criminal prosecution
26 only, means a lawful order of a specifically identified practitioner for a specifically
27 identified patient for the patient's health-care needs. "Medical order" may or may

1 not include a prescription drug order;

2 ~~(33)~~~~(31)~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution
3 only, means a record, other than for financial or billing purposes, relating to a
4 patient, kept by a practitioner as a result of the practitioner-patient relationship;

5 ~~(34)~~~~(32)~~ "Methamphetamine" means any substance that contains any quantity of
6 methamphetamine, or any of its salts, isomers, or salts of isomers;

7 ~~(35)~~~~(33)~~ "Narcotic drug" means any of the following, whether produced directly or
8 indirectly by extraction from substances of vegetable origin, or independently by
9 means of chemical synthesis, or by a combination of extraction and chemical
10 synthesis:

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

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

17 (c) Opium poppy and poppy straw;

18 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
19 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
20 removed;

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

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

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

25 ~~(36)~~~~(34)~~ "Opiate" means any substance having an addiction-forming or addiction-
26 sustaining liability similar to morphine or being capable of conversion into a drug
27 having addiction-forming or addiction-sustaining liability. It does not include,

1 unless specifically designated as controlled under KRS 218A.020, the
 2 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts
 3 (dextromethorphan). It does include its racemic and levorotatory forms;

4 ~~(37)~~~~(35)~~ "Opium poppy" means the plant of the species papaver somniferum L., except
 5 its seeds;

6 ~~(38)~~~~(36)~~ "Person" means individual, corporation, government or governmental
 7 subdivision or agency, business trust, estate, trust, partnership or association, or any
 8 other legal entity;

9 **(39) "Personal use quantity of cannabis" means:**

10 **(a) One (1) ounce or less of cannabis in plant form;**

11 **(b) Five (5) grams or less of resin or concentrates derived from hemp,**
 12 **cannabis, or cannabanoids, excluding the estimated weight of any non-**
 13 **cannabis ingredients combined with the cannabis;**

14 **(c) Cannabis products containing one thousand (1,000) milligrams or less of**
 15 **delta-9 tetrahydrocannabinol and one thousand (1,000) milligrams or less**
 16 **of delta-8 tetrahydrocannabinol; or**

17 **(d) Five (5) or fewer plants of cannabis;**

18 ~~(40)~~~~(37)~~ "Physical injury" has the same meaning it has in KRS 500.080;

19 ~~(41)~~~~(38)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after
 20 mowing;

21 ~~(42)~~~~(39)~~ "Pharmacist" means a natural person licensed by this state to engage in the
 22 practice of the profession of pharmacy;

23 ~~(43)~~~~(40)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
 24 investigator, optometrist as authorized in KRS 320.240, advanced practice
 25 registered nurse as authorized under KRS 314.011, physician assistant as authorized
 26 under KRS 311.858, or other person licensed, registered, or otherwise permitted by
 27 state or federal law to acquire, distribute, dispense, conduct research with respect to,

1 or to administer a controlled substance in the course of professional practice or
2 research in this state. "Practitioner" also includes a physician, dentist, podiatrist,
3 veterinarian, or advanced practice registered nurse authorized under KRS 314.011
4 who is a resident of and actively practicing in a state other than Kentucky and who
5 is licensed and has prescriptive authority for controlled substances under the
6 professional licensing laws of another state, unless the person's Kentucky license
7 has been revoked, suspended, restricted, or probated, in which case the terms of the
8 Kentucky license shall prevail;

9 ~~(44)~~~~((41))~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for
10 criminal prosecution only, means a medical relationship that exists between a
11 patient and a practitioner or the practitioner's designee, after the practitioner or his
12 or her designee has conducted at least one (1) good faith prior examination;

13 ~~(45)~~~~((42))~~ "Prescription" means a written, electronic, or oral order for a drug or
14 medicine, or combination or mixture of drugs or medicines, or proprietary
15 preparation, signed or given or authorized by a medical, dental, chiropody,
16 veterinarian, optometric practitioner, or advanced practice registered nurse, and
17 intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
18 disease in man or other animals;

19 ~~(46)~~~~((43))~~ "Prescription blank," with reference to a controlled substance, means a
20 document that meets the requirements of KRS 218A.204 and 217.216;

21 ~~(47)~~~~((44))~~ "Presumptive probation" means a sentence of probation not to exceed the
22 maximum term specified for the offense, subject to conditions otherwise authorized
23 by law, that is presumed to be the appropriate sentence for certain offenses
24 designated in this chapter, notwithstanding contrary provisions of KRS Chapter
25 533. That presumption shall only be overcome by a finding on the record by the
26 sentencing court of substantial and compelling reasons why the defendant cannot be
27 safely and effectively supervised in the community, is not amenable to community-

1 based treatment, or poses a significant risk to public safety;

2 ~~(48)~~~~(45)~~ "Production" includes the manufacture, planting, cultivation, growing, or
3 harvesting of a controlled substance;

4 ~~(49)~~~~(46)~~ "Recovery program" means an evidence-based, nonclinical service that assists
5 individuals and families working toward sustained recovery from substance use and
6 other criminal risk factors. This can be done through an array of support programs
7 and services that are delivered through residential and nonresidential means;

8 ~~(50)~~~~(47)~~ "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the
9 plant presently classified botanically as *Salvia divinorum*, whether growing or not,
10 the seeds thereof, any extract from any part of that plant, and every compound,
11 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
12 extracts, including salts, isomers, and salts of isomers whenever the existence of
13 such salts, isomers, and salts of isomers is possible within the specific chemical
14 designation of that plant, its seeds, or extracts. The term shall not include any other
15 species in the genus *salvia*;

16 ~~(51)~~~~(48)~~ "Second or subsequent offense" means that for the purposes of this chapter an
17 offense is considered as a second or subsequent offense, if, prior to his or her
18 conviction of the offense, the offender has at any time been convicted under this
19 chapter, or under any statute of the United States, or of any state relating to
20 substances classified as controlled substances or counterfeit substances, except that
21 a prior conviction for a nontrafficking offense shall be treated as a prior offense
22 only when the subsequent offense is a nontrafficking offense. For the purposes of
23 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
24 constitute a conviction under this chapter;

25 ~~(52)~~~~(49)~~ "Sell" means to dispose of a controlled substance to another person for
26 consideration or in furtherance of commercial distribution;

27 ~~(53)~~~~(50)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

1 ~~(54)~~~~(51)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which
2 is not approved by the United States Food and Drug Administration or, if approved,
3 which is not dispensed or possessed in accordance with state and federal law, that
4 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
5 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
6 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
7 compound in the following structural classes:

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

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

23 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
24 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
25 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
26 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
27 indole ring to any extent and whether or not substituted in the phenyl ring to

1 any extent. Examples of this structural class include but are not limited to
2 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

3 (d) Cyclohexylphenols: Any compound containing a 2-(3-
4 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
5 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
6 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
7 group whether or not substituted in the cyclohexyl ring to any extent.
8 Examples of this structural class include but are not limited to CP 47,497 and
9 its C8 homologue (cannabicyclohexanol);

10 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
11 naphthyl)methane structure with substitution at the nitrogen atom of the indole
12 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
13 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
14 further substituted in the indole ring to any extent and whether or not
15 substituted in the naphthyl ring to any extent. Examples of this structural class
16 include but are not limited to JWH-175, JWH-184, and JWH-185;

17 (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole
18 structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl,
19 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
20 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
21 substituted in the pyrrole ring to any extent and whether or not substituted in
22 the naphthyl ring to any extent. Examples of this structural class include but
23 are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

24 (g) Naphthylmethylindenes: Any compound containing a 1-(1-
25 naphthylmethyl)indene structure with substitution at the 3-position of the
26 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,
27 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether

1 or not further substituted in the indene ring to any extent and whether or not
2 substituted in the naphthyl ring to any extent. Examples of this structural class
3 include but are not limited to JWH-176;

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

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

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

22 ~~(55)~~~~(52)~~ "Synthetic cathinones" means any chemical compound which is not approved
23 by the United States Food and Drug Administration or, if approved, which is not
24 dispensed or possessed in accordance with state and federal law (not including
25 bupropion or compounds listed under a different schedule) structurally derived from
26 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl,
27 or thiophene ring systems, whether or not the compound is further modified in one

1 (1) or more of the following ways:

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

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

10 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
11 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
12 cyclic structure. Examples of this class include but are not limited to
13 Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP);
14 or

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

18 ~~(56)~~~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any
19 synthetic cathinones;

20 ~~(57)~~~~(54)~~ "Telehealth" has the same meaning it has in KRS 311.550;

21 ~~(58)~~~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances
22 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or
23 synthetic substances, derivatives, and their isomers with similar chemical structure
24 and pharmacological activity such as the following:

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

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

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

1 ~~(59)~~~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,
 2 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,
 3 dispense, or sell a controlled substance;

4 ~~(60)~~~~(57)~~ "Transfer" means to dispose of a controlled substance to another person
 5 without consideration and not in furtherance of commercial distribution; and

6 ~~(61)~~~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance
 7 for his or her own use or for the use of a member of his or her household or for
 8 administering to an animal owned by him or her or by a member of his or her
 9 household.

10 → Section 3. KRS 218A.1422 is amended to read as follows:

11 (1) A person is guilty of possession of cannabis~~[marijuana]~~ when he or she knowingly
 12 and unlawfully possesses cannabis~~[marijuana]~~.

13 (2) Possession of *cannabis in excess of a personal use quantity of*
 14 *cannabis*~~[marijuana]~~ is a Class B misdemeanor, except that, KRS Chapter 532 to
 15 the contrary notwithstanding, the maximum term of incarceration shall be no greater
 16 than forty-five (45) days.

17 → Section 4. KRS 218A.1421 is amended to read as follows:

18 (1) A person is guilty of trafficking in cannabis~~[marijuana]~~ when he or she knowingly
 19 and unlawfully traffics in cannabis~~[marijuana]~~.

20 (2) Trafficking in *more than a personal use quantity of cannabis but* less than eight
 21 (8) ounces of cannabis~~[marijuana]~~ is:

22 (a) For a first offense a Class A misdemeanor; and~~[]~~

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

24 (3) Trafficking in eight (8) or more ounces but less than five (5) pounds of
 25 cannabis~~[marijuana]~~ is:

26 (a) For a first offense a Class D felony; and~~[]~~

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

- 1 (4) Trafficking in five (5) or more pounds of cannabis~~[marijuana]~~ is:
- 2 (a) For a first offense a Class C felony; and~~[.]~~
- 3 (b) For a second or subsequent offense a Class B felony.
- 4 (5) The unlawful possession by any person of eight (8) or more ounces of
- 5 cannabis~~[marijuana]~~ shall be prima facie evidence that the person possessed the
- 6 cannabis~~[marijuana]~~ with the intent to sell or transfer it.

7 → Section 5. KRS 218A.1423 is amended to read as follows:

- 8 (1) A person is guilty of cannabis~~[marijuana]~~ cultivation when he or she knowingly
- 9 and unlawfully plants, cultivates, or harvests cannabis~~[marijuana]~~ with the intent to
- 10 sell or transfer it.
- 11 (2) Cannabis~~[Marijuana]~~ cultivation of more than five (5) ~~{or more}~~ plants of
- 12 cannabis~~[marijuana]~~ is:
- 13 (a) For a first offense a Class D felony; and~~[.]~~
- 14 (b) For a second or subsequent offense a Class C felony.
- 15 (3) ~~[Marijuana]~~ Cultivation of a personal use quantity of cannabis shall not:
- 16 (a) Be subject to any penalty;
- 17 (b) Be considered a criminal offense; or
- 18 (c) Subject a person to arrest for cannabis cultivation~~[fewer than five (5) plants]~~
- 19 is:
- 20 ~~(a) For a first offense a Class A misdemeanor.~~
- 21 ~~(b) For a second or subsequent offense a Class D felony].~~
- 22 (4) The planting, cultivating, or harvesting of more than five (5) ~~{or more}~~
- 23 cannabis~~[marijuana]~~ plants shall be prima facie evidence that the
- 24 cannabis~~[marijuana]~~ plants were planted, cultivated, or harvested for the purpose of
- 25 sale or transfer.

26 → Section 6. KRS 218A.500 is amended to read as follows:

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

- 1 (1) "Drug paraphernalia" means all equipment, products and materials of any kind
2 which are used, intended for use, or designed for use in planting, propagating,
3 cultivating, growing, harvesting, manufacturing, compounding, converting,
4 producing, processing, preparing, testing, analyzing, packaging, repackaging,
5 storing, containing, concealing, injecting, ingesting, inhaling, or otherwise
6 introducing into the human body a controlled substance in violation of this chapter.
7 It includes but is not limited to:
- 8 (a) Kits used, intended for use, or designed for use in planting, propagating,
9 cultivating, growing, or harvesting of any species of plant which is a
10 controlled substance or from which a controlled substance can be derived;
 - 11 (b) Kits used, intended for use, or designed for use in manufacturing,
12 compounding, converting, producing, processing, or preparing controlled
13 substances;
 - 14 (c) Isomerization devices used, intended for use, or designed for use in increasing
15 the potency of any species of plant which is a controlled substance;
 - 16 (d) Testing equipment used, intended for use, or designed for use in identifying,
17 or in analyzing the strength, effectiveness or purity of controlled substances;
 - 18 (e) Scales and balances used, intended for use, or designed for use in weighing or
19 measuring controlled substances;
 - 20 (f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite,
21 dextrose and lactose, used, intended for use, or designed for use in cutting
22 controlled substances;
 - 23 (g) Separation gins and sifters used, intended for use, or designed for use in
24 removing twigs and seeds from, or in otherwise cleaning or refining
25 cannabis[~~marijuana~~];
 - 26 (h) Blenders, bowls, containers, spoons, and mixing devices used, intended for
27 use, or designed for use in compounding controlled substances;

- 1 (i) Capsules, balloons, envelopes, and other containers used, intended for use, or
2 designed for use in packaging small quantities of controlled substances;
- 3 (j) Containers and other objects used, intended for use, or designed for use in
4 storing or concealing controlled substances;
- 5 (k) Hypodermic syringes, needles, and other objects used, intended for use, or
6 designed for use in parenterally injecting controlled substances into the human
7 body; and
- 8 (l) Objects used, intended for use, or designed for use in ingesting, inhaling, or
9 otherwise introducing cannabis~~[marijuana]~~, cocaine, hashish, or hashish oil
10 into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or
11 ceramic pipes with or without screens, permanent screens, hashish heads, or
12 punctured metal bowls; water pipes; carburetion tubes and devices; smoking
13 and carburetion masks; roach clips which mean objects used to hold burning
14 material, such as cannabis~~[marijuana]~~ cigarettes, that have become too small
15 or too short to be held in the hand; miniature cocaine spoons, and cocaine
16 vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes;
17 chillums; bongs; ice pipes or chillers.
- 18 (2) **Except for cannabis accessories**, it is unlawful for any person to use, or to possess
19 with intent to use, drug paraphernalia for the purpose of planting, propagating,
20 cultivating, growing, harvesting, manufacturing, compounding, converting,
21 producing, processing, preparing, testing, analyzing, packing, repacking, storing,
22 containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into
23 the human body a controlled substance in violation of this chapter.
- 24 (3) **Except for cannabis accessories**, it is unlawful for any person to deliver, possess
25 with intent to deliver, or manufacture with intent to deliver, drug paraphernalia,
26 knowing, or under circumstances where one reasonably should know, that it will be
27 used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert,

1 produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject,
2 ingest, inhale, or otherwise introduce into the human body a controlled substance in
3 violation of this chapter.

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

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

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

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

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

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

20 (6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace
21 officer may inquire as to the presence of needles or other sharp objects in the
22 areas to be searched that may cut or puncture the officer and offer to not
23 charge a person with possession of drug paraphernalia if the person declares to
24 the officer the presence of the needle or other sharp object. If, in response to
25 the offer, the person admits to the presence of the needle or other sharp object
26 prior to the search, the person shall not be charged with or prosecuted for
27 possession of drug paraphernalia for the needle or sharp object or for

1 possession of a controlled substance for residual or trace drug amounts present
2 on the needle or sharp object.

3 (b) The exemption under this subsection shall not apply to any other drug
4 paraphernalia that may be present and found during the search or to controlled
5 substances present in other than residual or trace amounts.

6 (7) (a) This section shall not prohibit the retail sale of hypodermic syringes and
7 needles without a prescription in pharmacies.

8 (b) Hypodermic syringe and needle inventory of a pharmacy shall not be deemed
9 drug paraphernalia under this section.

10 (8) Any person who violates any provision of this section shall be guilty of a Class A
11 misdemeanor.

12 → Section 7. KRS 218A.410 is amended to read as follows:

13 (1) The following are subject to forfeiture:

14 (a) Controlled substances listed in Schedule I that are possessed, transferred, sold,
15 or offered for sale in violation of this chapter are contraband and shall be
16 seized and summarily forfeited to the state;

17 (b) Controlled substances listed in Schedule I, which are seized or come into the
18 possession of the state, the owners of which are unknown, are contraband and
19 shall be summarily forfeited to the state;

20 (c) Species of plants from which controlled substances in Schedules I and II may
21 be derived which have been planted or cultivated in violation of this chapter,
22 or of which the owners or cultivators are unknown, or which are wild growths,
23 may be seized and summarily destroyed or forfeited to the state. The failure,
24 upon demand by the law enforcement agency or its authorized agent, of the
25 person in occupancy or in control of land or premises upon which the species
26 of plants are growing or being stored, to produce an appropriate registration,
27 or proof that he or she is the holder thereof, constitutes authority for the

- 1 seizure and forfeiture of the plants;
- 2 (d) All substances, machinery, or devices used for the manufacture, packaging,
3 repackaging, or marking, and books, papers, and records, and all vehicles
4 owned and used by the seller or distributor for the manufacture, distribution,
5 sale, or transfer of substances in violation of KRS 218A.350 shall be seized
6 and forfeited to the state. Substances manufactured, held, or distributed in
7 violation of KRS 218A.350 shall be deemed contraband;
- 8 (e) All controlled substances which have been manufactured, distributed,
9 dispensed, possessed, being held, or acquired in violation of this chapter;
- 10 (f) All raw materials, products, and equipment of any kind which are used, or
11 intended for use, in manufacturing, compounding, processing, delivering,
12 importing, or exporting any controlled substance in violation of this chapter;
- 13 (g) All property which is used, or intended for use, as a container for property
14 described in paragraph (e) or (f) of this subsection;
- 15 (h) All conveyances, including aircraft, vehicles, or vessels, which are used, or
16 intended for use, to transport, or in any manner to facilitate the transportation,
17 for the purpose of sale or receipt of property described in paragraph (e) or (f)
18 of this subsection, but:
- 19 1. No conveyance used by any person as a common carrier in the
20 transaction of business as a common carrier is subject to forfeiture under
21 this section unless it is proven beyond a reasonable doubt that the owner
22 or other person in charge of the conveyance is a consenting party or
23 privy to a violation of this chapter;
- 24 2. No conveyance is subject to forfeiture under this section by reason of
25 any act or omission established by the owner thereof to have been
26 committed or omitted without his or her knowledge or consent;
- 27 3. A forfeiture of a conveyance encumbered by a bona fide security interest

1 is subject to the interest of the secured party if he or she neither had
2 knowledge of nor consented to the act or omission; and

3 4. The forfeiture provisions of this paragraph shall not apply to any
4 misdemeanor offense relating to cannabis~~[marijuana]~~ or salvia;

5 (i) All books, records, and research products and materials, including formulas,
6 microfilm, tapes, and data which are used, or intended for use, in violation of
7 this chapter;

8 (j) Everything of value furnished, or intended to be furnished, in exchange for a
9 controlled substance in violation of this chapter, all proceeds, including real
10 and personal property, traceable to the exchange, and all moneys, negotiable
11 instruments, and securities used, or intended to be used, to facilitate any
12 violation of this chapter; except that no property shall be forfeited under this
13 paragraph, to the extent of the interest of an owner, by reason of any act or
14 omission established by him or her to have been committed or omitted
15 without his or her knowledge or consent. It shall be a rebuttable presumption
16 that all moneys, coin, and currency found in close proximity to controlled
17 substances, to drug manufacturing or distributing paraphernalia, or to records
18 of the importation, manufacture, or distribution of controlled substances, are
19 presumed to be forfeitable under this paragraph. The burden of proof shall be
20 upon claimants of personal property to rebut this presumption by clear and
21 convincing evidence. The burden of proof shall be upon the law enforcement
22 agency to prove by clear and convincing evidence that real property is
23 forfeitable under this paragraph; and

24 (k) All real property, including any right, title, and interest in the whole of any lot
25 or tract of land and any appurtenances or improvements, which is used or
26 intended to be used, in any manner or part, to commit, or to facilitate the
27 commission of, a violation of this chapter excluding any misdemeanor offense

1 relating to cannabis~~[marijuana]~~, synthetic drugs, or salvia, except that
 2 property shall be forfeited under this paragraph, to the extent of an interest of
 3 an owner, by reason of any act or omission established by the Commonwealth
 4 to have been committed or omitted with the knowledge or consent of the
 5 owner.

6 (2) Title to all property, including all interests in the property, forfeit under this section
 7 vests in the Commonwealth on the commission of the act or omission giving rise to
 8 forfeiture under this section together with the proceeds of the property after the
 9 time. Any property or proceeds subsequently transferred to any person shall be
 10 subject to forfeiture and thereafter shall be ordered forfeited, unless the transferee
 11 establishes in the forfeiture proceeding that he or she is a subsequent bona fide
 12 purchaser for value without actual or constructive notice of the act or omission
 13 giving rise to the forfeiture.

14 (3) If any of the property described in this section cannot be located; has been
 15 transferred to, sold to, or deposited with a third party; has been placed beyond the
 16 jurisdiction of the court; has been substantially diminished in value by any act or
 17 omission of the defendant; or, has been commingled with any property which
 18 cannot be divided without difficulty, the court shall order the forfeiture of any other
 19 property of the defendant up to the value of any property subject to forfeiture under
 20 this section.

21 **(4) The forfeiture provisions of this section shall not apply to a personal use quantity**
 22 **of cannabis.**

23 ➔ Section 8. KRS 533.030 is amended to read as follows:

24 (1) The conditions of probation and conditional discharge shall be such as the court, in
 25 its discretion, deems reasonably necessary to ensure that the defendant will lead a
 26 law-abiding life or to assist him or her to do so. The court shall provide as an
 27 explicit condition of every sentence to probation or conditional discharge that the

1 defendant not commit another offense during the period for which the sentence
2 remains subject to revocation.

3 (2) When imposing a sentence of probation or conditional discharge, the court may, in
4 addition to any other reasonable condition, require that the defendant:

- 5 (a) Avoid injurious or vicious habits;
- 6 (b) Avoid persons or places of disreputable or harmful character;
- 7 (c) Work faithfully at suitable employment as far as possible;
- 8 (d) Undergo available medical or psychiatric treatment and remain in a specific
9 institution as required for that purpose;
- 10 (e) Post a bond, without surety, conditioned on performance of any of the
11 prescribed conditions;
- 12 (f) Support his or her dependents and meet other family responsibilities;
- 13 (g) Pay the cost of the proceeding as set by the court;
- 14 (h) Remain within a specified area;
- 15 (i) Report to the probation officer as directed;
- 16 (j) Permit the probation officer to visit him or her at his or her home or
17 elsewhere;
- 18 (k) Answer all reasonable inquiries by the probation officer and promptly notify
19 the probation officer of any change in address or employment;
- 20 (l) Submit to periodic testing for the use of ~~controlled substances or~~ alcohol **or**
21 **controlled substances other than cannabis**, if the defendant's record indicates
22 a controlled substance or alcohol problem, and to pay a reasonable fee, as
23 determined by the court, which fee shall not exceed the actual cost of the test
24 and analysis and shall be paid directly to the agency or agencies responsible
25 for testing and analysis as compensation for the cost of the testing and
26 analysis, as specified by written order of the court, performed under this
27 subsection. For good cause shown, the testing fee may be waived by the court;

- 1 (m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs
2 associated with the device, including administrative and operating costs, shall
3 be paid by the defendant. If the court determines that the defendant is indigent,
4 and a person, county, or other organization has not agreed to pay the costs for
5 the defendant in an attempt to reduce incarceration expenses and increase
6 public safety, the court shall consider other conditions of probation or
7 conditional discharge provided for in this section; or
- 8 (n) During all or part of the period of probation or conditional discharge,
9 participate in a global positioning monitoring system program operated by a
10 county pursuant to KRS 67.372 and 67.374 under the same terms and
11 conditions as provided in KRS 431.517.
- 12 (3) When imposing a sentence of probation or conditional discharge in a case where a
13 victim of a crime has suffered monetary damage as a result of the crime due to his
14 or her property having been converted, stolen, or unlawfully obtained, or its value
15 substantially decreased as a result of the crime, or where the victim suffered actual
16 medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of
17 the crime, or where the victim incurred expenses in relocating for the purpose of the
18 victim's safety or the safety of a member of the victim's household, or if as a direct
19 result of the crime the victim incurred medical expenses that were paid by the
20 Cabinet for Health and Family Services, the Crime Victims Compensation Board,
21 or any other governmental entity, the court shall order the defendant to make
22 restitution in addition to any other penalty provided for the commission of the
23 offense. Payment of restitution to the victim shall have priority over payment of
24 restitution to any government agency. Restitution shall be ordered in the full amount
25 of the damages, unless the damages exceed one hundred thousand dollars
26 (\$100,000) or twice the amount of the gain from the commission of the offense,
27 whichever is greater, in which case the higher of these two (2) amounts shall be

1 awarded. The court may, in lieu of ordering monetary restitution, order the
2 defendant to make restitution by working for or on behalf of the victim. The court
3 shall determine the number of hours of work necessary by applying the then-
4 prevailing federal minimum wage to the total amount of monetary damage caused
5 by or incidental to the commission of the crime. The court may, with the consent of
6 the agency, order the defendant to work as specified in KRS 533.070. Any work
7 ordered pursuant to this section shall not be deemed employment for any purpose,
8 nor shall the person performing the work be deemed an employee for any purpose.
9 Where there is more than one (1) defendant or more than one (1) victim, restitution
10 may be apportioned. Restitution shall be subject to the following additional terms
11 and conditions:

- 12 (a) Where property which is unlawfully in the possession of the defendant is in
13 substantially undamaged condition from its condition at the time of the taking,
14 return of the property shall be ordered in lieu of monetary restitution;
- 15 (b) The circuit clerk shall assess an additional fee of five percent (5%) to defray
16 the administrative costs of collection of payments or property. This fee shall
17 be paid by the defendant and shall inure to a trust and agency account which
18 shall not lapse and which shall be used to hire additional deputy clerks and
19 office personnel or increase deputy clerk or office personnel salaries, or
20 combination thereof;
- 21 (c) When a defendant fails to make restitution ordered to be paid through the
22 circuit clerk or a court-authorized program run by the county attorney or the
23 Commonwealth's attorney, the circuit clerk or court-authorized program shall
24 notify the court; and
- 25 (d) An order of restitution shall not preclude the owner of property or the victim
26 who suffered personal physical or mental injury or out-of-pocket loss of
27 earnings or support or other damages from proceeding in a civil action to

1 recover damages from the defendant. A civil verdict shall be reduced by the
2 amount paid under the criminal restitution order.

3 (4) When requiring fees for controlled substances or alcohol tests, or other fees and
4 payments authorized by this section or other statute, except restitution, to be paid by
5 the defendant, the court shall not order the payments to be paid through the circuit
6 clerk.

7 (5) When a defendant is sentenced to probation or conditional discharge, he or she shall
8 be given a written statement explicitly setting forth the conditions under which he
9 or she is being released.

10 (6) When imposing a sentence of probation or conditional discharge, the court, in
11 addition to conditions imposed under this section, may require as a condition of the
12 sentence that the defendant submit to a period of imprisonment in the county jail or
13 to a period of home incarceration at whatever time or intervals, consecutive or
14 nonconsecutive, the court shall determine. The time actually spent in confinement
15 or home incarceration pursuant to this provision shall not exceed twelve (12)
16 months or the maximum term of imprisonment assessed pursuant to KRS Chapter
17 532, whichever is the shorter. Time spent in confinement or home incarceration
18 under this subsection shall be credited against the maximum term of imprisonment
19 assessed for the defendant pursuant to KRS Chapter 532, if probation or conditional
20 discharge is revoked and the defendant is sentenced to imprisonment. Any
21 prohibitions against probation, shock probation, or conditional discharge under
22 KRS 533.060(2) or 532.045 shall not apply to persons convicted of a misdemeanor
23 or Class D felony and sentenced to a period of confinement or home incarceration
24 under this section.

25 ➔ Section 9. KRS 138.872 is amended to read as follows:

26 (1) A tax is hereby levied on each offender engaging in a taxable activity in this state.
27 The tax shall be paid at the following rates:

- 1 (a) One thousand dollars (\$1,000) per plant, whether growing or detached from
 2 the soil, on each cannabis~~[marijuana]~~ plant with foliage ***which exceeds a***
 3 ***personal use quantity of cannabis as defined in Section 2 of this Act;***
- 4 (b) Three dollars and fifty cents (\$3.50) on each gram, or portion thereof, of
 5 cannabis~~[marijuana]~~ which has been detached from the plant on which it
 6 grew ***and which exceeds a personal use quantity of cannabis as defined in***
 7 ***Section 2 of this Act;***
- 8 (c) Two hundred dollars (\$200) on each gram, or portion thereof, of controlled
 9 substances; and
- 10 (d) Two thousand dollars (\$2,000) on each fifty (50) dosage units, or portion
 11 thereof, of a controlled substance that is not sold by weight.
- 12 (2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c),
 13 and (1)(d) of this section, the quantity shall be measured by the weight of the
 14 cannabis~~[marijuana]~~ or controlled substance, whether pure, impure, or diluted, or
 15 by dosage units when a controlled substance is not sold by weight.
- 16 (3) An offender lawfully engaged in a taxable activity shall be exempt from the tax
 17 imposed by this section if the offender is not in violation of any law which
 18 authorizes him to engage in the activity.

19 ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO
 20 READ AS FOLLOWS:

21 **(1) As used in this section:**

- 22 **(a) "Cannabis accessory" has the same meaning as in Section 2 of this Act;**
- 23 **(b) "Eligible conviction" means any criminal conviction for a violation of KRS**
 24 **218A.1422, 218A.1421(2), 218A.1423(2), or 218A.500, or a conviction for**
 25 **an offense prior to July 14, 1992, for possession, cultivation, or trafficking**
 26 **of marijuana which was punishable by not more than five (5) years'**
 27 **incarceration;**

- 1 (c) "Expungeable conviction" means any eligible conviction for which the
2 available record does not indicate that the offense involved a quantity of
3 marijuana in excess of the personal use quantity of cannabis, or, for a
4 conviction pursuant to KRS 218A.500, the record does not indicate that the
5 offense involved drug paraphernalia other than cannabis accessories; and
6 (d) "Personal use quantity of cannabis" has the same meaning as in Section 2
7 of this Act.
- 8 (2) The Administrative Office of the Courts shall establish a process for identifying
9 all eligible convictions and communicating each eligible conviction to the court
10 in which the conviction occurred, and to the office of the Commonwealth's
11 attorney or county attorney that prosecuted the case. All eligible convictions shall
12 be communicated to the office of the Commonwealth's attorney or county
13 attorney that prosecuted the case within ninety (90) days of the effective date of
14 this Act.
- 15 (3) Within ninety (90) days of the receipt of an eligible conviction, the office of the
16 Commonwealth's attorney or county attorney that prosecuted the case may file
17 with the court in which the conviction occurred an objection to the expungement
18 of any eligible conviction which is not an expungeable conviction.
- 19 (4) Within two hundred (200) days of the effective date of this Act, for any eligible
20 conviction to which the office of the Commonwealth's attorney or county attorney
21 that prosecuted the case has not filed an objection, the court shall order the
22 judgment vacated, and dismiss with prejudice any charges which are eligible for
23 expungement under this section, and order expunged all records in the custody of
24 the court and any records in the custody of any other agency or official, including
25 law enforcement records.
- 26 (5) (a) Any person who has an eligible conviction prior to the effective date of this
27 Act and whose records have not been expunged pursuant to subsection (4)

1 of this section may at any time after one (1) year after the effective date of
2 this Act petition the court in which the conviction occurred to expunge all
3 eligible convictions.

4 (b) There shall be no filing fee for a petition pursuant to this subsection.

5 (c) An expungement petition brought under this subsection shall be served
6 upon the offices of the county and Commonwealth's attorneys that
7 prosecuted the case, and the court shall notify the county and
8 Commonwealth's attorneys of an opportunity for a response to the petition.
9 The response shall be filed within ninety (90) days after the filing of the
10 petition.

11 (d) If a response is not filed, ninety (90) days after the filing of the petition the
12 court shall order the judgment vacated, and dismiss with prejudice any
13 charges which are eligible for expungement under this section.

14 (e) If a response is filed objecting to the expungement of the eligible conviction,
15 the court shall within ninety (90) days of the receipt of the objection
16 schedule a hearing on the petition. If, at the hearing, the court finds that
17 the eligible conviction is an expungeable conviction, the court shall order
18 the judgment vacated, and dismiss with prejudice any charges which are
19 eligible for expungement under this section.

20 (6) Upon entry of an order vacating and expunging a conviction, the original
21 conviction shall be vacated and the record shall be expunged. The court and
22 other agencies shall cause records to be deleted or removed from their computer
23 systems so that the matter shall not appear on official state-performed
24 background checks. The court and other agencies shall reply to any inquiry that
25 no record exists on the matter. The person whose record is expunged shall not
26 have to disclose the fact of the record or any matter relating thereto on an
27 application for employment, credit, or other type of application. If the expunged

1 conviction was a felony, and the person is not prohibited from voting for any
2 other reason, the person's ability to vote shall be restored and the person may
3 register to vote.

4 (7) The Administrative Office of the Courts shall, by December 1, 2023, provide a
5 report to the Interim Joint Committee on Judiciary providing data by county on
6 the numbers of eligible convictions identified, objections filed with the court, and
7 the number of expungements granted.

8 (8) This section shall be retroactive.