AN ACT relating to cannabis.

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

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

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

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

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

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

Section 2. 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) "Cannabis" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, or any compound, mixture, or preparation which contains any quantity of these substances. The term "cannabis" does not include:

(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, or leaf 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;

(5) "Cannabis accessory" means drug paraphernalia for the ingestion, inhalation, or storage of a personal use quantity of cannabis;
(6) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;

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

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

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

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

(11) (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;

(12)[(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;

(13)[(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;

(14)[(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;

(15)[(13)] "Distribute" means to deliver other than by administering or dispensing a
controlled substance;

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

(17)[(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;

"Fentanyl" means a substance containing any quantity of fentanyl, or any of its
salts, isomers, or salts of isomers;

"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) piperidine:

(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 piperidine 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 piperidine 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;

"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;

(21) "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;

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

(23) "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;

(24) "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;

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

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

(27) "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;

(28) "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;

(29) "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;

(30) "Marijuana" has the same meaning as "cannabis" in subsection (4) of this
section] 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;

(31) "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;

(32) "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;

"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;

"Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

"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;

"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;

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

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

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

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

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

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

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

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

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

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

(43) "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;

(44) "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;

(45) "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;

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

(47) "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;

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

(49) "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;

(50) "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;

(51) "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;

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

(53) "Serious physical injury" has the same meaning it has in KRS 500.080;
"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) Naphthylmethyldinolos: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

(f) Naphthoypyrroles: Any compound containing a 3-(1-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) Naphthylmethyldienes: 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) Tetramethylocyclopropanoylindoles: Any compound containing a 3-(1-
tetramethylocyclopropoyl)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 tetramethylocyclopropyl 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;

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

(a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxythephedrone (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 Dimethylnaphedrone, Ethnaphedrone, and α-Pyrrolidinopropiophenone (α-PPP);

(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;

"Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

"Telehealth" has the same meaning it has in KRS 311.550;

"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;
"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;

"Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and

"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 3. KRS 218A.1422 is amended to read as follows:

(1) A person is guilty of possession of cannabis when he or she knowingly and unlawfully possesses cannabis.

(2) Possession of cannabis in excess of a personal use quantity of cannabis 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.

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

(1) A person is guilty of trafficking in cannabis when he or she knowingly and unlawfully traffics in cannabis.

(2) Trafficking in more than a personal use quantity of cannabis but less than eight (8) ounces of cannabis is:

(a) For a first offense a Class A misdemeanor; and

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

(3) Trafficking in eight (8) or more ounces but less than five (5) pounds of cannabis is:

(a) For a first offense a Class D felony; and

(b) For a second or subsequent offense a Class C felony.
(4) Trafficking in five (5) or more pounds of cannabis is:
   (a) For a first offense a Class C felony; and
   (b) For a second or subsequent offense a Class B felony.

(5) The unlawful possession by any person of eight (8) or more ounces of cannabis
shall be prima facie evidence that the person possessed the cannabis with the intent to sell or transfer it.

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

(1) A person is guilty of cannabis cultivation when he or she knowingly and unlawfully plants, cultivates, or harvests cannabis with the intent to sell or transfer it.

(2) Cannabis cultivation of more than five (5) plants of cannabis is:
   (a) For a first offense a Class D felony; and
   (b) For a second or subsequent offense a Class C felony.

(3) Cultivation of a personal use quantity of cannabis shall not:
   (a) Be subject to any penalty;
   (b) Be considered a criminal offense; or
   (c) Subject a person to arrest for cannabis cultivation is:
      (a) For a first offense a Class A misdemeanor.
      (b) For a second or subsequent offense a Class D felony.

(4) The planting, cultivating, or harvesting of more than five (5) cannabis plants shall be prima facie evidence that the cannabis plants were planted, cultivated, or harvested for the purpose of sale or transfer.

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

As used in this section and KRS 218A.510:
"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. 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 cannabis[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 cannabis, 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 cannabis 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) Except for cannabis accessories, 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) Except for cannabis accessories, 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 7. KRS 218A.410 is amended to read as follows:

(1) The following are subject to forfeiture:

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

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

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

(d) All substances, machinery, or devices used for the manufacture, packaging, repackaging, or marking, and books, papers, and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale, or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state. Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband;

(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held, or acquired in violation of this chapter;

(f) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection;

(h) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his or her knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest
is subject to the interest of the secured party if he or she neither had
knowledge of nor consented to the act or omission; and

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

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

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

(k) All real property, including any right, title, and interest in the whole of any lot
or tract of land and any appurtenances or improvements, which is used or
intended to be used, in any manner or part, to commit, or to facilitate the
commission of, a violation of this chapter excluding any misdemeanor offense
relating to cannabis, synthetic drugs, or salvia, except that property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by the Commonwealth to have been committed or omitted with the knowledge or consent of the owner.

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

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

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

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

(1) The conditions of probation and conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to ensure that the defendant will lead a law-abiding life or to assist him or her to do so. The court shall provide as an explicit condition of every sentence to probation or conditional discharge that the
defendant not commit another offense during the period for which the sentence remains subject to revocation.

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

(a) Avoid injurious or vicious habits;
(b) Avoid persons or places of disreputable or harmful character;
(c) Work faithfully at suitable employment as far as possible;
(d) Undergo available medical or psychiatric treatment and remain in a specific institution as required for that purpose;
(e) Post a bond, without surety, conditioned on performance of any of the prescribed conditions;
(f) Support his or her dependents and meet other family responsibilities;
(g) Pay the cost of the proceeding as set by the court;
(h) Remain within a specified area;
(i) Report to the probation officer as directed;
(j) Permit the probation officer to visit him or her at his or her home or elsewhere;
(k) Answer all reasonable inquiries by the probation officer and promptly notify the probation officer of any change in address or employment;
(l) Submit to periodic testing for the use of controlled substances or alcohol or controlled substances other than cannabis, if the defendant's record indicates a controlled substance or alcohol problem, and to pay a reasonable fee, as determined by the court, which fee shall not exceed the actual cost of the test and analysis and shall be paid directly to the agency or agencies responsible for testing and analysis as compensation for the cost of the testing and analysis, as specified by written order of the court, performed under this subsection. For good cause shown, the testing fee may be waived by the court;
(m) Use an alcohol monitoring device, as defined in KRS 431.068. All costs associated with the device, including administrative and operating costs, shall be paid by the defendant. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of probation or conditional discharge provided for in this section; or

(n) During all or part of the period of probation or conditional discharge, participate in a global positioning monitoring system program operated by a county pursuant to KRS 67.372 and 67.374 under the same terms and conditions as provided in KRS 431.517.

(3) When imposing a sentence of probation or conditional discharge in a case where a victim of a crime has suffered monetary damage as a result of the crime due to his or her property having been converted, stolen, or unlawfully obtained, or its value substantially decreased as a result of the crime, or where the victim suffered actual medical expenses, direct out-of-pocket losses, or loss of earning as a direct result of the crime, or where the victim incurred expenses in relocating for the purpose of the victim's safety or the safety of a member of the victim's household, or if as a direct result of the crime the victim incurred medical expenses that were paid by the Cabinet for Health and Family Services, the Crime Victims Compensation Board, or any other governmental entity, the court shall order the defendant to make restitution in addition to any other penalty provided for the commission of the offense. Payment of restitution to the victim shall have priority over payment of restitution to any government agency. Restitution shall be ordered in the full amount of the damages, unless the damages exceed one hundred thousand dollars ($100,000) or twice the amount of the gain from the commission of the offense, whichever is greater, in which case the higher of these two (2) amounts shall be
awarded. The court may, in lieu of ordering monetary restitution, order the
defendant to make restitution by working for or on behalf of the victim. The court
shall determine the number of hours of work necessary by applying the then-
prevailing federal minimum wage to the total amount of monetary damage caused
by or incidental to the commission of the crime. The court may, with the consent of
the agency, order the defendant to work as specified in KRS 533.070. Any work
ordered pursuant to this section shall not be deemed employment for any purpose,
or shall the person performing the work be deemed an employee for any purpose.
Where there is more than one (1) defendant or more than one (1) victim, restitution
may be apportioned. Restitution shall be subject to the following additional terms
and conditions:

(a) Where property which is unlawfully in the possession of the defendant is in
substantially undamaged condition from its condition at the time of the taking,
return of the property shall be ordered in lieu of monetary restitution;

(b) The circuit clerk shall assess an additional fee of five percent (5%) to defray
the administrative costs of collection of payments or property. This fee shall
be paid by the defendant and shall inure to a trust and agency account which
shall not lapse and which shall be used to hire additional deputy clerks and
office personnel or increase deputy clerk or office personnel salaries, or
combination thereof;

(c) When a defendant fails to make restitution ordered to be paid through the
circuit clerk or a court-authorized program run by the county attorney or the
Commonwealth's attorney, the circuit clerk or court-authorized program shall
notify the court; and

(d) An order of restitution shall not preclude the owner of property or the victim
who suffered personal physical or mental injury or out-of-pocket loss of
earnings or support or other damages from proceeding in a civil action to
recover damages from the defendant. A civil verdict shall be reduced by the
amount paid under the criminal restitution order.

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

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

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

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

(1) A tax is hereby levied on each offender engaging in a taxable activity in this state.
The tax shall be paid at the following rates:
(a) One thousand dollars ($1,000) per plant, whether growing or detached from the soil, on each cannabis [marijuana] plant with foliation which exceeds a personal use quantity of cannabis as defined in Section 2 of this Act;

(b) Three dollars and fifty cents ($3.50) on each gram, or portion thereof, of cannabis [marijuana] which has been detached from the plant on which it grew and which exceeds a personal use quantity of cannabis as defined in Section 2 of this Act;

(c) Two hundred dollars ($200) on each gram, or portion thereof, of controlled substances; and

(d) Two thousand dollars ($2,000) on each fifty (50) dosage units, or portion thereof, of a controlled substance that is not sold by weight.

(2) For the purpose of calculating the tax levied pursuant to subsections (1)(b), (1)(c), and (1)(d) of this section, the quantity shall be measured by the weight of the cannabis [marijuana] or controlled substance, whether pure, impure, or diluted, or by dosage units when a controlled substance is not sold by weight.

(3) An offender lawfully engaged in a taxable activity shall be exempt from the tax imposed by this section if the offender is not in violation of any law which authorizes him to engage in the activity.

SECTION 10. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS CLOSES:

(1) As used in this section:

(a) "Cannabis accessory" has the same meaning as in Section 2 of this Act;

(b) "Eligible conviction" means any criminal conviction for a violation of KRS 218A.1422, 218A.1421(2), 218A.1423(2), or 218A.500, or a conviction for an offense prior to July 14, 1992, for possession, cultivation, or trafficking of marijuana which was punishable by not more than five (5) years' incarceration;
(c) "Expungeable conviction" means any eligible conviction for which the available record does not indicate that the offense involved a quantity of marijuana in excess of the personal use quantity of cannabis, or, for a conviction pursuant to KRS 218A.500, the record does not indicate that the offense involved drug paraphernalia other than cannabis accessories; and

(d) "Personal use quantity of cannabis" has the same meaning as in Section 2 of this Act.

(2) The Administrative Office of the Courts shall establish a process for identifying all eligible convictions and communicating each eligible conviction to the court in which the conviction occurred, and to the office of the Commonwealth's attorney or county attorney that prosecuted the case. All eligible convictions shall be communicated to the office of the Commonwealth's attorney or county attorney that prosecuted the case within ninety (90) days of the effective date of this Act.

(3) Within ninety (90) days of the receipt of an eligible conviction, the office of the Commonwealth's attorney or county attorney that prosecuted the case may file with the court in which the conviction occurred an objection to the expungement of any eligible conviction which is not an expungeable conviction.

(4) Within two hundred (200) days of the effective date of this Act, for any eligible conviction to which the office of the Commonwealth's attorney or county attorney that prosecuted the case has not filed an objection, the court shall order the judgment vacated, and dismiss with prejudice any charges which are eligible for expungement under this section, and order expunged all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records.

(5) (a) Any person who has an eligible conviction prior to the effective date of this Act and whose records have not been expunged pursuant to subsection (4)
of this section may at any time after one (1) year after the effective date of
this Act petition the court in which the conviction occurred to expunge all
eligible convictions.

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

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

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

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

(6) Upon entry of an order vacating and expunging a conviction, the original
conviction shall be vacated and the record shall be expunged. The court and
other agencies shall cause records to be deleted or removed from their computer
systems so that the matter shall not appear on official state-performed
background checks. The court and other agencies shall reply to any inquiry that
no record exists on the matter. The person whose record is expunged shall not
have to disclose the fact of the record or any matter relating thereto on an
application for employment, credit, or other type of application. If the expunged
conviction was a felony, and the person is not prohibited from voting for any other reason, the person's ability to vote shall be restored and the person may register to vote.

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

(8) This section shall be retroactive.