

AN ACT relating to the regulation of cannabis and making an appropriation therefor.

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

➔SECTION 1. KRS CHAPTER 245 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Authorized practitioner" means a physician or an advanced practice registered nurse who may prescribe controlled substances under KRS 314.042, and who is authorized by a state licensing board to provide written certifications pursuant to this chapter;*
- (2) "Board" means the Cannabis Control Board created by Section 3 of this Act;*
- (3) "Bona fide practitioner-patient relationship" means a treating or consulting relationship, during the course of which the authorized practitioner:*
 - (a) Has completed an initial in-person examination and assessment of the patient's medical history and current medical condition;*
 - (b) Has consulted with the patient with respect to the possible therapeutic and palliative properties of medical cannabis;*
 - (c) Has advised the patient of the possible risks and side effects associated with the use of medical cannabis, including possible interactions between medical cannabis and any other drug or medication that the patient is taking at that time; and*
 - (d) Has established an expectation that the authorized practitioner will provide follow-up care and treatment to the patient;*
- (4) "Cannabis" has the same meaning as "marijuana" in KRS 21A.010;*
- (5) "Cannabis accessory" means any item used for ingestion, inhalation, or storage of cannabis;*
- (6) "Cannabis product" means cannabis, concentrated cannabis, and any cannabis-*

infused products that may contain other ingredients and are intended for use or consumption;

(7) "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 as required by this chapter; or

(b) A visiting qualified patient who has obtained and possesses a valid registry identification card, or its equivalent, that was issued pursuant to the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance;

(8) "Certified medical use" means the acquisition, administration, possession, transfer, transportation, or consumption of medical cannabis or medical cannabis accessories by a cardholder in accordance with Sections 1 to 14 of this Act;

(9) "Condition" means a medical condition for which an authorized practitioner believes that a cardholder patient may receive therapeutic or palliative benefit from the use of medical cannabis, as certified by the authorized practitioner in writing;

(10) "Council" means the Social Impact Council established by Section 16 of this Act;

(11) "Department" means the Department of Cannabis Control established by Section 6 of this Act

(12) "Designated caregiver" means a person who has registered with the department as providing care to a qualified patient;

(13) "License" means any license issued under this chapter;

(14) "Licensee" means any holder of a license issued by the department under this

chapter;

(15) "Medical cannabis" means cannabis intended for a certified medical use;

(16) "Premises" means the land, buildings, and vehicles in which any business regulated by this chapter is operated or performed;

(17) "Qualified patient" means a person who has obtained a written certification from an authorized practitioner with whom the patient has a bona fide practitioner-patient relationship;

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

(19) "THC" means Delta-9-tetrahydrocannabinol; Delta-8-tetrahydrocannabinol, Delta-10-tetrahydrocannabinol, and the optical isomer of these substances.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

The Kentucky General Assembly finds and declares that it is in the best interest of the Commonwealth to legalize and regulate the possession, cultivation, production, processing, packaging, transportation, testing, marketing, sale, and use of medical cannabis and adult use cannabis. Therefore, the General Assembly hereby establishes the following entities within the Public Protection Cabinet, which shall work together to accomplish these purposes:

(1) The Cannabis Control Board is created by Section 3 of this Act as an independent agency of state government. The board is responsible for the oversight and regulation of the possession, cultivation, production, processing, packaging, transporting, marketing, testing, sale, and use of cannabis products and shall contain the following advisory committees:

(a) The Medical Cannabis Usage Advisory Committee;

(b) The Adult Cannabis Usage Advisory Committee;

- (c) The Cannabis Cultivation Advisory Committee; and
- (d) The Social and Economic Equity Advisory Committee;
- (2) The Department of Cannabis Control, a statutory administrative department established by Section 6 of this Act, which shall be headed by an executive director appointed by the Governor; and
- (3) The Social Impact Council established by Section 16 of this Act.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) The Cannabis Control Board shall be attached to the Public Protection Cabinet for administrative purposes, and shall be served administratively by the Department of Cannabis Control, established within the Public Protection Cabinet by Section 6 of this Act.
- (2) The board shall consist of seven (7) voting members, with at least one (1) member representing each of the seven (7) Kentucky Supreme Court Districts. All board members shall be appointed by the Governor, and confirmed by the Senate, and shall hold at a minimum a baccalaureate degree in business or a related field of study or equivalent experience, and possess a minimum of seven (7) years of demonstrated experience or expertise in the direct management, supervision, or control of business or legal affairs.
- (3) (a) The members of the board shall be paid a salary fixed under KRS 64.640 and shall receive the same benefits and reimbursement of expenses as other employees of the Commonwealth.
 - (b) A majority of the board members shall elect a chairperson from among the board's membership for a one (1) year term. A member may serve multiple terms as chairperson for as long as that person remains eligible to serve as a member and is reelected by the members of the board.
- (4) All members of the board shall have been a resident of the Commonwealth for at

- least three (3) years prior to appointment to the board, and shall continue to be a full time resident of the Commonwealth while serving on the board.
- (5) Appointments to the board shall reflect the racial, ethnic, gender, and geographic diversity of the Commonwealth. The members shall be appointed in equal proportion from the two (2) political parties casting the highest and next highest number of votes at the last preceding general election in the state.
- (6) Appointees shall be subject to a background check.
- (7) Members shall be appointed to serve a term of three (3) years, except the initial appointments shall have staggered terms as follows:
- (a) Three (3) members shall serve a term of three (3) years;
- (b) Two (2) members shall serve a term of two (2) years; and
- (c) Two (2) members shall serve a term of one (1) year.
- (8) A member may not serve more than two (2) consecutive full terms on the board, but may be reappointed after not serving for at least one (1) full year following the completion of two (2) full terms.
- (9) Members shall continue to serve until their successors are appointed.
- (10) Vacancies shall be filled in the same manner as the original appointment, except that the Governor may temporarily appoint a new board member to fill a vacancy when the Senate is not in session, and shall appoint an existing board member to serve as chairperson if that position becomes vacant until the next meeting of the board where the board shall elect a chair. All temporary appointments shall be subject to confirmation by the Senate. If the Senate fails to take action on any temporary appointment, the appointment shall be deemed confirmed and the board member shall serve the remainder of the term for which the member was appointed. If the Senate votes not to confirm a temporary appointment, the Governor shall make a new appointment which shall be subject to confirmation by the Senate and subject to the same conditions established in this subsection.

- (11) A member of the board may be removed by the Governor for cause, including the improper use of police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.
- (12) In addition to the advisory committees described in Section 5 of this Act, the board may form other committees or advisory councils which may include representatives who are not members of the board to explore and study issues that are before the board.
- (13) A majority of the members of the board shall constitute a quorum for the purpose of conducting business and for taking action on any measure before the board. No vacancy in the membership shall impair the right of a quorum to exist or the board to exercise its authority.
- (14) No board member or employee, spouse, or minor child of a member shall:
- (a) Have any interest, direct or indirect, either proprietary or by means of any loan, mortgage, lien, or in any other manner, in or on any premises where a cannabis business establishment is located;
 - (b) Own any stock in or have any interest, direct or indirect, in any cannabis business establishment;
 - (c) Own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where a cannabis business entity is located; or
 - (d) Receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit authorized by this chapter.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) The board shall have broad authority to establish the conditions under which cannabis, cannabis products, and cannabis accessories are possessed, cultivated, produced, processed, tested, packaged, transported, marketed, sold, and used in the Commonwealth, including but not limited to the following powers and duties related to this authority:

(a) To promulgate administrative regulations to implement Sections 1 to 14 of this Act;

(b) To establish the number of licenses that may be issued within the following licensing categories:

1. Cultivation;

2. Processing and manufacturing;

3. Testing;

4. Retail sales;

5. Special events;

6. On-site consumption;

7. Transportation;

8. Microbusinesses; and

9. Any other category deemed necessary by the board and as authorized under this chapter;

(c) To establish jurisdictional, space, and other requirements relating to the issuance of licenses;

(d) To establish limitations on the number of licenses that may be held by any person, except that no person shall hold more than two (2) different license types, and the board shall use its licensing authority to prevent monopolies and concentration of ownership among a few cannabis business entities, favoring instead a broad array of licensed cannabis business entities with different owners;

- (e) To grant, suspend, and revoke licenses;
 - (f) To establish the standards and requirements, including the types, forms, and concentration of products that may be processed and sold;
 - (g) To limit or prohibit, at any time of public emergency, and without previous notice or advertisement, the processing, transportation, testing, or sale of any or all cannabis, cannabis products, and cannabis accessories during the period of the emergency;
 - (h) To enforce this chapter; and
 - (i) To hold hearings, subpoena witnesses, compel witness attendance, administer oaths, examine any person under oath, and require the production of books and records relative to an inquiry.
- (2) The board shall develop, maintain, and implement a uniform and integrated seed-to-sale tracking system that tracks cannabis from either the seed or immature plant stage until the cannabis or cannabis products are sold to a cannabis consumer or cardholder.
- (3) The board shall promulgate administrative regulations that:
- (a) Establish requirements for securely transporting cannabis and cannabis products between cannabis business establishments;
 - (b) Establish sanitary standards for retail and medical cannabis product preparation;
 - (c) Establish a testing program for cannabis and cannabis products;
 - (d) Establish requirements for health and safety warning labels to be placed on cannabis and cannabis products to be sold or offered for sale to a consumer;
 - (e) Establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter and the size and category of the business being licensed, as follows:

1. The board shall charge each person seeking a license an application fee, and shall establish initial licensing and renewal fees;
 2. Fees may vary depending upon the nature and scope of the activities licensed;
 3. The total application and licensing fees assessed under this chapter shall be set at an amount that will generate sufficient total revenue to, at a minimum, fully cover the total costs of administering this chapter; and
 4. All registration and licensure fees shall be set on a scaled basis by the board, and shall be established based on the size and capacity of the business and for social and economic equity applicants such fees may be assessed to accomplish the goals of this chapter;
- (f) Establish requirements for the form, content, and all records and accounts by licensees;
- (g) Establish reporting requirements;
- (h) In consultation with the Medical Cannabis Usage Advisory Committee established by Section 5 of this Act, set appropriate dosage, potency, concentration, packaging, THC content, and serving size limits and delineate requirements for medical cannabis and adult use cannabis products, except that a standardized serving of edible cannabis product or beverage, other than a medical cannabis product, shall contain not more than twenty (20) milligrams of THC;
- (i) In consultation with the Medical Cannabis Usage Advisory Committee, establish medical parameters relating to the oversight and governance of medical cannabis;
- (j) Establish labeling and packaging requirements for cannabis sold by a cannabis business establishment that include but are not limited to the

following:

1. A universal symbol to indicate that cannabis or a cannabis product contains cannabis, and prescribe how the product and product packaging shall utilize and exhibit this symbol;
 2. A disclosure concerning the length of time it typically takes for the cannabis to affect an individual, including that certain forms of cannabis take longer to have an effect;
 3. A notation of the amount of cannabis the product is considered the equivalent to;
 4. A list of ingredients and all additives for cannabis;
 5. Child-resistant packaging, including requiring that an edible product be individually wrapped;
 6. A net weight statement;
 7. A recommended use by or expiration date;
 8. Labeling that differentiates between medical cannabis products and adult use cannabis products; and
 9. Standard and uniform packaging and labeling, including but not limited to requirements regarding branding or logos, and requirements that all packaging is opaque;
- (k) Restrict forms of cannabis, cannabis products, and cannabis product delivery systems to ensure consumer safety and deter public health concerns;
- (l) Establish reasonable time, place, and manner restrictions on outdoor advertising of retail cannabis and retail cannabis products consistent with this chapter;
- (m) Establish security and safety requirements and protocols for the places where cannabis, cannabis products, and cannabis accessories are possessed,

cultivated, produced, tested, packaged, transported, marketed, and sold in the Commonwealth;

(n) Establish policies and procedures for retail establishments that sell both adult use and medical cannabis to separate the two (2) functions sufficiently so inventory and sales can be tracked separately, and so cannabis products designed for medical use are not available to or sold to anyone who does not possess a registry identification card;

(o) In consultation with the Cannabis Cultivation Advisory Committee established by Section 5 of this Act, establish conditions and requirements for cultivation of cannabis both inside and outside, including canopy limitations and establishing appropriate distance requirements between facilities;

(p) Establish the system to authorize and track authorized practitioners who may establish bona fide practitioner-patient relationships with and prescribe medical cannabis to cardholders, when allowed by the practitioner licensing boards;

(q) Establish the process for:

1. A qualified patient to become a cardholder; and
2. The requirements, restrictions, and other details to allow a cardholder to acquire medical cannabis for a certified medical use through an authorized practitioner with whom the cardholder has a bona fide practitioner-patient relationship; and

(r) Annually set the rate of the excise tax assessed under Section 19 of this Act.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) The board shall appoint the members of and oversee the following four (4) primary advisory committees:

- (a) The Medical Cannabis Usage Advisory Committee;
- (b) The Adult Cannabis Usage Advisory Committee;
- (c) The Cannabis Cultivation Advisory Committee; and
- (d) The Social and Economic Equity Advisory Committee.

(2) (a) The purpose of the Medical Cannabis Usage Advisory Committee shall be to:

- 1. Advise the board regarding appropriate potency, dosage, packaging, THC content, and other medical parameters relating to the oversight and governance of adult use and medical cannabis;
- 2. Review relevant scientific data related to the various methods of use and consumption of medicinal cannabis and make recommendations to the board to approve or restrict certain methods; and
- 3. Perform other duties related to medical cannabis as directed by the board.

(b) The Medical Cannabis Usage Advisory Committee shall consist of a minimum of five (5) members as follows:

- 1. One (1) physician;
- 2. One (1) pharmacist;
- 3. One (1) mental health expert;
- 4. One (1) advanced practice registered nurse; and
- 5. One (1) qualified patient who is eligible to be a cardholder.

(3) (a) The purpose of the Adult Cannabis Usage Advisory Committee shall be to:

- 1. Review and recommend to the board protocols, evolving continuous quality improvement metrics, and minimal performance standards for the accreditation of licensed cannabis business establishments;
- 2. Advise on efficient and effective practices and processes for cannabis business establishments;

3. Develop strategies to minimize the sale and use of cannabis by persons and entities that are not licensed cannabis business establishments;
4. Recommend methods to enhance safety, taxation, and the economic benefits of the sale and adult use of legal cannabis; and
5. Perform other duties related to cannabis business establishments as directed by the board.

(b) The Adult Cannabis Usage Advisory Committee shall consist of a minimum of five (5) members as follows:

1. One (1) licensed Kentucky attorney who has been practicing for at least ten (10) years;
2. Two (2) Kentucky citizens with at least ten (10) years of experience in successfully running a business;
3. One (1) representative from the Cabinet for Economic Development; and
4. One (1) representative from the Justice and Public Safety Cabinet.

(4) (a) The purpose of the Cultivation Advisory Committee shall be to:

1. Advise the board on practices and processes for cultivating cannabis, including cultivation establishment locations, space between facilities, indoor and outdoor operation, canopy size restrictions; and
2. Perform other duties related to cannabis cultivation business establishments as directed by the board.

(b) The Cultivation Advisory Committee shall consist of a minimum of five (5) members as follows:

1. The Commissioner of Agriculture or designee;
2. A representative from the University of Kentucky College of Agriculture, Food and Environment;
3. An attorney with farming or agricultural experience;

4. A representative from Kentucky Farm Bureau; and

5. A person engaged in farming.

(5) (a) The purposes of the Social and Economic Equity Advisory Committee shall be to advise the board on the development of policies that recognize the following:

1. The need to establish a legal cannabis industry that is equitable and accessible to those most adversely impacted by the enforcement of drug-related laws in the state, including cannabis-related laws;

2. Individuals who have been arrested or incarcerated due to drug laws relating to cannabis suffer long-lasting negative consequences, including impacts to employment, business ownership, housing, health, and long-term financial well-being;

3. Family members, especially children, and communities of those who have been arrested or incarcerated due to drug laws, suffer from emotional, psychological, and financial harms as a result of these arrests or incarcerations;

4. Certain communities have disproportionately suffered the harms of enforcement of cannabis-related laws. Those communities face greater difficulties accessing traditional banking systems and capital for establishing businesses;

5. Individuals who have resided in areas of high poverty suffer negative consequences, including barriers to entry in employment, business ownership, housing, health, and long-term financial well-being; and

6. Promotion of business ownership by individuals who have resided in areas of high poverty and high enforcement of cannabis-related laws furthers an equitable cannabis industry.

(b) The Social and Economic Equity Advisory Committee shall consist of at

least five (5) members as follows:

1. An attorney representative practicing either indigent criminal defense or legal aid;
2. A representative of an organization that focuses on the civil liberties of Kentuckians;
3. A person who has lived in a Kentucky high poverty area for at least five (5) years;
4. The spouse or adult child of a person who is incarcerated for a cannabis-related conviction; and
5. A person who specializes in business opportunities for individuals living in high poverty areas.

(6) (a) All advisory committee members shall receive reimbursement of their expenses incurred in relation to their duties on the advisory committee.

(b) Advisory committee members shall not be limited to specific terms and shall serve at the pleasure of the board.

(c) The board may appoint additional members to any of the advisory committees, and shall establish reporting requirements on at least an annual basis from all advisory committees.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Public Protection Cabinet the Department of Cannabis Control. The department shall provide administrative support for the board, the advisory committees established by Section 5 of this Act, and any other advisory groups or committees formed by the board. The department shall be responsible for the day-to-day oversight and regulation of the cultivation, possession, production, processing, testing, packaging, transportation, marketing, sale, and use in the Commonwealth of cannabis, cannabis products, and

cannabis accessories. In fulfilling these duties and responsibilities, the department may exercise the powers and duties authorized in this chapter, as directed by the board.

(2) The department shall be headed by an executive director, appointed by the Governor and confirmed by the Senate. The executive director shall serve for a term of three (3) years, and may be reappointed. The executive director shall have at least ten (10) years of demonstrated experience or expertise in the direct management, supervision, and operation of a business. Once confirmed, the executive director may be removed only for good cause, with appropriate notice.

(3) Specific functions, powers, and duties of the department and the executive director include but are not limited to the following:

(a) To maintain records of all licenses and permits issued and revoked within the state. These records shall be current, and shall include the identity of all licensees, including the names of the officers and directors of corporate licensees and the location of all licensed premises;

(b) To inspect or provide for the inspection of any premises where medical cannabis or adult use cannabis are cultivated, produced, tested, packaged, transported, or sold;

(c) To prescribe forms of applications for licenses and permits under this chapter and of all reports deemed necessary by the board;

(d) To delegate the powers granted in this section to other officers or employees as determined by the executive director;

(e) To exercise the powers and perform the duties as delegated by the board in relation to the administration of this chapter, including but not limited to budgetary and fiscal matters;

(f) To enter into contracts, memoranda of understanding, and agreements to effectuate the policy and purpose of this chapter;

(g) To advise and assist the board in carrying out any of its functions, powers, and duties;

(h) To coordinate across state agencies and departments in order to research and study any changes in cannabis use and the impact that cannabis use and the regulated cannabis industries may have on access to cannabis products, public health, and public safety; and

(i) To issue guidance and industry advisories.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) No person shall cultivate, process, produce, possess, test, transfer, transport, and sell cannabis or otherwise operate a cannabis business establishment in this state without first obtaining a license or permit under this chapter.

(2) (a) A cultivator license shall authorize the license holder to:

1. Cultivate and minimally process cannabis on its licensed premises;

2. Transport or contract to transport cannabis to a testing facility for testing;

3. Transport or contract to transport cannabis from the cultivator's licensed premises to another part of the same premises or to another of the cultivator's licensed premises; and

4. Sell and transport or contract to have transported cannabis to a processor, retailer, or microbusiness.

(b) Cultivators shall be licensed as either an indoor cultivator or an outdoor cultivator.

(3) A processor license shall authorize the license holder to:

(a) Purchase cannabis from a cultivator or microbusiness for processing;

(b) Receive cannabis from a cultivator, microbusiness, transporter, testing facility, or another processor;

- (c) Process the cannabis received into consumable cannabis and cannabis products;
- (d) Sell the processed cannabis and cannabis products to a retailer licensee or a microbusiness licensee; and
- (e) Transport or contract to transport the processed cannabis and cannabis products:

 - 1. To the retailer licensee, microbusiness, or a testing facility;
 - 2. From a testing facility to a retailer or microbusiness; or
 - 3. Between buildings on its own premises.
- (4) A transporter license shall authorize the license holder to:

 - (a) Receive cannabis and cannabis products from a cultivator or microbusiness and transport the cannabis to a processor or testing facility;
 - (b) Receive cannabis and cannabis products from a testing facility and transport to a processor, microbusiness, or retailer;
 - (c) Receive cannabis products from a processor or microbusiness and transport the cannabis or cannabis products to a testing facility or retailer; and
 - (d) Transport between testing facilities, cultivators, or processors.
- (5) A retail license shall authorize the license holder to:

 - (a) Purchase cannabis and cannabis products from a cultivator, processor, or microbusiness for sale in its place of business;
 - (b) Receive purchased cannabis and cannabis products from a cultivator, processor, testing facility, or microbusiness;
 - (c) Sell cannabis, cannabis products, and cannabis accessories at its store or at a cannabis event to consumers ages twenty-one (21) and older;
 - (d) Purchase and receive cannabis accessories; and
 - (e) Transport cannabis:

 - 1. From a cultivator, processor, or microbusiness to a testing facility;

2. From a testing facility to a retailer;
 3. Between retail locations; or
 4. To medical cannabis consumers or to a cannabis event.
- (6) A testing facility license shall authorize the license holder to obtain and test samples of cannabis from cultivators and samples of cannabis and cannabis products from processors in order to determine the amount of THC in the product.
- (7) A microbusiness license shall authorize the license holder to perform at least three (3) of the four (4) following activities:
- (a) Cultivation of up to one hundred fifty (150) plants;
 - (b) Manufacturing processes to include nonvolatile extraction, infusion, packaging, and labeling;
 - (c) Transportation or entering a contract for transportation; and
 - (d) Retail sales.
- (8) A cannabis consumption establishment license shall authorize the license holder to allow patrons to bring their own cannabis, cannabis products, and cannabis accessories on premises for consumption.
- (9) A cannabis event organizer license shall authorize the license holder to host temporary events related to cannabis, including but not limited to concerts, conferences, fairs, festivals, and competitions. Each event hosted by a licensed cannabis event organizer shall receive a separate cannabis temporary event license.
- (10) A cannabis temporary event license shall authorize the cannabis event organizer to host events related to cannabis, subject to the following restrictions:
- (a) The location shall be designated on the application form to the department;
and
 - (b) The event shall comply with the requirements of any smoking ban that may

be enacted by a local government.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) If, after a license or permit has been issued, there is a change in any of the required facts in the application, a verified supplemental statement in writing giving notice of the change shall be filed with the department within ten (10) days after the change.

(2) In giving any notice or taking any action in reference to a license or permit, the department may rely upon the information furnished in the application or in the supplemental statement connected with the application. This information, as against the licensee, permittee, or applicant, shall be conclusively presumed to be correct. The required information stated in the application or supplemental statement shall be deemed material in any prosecution for perjury.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) All cannabis licenses and permits issued by the department shall be valid for a period of no more than one (1) year. The board shall promulgate administrative regulations establishing the system for renewal of licenses.

(2) The renewal of any cannabis license or permit shall not be construed to waive or condone any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the licensee or permittee.

(3) The department may deny a license renewal if the licensee is a delinquent taxpayer as defined in Section 33 of this Act.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) If the department denies a license or permit application, the executive director shall notify the applicant in writing of the denial and the reasons for the denial

by registered or certified mail at the address given in the application.

(2) The applicant may, within thirty (30) days after the date of the mailing of the notice from the executive director, file a request with the board for an administrative hearing on the application. The hearing shall be conducted by the board as a de novo review of the application in compliance with KRS Chapter 13B.

(3) If the executive director denies an application and the applicant does not timely request a board hearing on its application under subsection (2) of this section, the department shall refund payment of any license or permit fee paid by an applicant.

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

(1) Upon proceedings for the revocation of any license or permit under this chapter, the board may order a suspension of the license or permit. Subject to the approval of the board, the licensee or permittee may pay in lieu of part or all of the days of any suspension period, a sum established in an administrative regulation promulgated by the board.

(2) Payments in lieu of suspension collected by the board shall be deposited into the cannabis fund account established in Section 15 of this Act.

(3) Appeals from orders of suspension and the associated procedures shall be the same as those for orders of revocation in KRS Chapter 13B.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

No employer shall refuse to employ and may not discriminate against an individual with respect to compensation, promotion, or the terms, conditions, or privileges of employment because the individual legally uses a cannabis product off the employer's premises during nonworking hours. This section shall not apply to the use of cannabis

products:

(1) During working hours; or

(2) That affects an individual's ability to perform job-related employment responsibilities or compromises the safety of other employees.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

(1) Cannabis, cannabis products, and cannabis accessories shall only be purchased, possessed, consumed, or used by persons aged twenty-one (21) years or older, and a retail licensee shall only sell to persons aged twenty-one (21) or older.

(2) A license holder under this chapter shall not sell, give, or provide cannabis to a person under the age of twenty-one (21).

(3) A person under twenty-one (21) years of age shall not enter any premises licensed for the sale of cannabis, cannabis products, or cannabis accessories for the purpose of purchasing or receiving any cannabis, cannabis product, or cannabis accessory.

(4) A person under twenty-one (21) years of age shall not misrepresent the person's age for the purpose of inducing any licensee, or the licensee's agent or employee, to sell any cannabis, cannabis products, or cannabis accessories to the underage person.

(5) A person under twenty-one (21) years of age shall not use or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain any cannabis, cannabis products, or cannabis accessories. A person who violates this section shall, for the first offense, be guilty of a violation, and for the second and each subsequent offense, the person shall be guilty of a Class B misdemeanor.

(6) Except as provided in subsections (5) and (7) of this section, any person who violates subsections (3), (4), or (5) of this section shall be charged with a violation

and each violation shall constitute a separate offense.

(7) A violation of subsections (3), (4), or (5) of this section shall be deemed a status offense if committed by a person under the age of eighteen (18) and shall be under the jurisdiction of the juvenile session of the District Court or the family division of the Circuit Court, as appropriate.

(8) This section shall not apply to a caregiver aged twenty-one (21) or older who purchases or receives medical cannabis for a patient who is under twenty-one (21) years of age if the underage patient is a qualified patient with a registry identification card.

(9) It shall be an affirmative defense to a charge under subsection (2) of this section that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents, and that the appearance and character of the purchaser were such that the purchaser's age could not have been ascertained by any other means, and that the purchaser's appearance and character indicated strongly that the purchaser was of legal age to purchase cannabis and cannabis products. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

Every retail licensee shall display signs that are visible to persons entering the premises that state as follows:

(1) The United States Surgeon General has issued an advisory opinion stating that smoking or ingesting cannabis by pregnant women may cause harm to the fetus; and

(2) Minor persons under the age of twenty-one (21) may face criminal penalties if they attempt to buy cannabis or cannabis products themselves or if they attempt to have someone else buy cannabis or cannabis products for them.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) (a) There is established in the State Treasury a permanent and perpetual fund to be known as the "cannabis fund" to which shall be credited any amounts collected from license and permit fees under KRS Chapter 245, fines in lieu of suspension under KRS Chapter 245, and excise taxes pursuant to Section 19 of this Act, in addition to any other appropriations, gifts, grants, federal funds, or other funds, both public or private, directed to the fund for the purposes set forth in this section.
- (b) Expenses for the operation of the board and department shall first be paid from the fund in accordance with amounts appropriated by the General Assembly for such purposes in an enacted budget bill.
- (c) After the payment of operating expenses, at least thirty percent (30%) of the amount remaining shall be retained in the fund, and shall be expended as determined by the Social Impact Council, established by Section 16 of this Act, with the remainder of funds distributed to the General Fund.
- (2) Notwithstanding KRS 45.229, fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.
- (3) Moneys deposited into the fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.
- (4) Interest earned from moneys in the fund shall become part of the fund and shall not lapse.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

- (1) The Social Impact Council is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by

administering funds to provide economic assistance to the Commonwealth. The council shall be a public agency within the meaning of KRS 61.805, 61.870, and other applicable statutes. The purpose of the council is to directly address the impact of economic disinvestment, violence, and historical overuse of criminal justice responses to community and individual needs by providing resources to support local design and control of community-based responses to these impacts.

(2) The council shall have a total membership of nineteen (19) voting members that shall consist of thirteen (13) at-large citizen members and six (6) ex officio members. The chair of the Cannabis Control Board or designee shall also serve as a nonvoting ex officio member. At-large citizen members shall be appointed by the Governor. At-large citizen members of the council shall be citizens of the Commonwealth and shall include the following:

- (a) A person who has been previously incarcerated or convicted of a cannabis-related crime;
- (b) An expert in the field of public health with experience in trauma-informed care, if possible;
- (c) An expert in education with a focus on access to opportunities for youth in underserved communities;
- (d) An expert on Kentucky's foster care system;
- (e) An expert in workforce development;
- (f) A representative from one of Kentucky's historically black colleges and universities;
- (g) A veteran of the United States Armed Forces;
- (h) An entrepreneur with expertise in emerging industries or access to capital for small businesses;
- (i) A representative from the Department of Public Advocacy; and
- (j) Four (4) community-based providers or community development

organization representatives who provide services to address the social determinants of health and promote community investment in communities adversely and disproportionately impacted by cannabis prohibitions, including services such as workforce development, youth mentoring and educational services, job training and placement services, and reentry services.

(3) The six (6) ex officio members of the council shall be:

- (a) The secretary of the Cabinet for Economic Development or designee;
- (b) The secretary of the Cabinet for Health and Family Services or designee;
- (c) The secretary of the Justice and Public Safety Cabinet or designee;
- (d) The secretary of the Labor Cabinet or designee;
- (e) The secretary of the Education and Workforce Development Cabinet or designee; and
- (f) The Attorney General.

(4) Ex officio members of the council shall serve terms coincident with their terms of office. After the initial staggering of terms, at-large citizen members shall be appointed for a term of four (4) years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

(5) (a) Consideration shall be given to racial and gender equity in the appointment of the at-large citizen members.

(b) The at-large citizen members shall be appointed in equal proportion from the two (2) political parties casting the highest and next highest number of votes at the last preceding general election in the state.

(6) A majority of the council shall select a chair and vice-chair from among its membership. A majority of the members shall constitute a quorum. The council's

first meeting shall convene by August 1, 2024. The council shall meet at least once every two (2) months and shall meet at the call of the chair or whenever the majority of the members so request.

(7) Members shall receive no compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties.

(8) The council shall be attached to the Public Protection Cabinet for administrative purposes.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 245 IS CREATED TO READ AS FOLLOWS:

The Social Impact Council's powers and duties shall include the following:

(1) Developing and implementing scholarship programs and educational and vocational resources for historically marginalized youth, including youth in foster care, who have been adversely impacted by substance use individually, in their families, or in their communities;

(2) Developing and implementing a program to award grants to support workforce development programs, youth mentoring programs, job training and placement services, and reentry services that serve communities historically and disproportionately targeted by drug enforcement;

(3) Administering the cannabis fund established under Section 15 of this Act;

(4) Collaborating with the Cannabis Control Board to implement programs and provide recommendations consistent with the purposes of this section;

(5) Receiving requests and applications for funds and authorizing the distribution of funds;

(6) Developing guidelines and criteria for eligibility for and disbursement of funds, the types of direct and indirect economic assistance to be awarded, and procedures for applying for funds and reviewing applications for assistance;

(7) Preparing a biennial budget request in accordance with KRS Chapter 48;

- (8) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the council will have and to maximize receipt of federal and other funds to the Commonwealth;
- (9) Submitting an annual report and executive summary to the Governor and the General Assembly for publication. The chair shall submit to the Governor and the Legislative Research Commission an annual executive summary of the interim activity and work of the council no later than the first day of each regular session of the General Assembly; and
- (10) Performing any other activities and functions as directed by the Governor and the Legislative Research Commission.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Cannabis" has the same meaning as in Section 1 of this Act;
- (2) "Cannabis flowers" means the flowers of the cannabis plant that have been harvested, dried, trimmed or untrimmed, and cured, prior to any processing;
- (3) "Cannabis leaves" means all parts of the cannabis plant other than cannabis flowers;
- (4) "Cultivator" has the same meaning as in Section 7 of this Act;
- (5) "Processor" has the same meaning as in Section 7 of this Act;
- (6) "Retailer" has the same meaning as in Section 7 of this Act; and
- (7) "Microbusiness" has the same meaning as in Section 7 of this Act.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

- (1) Beginning on July 1, 2023, an excise tax is hereby imposed at the time of the first sale or transfer of harvested cannabis by a cultivator to a processor or retailer or by a microbusiness to a retailer or consumer. The tax shall be paid by the licensee

- selling or transferring the cannabis and shall be based on the weight of the cannabis transferred, regardless of any payment received.
- (2) The rate of the tax imposed by subsection (1) of this section shall be set annually by the Cannabis Control Board established in KRS Chapter 245 through the promulgation of an administrative regulation.
- (3) Every cultivator, processor, retailer, and microbusiness shall file an application for a certificate of registration with the department. The application shall be in the form prescribed by the department. The application shall be signed by:
- (a) The owner if the applicant is a natural person;
 - (b) A member or partner if the applicant is an association or partnership; or
 - (c) An executive officer or some person specifically authorized by the corporation to sign the application if the applicant is a corporation.
- (4) The taxes imposed by this section are due and payable to the department monthly on or before the twentieth day of the month following each calendar month.
- (5) A return for the preceding calendar month shall be filed with the department by every processor, retailer, and microbusiness, together with any tax due. For the purpose of facilitating the administration, payment, or collection of the taxes levied by this section, the department may permit or require returns to be filed or tax payments to be made other than as specifically required by this section.
- (6) Every cultivator, processor, retailer, and microbusiness shall keep records, receipts, invoices, and other pertinent papers in the form as the department may require. Every cultivator, processor, retailer, and microbusiness who files the returns required under this section shall keep records for not less than six (6) years from the making of records unless the department in writing authorizes their destruction at an earlier date.
- (7) The department shall establish a method or process that may be a part of the tracking system required by KRS Chapter 245, to identify cannabis on which the

tax imposed by this section has been paid.

(8) All receipts, interest, and penalties resulting from the taxes imposed under this section shall be deposited into the cannabis fund created in Section 16 of this Act.

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding anything in this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to Sections 1 to 14 of this Act shall be personally and individually liable, both jointly and severally, for the taxes imposed by Section 19 of this Act.

(2) 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.

(3) Notwithstanding anything in 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 Sections 1 to 14 of this Act shall be personally and individually liable, both jointly and severally, for the cannabis and cannabis products taxes.

(4) 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.

(5) No person shall be personally and individually liable under this section who had no authority to collect, truthfully account for, or pay over any cannabis and cannabis product tax at the time the taxes imposed become or became due.

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

➔ SECTION 21. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Any person who violates Sections 19 to 20 of this Act 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(6) from the date due until the date of payment.

➔ Section 22. KRS 139.472 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, the taxes imposed by this chapter shall not apply to the sale or purchase of:

(a) A drug purchased for the treatment of a human being for which a prescription is required by state or federal law, whether the drug is dispensed by a licensed pharmacist, administered by a physician or other health care provider, or distributed as a free sample to or from a physician's office;

(b) An over-the-counter drug purchased for the treatment of a human being for which a prescription is issued;

(c) Medical oxygen and oxygen delivery equipment purchased for home use. Oxygen delivery equipment includes:

1. High pressure cylinders, cryogenic tanks, oxygen concentrators, or similar medical oxygen delivery equipment including repair and replacement parts for the equipment; and

2. Tubes, masks, and similar items required for the delivery of oxygen to the patient;
 - (d) Insulin and diabetic supplies, including hypodermic syringes, needles, and sugar (urine and blood) testing materials purchased by an individual for private use;
 - (e) Colostomy, urostomy, or ileostomy supplies purchased by an individual for private use;
 - (f) Prosthetic devices purchased by any health care provider for use in the treatment of a specific individual or purchased by an individual as prescribed by a person authorized under the laws of the Commonwealth to issue prescriptions;
 - (g) Prosthetic devices that are individually designed or created for an individual regardless of the purchaser;
 - (h) Mobility enhancing equipment for which a prescription is issued;~~[-and]~~
 - (i) Durable medical equipment, including hospital beds for which a prescription is issued; and
 - (j) Medical cannabis as defined in Section 1 of this Act and any accessories used in conjunction with medical cannabis.
- (2) Except as specifically provided in subsection (1) of this section, supplies or equipment used to deliver a drug to a patient are taxable.
 - (3) As used in this section:
 - (a) "Drug" means a compound, substance, or preparation and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages as defined in KRS 139.485, that is recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or a supplement to any of them, or is:

1. Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; or
 2. Intended to affect the structure or any function of the human body;
- (b) "Grooming and hygiene products" means soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions, regardless of whether the items meet the definition of an over-the-counter drug;
- (c) 1. "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R. sec. 201.66. The "over-the-counter drug" label shall include:
- a. A "Drug Facts" panel; or
 - b. A statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation.
2. "Over-the-counter drug" shall not include grooming and hygiene products;
- (d) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a person authorized under the laws of the Commonwealth to prescribe a drug;
- (e) 1. "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the body to:
- a. Artificially replace a missing portion of the body;
 - b. Prevent or correct a physical deformity or malfunction; or
 - c. Support a weak or deformed portion of the body.
2. "Prosthetic device" shall not include any of the following:
- a. Corrective eyeglasses;
 - b. Contact lenses; or

- c. Dental prosthesis;
- (f) 1. "Mobility enhancing equipment" means equipment, including repair and replacements part for same, which:
 - a. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
 - b. Is not generally used by persons with normal mobility; and
 - c. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.
- 2. "Mobility enhancing equipment" shall not include durable medical equipment; and
- (g) 1. "Durable medical equipment" means equipment, including repair and replacement parts for same, which:
 - a. Can withstand repeated use;
 - b. Is primarily and customarily used to serve a medical purpose;
 - c. Generally is not useful to a person in the absence of illness or injury; and
 - d. Is not worn in or on the body.
- 2. "Durable medical equipment" shall not include mobility enhancing equipment or oxygen delivery equipment that is not worn in or on the body.
- 3. As used in this paragraph, "repair and replacement parts" includes all components or attachments used in connection with durable medical equipment.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

- (a) "Licensee" means a retailer or microbusiness licensed to conduct cannabis activities under KRS Chapter 245;
- (b) "Local government" means any city, county, urban-county government, consolidated local government, unified local government, or charter county government; and
- (c) "Gross revenue" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by sales and excise taxes paid and returns and allowances.
- (2) Beginning on July 1, 2024, local governments may, by ordinance, levy a licensing fee on licensees for the privilege of operating within the limits of the local government as provided in this section.
- (3) The maximum license fee that may be levied within a local government is five percent (5%) of the gross receipts of a licensee from activities conducted within the local government. Units of local government within other units of local government may work together to establish a uniform or combined license fee rate with revenue sharing between the units of local government through an interlocal agreement entered into pursuant to KRS 65.210 to 65.300.
- (4) Absent an agreement between the units of local government:

 - (a) A city may impose a license fee not to exceed three percent (3%) of gross revenues received by a licensee within the jurisdiction of the city;
 - (b) A county, urban-county government, consolidated local government, unified local government, or charter county government may impose a license fee not to exceed two percent (2%) of gross revenues received by a licensee within the jurisdiction of the county, urban-county government, consolidated local government, unified local government, or charter county government; and
 - (c) A local government that does not include any independently incorporated

cities may impose a license fee not to exceed five percent (5%) of gross revenues received by a retailer licensed under KRS Chapter 245 within the jurisdiction of the county level unit of government.

➔ Section 24. KRS 2.015 is amended to read as follows:

Persons of the age of eighteen (18) years are of the age of majority for all purposes in this Commonwealth except for the purchase of alcoholic beverages, *the purchase of cannabis, cannabis products, and cannabis accessories,* and for purposes of care and treatment of children with disabilities, for which twenty-one (21) years is the age of majority, all other statutes to the contrary notwithstanding.

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

(1) Smoking marijuana in public is prohibited.

(2) Smoking marijuana in public shall be a violation subject to a maximum fine of one hundred dollars (\$100).

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

(1) A person 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 any occupational or professional licensing board if the person's actions are authorized by and in compliance with Sections 1 to 14 of this Act.

(2) A person 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 an occupational or professional licensing board, for providing assistance or services, including but not limited to legal services, medical services, accounting services, security services, or business consulting services, to any individual or marijuana business related to activity that is no

longer subject to criminal penalties under state law pursuant to Sections 1 to 14 of this Act.

➔Section 27. KRS 218A.1421 is amended to read as follows:

Subsections (1) to (5) of this section shall not apply if the trafficking or possession of marijuana is in compliance with or authorized by Sections 1 to 14 of this Act.

- (1) A person is guilty of trafficking in marijuana when ~~the person:~~
 - (a) Knowingly and unlawfully traffics in marijuana; or**
 - (b) Provides cannabis to another person outside the limitations of the cannabis license, if licensed under Sections 1 to 14 of this Act.**
- (2) 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) 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) 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) 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 shall not apply to transfers of one (1) ounce or less of marijuana without remuneration between two (2) persons who may legally possess marijuana.

➔Section 28. 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 **more than one (1) ounce of** marijuana **while in a public place or knowingly and unlawfully possesses twelve (12) ounces or more in a nonpublic place.**

- (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 shall not apply if the possession is in compliance with or authorized by Sections 1 to 14 of this Act.

➔ Section 29. KRS 218A.1423 is amended to read as follows:

- (1) A person is guilty of marijuana cultivation when **the person**~~[he]~~ knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it.

- (2) **Unless authorized by Sections 1 to 14 of this Act,** marijuana cultivation of **more than ten (10) mature**~~[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) 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.~~

- ~~(3)~~~~[(4)]~~ The planting, cultivating, or harvesting of **ten (10)**~~[five (5)]~~ or more **mature** 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 shall not apply to a cultivator or microbusiness holding a license under Sections 1 to 14 of this Act when the licensee or permit holder is cultivating marijuana in compliance with Sections 1 to 14 of this Act.

(6) For purposes of this section, a person may grow ten (10) or fewer mature plants without being in violation of this section. A mature plant means a plant that has

produced flowers.

➔Section 30. 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.

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.

(9) This section shall not apply to:

- (a) Marijuana accessories that meet the definition of legal "cannabis accessories" under Section 1 of this Act; and**
- (b) Items used in the cultivation or use of marijuana licensed under KRS Chapter 245.**

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

- (1) Any person who has been convicted of a misdemeanor for possession of marijuana or possession, delivery, or manufacture of marijuana-related drug paraphernalia, may petition the court in which that person was convicted for expungement of the person's record, including a record of any charges for misdemeanors, violations, or traffic infractions that were dismissed or amended in the criminal action.**

(2) For a petition brought under this section, the court shall 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, if the court finds that the offense was for a misdemeanor possession of marijuana or marijuana-related drug paraphernalia, or the delivery or manufacture of marijuana-related drug paraphernalia.

(3) Upon the entry of an order to expunge the records:

(a) The proceedings in the case shall be deemed never to have occurred;

(b) 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;

(c) The person and the court may properly reply that no record exists with respect to the person upon any inquiry in the matter; and

(d) The person whose record is expunged shall not have to disclose the fact of the record or any related matter on an application for employment, credit, or other type of application.

(4) There shall be no filing fee or court costs for a petition under this section.

(5) Copies of the order shall be sent to the Department of Kentucky State Police Criminal Identifications and Records Branch, and to each agency or official named in the order.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(7) This section shall be deemed to be retroactive.

➔ Section 32. KRS 431.079 is amended to read as follows:

(1) Every petition or application filed seeking expungement of a conviction, except for a petition filed under Section 31 of this Act, shall include a certification of

eligibility for expungement. The Department of Kentucky State Police and the Administrative Office of the Courts shall certify that the agencies have conducted a criminal background check on the petitioner and whether or not the petitioner is eligible to have the requested record expunged. The Department of Kentucky State Police shall promulgate administrative regulations to implement this section, in consultation with the Administrative Office of the Courts.

- (2) Nothing in this section shall be construed to prohibit the expungement of a case ordered by a court of competent jurisdiction.
- (3) For the purposes of this section, KRS 431.073, 431.076, and 431.078, "expungement" means the removal or deletion of records by the court and other agencies which prevents the matter from appearing on official state-performed background checks.

➔ Section 33. KRS 131.1815 is amended to read as follows:

- (1) Whenever it is determined that a taxpayer, who holds a license under KRS Chapter 243 or 245, is a delinquent taxpayer as defined in subsection (2) of this section, the department may, after giving notice as provided in subsection (3) of this section, submit the name of the taxpayer to:

(a) The Department of Alcoholic Beverage Control for revocation of any license issued under KRS Chapter 243; or

(b) The Cannabis Control Board for revocation of any license issued under KRS Chapter 245.

- (2) Any of the following situations shall be sufficient to cause a taxpayer to be classified as a "delinquent taxpayer" for purposes of this section:

(a) When a taxpayer has an overdue state tax liability arising directly or indirectly from the:

1. Manufacture, sale, transportation, or distribution of alcoholic beverages; or

2. Cultivation, processing, or sale of cannabis, cannabis products, and cannabis accessories;

for which all protest and appeal rights granted by law have expired, and the taxpayer has been contacted by the department concerning the overdue tax liability. This does not include a taxpayer who is making current timely installment payments on the overdue tax liability under agreement with the department;

- (b) When a taxpayer has not filed a required tax return as of ninety (90) days after the due date or after the extended due date, and the taxpayer has been contacted by the department concerning the delinquent return; or
 - (c) When an owner, partner, or corporate officer of a proprietorship, partnership, or corporation holding a license under KRS Chapter 243 **or 245** held a similar position in a business whose license was revoked as a "delinquent taxpayer," and the tax liability remains unpaid as of ninety (90) days after the due date.
- (3) At least twenty (20) days before submitting a taxpayer's name to the Department of Alcoholic Beverage Control **or the Cannabis Control Board** as provided in subsection (1) of this section, the department shall notify the taxpayer by certified mail that the action is to be taken. The notice shall state the reason for the action and shall set out the amount of any tax liability including any applicable penalties and interest and any other area of noncompliance that ~~shall~~^{must} be satisfied in order to prevent the submission of ~~the taxpayer's~~^{his} name to the Department of Alcoholic Beverage Control **or the Cannabis Control Board** as a delinquent taxpayer.

➔Section 34. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

- (1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when:

- (a) His or her parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person exercising custodial control or supervision of the child:
1. Inflicts or allows to be inflicted upon the child physical or emotional injury as defined in this section by other than accidental means;
 2. Creates or allows to be created a risk of physical or emotional injury as defined in this section to the child by other than accidental means;
 3. Engages in a pattern of conduct that renders the parent incapable of caring for the immediate and ongoing needs of the child, including but not limited to parental incapacity due to a substance use disorder as defined in KRS 222.005;
 4. Continuously or repeatedly fails or refuses to provide essential parental care and protection for the child, considering the age of the child;
 5. Commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child;
 6. Creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;
 7. Abandons or exploits the child;
 8. Does not provide the child with adequate care, supervision, food, clothing, shelter, and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing the person's religious beliefs shall not be considered a negligent parent solely because of failure to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;
 9. Fails to make sufficient progress toward identified goals as set forth in

the court-approved case plan to allow for the safe return of the child to the parent that results in the child remaining committed to the cabinet and remaining in foster care for fifteen (15) cumulative months out of forty-eight (48) months; or

10. Commits or allows female genital mutilation as defined in KRS 508.125 to be committed; or
- (b) A person twenty-one (21) years of age or older commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon a child less than sixteen (16) years of age;
- (2) "Age or developmentally appropriate" has the same meaning as in 42 U.S.C. sec. 675(11);
- (3) "Aggravated circumstances" means the existence of one (1) or more of the following conditions:
 - (a) The parent has not attempted or has not had contact with the child for a period of not less than ninety (90) days;
 - (b) The parent is incarcerated and will be unavailable to care for the child for a period of at least one (1) year from the date of the child's entry into foster care and there is no appropriate relative placement available during this period of time;
 - (c) The parent has sexually abused the child and has refused available treatment;
 - (d) The parent has been found by the cabinet to have engaged in abuse of the child that required removal from the parent's home two (2) or more times in the past two (2) years; or
 - (e) The parent has caused the child serious physical injury;
- (4) "Beyond the control of parents" means a child who has repeatedly failed to follow the reasonable directives of his or her parents, legal guardian, or person exercising custodial control or supervision other than a state agency, which behavior results in

danger to the child or others, and which behavior does not constitute behavior that would warrant the filing of a petition under KRS Chapter 645;

- (5) "Beyond the control of school" means any child who has been found by the court to have repeatedly violated the lawful regulations for the government of the school as provided in KRS 158.150, and as documented in writing by the school as a part of the school's petition or as an attachment to the school's petition. The petition or attachment shall describe the student's behavior and all intervention strategies attempted by the school;
- (6) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the Department of Juvenile Justice or the cabinet for the placement of children committed to the department or the cabinet;
- (7) "Cabinet" means the Cabinet for Health and Family Services;
- (8) "Certified juvenile facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training in juvenile detention developed and approved by, the Department of Juvenile Justice after consultation with other appropriate state agencies;
- (9) "Child" means any person who has not reached his or her eighteenth birthday, unless otherwise provided;
- (10) "Child-caring facility" means any facility or group home other than a state facility, Department of Juvenile Justice contract facility or group home, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption, or marriage to the person maintaining the facility;
- (11) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

- (12) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;
- (13) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Health and Family Services, Department of Juvenile Justice, or another facility or agency until the child attains the age of eighteen (18) unless otherwise provided by law;
- (14) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the Department of Juvenile Justice or the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;
- (15) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;
- (16) "Court" means the juvenile session of District Court unless a statute specifies the adult session of District Court or the Circuit Court;
- (17) "Court-designated worker" means that organization or individual delegated by the Administrative Office of the Courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into, and supervising diversion agreements and performing such other functions as authorized by law or court order;
- (18) "Deadly weapon" has the same meaning as it does in KRS 500.080;
- (19) "Department" means the Department for Community Based Services;
- (20) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or

supervision of the child;

- (21) "Detention" means the safe and temporary custody of a juvenile who is accused of conduct subject to the jurisdiction of the court who requires a restricted or closely supervised environment for his or her own or the community's protection;
- (22) "Detention hearing" means a hearing held by a judge or trial commissioner within twenty-four (24) hours, exclusive of weekends and holidays, of the start of any period of detention prior to adjudication;
- (23) "Diversion agreement" means a mechanism designed to hold a child accountable for his or her behavior and, if appropriate, securing services to serve the best interest of the child and to provide redress for that behavior without court action and without the creation of a formal court record;
- (24) "Eligible youth" means a person who:
 - (a) Is or has been committed to the cabinet as dependent, neglected, or abused;
 - (b) Is eighteen (18) years of age to nineteen (19) years of age; and
 - (c) Is requesting to extend or reinstate his or her commitment to the cabinet in order to participate in state or federal educational programs or to establish independent living arrangements;
- (25) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;
- (26) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in the child's ability to function within a normal range of performance and behavior with due regard to his or her age, development, culture, and environment as testified to by a qualified mental health professional;
- (27) "Evidence-based practices" means policies, procedures, programs, and practices proven by scientific research to reliably produce reductions in recidivism;

- (28) "Fictive kin" means an individual who is not related by birth, adoption, or marriage to a child, but who has an emotionally significant relationship with the child;
- (29) "Firearm" shall have the same meaning as in KRS 237.060 and 527.010;
- (30) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;
- (31) "Graduated sanction" means any of a continuum of accountability measures, programs, and sanctions, ranging from less restrictive to more restrictive in nature, that may include but are not limited to:
- (a) Electronic monitoring;
 - (b) Drug and alcohol screening, testing, or monitoring;
 - (c) Day or evening reporting centers;
 - (d) Reporting requirements;
 - (e) Community service; and
 - (f) Rehabilitative interventions such as family counseling, substance abuse treatment, restorative justice programs, and behavioral or mental health treatment;
- (32) "Habitual runaway" means any child who has been found by the court to have been absent from his or her place of lawful residence without the permission of his or her custodian for at least three (3) days during a one (1) year period;
- (33) "Habitual truant" means any child who has been found by the court to have been reported as a truant as defined in KRS 159.150(1) two (2) or more times during a one (1) year period;
- (34) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;
- (35) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

- (36) "Informal adjustment" means an agreement reached among the parties, with consultation, but not the consent, of the victim of the crime or other persons specified in KRS 610.070 if the victim chooses not to or is unable to participate, after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;
- (37) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;
- (38) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; or protection of the community, and is conducted at the suitable available facility closest to the child's place of residence to allow for appropriate family engagement;
- (39) "Motor vehicle offense" means any violation of the nonfelony provisions of KRS Chapters 186, 189, or 189A, KRS 177.300, 304.39-110, or 304.39-117;
- (40) "Near fatality" means an injury that, as certified by a physician, places a child in serious or critical condition;
- (41) "Needs of the child" means necessary food, clothing, health, shelter, and education;
- (42) "Nonoffender" means a child alleged to be dependent, neglected, or abused and who has not been otherwise charged with a status or public offense;
- (43) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;
- (44) "Nonsecure setting" means a nonsecure facility or a residential home, including a child's own home, where a child may be temporarily placed pending further court

action. Children before the court in a county that is served by a state operated secure detention facility, who are in the detention custody of the Department of Juvenile Justice, and who are placed in a nonsecure alternative by the Department of Juvenile Justice, shall be supervised by the Department of Juvenile Justice;

- (45) "Out-of-home placement" means a placement other than in the home of a parent, relative, or guardian, in a boarding home, clinical treatment facility, community-based facility, detention facility, emergency shelter, fictive kin home, foster family home, hospital, nonsecure facility, physically secure facility, residential treatment facility, or youth alternative center;
- (46) "Parent" means the biological or adoptive mother or father of a child;
- (47) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;
- (48) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;
- (49) "Physical injury" means substantial physical pain or any impairment of physical condition;
- (50) "Physically secure facility" means a facility that relies primarily on the use of construction and hardware such as locks, bars, and fences to restrict freedom;
- (51) "Public offense action" means an action, excluding contempt, brought in the interest of a child who is accused of committing an offense under KRS Chapter 527 or a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a motor vehicle offense;
- (52) "Qualified mental health professional" means:
 - (a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while

- engaged in the performance of official duties;
- (b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;
 - (c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate licensed under the provisions of KRS Chapter 319;
 - (d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center;
 - (e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center;
 - (f) A marriage and family therapist licensed under the provisions of KRS 335.300

- to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center;
- (g) A professional counselor credentialed under the provisions of KRS 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional comprehensive care center; or
- (h) A physician assistant licensed under KRS 311.840 to 311.862, who meets one (1) of the following requirements:
1. Provides documentation that he or she has completed a psychiatric residency program for physician assistants;
 2. Has completed at least one thousand (1,000) hours of clinical experience under a supervising physician, as defined by KRS 311.840, who is a psychiatrist and is certified or eligible for certification by the American Board of Psychiatry and Neurology, Inc.;
 3. Holds a master's degree from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant or its predecessor or successor agencies, is practicing under a supervising physician as defined by KRS 311.840, and:
 - a. Has two (2) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or
 - b. Has been employed by a hospital or forensic psychiatric facility

licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least two (2) years; or

4. Holds a bachelor's degree, possesses a current physician assistant certificate issued by the board prior to July 15, 2002, is practicing under a supervising physician as defined by KRS 311.840, and:
 - a. Has three (3) years of clinical experience in the assessment, evaluation, and treatment of mental disorders; or
 - b. Has been employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community program for mental health and individuals with an intellectual disability for at least three (3) years;

(53) "Reasonable and prudent parent standard" has the same meaning as in 42 U.S.C. sec. 675(10);

(54) "Residential treatment facility" means a facility or group home with more than eight (8) beds designated by the Department of Juvenile Justice or the cabinet for the treatment of children;

(55) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court-designated worker for the purpose of making preliminary inquiries;

(56) "Risk and needs assessment" means an actuarial tool scientifically proven to identify specific factors and needs that are related to delinquent and noncriminal

misconduct;

- (57) "School personnel" means those certified persons under the supervision of the local public or private education agency;
- (58) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (59) "Secure juvenile detention facility" means any physically secure facility used for the secure detention of children other than any facility in which adult prisoners are confined;
- (60) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily member or organ;
- (61) "Sexual abuse" includes but is not necessarily limited to any contacts or interactions in which the parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of the child or responsibility for his or her welfare, uses or allows, permits, or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;
- (62) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian, person in a position of authority or special trust, as defined in KRS 532.045, or other person having custodial control or supervision of a child or responsible for his or her welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

- (63) "Social service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;
- (64) "Staff secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;
- (65) (a) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal or delinquent and such children shall be termed status offenders. Status offenses shall include:
1. Beyond the control of school or beyond the control of parents;
 2. Habitual runaway;
 3. Habitual truant;~~[-and]~~
 4. Alcohol offenses as provided in KRS 244.085; **and**
 5. **Cannabis offenses as provided in Section 13 of this Act.**
- (b) Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew;
- (66) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;
- (67) "Transitional living support" means all benefits to which an eligible youth is entitled upon being granted extended or reinstated commitment to the cabinet by the court;
- (68) "Transition plan" means a plan that is personalized at the direction of the youth that:
- (a) Includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce

supports and employment services; and

(b) Is as detailed as the youth may elect;

(69) "Valid court order" means a court order issued by a judge to a child alleged or found to be a status offender:

(a) Who was brought before the court and made subject to the order;

(b) Whose future conduct was regulated by the order;

(c) Who was given written and verbal warning of the consequences of the violation of the order at the time the order was issued and whose attorney or parent or legal guardian was also provided with a written notice of the consequences of violation of the order, which notification is reflected in the record of the court proceedings; and

(d) Who received, before the issuance of the order, the full due process rights guaranteed by the Constitution of the United States;

(70) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed;

(71) "Youth alternative center" means a nonsecure facility, approved by the Department of Juvenile Justice, for the detention of juveniles, both prior to adjudication and after adjudication, which meets the criteria specified in KRS 15A.320; and

(72) "Youthful offender" means any person regardless of age, transferred to Circuit Court under the provisions of KRS Chapter 635 or 640 and who is subsequently convicted in Circuit Court.

➔Section 35. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program

cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

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

- (1) The Governor.
- (2) Lieutenant Governor.
- (3) Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- (4) Department of Law.
 - (a) Attorney General.
- (5) Department of the Treasury.
 - (a) Treasurer.
- (6) Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Agricultural Development Board.
 - (c) Kentucky Agricultural Finance Corporation.
- (7) Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- (1) Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 1. Office of Administrative Services.

- a. Division of Operational Support.
 - b. Division of Management Services.
- 2. Office of Operations.
 - a. Division of West Troops.
 - b. Division of East Troops.
 - c. Division of Special Enforcement.
 - d. Division of Commercial Vehicle Enforcement.
- 3. Office of Technical Services.
 - a. Division of Forensic Sciences.
 - b. Division of Information Technology.
- (b) Department of Criminal Justice Training.
- (c) Department of Corrections.
- (d) Department of Juvenile Justice.
- (e) Office of the Secretary.
- (f) Office of Drug Control Policy.
- (g) Office of Legal Services.
- (h) Office of the Kentucky State Medical Examiner.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Office of Legislative and Intergovernmental Services.
- (l) Office of Human Resource Management.
 - 1. Division of Human Resource Administration.
 - 2. Division of Employee Management.
- (m) Department of Public Advocacy.
- (n) Office of Communications.
 - 1. Information Technology Services Division.
- (o) Office of Financial Management Services.

1. Division of Financial Management.
- (p) Grants Management Division.
- (2) Education and Workforce Development Cabinet:
 - (a) Office of the Secretary.
 1. Governor's Scholars Program.
 2. Governor's School for Entrepreneurs Program.
 3. Office of the Kentucky Workforce Innovation Board.
 4. Foundation for Adult Education.
 5. Early Childhood Advisory Council.
 - (b) Office of Legal and Legislative Services.
 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Administrative Services.
 1. Division of Human Resources.
 2. Division of Operations and Support Services.
 3. Division of Fiscal Management.
 - (e) Office of Technology Services.
 - (f) Office of Educational Programs.
 - (g) Office of the Kentucky Center for Statistics.
 - (h) Board of the Kentucky Center for Statistics.
 - (i) Board of Directors for the Center for School Safety.
 - (j) Department of Education.
 1. Kentucky Board of Education.
 2. Kentucky Technical Education Personnel Board.
 3. Education Professional Standards Board.
 - (k) Department for Libraries and Archives.
 - (l) Department of Workforce Investment.

1. Office of Vocational Rehabilitation.
 - a. Division of Kentucky Business Enterprise.
 - b. Division of the Carl D. Perkins Vocational Training Center.
 - c. Division of Blind Services.
 - d. Division of Field Services.
 - e. Statewide Council for Vocational Rehabilitation.
2. Office of Unemployment Insurance.
3. Office of Employer and Apprenticeship Services.
 - a. Division of Apprenticeship.
4. Career Development Office.
5. Office of Adult Education.
6. Unemployment Insurance Commission.
7. Kentucky Apprenticeship Council.
8. Division of Technical Assistance.
- (m) Foundation for Workforce Development.
- (n) Kentucky Workforce Investment Board.
- (o) Kentucky Commission on the Deaf and Hard of Hearing.
- (p) Kentucky Educational Television.
- (q) Kentucky Environmental Education Council.
- (3) Energy and Environment Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Legal Services.
 - a. Legal Division I.
 - b. Legal Division II.
 3. Office of Administrative Hearings.
 4. Office of Communication.

5. Mine Safety Review Commission.
 6. Office of Kentucky Nature Preserves.
 7. Kentucky Public Service Commission.
- (b) Department for Environmental Protection.
1. Office of the Commissioner.
 2. Division for Air Quality.
 3. Division of Water.
 4. Division of Environmental Program Support.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Division of Mine Permits.
 3. Division of Mine Reclamation and Enforcement.
 4. Division of Abandoned Mine Lands.
 5. Division of Oil and Gas.
 6. Division of Mine Safety.
 7. Division of Forestry.
 8. Division of Conservation.
 9. Office of the Reclamation Guaranty Fund.
- (d) Office of Energy Policy.
1. Division of Energy Assistance.
- (e) Office of Administrative Services.
1. Division of Human Resources Management.
 2. Division of Financial Management.
 3. Division of Information Services.

- (4) Public Protection Cabinet.
 - (a) Office of the Secretary.
 - 1. Office of Communications and Public Outreach.
 - 2. Office of Legal Services.
 - a. Insurance Legal Division.
 - b. Charitable Gaming Legal Division.
 - c. Alcoholic Beverage Control Legal Division.
 - d. Housing, Buildings and Construction Legal Division.
 - e. Financial Institutions Legal Division.
 - f. Professional Licensing Legal Division.
 - g. Cannabis Control Legal Division.**
 - 3. Office of Administrative Hearings.
 - 4. Office of Administrative Services.
 - a. Division of Human Resources.
 - b. Division of Fiscal Responsibility.
 - (b) Office of Claims and Appeals.
 - 1. Board of Tax Appeals.
 - 2. Board of Claims.
 - 3. Crime Victims Compensation Board.
 - (c) Kentucky Boxing and Wrestling Commission.
 - (d) Kentucky Horse Racing Commission.
 - 1. Office of Executive Director.
 - a. Division of Pari-mutuel Wagering and Compliance.
 - b. Division of Stewards.
 - c. Division of Licensing.
 - d. Division of Enforcement.
 - e. Division of Incentives and Development.

- f. Division of Veterinary Services.
- (e) Department of Alcoholic Beverage Control.
 - 1. Division of Distilled Spirits.
 - 2. Division of Malt Beverages.
 - 3. Division of Enforcement.
- (f) Department of Charitable Gaming.
 - 1. Division of Licensing and Compliance.
 - 2. Division of Enforcement.
- (g) Department of Financial Institutions.
 - 1. Division of Depository Institutions.
 - 2. Division of Non-Depository Institutions.
 - 3. Division of Securities.
- (h) Department of Housing, Buildings and Construction.
 - 1. Division of Fire Prevention.
 - 2. Division of Plumbing.
 - 3. Division of Heating, Ventilation, and Air Conditioning.
 - 4. Division of Building Code Enforcement.
- (i) Department of Insurance.
 - 1. Division of Health and Life Insurance and Managed Care.
 - 2. Division of Property and Casualty Insurance.
 - 3. Division of Administrative Services.
 - 4. Division of Financial Standards and Examination.
 - 5. Division of Licensing.
 - 6. Division of Insurance Fraud Investigation.
 - 7. Division of Consumer Protection.
- (j) Department of Professional Licensing.
 - 1. Real Estate Authority.

(k) Cannabis Control Board.

- 1. The Medical Cannabis Usage Advisory Committee.**
- 2. The Adult Cannabis Usage Advisory Committee.**
- 3. The Cannabis Cultivation Advisory Committee.**
- 4. The Social and Economic Equity Advisory Committee.**

(l) Department of Cannabis Control.

(m) The Social Impact Council.

(5) Labor Cabinet.

(a) Office of the Secretary.

1. Office of General Counsel.
 - a. Workplace Standards Legal Division.
 - b. Workers' Claims Legal Division.
2. Office of Administrative Services.
 - a. Division of Human Resources Management.
 - b. Division of Fiscal Management.
 - c. Division of Professional Development and Organizational Management.
 - d. Division of Information Technology and Support Services.
3. Office of Inspector General.

(b) Department of Workplace Standards.

1. Division of Occupational Safety and Health Compliance.
2. Division of Occupational Safety and Health Education and Training.
3. Division of Wages and Hours.

(c) Department of Workers' Claims.

1. Division of Workers' Compensation Funds.
2. Office of Administrative Law Judges.

3. Division of Claims Processing.
4. Division of Security and Compliance.
5. Division of Information Services.
6. Division of Specialist and Medical Services.
7. Workers' Compensation Board.
- (d) Workers' Compensation Funding Commission.
- (e) Occupational Safety and Health Standards Board.
- (f) State Labor Relations Board.
- (g) Employers' Mutual Insurance Authority.
- (h) Kentucky Occupational Safety and Health Review Commission.
- (i) Workers' Compensation Nominating Committee.
- (6) Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Project Development.
 2. Office of Project Delivery and Preservation.
 3. Office of Highway Safety.
 4. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Aviation.
 - (d) Department of Rural and Municipal Aid.
 1. Office of Local Programs.
 2. Office of Rural and Secondary Roads.
 - (e) Office of the Secretary.
 1. Office of Public Affairs.
 2. Office for Civil Rights and Small Business Development.
 3. Office of Budget and Fiscal Management.
 4. Office of Inspector General.

- 5. Secretary's Office of Safety.
- (f) Office of Support Services.
- (g) Office of Transportation Delivery.
- (h) Office of Audits.
- (i) Office of Human Resource Management.
- (j) Office of Information Technology.
- (k) Office of Legal Services.
- (7) Cabinet for Economic Development:
 - (a) Office of the Secretary.
 - 1. Office of Legal Services.
 - 2. Department for Business Development.
 - 3. Department for Financial Services.
 - a. Kentucky Economic Development Finance Authority.
 - b. Finance and Personnel Division.
 - c. IT and Resource Management Division.
 - d. Compliance Division.
 - e. Incentive Administration Division.
 - f. Bluegrass State Skills Corporation.
 - 4. Office of Marketing and Public Affairs.
 - a. Communications Division.
 - b. Graphics Design Division.
 - 5. Office of Workforce, Community Development, and Research.
 - 6. Office of Entrepreneurship and Small Business Innovation.
 - a. Commission on Small Business Innovation and Advocacy.
- (8) Cabinet for Health and Family Services:
 - (a) Office of the Secretary.
 - 1. Office of the Ombudsman and Administrative Review.

2. Office of Public Affairs.
 3. Office of Legal Services.
 4. Office of Inspector General.
 5. Office of Human Resource Management.
 6. Office of Finance and Budget.
 7. Office of Legislative and Regulatory Affairs.
 8. Office of Administrative Services.
 9. Office of Application Technology Services.
- (b) Department for Public Health.
 - (c) Department for Medicaid Services.
 - (d) Department for Behavioral Health, Developmental and Intellectual Disabilities.
 - (e) Department for Aging and Independent Living.
 - (f) Department for Community Based Services.
 - (g) Department for Income Support.
 - (h) Department for Family Resource Centers and Volunteer Services.
 - (i) Office for Children with Special Health Care Needs.
 - (j) Office of Health Data and Analytics.
- (9) Finance and Administration Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of the Inspector General.
 - (c) Office of Legislative and Intergovernmental Affairs.
 - (d) Office of General Counsel.
 - (e) Office of the Controller.
 - (f) Office of Administrative Services.
 - (g) Office of Policy and Audit.
 - (h) Department for Facilities and Support Services.

- (i) Department of Revenue.
 - (j) Commonwealth Office of Technology.
 - (k) State Property and Buildings Commission.
 - (l) Office of Equal Employment Opportunity and Contract Compliance.
 - (m) Kentucky Employees Retirement Systems.
 - (n) Commonwealth Credit Union.
 - (o) State Investment Commission.
 - (p) Kentucky Housing Corporation.
 - (q) Kentucky Local Correctional Facilities Construction Authority.
 - (r) Kentucky Turnpike Authority.
 - (s) Historic Properties Advisory Commission.
 - (t) Kentucky Higher Education Assistance Authority.
 - (u) Kentucky River Authority.
 - (v) Kentucky Teachers' Retirement System Board of Trustees.
 - (w) Executive Branch Ethics Commission.
- (10) Tourism, Arts and Heritage Cabinet:
- (a) Kentucky Department of Tourism.
 - 1. Division of Tourism Services.
 - 2. Division of Marketing and Administration.
 - 3. Division of Communications and Promotions.
 - (b) Kentucky Department of Parks.
 - 1. Division of Information Technology.
 - 2. Division of Human Resources.
 - 3. Division of Financial Operations.
 - 4. Division of Facilities Management.
 - 5. Division of Facilities Maintenance.
 - 6. Division of Customer Services.

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

9. Division of Sales.
 10. Division of Security and Traffic Control.
 11. Division of Information Technology.
 12. Division of the Louisville Arena.
 13. Division of Fiscal and Contract Management.
 14. Division of Access Control.
- (f) Office of the Secretary.
1. Office of Finance.
 2. Office of Government Relations and Administration.
- (g) Office of Legal Affairs.
- (h) Office of Human Resources.
- (i) Office of Public Affairs and Constituent Services.
- (j) Office of Arts and Cultural Heritage.
- (k) Kentucky African-American Heritage Commission.
- (l) Kentucky Foundation for the Arts.
- (m) Kentucky Humanities Council.
- (n) Kentucky Heritage Council.
- (o) Kentucky Arts Council.
- (p) Kentucky Historical Society.
1. Division of Museums.
 2. Division of Oral History and Educational Outreach.
 3. Division of Research and Publications.
 4. Division of Administration.
- (q) Kentucky Center for the Arts.
1. Division of Governor's School for the Arts.
- (r) Kentucky Artisans Center at Berea.
- (s) Northern Kentucky Convention Center.

- (t) Eastern Kentucky Exposition Center.
- (11) Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department of Human Resources Administration.
 - (c) Office of Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Governmental Services Center.
 - (h) Department of Employee Insurance.
 - (i) Office of Diversity, Equality, and Training.
 - (j) Office of Public Affairs.

III. Other departments headed by appointed officers:

- (1) Council on Postsecondary Education.
- (2) Department of Military Affairs.
- (3) Department for Local Government.
- (4) Kentucky Commission on Human Rights.
- (5) Kentucky Commission on Women.
- (6) Department of Veterans' Affairs.
- (7) Kentucky Commission on Military Affairs.
- (8) Office of Minority Empowerment.
- (9) Governor's Council on Wellness and Physical Activity.
- (10) Kentucky Communications Network Authority.

➔Section 36. For the initial appointments of the thirteen at-large citizen members of the Social Impact Council established in Section 16 of this Act, five appointments shall be for four-year terms, four appointments shall be for three-year terms, and four appointments shall be for two-year terms.

➔Section 37. Cannabis may first be legally sold for adult use and medical use to consumers in the Commonwealth beginning July 1, 2024. Since cultivation and retail operations relating to cannabis are required before legal sales may begin, the wholesale tax shall apply on or after July 1, 2023. This section shall not be construed to delay or otherwise modify the effective date of Sections 1 to 35 of this Act.