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

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:

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

(1) "Bona fide practitioner-patient relationship" means a treating or consulting relationship, during the course of which a medicinal cannabis practitioner has:

(a) Completed an initial in-person examination and assessment of the patient's medical history and current medical condition;

(b) Consulted with the patient with respect to the possible medical, therapeutic, and palliative properties of medicinal cannabis;

(c) Advised the patient of the possible risks and side effects associated with the use of medicinal cannabis, including possible interactions between medicinal cannabis and any other drug or medication that the patient is taking at that time; and

(d) Established an expectation that he or she will provide follow-up care and treatment to the patient;

(2) "Cannabis business" means an entity licensed under this chapter as a cultivator, dispensary, processor, producer, or safety compliance facility;

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

(4) "Cannabis consultation agreement" means a written agreement between a dispensary and a pharmacist, who shall serve as the dispensary's pharmacy director, to provide medicinal cannabis consultation services to the dispensary;

(5) "Cardholder" means:

(a) A registered qualified patient, designated caregiver, or visiting qualified patient who has applied for, obtained, and possesses a valid registry

identification card issued by the department; or

(b) A visiting qualified patient who has obtained and possesses a valid out-of-state registry identification card;

(6) "Cultivator" means an entity licensed as such under Sections 16, 17, and 18 of this Act;

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

(8) "Department" means the Department for Public Health or its successor agency;

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

(10) "Dispensary" means an entity licensed as such under Sections 16, 17, and 18 of this Act;

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

(12) "Disqualifying felony offense" means:

(a) A felony offense that would classify 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, except:

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

(13) "Diversion" or "divert" means the act of dispensing, selling, or otherwise transferring possession of medicinal cannabis from a licensed cannabis business or cardholder to any person or entity not authorized under the provisions of Sections 1 to 30 of this Act to legally possess or use medicinal cannabis;

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

(15) "Gross receipts" means the total amount or consideration, including cash, credit, property, and services, for which medicinal cannabis is sold, valued in money, whether received in money or otherwise;

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

(17) "Marijuana" has the same meaning as in Section 37 of this Act;

(18) "Medicinal cannabis":

(a) Means marijuana as defined in Section 37 of this Act when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with Sections 1 to 30 of this Act;

(b) Includes medicinal cannabis products and raw plant material; and

(c) Does not include industrial hemp or industrial hemp products as defined in KRS 260.850;

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

(20) "Medicinal cannabis practitioner" means a physician, a physician assistant, or an advanced practice registered nurse who is authorized by his or her state

licensing board to provide written certifications for the use of medicinal cannabis in accordance with Section 9 of this Act;

(21) "Medicinal cannabis product" means any compound, manufacture, salt, derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds or its resin; or any compound, mixture, or preparation which contains any quantity of these substances when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with Sections 1 to 30 of this Act. The term "medicinal cannabis product" does not include industrial hemp products as defined in KRS 260.850;

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

(23) "Out-of-state registry identification card" means a registry identification card, or an equivalent document, that was issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States, except that the card must be issued for a disease or medical condition that appears on the approved list of qualifying medical conditions created by the department, that allows the person to use medicinal cannabis in the jurisdiction of issuance;

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

(25) "Processor" means an entity licensed as such under Sections 16, 17, and 18 of this Act;

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

(27) "Producer" means an entity licensed as such under Sections 16, 17, and 18 of this Act;

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

(29) "Qualified patient" means a person who has obtained a written certification from

a medicinal cannabis practitioner with whom he or she has a bona fide practitioner-patient relationship;

(30) "Qualifying medical condition" means a disease or medical condition that appears on the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification for the use of medicinal cannabis established by the department pursuant Section 28 of this Act;

(31) "Raw plant material" means the trichome-covered part of the female plant Cannabis sp. or any mixture of shredded leaves, stems, seeds, and flowers of the Cannabis sp. plant. The term "raw plant material" does not include plant material obtained from industrial hemp as defined in KRS 260.850;

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

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

(34) "Safety compliance facility" means an entity licensed as such under Sections 16, 17, and 18 of this Act;

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

(36) "Seedling" means a medicinal cannabis plant that has no flowers and is not taller than eight (8) inches;

(37) "Serious violation" means:

(a) Any violation of Sections 1 to 30 of this Act or any administrative regulation promulgated thereunder that is capable of causing death or which causes serious and prolonged disfigurement, prolonged impairment of health, or

prolonged loss or impairment of the function of any bodily organ;

(b) Diversion of medicinal cannabis; or

(c) Any act that would constitute a violation of Section 38 of this Act;

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

(39) "State licensing board" means, respectively:

(a) The Kentucky Board of Medical Licensure; or

(b) The Kentucky Board of Nursing;

(40) "Telehealth" has the same meaning as in KRS 211.332;

(41) "Use of medicinal cannabis" includes the acquisition, administration, possession, transfer, transportation, or consumption of medicinal cannabis or medicinal cannabis accessories by a cardholder in accordance with Sections 1 to 30 of this Act. The term "use of medicinal cannabis" does not include:

(a) Cultivation of marijuana by a cardholder;

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

(c) The use of industrial hemp or industrial hemp products as defined in KRS 260.850;

(42) "Visiting qualified patient" means a person who has registered as such through the department as required under Section 11 of this Act or who possesses a valid out-of-state registry identification card; and

(43) "Written certification" means a document dated and signed by a medicinal cannabis practitioner, that:

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

(b) Specifies the qualifying medical condition or conditions for which the medicinal cannabis practitioner believes that the patient may receive

medical, therapeutic, or palliative benefit; and

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

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

(1) Nothing in Sections 1 to 30 of this Act shall be construed as applying to industrial hemp or industrial hemp products as defined in KRS 260.850.

(2) Notwithstanding any provision of law to the contrary, and except as provided in subsections (3) and (4) of this section:

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

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

(c) A registered qualified patient or visiting qualified patient shall not be considered to be under the influence of medicinal cannabis solely because of the presence of tetrahydrocannabinol metabolites, including but not limited to the cannabinoid carboxy THC, which is also known as THC-COOH;

(d) A medicinal cannabis practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by a state licensing board or by any other occupational or professional licensing

board, solely for providing written certifications or for otherwise stating that, in the medicinal cannabis practitioner's professional opinion, a patient may receive medical, therapeutic, or palliative benefit from the use of medicinal cannabis, if done in accordance with Sections 1 to 30 of this Act;

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

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

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

(3) Nothing in subsection (2) of this section shall be construed or interpreted to:

(a) Prohibit the arrest, prosecution, or imposition of any other penalty arising from but not limited to breach of contract, breach of fiduciary duty, negligence, or engaging in criminal activity that would constitute a felony or misdemeanor;

(b) Prevent a practitioner from being subject to administrative penalties imposed by his or her state licensing board for any violation of Section 1 to 30 of this Act or any administrative regulation promulgated under Section 9 of this Act; or

(c) Prevent a pharmacist from being subject to administrative penalties imposed by the Kentucky Board of Pharmacy for any violation of Section 1 to 30 of this Act or any administrative regulation promulgated under Section 10 of this Act.

(4) Notwithstanding subsection (2) of this section and any other provision of law to the contrary, a cardholder who is licensed under KRS Chapter 311 or KRS Chapter 314 may be subject to intervention or disciplinary action by his or her state licensing board if:

(a) There is probable cause to believe that the cardholder has become impaired by, or otherwise abused, medicinal cannabis; or

(b) The cardholder has a medically diagnosable disease that is characterized by chronic, habitual, or periodic use of medicinal cannabis resulting in interference with the cardholder's professional, social, or economic functions in the community or the loss of powers of self-control regarding the use of medicinal cannabis.

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

(1) The Division of Medicinal Cannabis is hereby established within the Department for Public Health and is charged with the implementation, operation, oversight,

and regulation of the medicinal cannabis program established in Sections 1 to 30 of this Act.

(2) The Board of Physicians and Advisors is hereby established within the Division of Medicinal Cannabis which shall consist of the following members:

(a) Five (5) physicians appointed by the Kentucky Board of Medical Licensure. In order to be eligible to be appointed to the board, a physician shall be authorized, pursuant to Section 9 of this Act, to provide written certifications for the use of medicinal cannabis and shall be certified by the appropriate board in one (1) of the following specialties:

1. Addiction medicine;

2. Anesthesiology;

3. Gastroenterology;

4. Obstetrics and gynecology;

5. Ophthalmology;

6. Optometry;

7. Infectious disease;

8. Neurology;

9. Oncology;

10. Pain management;

11. Pain medicine;

12. Pediatrics;

13. Physical medicine and rehabilitation; or

14. Psychiatry.

One (1) of the physicians appointed to the board pursuant to this paragraph shall be designated by the commissioner to serve as chairperson;

(b) Three (3) advanced practice registered nurses appointed by the Kentucky Board of Nursing. In order to be eligible to be appointed to the board, an

advanced practice registered nurse shall be authorized, pursuant to Section 9 of this Act, to provide written certifications for the use of medicinal cannabis;

(c) One (1) pharmacist appointed by the Kentucky Board of Pharmacy. In order to be eligible to be appointed to the board, a pharmacist shall be authorized, pursuant to Section 10 of this Act, to provide medicinal cannabis consultation services to cardholders and to enter into cannabis consultation agreements with dispensaries;

(d) Six (6) patient advocates selected by the commissioner of the department;

(e) The commissioner of the department, who shall serve as a non-voting ex officio member; and

(f) The director of the Division of Medicinal Cannabis, who shall serve as a non-voting ex officio member.

(3) The members of the Board of Physicians and Advisors appointed by the commissioner shall:

(a) Serve for a term of four (4) years and until their successors are appointed, except that the term for members appointed to fill the initial appointments after the effective date of this section shall be as follows:

1. Five (5) members shall be appointed for a term of two (2) years;

2. Five (5) members shall be appointed for a term of three (3) years;

3. Five (5) members shall be appointed for a term of four (4) years; and

4. The respective terms of the first members shall be designated by the commissioner at the time of their appointment;

(b) Be eligible for reappointment; and

(c) Serve without compensation, but each member of the board not otherwise compensated for his or her time or expenses shall be entitled to reimbursement for his or her actual and necessary expenses in carrying out

his or her duties with reimbursement for expenses being made in accordance with administrative regulations relating to travel expenses.

(4) The Board of Physicians and Advisors shall not be subject to reorganization under KRS Chapter 12.

(5) The Board of Physicians and Advisors shall:

(a) Review and recommend to the department an approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification;

(b) Accept and review petitions to add diseases or medical conditions to the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification;

(c) Review and recommend to the department medicinal cannabis dosing guidelines to be used by medicinal cannabis practitioners when providing patients with medicinal cannabis dosing recommendations;

(d) Convene at least twice per year to conduct public hearings and to evaluate petitions, which shall be maintained as confidential pursuant to subsection (7) of this section, for the purpose of adding diseases or medical conditions to the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification;

(e) Review and recommend to the department protocols for determining:

1. The amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes:

a. A ten (10) day maximum allowance of medicinal cannabis and a thirty (30) day maximum allowance of medicinal cannabis for registered qualified patients and visiting qualified patients who are over eighteen (18) years of age; and

b. A ten (10) day maximum allowance of medicinal cannabis and a

thirty (30) day maximum allowance of medicinal cannabis for registered qualified patients who are under eighteen (18) years of age; and

2. The amount of raw plant material that medicinal cannabis products are considered to be equivalent to;

(f) Review and recommend to the department evolving continuous quality improvement metrics and minimal performance standards for the biennial accreditation process of licensed cannabis businesses;

(g) Review relevant scientific data related to the delta-9 tetrahydrocannabinol content limits established in subsection (2)(b) of Section 19 of this Act and make recommendations to the General Assembly regarding revisions to the limits as the board deems appropriate;

(h) Review relevant scientific data related to the various methods of use and consumption of medicinal cannabis and make recommendations to the General Assembly to approve or restrict certain methods as the board deems appropriate; and

(i) Perform other duties related to the use of medicinal cannabis upon request by the commissioner of the department or the director of the Division of Medicinal Cannabis.

(6) When, in accordance with paragraphs (a) to (c) of subsection 5 of this section, the Board of Physicians and Advisors considers which diseases and medical conditions to recommend to the department for inclusion on the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provider a patient with a written certification, the board shall prioritize consideration of, but not limit their consideration to, end-of-life conditions and terminal diseases as defined in KRS 217.5401.

(7) The department shall promulgate administrative regulations, in accordance with

KRS Chapter 13A, to implement the provisions of this subsection, including but not limited to the process by which petitions to add diseases or medical conditions to the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification shall be received, reviewed, and considered. Administrative regulations promulgated pursuant to this subsection shall require that any individually identifiable health information contained in a petition received by the department, the Division of Medicinal Cannabis, or the Board of Physicians and Advisors shall be confidential and shall not be subject to disclosure under the Open Records Act, KRS 61.870 to 61.884.

(8) No later than December 1 of each year beginning in 2023, the department, in consultation with the University of Kentucky College of Medicine shall submit an annual report to the Legislative Research Commission. The report submitted by the department shall, at a minimum, include:

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

(b) The number of applications and renewals for registry identification cards that were approved and denied by the department;

(c) The number of registry identification cards revoked by the department for misconduct and the nature of the misconduct;

(d) The number of physicians, physician assistants, and advanced practice registered nurses authorized pursuant to Section 9 of this Act to provide written certifications for the use of medicinal cannabis;

(e) The number of pharmacists authorized pursuant to Section 10 of this Act to provide consultation to cardholders;

(f) The nature of the qualifying medical conditions for which medicinal

cannabis practitioners have provided written certifications;

(g) The number of applications and renewals received by the department for cannabis business licenses; the number of cannabis business licenses issued for each business type and tier; and the number of cannabis business license applications and renewals that were denied by the department;

(h) The number of cannabis business agents associated with each type of cannabis business;

(i) An assessment of:

1. The ability of cardholders in all areas of the state to obtain timely and affordable access to medicinal cannabis;

2. The evolving continuous quality improvement metrics and minimal performance standards for the biennial accreditation process of licensed cannabis businesses developed by the department pursuant to Section 28 of this Act;

3. The effectiveness of the cultivators, processors, and producers licensed under this chapter, individually and collectively, in serving the needs of processors, dispensaries, and cardholders, and whether they are generating any complaints or security problems;

4. The effectiveness of the dispensaries licensed under this chapter, individually and collectively, in serving the needs of cardholders, including the provision of educational and support services, and whether they are generating any complaints or security problems;

5. The effectiveness of the safety compliance facilities licensed under this chapter, individually and collectively, in serving the needs of other cannabis businesses, including the provision of testing and training services, and whether they are generating any complaints or security problems; and

6. The sufficiency of the regulatory and security safeguards contained in Sections 1 to 30 of this Act and adopted by the department through administrative regulations to ensure that access to medicinal cannabis cultivated and processed in this state is provided only to cardholders;

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

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

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

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

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

(o) Any recommended additions or revisions to Sections 1 to 30 of this Act or administrative regulations promulgated thereunder, including those relating to security, safe handling, labeling, and nomenclature;

(p) Any recommendations for changes to the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification and the rationale for those recommendations;

(q) The results of any peer-reviewed, scientific research studies regarding the health effects of cannabis; and

(r) Any other data requested by the Legislative Research Commission relating to the medicinal cannabis program and Sections 1 to 30 of this Act.

(9) The department shall provide the University of Kentucky College of Medicine with all information necessary to allow collaboration with the department on the preparation of this report. The University of Kentucky College of Medicine may

also produce its own report regarding the medicinal cannabis program established in Sections 1 to 30 of this Act which, if produced, shall be submitted to the Legislative Research Commission upon completion.

(10) The information contained in the report described in subsection (8) of this section shall be presented in a manner that does not disclose any identifying information about cardholders or licensed cannabis businesses.

(11) (a) Nothing in Sections 1 to 30 of this Act shall require the department to assume duties in relation to the medicinal cannabis program that are more than administrative in nature if federal law or a current and clear directive from the federal government indicates that duties assumed by the department that are more than administrative could result in the loss of federal funds, federal prosecution, or invalidation of the medicinal cannabis program established in Sections 1 to 30 of this Act.

(b) If the department makes a determination that it is required by Sections 1 to 30 of this Act to conduct duties that are more than administrative in nature, then it shall continue to conduct duties that are administrative in nature and designate or enter into a contract with, in accordance with KRS Chapter 45A, a qualified nongovernmental entity to conduct any duties required by Sections 1 to 30 of this Act that are more than administrative in nature. A nongovernmental entity contracted pursuant to this paragraph shall not own, in whole or in part, any cannabis business in this state or any other, or be owned, in whole or in part, by any cannabis business in this state or any other. The department may reimburse the state for any costs involved in working with outside consultants to implement the program.

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

(1) A registered qualified patient, except as provided in subsection (6) of this section,

shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a court or occupational or professional licensing board, for the use of medicinal cannabis, if the registered qualified patient does not possess more than:

(a) The thirty (30) day maximum allowance of medicinal cannabis, as established by the department pursuant to Section 28 of this Act, at his or her residence; or

(b) The ten (10) day maximum allowance of medicinal cannabis, as established by the department pursuant to Section 28 of this Act, on his or her person, except that an amount greater than the ten (10) day maximum allowance may be transported by a registered qualified patient from a dispensary directly to his or her residence if the medicinal cannabis is contained in a sealed package that requires at least a two (2) step process for initial opening.

(2) A visiting qualified 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 use of medicinal cannabis, if the visiting qualified patient does not possess more than an amount of medicinal cannabis determined by the department to constitute the ten (10) day maximum allowance of medicinal cannabis, as established by the department pursuant to Section 28 of this Act, on his or her person.

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

1. The thirty (30) day maximum allowance of medicinal cannabis, as established by the department pursuant to Section 28 of this Act, at his or her residence for each registered qualified patient to whom the caregiver is connected through the department's registration process; or

2. The ten (10) day maximum allowance of medicinal cannabis, as established by the department pursuant to Section 28 of this Act, on his or her person for each registered qualified patient to whom the caregiver is connected through the department's registration process, except that an amount greater than the ten (10) day maximum allowance may be transported by a designated caregiver from a dispensary directly to his or her residence if the medicinal cannabis is contained in a sealed package that requires at least a two (2) step process for initial opening; or

(b) Receiving reimbursement for documented expenses associated with assisting a registered qualified patient in the use of medicinal cannabis if the designated caregiver is connected to the registered qualified patient through the department's registration process.

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

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

(b) Possession of medicinal cannabis accessories; or

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

(5) No person shall be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to a civil penalty or disciplinary action by a

court or occupational or professional licensing board, solely for:

(a) Selling medicinal cannabis accessories to a cardholder who is over eighteen (18) years of age upon presentation of a valid registry identification card issued by the department or, for a visiting qualified patient, a valid out-of-state registry identification card;

(b) Being in the presence or vicinity of the use of medicinal cannabis; or

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

(6) Notwithstanding subsection (1) of this section, a registered qualified patient who is under eighteen (18) years of age shall not be permitted to possess, purchase, or acquire medicinal cannabis and shall only engage in the use of medicinal cannabis with the assistance of a designated caregiver.

(7) Notwithstanding subsections (1), (2), and (3) of this section:

(a) A registered qualified patient shall not be permitted to purchase more medicinal cannabis than the thirty (30) day maximum allowance of medicinal cannabis, as determined by the department pursuant to Section 28 of this Act, during a given twenty-five (25) day period;

(b) A designated caregiver shall not be permitted to purchase more medicinal cannabis than the thirty (30) day maximum allowance of medicinal cannabis, as determined by the department pursuant to Section 28 of this Act, for each registered qualified patient to whom the caregiver is connected through the department's registration process during a given twenty-five (25) day period; and

(c) 1. A visiting qualified patient who has applied for and obtained a registry identification card issued by the department shall not be permitted to purchase more medicinal cannabis than the ten (10) day maximum allowance of medicinal cannabis, as determined by the department pursuant to Section 28 of this Act, during a given eight (8) day period.

2. A visiting qualified patient who has not applied for and obtained a registry identification card issued by the department but possesses a valid out-of-state registry identification card shall not be permitted to purchase medicinal cannabis in this state more than once per calendar year and shall not be permitted to purchase more medicinal cannabis than the ten (10) day maximum allowance of medicinal cannabis, as determined by the department pursuant to Section 28 of this Act.

(8) (a) All medicinal cannabis possessed by a cardholder in accordance with subsections (1), (2), (3), and (7) of this section shall be kept in the original container in which the cardholder received the medicinal cannabis from a dispensary.

(b) An individual who violates paragraph (a) of this subsection may be fined up to one hundred dollars ($100) per violation.

(9) Notwithstanding any other provision of law to the contrary, a registered qualified patient who is injured or defrauded, including by theft or deprivation of the use and benefit of any money, personal property including medicinal cannabis, or articles of value of any kind, by his or her designated caregiver shall have a civil cause of action in Circuit Court to recover the actual damages sustained, together with the costs of the lawsuit, including a reasonable fee for the individual's attorney of record.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO

READ AS FOLLOWS:

(1) (a) Any medicinal cannabis, medicinal cannabis accessories, lawful property, or interest in lawful property that is possessed, owned, or used in connection with the use of medicinal cannabis or acts incidental to that use shall not be subject to seizure or forfeiture under KRS 218A.405 to 218A.460.

(b) Sections 1 to 30 of this Act shall not prevent the seizure or forfeiture of marijuana exceeding the amounts allowed under Section 4 of this Act nor shall it prevent seizure or forfeiture if the basis for that action is unrelated to the use of medicinal cannabis in accordance with Sections 1 to 30 of this Act and any administrative regulation promulgated thereunder.

(2) Possession of, or application for, a registry identification card, an out-of-state registry identification card, or cannabis business license 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, an out-of-state registry identification card, or cannabis business license. The possession of, or application for, a registry identification card, an out-of-state registry identification card, or cannabis business license shall not preclude the existence of probable cause or reasonable suspicion if probable cause or reasonable suspicion exists on other grounds.

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

1. Possesses a valid registry identification card or, in the case of a visiting qualified patient, a valid out-of-state registry identification card; and

2. Possesses an amount of medicinal cannabis that does not exceed the amount the cardholder is permitted to possess under Section 4 of this

Act.

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

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

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

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

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

(c) Possessing medicinal cannabis that is within the operator's arm's reach or that is not contained in a package that requires at least a two (2) step process for initial opening, in accordance with administrative regulations promulgated pursuant to subsection (1)(c)12.a. of Section 28 of this Act, while operating, navigating, or being in actual physical control of an aircraft, vehicle, vessel, or any other device known, or hereafter invented, that is powered by machinery and that is or may be used to transport persons or property;

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

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

1. On the grounds of any preschool or primary or secondary school, except as permitted in accordance with policies enacted pursuant to subsection (4)(c) of Section 8 of this Act;

2. In any correctional facility; or

3. On any property of the federal government;

(f) Using marijuana, if that person is not a registered qualified patient or visiting qualified patient;

(g) Using or consuming marijuana by smoking; or

(h) Cultivating marijuana unless that person is licensed by the department as a cannabis cultivator or cannabis producer pursuant to Sections 16, 17, and 18 of this Act or is a cultivator or producer agent.

(2) Sections 1 to 30 of this Act shall not prevent enforcement of current laws pertaining to the operation of any aircraft, vehicle, or vessel, including under KRS Chapters 183, 189, 189A, and 235.

(3) If a cardholder violates subsection (1)(a) or (b) of this section, in addition to penalties that may be imposed under KRS Chapters 183, 189, 189A, or 235, the cardholder's registry identification card shall be revoked.

(4) (a) An individual who violates subsection (1)(g) of this section shall not be considered to be in possession of medicinal cannabis or engaged in the use of medicinal cannabis and may not benefit from the legal protections afforded by Sections 1 to 30 of this Act.

(b) The odor or smell of medicinal cannabis shall not constitute conclusive evidence of use or consumption of medicinal cannabis by smoking.

(c) Notwithstanding paragraph (a) of this subsection:

1. If an individual violates subsection (1)(q) of this section by using or consuming marijuana by smoking while on any form of public transportation, in any public place as defined in KRS 525.010, or in any place of public accommodation, resort, or amusement as defined in KRS 344.130:

a. The department may suspend or revoke the individual's registry identification card; and

b. The individual may be subject to prosecution under Section 39 of this Act.

2. For any individual who violates subsection (1)(q) of this section by using or consuming marijuana by smoking on residential property owned or leased by that individual or with the permission of the owner or lessee of the residential property on which the violation occurred, the penalty shall be a fine of not more than one hundred dollars ($100) per violation.

(5) As used in this section:

(a) "Aircraft" has the same meaning as in KRS 183.011;

(b) "Vehicle" has the same meaning as in KRS 189.010; and

(c) "Vessel" has the same meaning as in KRS 235.010.

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

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

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

(b) Prohibit an employer from implementing policies promoting workplace

health and safety by:

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

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

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

(d) Subject an employer to liability for wrongful discharge or discrimination;

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

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

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

(3) An employer shall not be penalized or denied any benefit under state law for employing a cardholder.

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

(1) Except as provided in Section 7 of this Act, the lawful use of medicinal cannabis

by a cardholder is equivalent to the authorized use of any other medication used at the direction of a practitioner, shall not constitute the use of an illicit substance, and shall not constitute an acceptable basis for disqualifying a cardholder from any rights or privileges that he or she may otherwise be entitled to, including those guaranteed under KRS Chapter 344.

(2) A cardholder otherwise entitled to custody of or visitation time or parenting time with a minor child shall not be denied that right, and there shall be no presumption of dependency, neglect, or abuse, for conduct permitted under Sections 1 to 30 of this Act unless the person's actions in relation to medicinal cannabis create a danger that is not in the best interest of the safety of the minor child as established by clear and convincing evidence.

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

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

(4) (a) A school shall not refuse to enroll, or otherwise penalize, a person solely for his or her status as a cardholder, unless failing to do so would violate federal law or regulations and cause the school to lose a monetary or licensing-related benefit under federal law or regulations.

(b) A school shall not be penalized or denied any benefit under state law for enrolling a cardholder.

(c) Each local board of education and each board of directors of a public charter school shall, within ninety (90) days after the effective date of this

section, establish policies to permit a pupil who is a registered qualified patient to consume medicinal cannabis on school property as deemed necessary by the pupil's parent or legal guardian. Policies enacted pursuant to this paragraph shall require that medicinal cannabis be administered by a school nurse or under the supervision of appropriate school staff.

(5) (a) No landlord may be penalized or denied any benefit under state law for leasing to a cardholder.

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

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

(1) Except as provided in subsection (13) of this section, a physician, a physician assistant, or an advanced practice registered nurse seeking to become a medicinal cannabis practitioner and provide written certifications for the use of medicinal cannabis shall apply to the same state licensing board that issued his or her professional practice license, on a form prescribed by the state licensing board, for authorization to provide written certifications for the use of medicinal cannabis.

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

(b) A state licensing board shall deny an application for authorization to provide written certifications for the use of medicinal cannabis if the applicant has an ownership or investment interest in or compensation agreement with a cannabis business licensed under this chapter. A state licensing board may consult with the department to determine if an

applicant has an ownership or investment interest in or compensation agreement with a cannabis business.

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

(4) A medicinal cannabis practitioner may provide a patient with a written certification only after the practitioner has:

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

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

(c) Reviewed a report of information from the electronic monitoring system established pursuant to Section 41 of this Act related to the patient for a period of time that covers at least the twelve (12) months immediately preceding the date of the report;

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

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

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

established via telehealth.

(6) (a) When issuing a written certification for the use of medicinal cannabis to a patient, the medicinal cannabis practitioner shall, to the best of his or her professional medical knowledge, provide the patient with recommendations for:

1. The strains of medicinal cannabis and types of medicinal cannabis products that may be most effective in providing medical, therapeutic, or palliative relief to the patient; and

2. Medicinal cannabis dosing including the quantity and frequency of doses.

(b) Recommendations provided pursuant to paragraph (a) of this subsection shall comply with medicinal cannabis dosing guidelines and the ten (10) day and thirty (30) day maximum allowance of medicinal cannabis developed by the department pursuant to Section 28 of this Act.

(7) (a) A written certification for the use of medicinal cannabis shall be provided to a patient on a form prescribed by the department.

(b) An initial written certification for the use of medicinal cannabis shall be provided during the course of an in-person examination of the patient by the medicinal cannabis practitioner. Subsequent written certifications, including for the purpose of renewing a registry identification card, may be provided electronically or during the course of a telehealth consultation.

(c) For the purpose of applying for a registry identification card, a written certification provided under this section shall be valid for ninety (90) days after the date of issuance by a medicinal cannabis practitioner. The medicinal cannabis practitioner may renew a written certification for not more than three (3) additional periods of not more than ninety (90) days each. Thereafter, the medicinal cannabis practitioner may issue another

certification to the patient only after conducting an additional examination of the patient in person or via telehealth.

(d) Within twenty-four (24) hours of providing a patient with a written certification for the use of medicinal cannabis, a medicinal cannabis practitioner shall record the issuance of the written certification in the electronic monitoring system established pursuant to Section 41 of this Act.

(8) A medicinal cannabis practitioner shall not:

(a) Dispense medicinal cannabis; or

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

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

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

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

(c) Failing to properly evaluate a patient's medical history and current medical condition prior to issuing a written certification;

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

(e) Any other violation of this section or any administrative regulation promulgated thereunder.

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

(11) The state licensing boards shall:

(a) No later than January 1, 2023, promulgate, in accordance with KRS Chapter 13A, administrative regulations to establish at least the following:

1. The application and renewal process for authorization to provide written certifications for the use of medicinal cannabis. Any administrative regulation promulgated pursuant to this subparagraph shall include an application and renewal fee which shall be sufficient to generate the funds necessary to enable the state licensing board to process applications and enforce administrative regulations promulgated under this section;

2. The conditions that must be met to be eligible for authorization to provide written certifications. Eligibility criteria established by administrative regulations promulgated pursuant to this paragraph shall require that:

a. An advanced practice registered nurse be authorized to prescribe controlled substances under KRS 314.042; and

b. A physician assistant:

i. Be authorized to prescribe controlled substances under KRS 311.858; and

ii. Have and maintain a supervision agreement, established in accordance with KRS Chapter 311, with a physician who is authorized to provide written certifications;

3. Continuing education requirements for medicinal cannabis practitioners related to the use of medicinal cannabis and the recommending of cannabis for medicinal use. The continuing education requirements established pursuant to this subparagraph shall include continuing education requirements related to medicinal cannabis dosing and dosing guidelines established by the department

pursuant to Section 28 of this Act;

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

5. The minimal standards of care when providing written certifications;

(b) On a regular basis, provide the department with the names of all medicinal cannabis practitioners; and

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

(12) Nothing in Sections 1 to 30 of this Act shall be construed or interpreted to limit or restrict a state licensing board's authority or ability to enforce administrative regulations promulgated pursuant to subsection (11) of this section.

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

(a) A research protocol;

(b) A clinical trial;

(c) An investigational new drug application; or

(d) An expanded access submission.

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

(1) Except as provided in subsection (2) of this section, prior to making an initial purchase of medicinal cannabis in this state and at least annually thereafter, a registered qualified patient shall be required to complete a consultation with a

pharmacist who is authorized by the Kentucky Board of Pharmacy to provide medicinal cannabis consultation services to cardholders. The consultation shall, at a minimum, cover the possible risks and side effects of medicinal cannabis and any potential drug interactions between medicinal cannabis and any other drug that the registered qualified patient or visiting qualified patient is taking. The consultation required by this subsection may be completed via telehealth.

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

(b) If the registered qualified patient is under eighteen (18) years of age, the registered qualified patient's parent or legal guardian who is responsible for providing consent for medical treatment shall be present for the consultation required by subsection (1) of this section and may complete the consultation on behalf of the registered qualified patient.

(c) A visiting qualified patient who has not applied for and obtained a registry identification card issued by the department but presents a valid out-of-state registry identification card to purchase medicinal cannabis in this state not more than once per calendar year shall not be required to complete the consultation required by subsection (1) of this section.

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

(4) No later than January 1, 2023, the Kentucky Board of Pharmacy shall, in accordance with KRS Chapter 13A, promulgate administrative regulations to:

(a) Establish the application and renewal process for authorization to provide

medicinal cannabis consultation services to cardholders and to enter into a cannabis consultation agreement with dispensaries. Any administrative regulation promulgated pursuant to this paragraph shall include an application and renewal fee which shall be sufficient to generate the funds necessary to enable the Board of Pharmacy to process applications and enforce administrative regulations promulgated under this section;

(b) Establish continuing education and training requirements for pharmacists who are authorized to provide medicinal cannabis consultation services to cardholders and to enter into cannabis consultation agreements with dispensaries;

(c) Define the standards of care for medicinal cannabis consultation services provided by a pharmacist to a cardholder;

(d) Define the nature and scope of a cannabis consultation agreement between a pharmacist and a dispensary, including the process by which a pharmacist and dispensary may establish a cannabis consultation agreement. Administrative regulations promulgated pursuant to this paragraph:

1. Shall not require a pharmacist to be present at a dispensary; and

2. May limit the number of cannabis consultation agreements a pharmacist is permitted to maintain at any given time;

(e) Establish the fee that a pharmacist may charge a cardholder for medicinal cannabis consultation services. The fee established pursuant to this paragraph shall not exceed forty dollar ($40) per consultation; and

(f) Establish a cannabis consultation agreement fee to be paid by a dispensary to a pharmacist.

(5) Nothing in Sections 1 to 30 of this Act shall be construed or interpreted to limit or restrict the Kentucky Board of Pharmacy's authority or ability to enforce

administrative regulations promulgated pursuant to subsection (4) of this section.

(6) (a) Members of the Kentucky Board of Pharmacy, its agents, and its employees shall be immune from suit for discretionary acts in a civil action or criminal action which is based upon any act that is conducted in accordance with this section and administrative regulations promulgated thereunder.

(b) A pharmacist authorized by the board to provide medicinal cannabis consultation services to cardholders or to enter into cannabis consultation agreements with dispensaries shall be immune in any civil action or criminal action as long as the pharmacist acted with ordinary and reasonable care as any pharmacist would in the same or similar circumstances and in accordance with this section and administrative regulations promulgated thereunder.

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

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

(2) A person shall be eligible to apply for a registry identification card as a registered qualified patient if he or she is a resident of Kentucky, has obtained a written certification issued by a medicinal cannabis practitioner in accordance with Section 9 of this Act and administrative regulations promulgated thereunder, and has not been convicted of a disqualifying felony offense.

(3) A person shall be eligible to apply for a registry identification card as a designated caregiver if he or she is a resident of Kentucky, is at least twenty-one (21) years of age, has been identified as a designated caregiver on qualified

patient's or registered qualified patient's registry identification card application or renewal form, has not been convicted of a disqualifying felony offense, and has agreed to assist no more than three (3) registered qualified patients with the use of medicinal cannabis.

(4) A person shall be eligible to apply for a registry identification card as a visiting qualified patient if he or she is not a resident of Kentucky or has been a resident of Kentucky for less than thirty (30) days, possess a valid out-of-state registry identification card, is at least twenty-one (21) years of age, has obtained a written certification issued by a medicinal cannabis practitioner in accordance with Section 9 of this Act and administrative regulations promulgated thereunder, and has not been convicted of a disqualifying felony offense.

(5) To apply for or renew a registry identification card, a qualified patient who is eighteen (18) years of age or older shall submit the following, in accordance with administrative regulations promulgated by the department:

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

(b) A valid written certification issued to the qualified patient;

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

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

(e) If the qualified patient determines that he or she needs a designated caregiver:

1. A statement, signed by the qualified patient, attesting to such need;

2. The name, address, and date of birth of not more than two (2) individuals chosen by the qualified patient to be designated as a caregiver; and

3. A statement, signed by the individuals chosen by the qualified patient to be designated as a caregiver agreeing to be designated as the patient's designated caregiver and pledging not to divert medicinal cannabis to anyone other than the registered qualified patient to whom the caregiver is connected through the department's registration process. The statement shall contain a listing of potential penalties, including criminal prosecution, for diverting medicinal cannabis; and

(f) The application or renewal fee for a registry identification card for a qualified patient and the application or renewal fee for a registry identification card for any designated caregiver chosen by the qualified patient.

(6) To apply for or renew a registry identification card for a qualified patient who is under eighteen (18) years of age, the qualified patient's custodial parent or legal guardian with responsibility for health care decisions shall submit the following, in accordance with administrative regulations promulgated by the department:

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

(b) A valid written certification issued to the qualified patient;

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

(d) A statement, signed by the qualified patient's custodial parent or legal

guardian with responsibility for health care decisions, attesting to the fact that the custodial parent or legal guardian agrees to:

1. Allow the qualified patient to use medicinal cannabis;

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

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

(e) A statement, signed by the qualified patient's custodial parent or legal guardian with responsibility for health care decisions, pledging not to divert, or to knowingly allow the qualified patient to divert, medicinal cannabis to anyone who is not permitted to possess medicinal cannabis pursuant to Sections 1 to 30 of this Act. The statement shall contain a listing of potential penalties, including criminal prosecution, for diverting medicinal cannabis;

(f) If the qualified patient's custodial parent or legal guardian with responsibility for health care decisions determines that the qualified patient needs an additional designated caregiver:

1. A statement, signed by the qualified patient's custodial parent or legal guardian with responsibility for health care decisions, attesting to such need;

2. The name, address, and date of birth of not more than one (1) individual chosen by the qualified patient's custodial parent or legal guardian with responsibility for health care decisions to be designated as a second designated caregiver; and

3. A statement, signed by the individual chosen by the qualified patient's custodial parent or legal guardian with responsibility for health care decisions to be designated as a caregiver, agreeing to be designated as the patient's designated caregiver and pledging not to divert medicinal

cannabis to anyone other than the registered qualified patient to whom the caregiver is connected through the department's registration process. The statement shall contain a listing of potential penalties, including criminal prosecution, for diverting medicinal cannabis; and

(g) The application or renewal fee for a registry identification card for a qualified patient and the application or renewal fee for a registry identification card for any designated caregiver chosen by the qualified patient.

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

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

(b) A copy of his or her valid out-of-state registry identification card;

(c) A valid written certification issued to the qualified patient;

(d) The name, address, and telephone number of the qualified patient's medicinal cannabis practitioner;

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

(f) The application or renewal fee for a registry identification card for a visiting qualified patient;

(8) The application for qualified 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 use of medicinal cannabis. The department shall notify interested patients if it is aware of studies that will be conducted in the United States.

(9) A visiting qualified patient who possess a valid out-of-state registry identification card shall not be required to apply for or obtain a visiting qualified patient registry identification card issued by the department and may use his or her valid out-of-state registry identification card for all purposes established in Sections 1 to 30 of this Act, except that a visiting qualified patient who has not applied for and obtained a registry identification card issued by the department shall only be permitted to purchase medicinal cannabis in this state once per calendar year.

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

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

(2) The following shall be clearly and visibly printed on registry identification cards:

(a) The name of the cardholder;

(b) A designation of whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;

(c) The date of issuance and expiration date of the registry identification card;

(d) A random alphanumeric identification number of at least ten (10) characters, containing at least four (4) numbers and at least four (4) letters, that is unique to the cardholder;

(e) A photograph of the cardholder, if the department's administrative regulations require one;

(f) The telephone number and Web site address for the electronic monitoring

system established pursuant to Section 41 of this Act;

(g) If the cardholder is a designated caregiver, the random alphanumeric identification number of the registered qualified patient the designated caregiver is receiving the registry identification card to assist;

(h) If the cardholder is under eighteen (18) years of age, a clear and obvious designation or identifier indicating that the cardholder is under eighteen (18) years of age; and

(i) A bar code or other marking that can be scanned electronically to provide access to the information described in subsection (4) of this section.

(3) (a) Except as provided in this subsection, the expiration date for registry identification cards shall be one (1) year after the date of issuance.

(b) If a medicinal cannabis practitioner states in the written certification that the qualified patient would benefit from the use of medicinal cannabis until a specified earlier date, then the registry identification card shall expire on that date.

(4) The department shall electronically store in the card at least all of the information listed in subsection (2) of this section, the cardholder's address, and the cardholder's date of birth, so that it may be read electronically by law enforcement agents and licensed cannabis businesses.

(5) The registry identification card application and renewal fees shall be as follows:

(a) A registry identification card for a qualified patient who is a Kentucky resident shall be sixty dollars ($60);

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

(c) A registry identification card for a designated caregiver shall be twenty dollars ($20) per registered qualified patient to whom the designated caregiver is connected unless the designated caregiver is the parent, legal

guardian, spouse, or adult child of the qualified patient, in which case there shall be no fee for a registry identification card.

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

1. A temporary identification number;

2. A barcode or other marking that can be scanned electronically;

3. The name of the applicant;

4. A designation of whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;

5. If the cardholder is under eighteen (18) years of age, a clear and obvious designation or identifier indicating that the cardholder is under eighteen (18) years of age;

6. The effective date of the receipt;

7. The expiration date of the receipt;

8. An indication that the cardholder fee has been paid;

9. An indication that the application has been submitted and is apparently complete; and

10. The name of the qualified patient's medicinal cannabis practitioner.

(b) The registration receipt system shall be designed so that this provisional registration receipt shall be produced by the application Web site upon completion of an application that includes a valid written certification for

the use of medicinal cannabis issued by medicinal cannabis practitioner and payment of the cardholder fee. To reduce application errors and processing time, medicinal cannabis practitioners and licensed dispensaries may offer a service that allows an applicant to use a computer and printer on the premises of the practitioner's office or dispensary to complete an application and receive a provisional registration receipt pursuant to this subsection.

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

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

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

(1) Except as provided in subsections (2) to (5) of this section, the department shall:

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

(b) Issue registry identification cards to a qualified patient and any individual designated by the qualified patient as a designated caregiver, or a visiting qualified patient within five (5) days of approving the application or renewal. An individual designated as a caregiver shall be issued a designated caregiver registry identification card for each registered

qualified patient to whom he or she is connected through the department's registration process.

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

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

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

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

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

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

(3) (a) The department shall deny an application or renewal for a qualified patient's or visiting qualified patient's registry identification card if the applicant:

1. Did not provide the information or materials required by Section 11 of this Act;

2. Previously had a registry identification card revoked;

3. Provided false or falsified information; or

4. Does not meet the eligibility requirements established in Section 11 of this Act.

(b) The department may deny an application or renewal for a qualified patient's or visiting qualified patient's registry identification card for any reason that the department, in the exercise of sound discretion, deems sufficient.

(4) (a) The department shall deny an application or renewal for a designated

caregiver's registration card if the applicant:

1. Is already registered as a designated caregiver for three (3) registered qualified patients;

2. Does not meet the eligibility requirements established in Section 11 of this Act;

3. Did not provide the information or materials required by Section 11 of this Act;

4. Previously had a registry identification card revoked;

5. Provided false or falsified information; or

6. Has applied as a designated caregiver for a qualified patient whose application or renewal for a registry identification card was denied.

(b) The department may deny application or renewal for a designated caregiver's registration card for any reason that the department, in the exercise of sound discretion, deems sufficient.

(5) The department may conduct a criminal background check of any applicant if the criminal background check is conducted solely to determine whether the applicant was previously convicted of a disqualifying felony offense.

(6) The department shall notify the registered qualified patient who has designated someone to serve as his or her designated caregiver if the individual designated as a caregiver is denied a registry identification card.

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

(8) Final orders of the department after administrative hearings shall be subject to

judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the appealing party resides.

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

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

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

(b) If a cardholder loses his or her registry identification card, he or she shall notify the department within ten (10) days of becoming aware that the card has been lost;

(c) A cardholder shall immediately notify the department if he or she is convicted of a disqualifying felony offense;

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

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

(f) A designated caregiver shall notify the department within ten (10) days if he or she becomes aware that a registered qualified patient to whom the caregiver is connected through the department's registration process has died or has ceased to suffer from the qualifying medical condition for which a medicinal cannabis practitioner provided a written certification.

(2) When a cardholder notifies the department of items listed in subsection (1)(a) or (b) of this section, but remains eligible under Sections 1 to 30 of this Act, the department shall issue the cardholder a new registry identification card with a

new random ten (10) character alphanumeric identification number. If the department issues a new registry identification card to a registered qualified patient, the department shall also issue a new registry identification card with a new ten (10) character alphanumeric number to the registered qualified patient's designated caregiver. New registry identification cards issued under this subsection shall be issued by the department within ten (10) days of receiving the updated information and a twenty dollar ($20) fee for each new registry identification card to be issued.

(3) When a cardholder notifies the department of items listed in subsection (1)(c) to (e) of this section, the cardholder shall, within ten (10) days of notification, return any unused medicinal cannabis products to a licensed dispensary for destruction.

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

(5) 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).

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

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

(1) Any cardholder who sells, distributes, dispenses, or otherwise diverts medicinal cannabis to a person who is not permitted to possess or use medicinal cannabis under Sections 1 to 30 of this Act shall have his or her registry identification card

revoked, shall be permanently ineligible for a registry identification card in the future, and shall be subject to other penalties, including but not limited to criminal prosecution, under any relevant chapter of the Kentucky Revised Statutes.

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

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

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

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

(1) No person shall cultivate, process, produce, possess, test, transfer, transport, or sell medicinal cannabis or otherwise operate a cannabis business in this state without first obtaining a cannabis business licenses issued by the department.

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

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

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

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

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

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

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

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

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

(e) A cannabis safety compliance facility, for which the initial licensing fee shall be two thousand five hundred dollars ($2,500).

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

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

(4) (a) A cannabis business license issued under this section and Sections 17 and 18 of this Act 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 on which the license expires to allow the licensee to begin the renewal process established by the department through the promulgation of administrative regulations pursuant to Section 28 of this Act.

(b) The renewal of a cannabis business license shall be contingent upon

successful achievement of minimal performance standards established by the department as part of the biennial accreditation process established pursuant to Section 28 of this Act.

(c) Cannabis business licensure renewal fees shall be:

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

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

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

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

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

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

TO READ AS FOLLOWS:

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

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

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

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

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

(d) 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;

(e) Any other information required by the department pursuant to administrative regulations; and

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

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

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

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

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

2. If a physical address or the global positioning system coordinates for any cultivation activities had not been finalized when it applied,

submit its complete physical address and the global positioning system coordinates for any cultivation activities; and

(b) The department shall issue a copy of the license that includes the business's identification number. The department shall also provide each licensed dispensary with contact and access information for the electronic monitoring system established pursuant to Section 41 of this Act.

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

(1) The department shall:

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

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

(2) (a) The department shall deny an application for a cannabis business license if:

1. The applicant failed to submit the materials required by Section 17 of this Act, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping administrative regulations promulgated by the department pursuant to Section 28 of this Act;

2. The applicant provided false or falsified information on the licensure application;

3. The applicant would not be in compliance with local cannabis business prohibitions enacted pursuant to Section 26 of this Act;

4. The applicant does not meet, or in the opinion of the department is unlikely to meet, the requirements for cannabis businesses established in Section 19 of this Act;

5. One (1) or more of the prospective principal officers or board

members:

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

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

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

d. Is a medicinal cannabis practitioner authorized by a state licensing board to provide patients with written certifications; or

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

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

(b) The department may deny an application for a cannabis business license for any reason that the department, in the exercise of sound discretion, deems sufficient.

(3) The department shall notify the applicant in writing of a license denial and reasons by registered or certified mail at the address given in the application or supplement. Except for license denials based upon subsection (2)(a) of this section, the applicant may, within thirty (30) days after the mailing of the department's notice, file a written request for an administrative hearing on the application. The hearing shall be conducted on the application in compliance with the requirements of KRS Chapter 13B.

(4) Final orders of the department after administrative hearings shall be subject to

judicial review as provided in KRS 13B.140. Jurisdiction and venue for judicial review are vested in the Circuit Court of the county in which the applicant's business would be located.

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

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

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

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

1. Was convicted of a disqualifying felony offense; or

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

(c) Implement appropriate security measures required pursuant to administrative regulations promulgated by the department in accordance with Section 28 of this Act to deter and prevent the theft or diversion of medicinal cannabis and unauthorized entrance into areas containing medicinal cannabis;

(d) Display its license on the premises in a conspicuous place and manner at all times; and

(e) Only acquire, possess, cultivate, process, manufacture, deliver, transfer, transport, supply, sell, or dispense medicinal cannabis:

1. For the purposes of distributing medicinal cannabis to cardholders who possess a valid registry identification card issued by the department, or for visiting qualified patients, a valid out-of-state

registry identification card; and

2. Cultivated and processed by a cannabis business licensed under Sections 16, 17, and 18 of this Act.

(2) A cannabis business licensed under Sections 16, 17, and 18 of this Act this chapter shall not:

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

(b) Acquire, possess, cultivate, process, manufacture, deliver, transfer, transport, supply, dispense, or sell:

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

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

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

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

5. Medicinal cannabis cultivated, processed, or manufactured in another state;

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

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

(e) Employ, have as a board member, or be owned by, in part or in whole, a medicinal cannabis practitioner authorized by a state licensing board to

provide patients with written certifications; or

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

(3) The operating documents of a cannabis business shall include procedures for its oversight and procedures to ensure accurate recordkeeping and inventory control in accordance with administrative regulations promulgated by the department pursuant to Section 28 of this Act.

(4) When transporting medicinal cannabis on behalf of a licensed cannabis business, a cannabis business agent shall have:

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

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

(c) The cannabis business license number and a working telephone number for any other cannabis business receiving or otherwise involved in the transportation of the medicinal cannabis.

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

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

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

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

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

(1) Cannabis businesses shall be subject to reasonable inspection by the department pursuant to the department's procedures and administrative regulations. The department may inspect any licensed cannabis business premises without having to first obtain a search warrant.

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

(b) The department may, on its own motion or on complaint and after investigation, suspend or revoke a cannabis business license for multiple violations or a serious violation of Sections 1 to 30 of this Act or any administrative regulations promulgated thereunder by the licensee or any of its agents. A suspension shall not be for a period of time longer than six (6) months.

(c) The department shall, via certified mail, provide a written notice of license suspension, revocation, fine to the cannabis business at the address on the

license.

(3) Subsection (2) of this section notwithstanding, the department shall not suspend or revoke a cannabis business's license or impose a civil fine without first providing the cannabis business with the opportunity for an administrative hearing at which the cannabis business is afforded an opportunity to appear and be heard pursuant to KRS Chapter 13B. A cannabis business may, within thirty (30) days after the mailing of a written notice required by subsection (2)(c) of this section, file a written request for an administrative hearing regarding the suspension, revocation, or fine. If a cannabis business requests an administrative hearing, prior to the disposition of the administrative hearing, the cannabis business shall be allowed to operate as normally permitted by Sections 1 to 30 of this Act.

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

(5) Under a suspended license:

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

(b) A dispensary may continue to possess its existing medicinal cannabis inventory, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis to any cardholder or any other cannabis business;

(c) A processor may continue to process and possess its existing medicinal cannabis inventory, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis products to any other cannabis business;

(d) A producer may continue to cultivate, process, and possess cannabis plants

and its existing medicinal cannabis inventory, but it shall not acquire additional medicinal cannabis, or dispense, transfer, or sell medicinal cannabis to any other cannabis business; and

(e) A safety compliance facility may continue to possess medicinal cannabis, but it shall not receive any new medicinal cannabis, test or otherwise analyze medicinal cannabis, or transfer or transport medicinal cannabis.

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

(1) 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 20 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 30 of this Act and the department's administrative regulations promulgated thereunder for:

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

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

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

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

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

(b) Only deliver raw plant material to a licensed dispensary, processor, or

producer after it has been checked by a safety compliance facility agent for cannabinoid contents and contaminants in accordance with administrative regulations promulgated by the department;

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

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

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

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

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

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

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

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

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

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

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

(d) Selling cannabis seeds to an entity that are licensed to cultivate cannabis in this state or in any other jurisdiction; or

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

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

(a) Maintain records that include specific notations of the type and quantity of medicinal cannabis products being dispensed to a cardholder and whether it was dispensed directly to a registered qualified patient, a visiting qualified patient, or a registered qualified patient's designated caregiver. Each entry shall include sufficient information to identify the product or products dispensed, the quantity dispensed, and the date and time of the dispensing. The data required to be recorded by this paragraph shall be entered into the electronic monitoring system established pursuant to Section 41 of this Act in accordance with administrative regulations promulgated by the department for the recording of medicinal cannabis dispensing;

(b) Only dispense or sell medicinal cannabis after it has been checked by a safety compliance facility agent for cannabinoid contents and contaminants

in accordance with administrative regulations promulgated by the department;

(c) Only dispense or sell medicinal cannabis to a cardholder after making a good faith, reasonable effort to verify:

1. That the registry identification card or, for visiting qualified patients, the out-of-state registry identification card presented to the dispensary is valid, including by checking the verification system, if it is operational, or other department-designated databases;

2. That the person presenting the registry identification card or, for visiting qualified patients, the out-of-state registry identification card is at least eighteen (18) years of age and is the person identified on the card by examining at least one (1) other form of government-issued photo identification;

3. That the person presenting the registry identification card has consulted with a pharmacist as required by Section 10 of this Act;

4. The amount of medicinal cannabis the person is legally permitted to purchase pursuant to subsection (4) of Section 4 of this Act at the time of verification by checking the electronic monitoring system established pursuant to Section 41 of this Act; and

5. For a visiting qualified patient who presents an out-of-state registry identification card, that the visiting qualified patient has not purchased medicinal cannabis in this state during the current calendar year by checking the electronic monitoring system established pursuant to Section 41 of this Act;

(d) Require a visiting qualified patient who presents a valid out-of-state registry identification card to sign a statement attesting to the fact that the visiting qualified patient has been diagnosed with a disease or medical condition

included on the list of qualifying medical conditions established by the department;

(e) Not acquire, possess, dispense, sell, offer for sale, transfer, or transport:

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

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

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

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

(f) Not acquire medicinal cannabis from any person other than a cannabis business licensed under Sections 16, 17, and 18 of this Act or an agent thereof, or a registered qualified patient or a designated caregiver as provided for in Section 14 of this Act;

(g) Not sell or dispense medicinal cannabis products intended for consumption by vaporizing to a cardholder who is less than twenty-one (21) years of age;

(h) Not dispense or sell medicinal cannabis to a minor;

(i) Not dispense or sell more medicinal cannabis to a cardholder than he or she is legally permitted to purchase at the time of the transaction; and

(j) Not rent office space to a medicinal cannabis practitioner.

(3) A dispensary shall be required to establish and maintain a cannabis consultation agreement, as described in Section 10 of this Act and any administrative regulation promulgated thereunder, with a pharmacist authorized by the Kentucky Board of Pharmacy to enter into a cannabis consultation agreement with a dispensary.

(4) (a) A dispensary may operate a delivery service for cardholders and may deliver medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders at the address identified on the cardholder's registry identification.

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

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

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

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

(1) A processor or processor agent acting on behalf of a processor shall not be subject to prosecution under state or local law, to search or inspection except by the department pursuant to Section 20 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 30 of this Act and the department's administrative regulations promulgated thereunder for:

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

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

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

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

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

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

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

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

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

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

(1) A producer or producer agent acting on behalf of a producer shall not be subject to prosecution under state or local law, to search or inspection except by the department pursuant to Section 20 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 30 of this Act and the department's administrative regulations promulgated thereunder for:

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

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

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

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

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

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

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

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

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

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

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

manufacture:

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

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

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

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

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

A safety compliance facility or safety compliance facility agent acting on behalf of a safety compliance facility shall not be subject to prosecution, search except by the department pursuant to Section 20 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, for acting in accordance with Sections 1 to 30 of this Act and the department's administrative regulations promulgated thereunder to provide the following services:

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

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

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

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

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

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

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

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

(b) Security and inventory accountability procedures; and

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

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

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

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

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

(2) A local government may:

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

or make cannabis business operations unreasonable or impractical; and

2. Enact an ordinance to assess a local fee on cannabis businesses operating within the jurisdiction of the local government to compensate the local government for any additional public safety impact caused by the operation of cannabis businesses within the jurisdiction of the local government. Any fee established pursuant to this paragraph shall not exceed the additional public safety impact caused by the operation of cannabis businesses within the jurisdiction of the local government;

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

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

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

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

(b) Enact resolutions directing that the question of allowing cannabis businesses to operate within the limits of the city be submitted to the voters who are eligible to vote in that city's elections at the next regular election pursuant to subsection (4) of this section.

(4) If, not later than the second Tuesday in August preceding the day established for

a regular election, the county clerk has received a local government resolution pursuant to subsection (2) or (3) of this section, the county clerk shall have prepared to place before the voters of the affected territory at the next regular election the question, which shall be "Are you in favor of the sale of medicinal cannabis at a licensed dispensary and the operation of other cannabis businesses in (affected territory)? Yes....No....". The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as the remaining voter information, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal.

(5) (a) If the question submitted to the voters fails to pass, three (3) years shall elapse before the question of medicinal cannabis sales and cannabis business operations may be included on a regular election ballot for the affected territory.

(b) If the question submitted to the voters passes, medicinal cannabis sales and cannabis business operations may be conducted in the affected territory, notwithstanding any local government ordinances which prohibit all cannabis business operations within its territory.

(6) In circumstances where a county, consolidated local government, charter county government, or unified local government prohibits cannabis business operations but a city within that county, consolidated local government, charter county government, or unified local government approves cannabis business operations either through the adoption of an ordinance or following the affirmative vote of a public question allowing cannabis business operations, then:

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

(b) The county, consolidated local government, charter county government, or unified local government may assess an additional reasonable fee to

compensate for any additional public safety impact caused by the approval of cannabis business operations. Any additional fees collected pursuant to this subsection shall not exceed the additional public safety impact caused by the approval of cannabis business operations.

(7) In circumstances where both a city and the county, consolidated local government, charter county government, or unified local government in which the city is located have assessed a local fee on cannabis businesses pursuant to subsection (2) of this section, a cannabis business shall be allowed to credit any fee paid to the city against fees owed to the county, consolidated local government, charter county government, or unified local government.

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

➔SECTION 27. 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.

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

(3) The following information received and records kept pursuant Sections 1 to 30 of this Act and any administrative regulations promulgated thereunder shall be confidential and exempt from the Open Records Act, KRS 61.870 to 61.884, and shall not be 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 30 of this Act:

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

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

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

(d) 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 after a reasonable time or after the data is otherwise stored.

Data subject to this section shall not be combined or linked in any manner with any other list or database maintained by the department or the Cabinet for Health and Family Services and shall not be used for any purpose not provided for in Sections 1 to 30 of this Act.

(4) Nothing in this section shall preclude:

(a) Notification by the department's employees to state or local law enforcement about suspected falsified or fraudulent information submitted to the department or of other apparently criminal violations of Sections 1 to 30 of this Act;

(b) Notification by the department's employees to a state licensing board if the department has reasonable suspicion to believe a medicinal cannabis practitioner did not have a bona fide practitioner-patient relationship with a patient for whom he or she signed a written certification, that the medicinal

cannabis practitioner violated the standard of care, or that the medicinal cannabis practitioner has violated any provision of Sections 1 to 30 of this Act;

(c) Notification by dispensary agents to the department of a suspected violation or attempted violation of Sections 1 to 30 of this Act or the administrative regulations promulgated thereunder;

(d) Verification by the department of registry identification cards issued pursuant to Sections 11, 12, and 13 of this Act; and

(e) The submission of the report required by Section 3 of this Act to the General Assembly.

(5) It shall be a Class B misdemeanor for any person, including an employee or official of the department or another state agency or local government, to knowingly breach the confidentiality of information obtained pursuant to Sections 1 to 30 of this Act.

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

(1) No later than January 1, 2023, the department shall:

(a) Ensure that the electronic monitoring system established pursuant to Section 41 of this Act is designed to enable:

1. Medicinal cannabis practitioners to record the issuance of written certifications to qualified patients, as required by Section 9 of this Act;

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

3. The department and state licensing boards to monitor the issuance of written certifications by medicinal cannabis practitioners;

4. Department personnel, law enforcement personnel, and dispensary agents to verify the validity of registry identification cards issued by

the department by entering a registry identification number to determine whether or not the identification number corresponds with a current, valid registry identification card. The system shall only disclose whether the identification card is valid and whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;

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

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

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

(b) Ensure that the electronic monitoring system established pursuant to Section 41 of this Act is designed to facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders;

(c) Promulgate administrative regulations, in accordance with KRS Chapter 13A, to establish:

1. A list of qualifying medical conditions for which medicinal cannabis practitioners may provide a patient with a written certification for the use of medicinal cannabis. The list shall include the following:

a. Any type or form of cancer regardless of stage;

b. Chronic, severe, intractable, or debilitating pain;

c. Epilepsy or any other intractable seizure disorder;

d. Multiple sclerosis, muscle spasms, or spasticity;

e. Chronic nausea or cyclical vomiting syndrome that has proven

resistant to other conventional medical treatments; and

f. Post-traumatic stress disorder;

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

3. Procedures for the issuance, renewal, suspension, and revocation of cannabis business licenses, including the creation of a uniform licensure application form;

4. A convenience fee to be assessed and collected by dispensaries for visiting qualified patients who do not possess a valid registry identification card issued by the department and who purchase medicinal cannabis with a valid out-of-state registry identification card. The convenience fee established pursuant to this subparagraph shall not exceed fifteen dollars ($15) per transaction;

5. In collaboration with the Board of Physicians and Advisors, as required by Section 3 of this Act:

a. A definition of the amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes a ten (10) day maximum allowance and a thirty (30) day maximum allowance of medicinal cannabis for registered qualified patients who are over eighteen (18) years of age;

b. A definition of the amount of medicinal cannabis or delta-9 tetrahydrocannabinol that constitutes a ten (10) day maximum allowance and a thirty (30) day maximum allowance of medicinal cannabis for registered qualified patients who are under eighteen (18) years of age; and

c. The amount of raw plant material that medicinal cannabis

products are considered to be equivalent to;

6. Provisions governing the following matters related to cannabis businesses with the goal of protecting against diversion and theft, without imposing any undue burden that would make cannabis business operations unreasonable or impractical or compromising the confidentiality of cardholders:

a. Recordkeeping and inventory control requirements that facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders, including the use of the electronic monitoring system established pursuant to Section 41 of this Act;

b. Procedures for the verification and validation of registry identification cards issued by the department and out-of-state registry identification cards;

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

d. Procedures for the secure transportation, including delivery services provided by dispensaries, and storage of medicinal cannabis by cannabis business licensees and their employees or agents;

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

f. Restrictions on visits to licensed cultivation and processing

facilities, including requiring the use of visitor logs;

7. Procedures to establish, publish, and annually update a list of varieties of cannabis that consist of less than five percent (5%) tetrahydrocannabinol;

8. A rating system that tracks the terpene content of at least the twelve (12) major terpenoids within each strain of cannabis available for medicinal use within the Commonwealth;

9. Requirements for random sample testing of medicinal cannabis to ensure quality control, including testing for cannabinoids, terpenoids, residual solvents, pesticides, poisons, toxins, mold, mildew, insects, bacteria, and any other dangerous adulterant;

10. Requirements for licensed cultivators, producers, and processors to contract with an independent safety compliance facility to test the medicinal cannabis before it is sold at a dispensary. The department may approve the safety compliance facility chosen by a cultivator, producer, or processor and require that the safety compliance facility report test results for a designated quantity of medicinal cannabis to the cultivator, producer, or processor and department;

11. Standards for the operation of safety compliance facilities which may include:

a. Requirements for equipment;

b. Personnel qualifications; and

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

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

a. Packaging that requires at least a two (2) step process of initial opening;

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

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

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

e. A nutritional fact panel;

f. Opaque, child-resistant packaging;

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

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

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

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

13. Health and safety requirements for the processing of medicinal cannabis and the indoor cultivation of medicinal cannabis by

licensees;

14. Restrictions on:

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

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

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

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

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

18. The requirement that evidence-based educational materials regarding dosage and impairment be disseminated to cardholders who purchase medicinal cannabis products;

19. Policies governing insurance requirements for cultivators, dispensaries, processors, producers, and safety compliance facilities;

20. The process by which the Board of Physicians and Advisors will recommend to the department the inclusion of additional diseases and medical conditions on the approved list of qualifying medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification for the use of medicinal cannabis, including the process by which an individual may petition the board to

recommend the inclusion of a disease or medical condition; and

21. A form to be signed by visiting qualified patients who use a valid out-of-state registry identification card to purchase medicinal cannabis in this state that indicates that the visiting qualified patient has been diagnosed with a disease or medical condition that is included on the list of qualifying medical conditions established by the department; and

22. Standards, procedures, or restrictions that the department deems necessary to ensure the efficient, transparent, and safe operation of the medicinal cannabis program, including procedures for the submission of complaints from individual citizens of the Commonwealth regarding potential or suspected violations of Sections 1 to 30 of this Act or any administrative regulation promulgated thereunder by a licensed cannabis business.

(2) When promulgating administrative regulations under Sections 1 to 30 of this Act, the department:

(a) Shall consider standards, procedures, and restrictions that have been found to be best practices relative to the use and regulation of medicinal cannabis; and

(b) Shall not promulgate any administrative regulation that would impose an undue burden or make cannabis business operations unreasonable or impractical.

(3) No later than July 1, 2023, the department shall:

(a) In collaboration with the Board of Physicians and Advisors established in Section 3 of this Act, develop medicinal cannabis dosing guidelines to be used by medicinal cannabis practitioners when providing patients with medicinal cannabis dosing recommendations. Guidelines developed

pursuant to this paragraph shall be:

1. Regularly updated as additional scientific information on the use of medicinal cannabis become available;

2. Made publicly available on the department's Web site; and

3. Distributed to all medicinal cannabis practitioners who are authorized to provide written certifications for the use of medicinal cannabis; and

(b) Develop and implement a biennial accreditation process, including minimal performance standards, based on evolving continuous quality improvement metrics to ensure best-practice standards. Pursuant to Section 16 of this Act, the renewal of cannabis business licenses shall be contingent upon successfully achievement of minimal performance standards established by the department.

(4) If a need for additional cannabis cultivation in this state is demonstrated by cannabis businesses or the department's own analysis, the department may, through the promulgation of administrative regulations, increase the cultivation area square footage limits for either cultivators or producers, or both by up to three (3) times the limits established in Sections 21 and 24 of this Act. Any increase in the cultivation square footage limits adopted by the department pursuant to this section shall not result in an increase in the licensure application or renewal fees established in Section 16 of this Act.

(5) The department shall not restrict or limit methods of delivery, use, or consumption of medicinal cannabis or the types of products that may be acquired, produced, processed, possessed, sold, or distributed by a cannabis business except as provided in:

(a) Subsection (1)(q) of Section 6 of this Act;

(b) Subsection (2)(b) of Section 19 of this Act;

(c) Subsection (2)(e) of Section 22 of this Act;

(d) Subsection (2) of Section 23 of this Act;

(e) Subsection (3) of Section 24 of this Act; and

(f) Subsection (1)(c)9., 12.,14., and 15. of this section.

(6) Notwithstanding any provision of law to the contrary, an administrative regulation promulgated pursuant to subsection (1)(c)1. of this section shall not take effect until April 16 of the year following the year in which it was promulgated and shall not take effect if in the intervening time between the date on which it was promulgated and April 16 of the following year, the General Assembly acts to prohibit the inclusion of a disease or medical condition that is included in the administrative regulation on the list of approved medical conditions for which a medicinal cannabis practitioner may provide a patient with a written certification for the use of medicinal cannabis.

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

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

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

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

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

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

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

(1) The medicinal cannabis trust fund is hereby created within the State Treasury. The fund shall consist of funds collected from registration fees, licensing fees, fines, and penalties established pursuant to Sections 1 to 30 of this Act, excluding Section 27 of this Act, and any administrative regulations promulgated thereunder, a portion of the excise taxes imposed under Section 33 of this Act, and any proceeds from grants, contributions, appropriations, or other moneys made available for purposes of this fund.

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

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

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

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

(c) Thirteen and three-quarters percent (13.75%) shall be transferred to the Office of Drug Control Policy, as established in KRS 15A.020, for the purpose of developing, implementing, and administering a grant program for city and county law enforcement agencies to enforce medicinal cannabis

laws, hire and train additional drug recognition experts (DRE), and provide advanced roadside impaired driving enforcement (ARIDE) training;

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

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

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

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

(6) Moneys transferred to the fund are hereby appropriated for the purposes set forth

in this section.

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

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

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

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

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

(b) One-half (1/2) of the funds deposited into the local medicinal cannabis trust fund during the calendar quarter immediately preceding the most recent calendar quarter shall be distributed to cities and counties in which at least one (1) cannabis business licensed as a cultivator, processor, or producer operated during the calendar quarter immediately preceding the most recent calendar quarter as follows:

1. a. A city in which at least one (1) cannabis business licensed as a cultivator, processor, or producer operated during the calendar quarter immediately preceding the most recent calendar quarter

shall receive an amount equal to seven and one-half percent (7.5%) of the total excise tax revenue collected from all cannabis businesses licensed to operate inside the territory of the city during the calendar quarter immediately preceding the most recent calendar quarter; or

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

2. A county that has not prohibited the operation of cannabis businesses, pursuant to Section 26 of this Act, and in which at least one (1) cannabis business licensed as a cultivator, processor, or producer operated during the calendar quarter immediately preceding the most recent calendar quarter shall receive an amount equal to:

a. Ten percent (10%) of the total excise tax revenue collected from all cannabis businesses licensed to operate within the territory of the county, but outside the territory of any city in that county, during the calendar quarter immediately preceding the most recent calendar quarter; and

b. Two and one-half percent (2.5%) of the total excise tax revenue collected from all cannabis businesses licensed to operate inside the territory of an incorporated municipality inside the territory of the county during the calendar quarter immediately preceding the most recent calendar quarter; and

(c) The other one-half (1/2) of the funds deposited into the local medicinal

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

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

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

2. A county that has not prohibited the operation of cannabis businesses,

pursuant to Section 26 of this Act, and in which at least one (1) cannabis business licensed as a dispensary operated during the calendar quarter immediately preceding the most recent calendar quarter shall receive a percentage of the funds described in this subparagraph equal to:

a. One hundred percent (100%) of the county's proportionate share of gross receipts derived from the retail sales of medicinal cannabis products by licensed dispensaries within the territory of that county, but outside the territory of any city in that county, divided by the total statewide retail sales of medicinal cannabis products by all licensed dispensaries in the state during the calendar quarter immediately preceding the most recent calendar quarter; and

b. A percentage of the funds described in this subparagraph equal to twenty-five percent (25%) of the proportionate share of gross receipts derived from the retail sales of medicinal cannabis products by licensed dispensaries within the territory of all cities in the county divided by the total statewide retail sales of medicinal cannabis products by all licensed dispensaries in the state during the calendar quarter immediately preceding the most recent calendar quarter.

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

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

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

(2) Effective January 1, 2023:

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

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

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

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

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

(a) Register with the department;

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

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

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

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

(b) Corporate dissolution, withdrawal of the corporation from the state, or the

cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to every person holding a corporate office at the time the tax becomes or became due.

(c) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this section shall be personally and individually liable, both jointly and severally, for the tax imposed under this section.

(d) Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to every manager of a limited liability company, partner of a limited liability partnership, or general partner of a limited liability limited partnership at the time the tax becomes or became due.

(e) No person shall be personally and individually liable under this section who had no authority to truthfully account for, or pay over, any tax imposed by this section at the time the tax imposed becomes or became due.

(f) "Taxes" as used in this section includes interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

(7) The department shall administer the provisions of this section and shall have all of the powers, rights, duties, and authority with respect to the assessment,

collection, refunding, and administration of the taxes levied by this section, conferred generally upon the department by the Kentucky Revised Statutes, including KRS Chapters 131, 134, and 135.

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

➔Section 34. KRS 139.470 is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

If the service is classified as residential, use other than for "residential" purposes by the customer shall not negate the exemption;

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

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

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

(9) (a) Gross receipts derived from the sale of tangible personal property, as provided in paragraph (b) of this subsection, to a manufacturer or industrial processor if the property is to be directly used in the manufacturing or industrial processing process of:

1. Tangible personal property at a plant facility;
2. Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030 that includes a retail establishment on the premises; or
3. Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040 that includes a retail establishment;

and which will be for sale.

(b) The following tangible personal property shall qualify for exemption under this subsection:

1. Materials which enter into and become an ingredient or component part of the manufactured product;
2. Other tangible personal property which is directly used in the manufacturing or industrial processing process, if the property has a useful life of less than one (1) year. Specifically these items are categorized as follows:
   a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below;
   b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, and explosives. The supplies indicated above

need not come in direct contact with a manufactured product to be exempt. "Supplies" does not include repair, replacement, or spare parts of any kind; and

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, and spray guns and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, and cutting blades. Normally, for industrial tools to be considered directly used in the manufacturing or industrial processing process, they shall come into direct contact with the product being manufactured or processed; and

3. Materials and supplies that are not reusable in the same manufacturing or industrial processing process at the completion of a single manufacturing or processing cycle. A single manufacturing cycle shall be considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(c) The property described in paragraph (b) of this subsection shall be regarded as having been purchased for resale.

(d) For purposes of this subsection, a manufacturer or industrial processor includes an individual or business entity that performs only part of the manufacturing or industrial processing activity, and the person or business entity need not take title to tangible personal property that is incorporated into, or becomes the product of, the activity.

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

(10) Any water use fee paid or passed through to the Kentucky River Authority by facilities using water from the Kentucky River basin to the Kentucky River

Authority in accordance with KRS 151.700 to 151.730 and administrative regulations promulgated by the authority;

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

(a) As used in this subsection:

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

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

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

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

(13) Gross receipts from the sale of metal retail fixtures manufactured in this state and purchased for storage, use, or other consumption outside this state and delivered by the retailer's own vehicle to a location outside this state, or delivered to the United States Postal Service, a common carrier, or a contract carrier for delivery outside this state, regardless of whether the carrier is selected by the purchaser or retailer or an agent or representative of the purchaser or retailer, or whether the F.O.B. is the retailer's shipping point or the purchaser's destination.

(a) As used in this subsection, "metal retail fixtures" means check stands and

belted and nonbelted checkout counters, whether made in bulk or pursuant to specific purchaser specifications, that are to be used directly by the purchaser or to be distributed by the purchaser.

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

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

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

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

(17) Gross receipts from the sales of gasoline and special fuels subject to tax under KRS Chapter 138;

(18) The amount of any tax imposed by the United States upon or with respect to retail sales, whether imposed on the retailer or the consumer, not including any

manufacturer's excise or import duty;

(19) Gross receipts from the sale of any motor vehicle as defined in KRS 138.450 which is:

(a) Sold to a Kentucky resident, registered for use on the public highways, and upon which any applicable tax levied by KRS 138.460 has been paid; or

(b) Sold to a nonresident of Kentucky if the nonresident registers the motor vehicle in a state that:

1. Allows residents of Kentucky to purchase motor vehicles without payment of that state's sales tax at the time of sale; or

2. Allows residents of Kentucky to remove the vehicle from that state within a specific period for subsequent registration and use in Kentucky without payment of that state's sales tax;

(20) Gross receipts from the sale of a semi-trailer as defined in KRS 189.010(12) and trailer as defined in KRS 189.010(17);

(21) Gross receipts from the collection of:

(a) Any fee or charge levied by a local government pursuant to KRS 65.760;

(b) The charge imposed by KRS 65.7629(3);

(c) The fee imposed by KRS 65.7634; and

(d) The service charge imposed by KRS 65.7636;

(22) Gross receipts derived from charges for labor or services to apply, install, repair, or maintain tangible personal property directly used in manufacturing or industrial processing process of:

(a) Tangible personal property at a plant facility;

(b) Distilled spirits or wine at a plant facility or on the premises of a distiller, rectifier, winery, or small farm winery licensed under KRS 243.030; or

(c) Malt beverages at a plant facility or on the premises of a brewer or microbrewery licensed under KRS 243.040

that is not otherwise exempt under subsection (9) of this section or KRS 139.480(10), if the charges for labor or services are separately stated on the invoice, bill of sale, or similar document given to purchaser;

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

1. All gross receipts over six thousand dollars ($6,000) are taxable in that calendar year; and
2. All gross receipts are subject to tax in subsequent calendar years.

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

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

1. All gross receipts over six thousand dollars ($6,000) are taxable in that calendar year; and
2. All gross receipts are subject to tax in subsequent calendar years.

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

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

➔Section 35. KRS 138.870 is amended to read as follows:

As used in KRS 138.870 to 138.889, unless the context requires otherwise:

(1) "Marijuana" means marijuana, whether real or counterfeit, as defined in KRS 218A.010 ***and does not include medicinal cannabis as defined in Section 1 of this Act***.

(2) "Controlled substance" means any controlled substance, whether real or counterfeit, as defined in KRS 218A.010 or any regulation promulgated thereunder, except that it shall not include marijuana.

(3) "Offender" means a person who engages in this state in a taxable activity as defined in subsection (4) of this section.

(4) "Taxable activity" means producing, cultivating, manufacturing, importing, transporting, distributing, acquiring, purchasing, storing, selling, using, or otherwise possessing, in violation of KRS Chapter 218A, more than five (5) marijuana plants with foliation, 42.5 grams of marijuana which has been detached from the plant on which it grew, seven (7) grams of any controlled substance, or fifty (50) or more dosage units of any controlled substance which is not sold by weight. The weight or dosage units in this subsection shall include the weight of marijuana or the weight or dosage units of the controlled substance, whether pure, impure, or diluted. A quantity of a controlled substance is diluted if it consists of a detectable quantity of a pure controlled substance and any excipients or fillers.

(5) "Dosage unit" means a tablet, capsule, vial, or ampule of a controlled substance or, in cases of mass volume or diluted quantities, the proper dose or quantity of a controlled substance to be taken all at one (1) time or in fractional amounts within a given period, as defined and adopted by the United States Pharmacopeia.

(6) "Possessing" includes either actual possession or constructive possession, or a combination of both actual and constructive possession. Mere possession or ownership of real estate or an interest therein does not establish constructive

possession.

➔Section 36. KRS 216B.402 is amended to read as follows:

(1) When a person is admitted to a hospital emergency department or hospital emergency room for treatment of a drug overdose:

(a)~~[(1)]~~ The person shall be informed of available substance use disorder treatment services known to the hospital that are provided by that hospital, other local hospitals, the local community mental health center, and any other local treatment programs licensed pursuant to KRS 222.231;

(b)~~[(2)]~~ The hospital may obtain permission from the person when stabilized, or the person's legal representative, to contact any available substance use disorder treatment programs offered by that hospital, other local hospitals, the local community mental health center, or any other local treatment programs licensed pursuant to KRS 222.231, on behalf of the person to connect him or her to treatment; and

(c)~~[(3)]~~ The local community mental health center may provide an on-call service in the hospital emergency department or hospital emergency room for the person who was treated for a drug overdose to provide information about services and connect the person to substance use disorder treatment, as funds are available. These services, when provided on the grounds of a hospital, shall be coordinated with appropriate hospital staff.

(2) When a person who is a registered qualified patient or a visiting qualified patient as defined in Section 1 of this Act is admitted to a hospital emergency department or a hospital emergency room for treatment of cannabinoid hyperemesis syndrome, the hospital shall notify the Department for Public Health within forty-eight (48) hours. Notification shall include the registered qualified patient's or a visiting qualified patient's name and registry identification card number, if available. The department shall record all cases of cannabinoid hyperemesis

syndrome in the electronic monitoring system established pursuant to Section 41 of this Act.

➔Section 37. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(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 classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;

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

(4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;

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

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

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

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

(9) (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;

(10) "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;

(11) "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;

(12) "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;

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

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

(15) "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;

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

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

(a) By substitution:

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

ethyloxotetrazole ring system; and

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

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

1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy, haloalkyl, hydroxyl, or halide substituents;

2. By substitution on the piperadine ring to any extent with alkyl, allyl, alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-positions;

3. By substitution on the piperadine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or

4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;

(18) "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;

(19) "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;

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

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

(a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or

(b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(22) "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;

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

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

(25) "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;

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

(27) "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; or

(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;

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

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

(c) 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;

(d) 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;

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

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

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

(h) Medicinal cannabis as defined in Section 1 of this Act;

(29) "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;

(30) "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;

(31) "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;

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

(33) "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;

(34) "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.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

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

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

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

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

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

(40) "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, physician assistant as authorized under KRS 311.858, 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;

(41) "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;

(42) "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;

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

(44) "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;

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

(46) "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;

(47) "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;

(48) "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;

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

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

(51) "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) Naphthylmethylindoles: 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) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole 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;

(52) "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, alkylenedioxy, 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-Methylenedioxycathinone (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 α-Pyrrolidinopropiophenone (α-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;

(53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

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

(55) "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;

(56) "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;

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

(58) "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 38. KRS 218A.1421 is amended to read as follows:

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

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

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

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

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

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

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

(4) ***Unless authorized by Sections 1 to 30 of this Act,*** trafficking in five (5) or more

pounds of marijuana is:

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

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

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

(6) This section does not apply to:

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

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

➔Section 39. KRS 218A.1422 is amended to read as follows:

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

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

(3) This section does not apply to:

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

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

➔Section 40. KRS 218A.1423 is amended to read as follows:

(1) A person is guilty of marijuana cultivation when he ***or she*** knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it***, and the cultivation is not in compliance with, or otherwise authorized by,***

Sections 1 to 30 of this Act.

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

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

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

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

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

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

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

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

➔Section 41. KRS 218A.202 is amended to read as follows:

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

(a) "Cabinet" means the cabinet for Health and Family Services;

(b) "Cannabis business" has the same meaning as in Section 1 of this Act;

(c) "Controlled substance" means Schedules II, III, IV, and V controlled substances and does not include medicinal cannabis;

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

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

(f) "Disqualifying felony offense" has the same meaning as in Section 1 of this Act;

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

(h) "Medical cannabis practitioner" has the same meaning as in Section 1 of this Act;

(i) "Registry identification card" has the same meaning as in Section 1 of this Act;

(j) "State licensing board" has the same meaning as in Section 1 of this Act;

(k) "Use of medicinal cannabis" has the same meaning as in Section 1 of this Act; and

(l) "Written certification" has the same meaning as in Section 1 of this Act.

(2) The cabinet~~[for Health and Family Services]~~ shall establish and maintain an electronic system for monitoring Schedules II, III, IV, and V controlled substances ***and medicinal cannabis as defined in Section 1 of this Act***. The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.

(3)~~[(2)]~~ ***For the purpose of monitoring the prescribing and dispensing of Schedules II, III, IV, and V controlled substances:***

(a) A practitioner or a pharmacist authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system***;***~~[.]~~

(b)~~[(3)]~~ Every practitioner or pharmacy which dispenses a controlled substance to a person in Kentucky, or to a person at an address in Kentucky, shall report to the cabinet~~[for Health and Family Services]~~ the data required by this section, which includes the reporting of any Schedule II controlled substance

dispensed at a facility licensed by the cabinet and a Schedule II through Schedule V controlled substance regardless of dosage when dispensed by the emergency department of a hospital to an emergency department patient. Reporting shall not be required for:

1.~~[(a)]~~ A drug administered directly to a patient in a hospital, a resident of a health care facility licensed under KRS Chapter 216B, a resident of a child-caring facility as defined by KRS 199.011, or an individual in a jail, correctional facility, or juvenile detention facility;

2.~~[(b)]~~ A Schedule III through Schedule V controlled substance dispensed by a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours and is not dispensed by the emergency department of a hospital; or

3.~~[(c)]~~ A drug administered or dispensed to a research subject enrolled in a research protocol approved by an institutional review board that has an active federalwide assurance number from the United States Department of Health and Human Services, Office for Human Research Protections, where the research involves single, double, or triple blind drug administration or is additionally covered by a certificate of confidentiality from the National Institutes of Health***;***~~[.]~~

(c)~~[(4)]~~ In addition to the data required by ***paragraph (d) of this*** subsection ~~[(5) of this section]~~, a Kentucky-licensed acute care hospital or critical access hospital shall report to the cabinet all positive toxicology screens that were performed by the hospital's emergency department to evaluate the patient's suspected drug overdose***;***~~[.]~~

(d)~~[(5)]~~ Data for each controlled substance that is reported shall include but not be limited to the following:

1.~~[(a)]~~ Patient identifier;

2.~~[(b)]~~ National drug code of the drug dispensed;

3.~~[(c)]~~ Date of dispensing;

4.~~[(d)]~~ Quantity dispensed;

5.~~[(e)]~~ Prescriber; and

6.~~[(f)]~~ Dispenser***;***~~[.]~~

(e)~~[(6)]~~ The data shall be provided in the electronic format specified by the cabinet~~[for Health and Family Services]~~ unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates***;***~~[.]~~

(f)~~[(7)]~~ The cabinet~~[for Health and Family Services]~~ shall only disclose data to persons and entities authorized to receive that data under this ***subsection***~~[section]~~. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The cabinet~~[for Health and Family Services]~~ shall be authorized to provide data to:

1.~~[(a)]~~ A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

2.~~[(b)]~~ Employees of the Office of the Inspector General of the cabinet~~[for Health and Family Services]~~ who have successfully completed

training for the electronic system and who have been approved to use the system, federal prosecutors, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal agent whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

3.~~[(c)]~~ A state-operated Medicaid program in conformity with subsection (8) of this section;

4.~~[(d)]~~ A properly convened grand jury pursuant to a subpoena properly issued for the records;

5.~~[(e)]~~ A practitioner or pharmacist, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist, who certifies that the requested information is for the purpose of:

a~~[1]~~. Providing medical or pharmaceutical treatment to a bona fide current or prospective patient;

b~~[2]~~. Reviewing data on controlled substances that have been reported for the birth mother of an infant who is currently being treated by the practitioner for neonatal abstinence syndrome, or has symptoms that suggest prenatal drug exposure; or

c~~[3]~~. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;

6.~~[(f)]~~ The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;

7.~~[(g)]~~ In addition to the purposes authorized under ***subparagraph 1. of this*** paragraph~~[(a) of this subsection]~~, the Kentucky Board of Medical Licensure, for any physician who is:

a~~[1]~~. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing or dispensing practices;

b~~[2]~~. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or

c~~[3]~~. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

8.~~[(h)]~~ In addition to the purposes authorized under ***subparagraph 1. of this*** paragraph~~[(a) of this subsection]~~, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

a~~[1]~~. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky

Board of Medical Licensure for improper prescribing or dispensing practices;

b~~[2]~~. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;

c~~[3]~~. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring; or

d~~[4]~~. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing or dispensing may be occurring in that area;

9.~~[(i)]~~ A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program; or

10.~~[(j)]~~ A medical examiner engaged in a death investigation pursuant to KRS 72.026***;***~~[.]~~

(g)~~[(8)]~~ The Department for Medicaid Services shall use any data or reports from the system for the purpose of identifying Medicaid providers or recipients whose prescribing, dispensing, or usage of controlled substances may be:

1.~~[(a)]~~ Appropriately managed by a single outpatient pharmacy or primary care physician; or

2.~~[(b)]~~ Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid

recipient**;**[.]

(h)[(9)] A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this ***subsection***[section], in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

1.[(a)] A person specified in ***paragraph (f)2. of this*** subsection[(7)(b) of this section] who is authorized to receive data or a report may share that information with any other persons specified in ***paragraph (f)2. of this*** subsection [(7)(b) of this section]authorized to receive data or a report if the persons specified in ***paragraph (f)2. of this*** subsection[(7)(b) of this section] are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this ***subparagraph***[paragraph] shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;

2.[(b)] A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in ***paragraph (f)1. of this*** subsection[(7)(a) of this section], or with a law enforcement officer designated in ***paragraph (f)2. of this*** subsection[(7)(b) of this section];

3.[(c)] The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B;

4.[(d)] If a state licensing board as defined in KRS 218A.205 initiates

formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and

5.~~[(e)]~~ A practitioner, pharmacist, or employee who obtains data under ***paragraph (f)5. of this*** subsection~~[(7)(e) of this section]~~ may share the report with the patient or person authorized to act on the patient's behalf. Any practitioner, pharmacist, or employee who obtains data under ***paragraph (f)5. of this*** subsection ~~[(7)(e) of this section]~~may place the report in the patient's medical record, in which case the individual report shall then be deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section**;**~~[.]~~

(i)~~[(10)]~~ The cabinet~~[for Health and Family Services]~~, all peace officers specified in ***paragraph (f)2. of this*** subsection~~[(7)(b) of this section]~~, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated**;**~~[.]~~

(j)~~[(11) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.~~

~~(12)]~~ Intentional failure to comply with the reporting requirements of this

subsection~~[section]~~ shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense***; and***~~[.]~~

(k) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.

(4) For the purpose of monitoring the cultivation, processing, production, recommending, and dispensing of medical cannabis:

(a) Every medicinal cannabis practitioner who is authorized, pursuant to Section 9 of this Act, to provide written certifications for the use of medicinal cannabis and every cannabis business licensed under Sections 16, 17, and 18 of this Act shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the medicinal practitioner's authorization to provide written certifications or a cannabis business's term of licensure and shall not have to pay a fee or tax specifically dedicated to the operation of the system.

(b) No later than January 1, 2023, the cabinet shall ensure that the system provided for in this section allows:

1. Medicinal cannabis practitioners to record the issuance of written certifications to a patient as required by Section 9 of this Act;

2. Pharmacists to record the completion of consultations with cardholders as required by Section 10 of this Act;

3. The cabinet, law enforcement personnel, and dispensary agents to verify the validity of registry identification cards issued by the Department for Public Health. When verifying the validity of an identification card, system shall only disclose whether the

identification card is valid and whether the cardholder is a registered qualified patient, visiting qualified patient, or designated caregiver;

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

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

6. The sharing of dispensing data recorded by dispensary agents, pursuant to Section 22 of this Act, with all licensed dispensaries in real time;

7. Licensed cannabis businesses to record data required by administrative regulations promulgated pursuant to with Section 28 of this Act to facilitate the tracking of medicinal cannabis from the point of cultivation to the point of sale to cardholders; and

8. The cabinet to track all medicinal cannabis in the state from the point of cultivation to the point of sale to a cardholder.

(c) The cabinet shall only disclose data related to the cultivation, production, recommending, and dispensing of medical cannabis to persons and entities authorized to receive that data under this subsection. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this subsection. The cabinet shall be authorized to provide data to:

1. Any person or entity authorized to receive data pursuant to paragraph (b) of this subsection;

2. A designated representative of a state licensing board responsible for

the licensure, regulation, or discipline of medicinal cannabis practitioners and who is involved in a bona fide specific investigation involving a designated person;

3. Employees of the Office of the Inspector General of the cabinet who have successfully completed training for the electronic system and who have been approved to use the system, Kentucky Commonwealth's attorneys and assistant Commonwealth's attorneys, and county attorneys and assistant county attorneys who are engaged in a bona fide specific investigation involving a designated person;

4. A properly convened grand jury pursuant to a subpoena properly issued for the records;

5. A medicinal cannabis practitioner or an employee of a medicinal cannabis practitioner's practice acting under the specific direction of the medicinal cannabis practitioner, who certifies that the request for information is for the purpose of complying with subsection (4)(c) of Section 9 of this Act;

6. The chief medical officer of a hospital or long-term-care facility, an employee of the hospital or long-term-care facility as designated by the chief medical officer and who is working under his or her specific direction, or a physician designee if the hospital or facility has no chief medical officer, if the officer, employee, or designee certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current or prospective patient or resident in the hospital or facility;

7. In addition to the purposes authorized under subparagraph 2. of this paragraph, the Kentucky Board of Medical Licensure, for any physician or physician assistant who is:

a. Associated in a partnership, other business entity, or supervision agreement established pursuant to KRS 311.854 with a physician or physician assistant who is already under investigation by the Board of Medical Licensure for improper issuance of written certifications;

b. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper issuance of written certifications;

c. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring; or

d. In a designated geographic area for which a report on another physician or physician assistant in that area indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring in that area;

8. In addition to the purposes authorized under subparagraph 2. of this paragraph, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:

a. Associated in a partnership or other business entity with a physician or physician assistant who is already under investigation by the Kentucky Board of Medical Licensure for improper issuance of written certifications;

b. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper issuance of written certifications;

c. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring; or

d. In a designated geographic area for which a report on a physician, physician assistant, or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate issuance of written certifications may be occurring in that area;

9. A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program;

10. A medical examiner engaged in a death investigation pursuant to KRS 72.026; or

11. The Legislative Research Commission or the University of Kentucky College of Medicine if the cabinet determines that disclosing data related to the cultivation, production, recommending, and dispensing of medical cannabis to the Legislative Research Commission or the University of Kentucky College of Medicine is necessary to comply with the reporting requirements established in subsection (8) of Section 3 of this Act.

(d) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except as provided in this section, in another statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

1. A person specified in paragraph (c)3. of this subsection who is authorized to receive data or a report may share that information with any other persons specified in paragraph (c)3. of this subsection authorized to receive data or a report if the persons specified in paragraph (c)3. of this subsection are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this subparagraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each agency engaged in the investigation;

2. If a state licensing board initiates formal disciplinary proceedings against a licensee, and data obtained by the board is relevant to the charges, the board may provide the data to the licensee and his or her counsel, as part of the notice process required by KRS 13B.050, and admit the data as evidence in an administrative hearing conducted pursuant to KRS Chapter 13B, with the board and licensee taking all necessary steps to prevent further disclosure of the data; and

3. A medicinal cannabis practitioner or an employee of a medicinal cannabis practitioner's practice acting under the specific direction of the medicinal cannabis practitioner who obtains data under paragraph (c)5. of this subsection may share the report with the patient or person authorized to act on the patient's behalf. Any medicinal cannabis practitioner or employee who obtains data under paragraph (c)5. of this subsection may place the report in the patient's medical record, in which case the individual report shall then be deemed a medical record subject to disclosure on the same terms and

conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.

(5) The data contained in, and any report obtained from, the electronic system for monitoring established pursuant to this section shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(6) ~~[(13)]~~ Intentional disclosure of transmitted data to a person not authorized by ***subsection (3)(f) to (h) or subsection (4)(c) and (d)*** ~~[subsections (7) to (9)]~~of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide current or prospective patient or a bona fide specific investigation, shall be a Class B misdemeanor for the first offense and a Class A misdemeanor for each subsequent offense.

(7) ~~[(14)]~~ The cabinet~~[for Health and Family Services]~~ may, by promulgating an administrative regulation, limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(8) ~~[(15)]~~ (a) The cabinet~~[for Health and Family Services]~~ shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with each board responsible for the licensure, regulation, or discipline of medicinal cannabis practitioners, as defined in Section 1 of this Act, who are authorized to provider written certifications for the use of medicinal cannabis for the development of a continuing

education program about the purposes and uses of the electronic system for monitoring established in this section.

(c) ~~[(b)]~~ The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(d) ~~[(c)]~~ The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and uses of the electronic system for monitoring established in this section.

(e) The cabinet shall work with the Department for Public Health for the development of a training program for cannabis business agents about the purposes and uses of the electronic system for monitoring established in this section.

~~[(16) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.]~~

(9) ~~[(17)]~~ The cabinet~~[for Health and Family Services]~~, Office of Inspector General, shall conduct quarterly reviews to identify patterns of potential improper, inappropriate, or illegal prescribing or dispensing of a controlled substance**,** ***issuance of written certifications, or cultivation, processing, or dispensing of medical cannabis***. The Office of Inspector General may independently investigate and submit findings and recommendations to the appropriate boards of licensure or other reporting agencies.

(10) ~~[(18)]~~ The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be:

(a) An error resolution process allowing a patient to whom a report had been disclosed under ***subsections (3) and (4)***~~[subsection (9)]~~ of this section to request the correction of inaccurate information contained in the system relating to that patient; and

(b) A requirement that data be reported to the system under subsection (3)***(b)*** of this section within one (1) day of dispensing.

(11)~~[(19)]~~ ***(a)*** Before July 1, 2018, the Administrative Office of the Courts shall forward data regarding any felony or Class A misdemeanor conviction that involves the trafficking or possession of a controlled substance or other prohibited acts under KRS Chapter 218A for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after July 1, 2018**,** such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received into the system so that a query by patient name indicates any prior drug conviction**.**

(b) Before January 1, 2023, the Administrative Office of the Courts shall forward data regarding any disqualifying felony offense for the previous five (5) calendar years to the cabinet for inclusion in the electronic monitoring system established under this section. On or after January 1, 2023, such data shall be forwarded by the Administrative Office of the Courts to the cabinet on a continuing basis. The cabinet shall incorporate the data received into the system so that a query by patient name indicates any prior disqualifying felony conviction.

➔Section 42. KRS 218A.500 is amended to read as follows:

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

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating,

cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. ***The term "drug paraphernalia" does not include medicinal cannabis accessories as defined in Section 1 of this Act.*** It includes but is not limited to:

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

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

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

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or

designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body; and

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

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

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest,

inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

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

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

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

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

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

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

(6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present

on the needle or sharp object.

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

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

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

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

➔Section 43. KRS 342.815 is amended to read as follows:

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

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

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

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

➔Section 44. Section 2, Sections 4 to 8, Section 11, Sections 13 to 15, Sections 18 to 25, Section 30, and Sections 37 to 43 of this Act take effect July 1, 2023.