

1 AN ACT relating to possession of a controlled substance.

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

3 ➔Section 1. KRS 218A.010 is amended to read as follows:

4 As used in this chapter:

- 5 (1) "Administer" means the direct application of a controlled substance, whether by  
6 injection, inhalation, ingestion, or any other means, to the body of a patient or  
7 research subject by:
- 8 (a) A practitioner or by his or her authorized agent under his or her immediate  
9 supervision and pursuant to his or her order; or
- 10 (b) The patient or research subject at the direction and in the presence of the  
11 practitioner;
- 12 (2) "Anabolic steroid" means any drug or hormonal substance chemically and  
13 pharmacologically related to testosterone that promotes muscle growth and includes  
14 those substances classified as Schedule III controlled substances pursuant to KRS  
15 218A.020 but does not include estrogens, progestins, and antisteroids;
- 16 (3) "Cabinet" means the Cabinet for Health and Family Services;
- 17 (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of  
18 its salts, isomers, or salts of isomers;
- 19 (5) "Certified community based palliative care program" means a palliative care  
20 program which has received certification from the Joint Commission;
- 21 (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- 22 (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical  
23 and geometric isomers, and salts of isomers;
- 24 (8) "Controlled substance" means methamphetamine, or a drug, substance, or  
25 immediate precursor in Schedules I through V and includes a controlled substance  
26 analogue;
- 27 (9) (a) "Controlled substance analogue," except as provided in paragraph (b) of this

1 subsection, means a substance:

- 2 1. The chemical structure of which is substantially similar to the structure  
3 of a controlled substance in Schedule I or II; and
- 4 2. Which has a stimulant, depressant, or hallucinogenic effect on the  
5 central nervous system that is substantially similar to or greater than the  
6 stimulant, depressant, or hallucinogenic effect on the central nervous  
7 system of a controlled substance in Schedule I or II; or
- 8 3. With respect to a particular person, which such person represents or  
9 intends to have a stimulant, depressant, or hallucinogenic effect on the  
10 central nervous system that is substantially similar to or greater than the  
11 stimulant, depressant, or hallucinogenic effect on the central nervous  
12 system of a controlled substance in Schedule I or II.

13 (b) Such term does not include:

- 14 1. Any substance for which there is an approved new drug application;
- 15 2. With respect to a particular person, any substance if an exemption is in  
16 effect for investigational use for that person pursuant to federal law to  
17 the extent conduct with respect to such substance is pursuant to such  
18 exemption; or
- 19 3. Any substance to the extent not intended for human consumption before  
20 the exemption described in subparagraph 2. of this paragraph takes  
21 effect with respect to that substance;

22 (10) "Counterfeit substance" means a controlled substance which, or the container or  
23 labeling of which, without authorization, bears the trademark, trade name, or other  
24 identifying mark, imprint, number, or device, or any likeness thereof, of a  
25 manufacturer, distributor, or dispenser other than the person who in fact  
26 manufactured, distributed, or dispensed the substance;

27 (11) "Dispense" means to deliver a controlled substance to an ultimate user or research

1 subject by or pursuant to the lawful order of a practitioner, including the packaging,  
2 labeling, or compounding necessary to prepare the substance for that delivery;

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

5 (13) "Distribute" means to deliver other than by administering or dispensing a controlled  
6 substance;

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

9 (15) "Drug" means:

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

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

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

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

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

20 (16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts,  
21 isomers, or salts of isomers;

22 (17) "Fentanyl derivative" means a substance containing any quantity of any chemical  
23 compound, except compounds specifically scheduled as controlled substances by  
24 statute or by administrative regulation pursuant to this chapter, which is structurally  
25 derived from 1-ethyl-4-(N-phenylamido) piperadine:

26 (a) By substitution:

27 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or

- 1                    ethyloxotetrazole ring system; and
- 2                    2.    Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl,
- 3                    or furanyl group; and
- 4                    (b)   Which may be further modified in one (1) or more of the following ways:
- 5                    1.    By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,
- 6                    haloalkyl, hydroxyl, or halide substituents;
- 7                    2.    By substitution on the piperadine ring to any extent with alkyl, allyl,
- 8                    alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-
- 9                    positions;
- 10                   3.    By substitution on the piperadine ring to any extent with a phenyl,
- 11                   alkoxy, or carboxylate ester substituent at the 4- position; or
- 12                   4.    By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or
- 13                   hydroxy substituents;
- 14                   (18) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
- 15                   prosecution only, means an in-person medical examination of the patient conducted
- 16                   by the prescribing practitioner or other health-care professional routinely relied
- 17                   upon in the ordinary course of his or her practice, at which time the patient is
- 18                   physically examined and a medical history of the patient is obtained. "In-person"
- 19                   includes telehealth examinations. This subsection shall not be applicable to hospice
- 20                   providers licensed pursuant to KRS Chapter 216B;
- 21                   (19) "Hazardous chemical substance" includes any chemical substance used or intended
- 22                   for use in the illegal manufacture of a controlled substance as defined in this section
- 23                   or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
- 24                   which:
- 25                   (a)   Poses an explosion hazard;
- 26                   (b)   Poses a fire hazard; or
- 27                   (c)   Is poisonous or injurious if handled, swallowed, or inhaled;

- 1 (20) "Heroin" means a substance containing any quantity of heroin, or any of its salts,  
2 isomers, or salts of isomers;
- 3 (21) "Hydrocodone combination product" means a drug with:
- 4 (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
5 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
6 milligrams per dosage unit, with a fourfold or greater quantity of an  
7 isoquinoline alkaloid of opium; or
- 8 (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of  
9 its salts, per one hundred (100) milliliters or not more than fifteen (15)  
10 milligrams per dosage unit, with one (1) or more active, nonnarcotic  
11 ingredients in recognized therapeutic amounts;
- 12 (22) "Immediate precursor" means a substance which is the principal compound  
13 commonly used or produced primarily for use, and which is an immediate chemical  
14 intermediary used or likely to be used in the manufacture of a controlled substance  
15 or methamphetamine, the control of which is necessary to prevent, curtail, or limit  
16 manufacture;
- 17 (23) "Industrial hemp" has the same meaning as in KRS 260.850;
- 18 (24) "Industrial hemp products" has the same meaning as in KRS 260.850;
- 19 (25) "Intent to manufacture" means any evidence which demonstrates a person's  
20 conscious objective to manufacture a controlled substance or methamphetamine.  
21 Such evidence includes but is not limited to statements and a chemical substance's  
22 usage, quantity, manner of storage, or proximity to other chemical substances or  
23 equipment used to manufacture a controlled substance or methamphetamine;
- 24 (26) "Isomer" means the optical isomer, except the Cabinet for Health and Family  
25 Services may include the optical, positional, or geometric isomer to classify any  
26 substance pursuant to KRS 218A.020;
- 27 (27) "Manufacture," except as provided in KRS 218A.1431, means the production,

1 preparation, propagation, compounding, conversion, or processing of a controlled  
2 substance, either directly or indirectly by extraction from substances of natural  
3 origin or independently by means of chemical synthesis, or by a combination of  
4 extraction and chemical synthesis, and includes any packaging or repackaging of the  
5 substance or labeling or relabeling of its container except that this term does not  
6 include activities:

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

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

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

14 (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the  
15 seeds thereof; the resin extracted from any part of the plant; and every compound,  
16 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin  
17 or any compound, mixture, or preparation which contains any quantity of these  
18 substances. The term "marijuana" does not include:

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

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

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

- 1 (d) For persons participating in a clinical trial or in an expanded access program,  
2 a drug or substance approved for the use of those participants by the United  
3 States Food and Drug Administration;
- 4 (e) A cannabidiol product derived from industrial hemp, as defined in KRS  
5 260.850; or
- 6 (f) A cannabidiol product approved as a prescription medication by the United  
7 States Food and Drug Administration;
- 8 (29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,  
9 means an accounting of a patient's medical background, including but not limited to  
10 prior medical conditions, prescriptions, and family background;
- 11 (30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,  
12 means a lawful order of a specifically identified practitioner for a specifically  
13 identified patient for the patient's health-care needs. "Medical order" may or may  
14 not include a prescription drug order;
- 15 (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,  
16 means a record, other than for financial or billing purposes, relating to a patient,  
17 kept by a practitioner as a result of the practitioner-patient relationship;
- 18 (32) "Methamphetamine" means any substance that contains any quantity of  
19 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 20 (33) "Narcotic drug" means any of the following, whether produced directly or indirectly  
21 by extraction from substances of vegetable origin, or independently by means of  
22 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 23 (a) Opium and opiate, and any salt, compound, derivative, or preparation of  
24 opium or opiate;
- 25 (b) Any salt, compound, isomer, derivative, or preparation thereof which is  
26 chemically equivalent or identical with any of the substances referred to in  
27 paragraph (a) of this subsection, but not including the isoquinoline alkaloids

- 1 of opium;
- 2 (c) Opium poppy and poppy straw;
- 3 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
- 4 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
- 5 removed;
- 6 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 7 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 8 (g) Any compound, mixture, or preparation which contains any quantity of any of
- 9 the substances referred to in paragraphs (a) to (f) of this subsection;
- 10 (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining
- 11 liability similar to morphine or being capable of conversion into a drug having
- 12 addiction-forming or addiction-sustaining liability. It does not include, unless
- 13 specifically designated as controlled under KRS 218A.020, the dextrorotatory
- 14 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
- 15 include its racemic and levorotatory forms;
- 16 (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its
- 17 seeds;
- 18 (36) "Person" means individual, corporation, government or governmental subdivision
- 19 or agency, business trust, estate, trust, partnership or association, or any other legal
- 20 entity;
- 21 (37) "Physical injury" has the same meaning it has in KRS 500.080;
- 22 (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 23 (39) "Pharmacist" means a natural person licensed by this state to engage in the practice
- 24 of the profession of pharmacy;
- 25 (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
- 26 investigator, optometrist as authorized in KRS 320.240, advanced practice
- 27 registered nurse as authorized under KRS 314.011, or other person licensed,



- 1 registered, or otherwise permitted by state or federal law to acquire, distribute,  
2 dispense, conduct research with respect to, or to administer a controlled substance  
3 in the course of professional practice or research in this state. "Practitioner" also  
4 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered  
5 nurse authorized under KRS 314.011 who is a resident of and actively practicing in  
6 a state other than Kentucky and who is licensed and has prescriptive authority for  
7 controlled substances under the professional licensing laws of another state, unless  
8 the person's Kentucky license has been revoked, suspended, restricted, or probated,  
9 in which case the terms of the Kentucky license shall prevail;
- 10 (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal  
11 prosecution only, means a medical relationship that exists between a patient and a  
12 practitioner or the practitioner's designee, after the practitioner or his or her  
13 designee has conducted at least one (1) good faith prior examination;
- 14 (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or  
15 combination or mixture of drugs or medicines, or proprietary preparation, signed or  
16 given or authorized by a medical, dental, chiropody, veterinarian, optometric  
17 practitioner, or advanced practice registered nurse, and intended for use in the  
18 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other  
19 animals;
- 20 (43) "Prescription blank," with reference to a controlled substance, means a document  
21 that meets the requirements of KRS 218A.204 and 217.216;
- 22 (44) "Presumptive probation" means a sentence of probation not to exceed the maximum  
23 term specified for the offense, subject to conditions otherwise authorized by law,  
24 that is presumed to be the appropriate sentence for certain offenses designated in  
25 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That  
26 presumption shall only be overcome by a finding on the record by the sentencing  
27 court of substantial and compelling reasons why the defendant cannot be safely and

1 effectively supervised in the community, is not amenable to community-based  
2 treatment, or poses a significant risk to public safety;

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

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

9 (47) **"Residue" means the substance left after evaporation, distillation, combustion, or**  
10 **consumption;**

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

19 **(49)**~~[(48)]~~ "Second or subsequent offense" means that for the purposes of this chapter an  
20 offense is considered as a second or subsequent offense, if, prior to his or her  
21 conviction of the offense, the offender has at any time been convicted under this  
22 chapter, or under any statute of the United States, or of any state relating to  
23 substances classified as controlled substances or counterfeit substances, except that  
24 a prior conviction for a nontrafficking offense shall be treated as a prior offense  
25 only when the subsequent offense is a nontrafficking offense. For the purposes of  
26 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not  
27 constitute a conviction under this chapter;

1 ~~(50)~~~~(49)~~ "Sell" means to dispose of a controlled substance to another person for  
2 consideration or in furtherance of commercial distribution;

3 ~~(51)~~~~(50)~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

4 ~~(52)~~~~(51)~~ "Synthetic cannabinoids or piperazines" means any chemical compound which  
5 is not approved by the United States Food and Drug Administration or, if approved,  
6 which is not dispensed or possessed in accordance with state and federal law, that  
7 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-  
8 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-  
9 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexamabinol (HU-211); or any  
10 compound in the following structural classes:

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

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

26 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with  
27 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,

1            alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,  
2            or 2-(4-morpholinyl)ethyl group whether or not further substituted in the  
3            indole ring to any extent and whether or not substituted in the phenyl ring to  
4            any extent. Examples of this structural class include but are not limited to  
5            AM-630, AM-2233, AM-694, Pravadolone (WIN 48,098), and RCS-4;

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

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

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

27           (g) Naphthylmethylindenes: Any compound containing a 1-(1-

1 naphthylmethyl)indene structure with substitution at the 3-position of the  
2 indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,  
3 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether  
4 or not further substituted in the indene ring to any extent and whether or not  
5 substituted in the naphthyl ring to any extent. Examples of this structural class  
6 include but are not limited to JWH-176;

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

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

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

25 ~~(53)~~~~(52)~~ "Synthetic cathinones" means any chemical compound which is not approved  
26 by the United States Food and Drug Administration or, if approved, which is not  
27 dispensed or possessed in accordance with state and federal law (not including

bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

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

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

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

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

~~(54)~~~~(53)~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

~~(55)~~~~(54)~~ "Telehealth" has the same meaning it has in KRS 311.550;

~~(56)~~~~(55)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- 1 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
- 2 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
- 3 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

4 **(57) "Trace amount" means an amount of a substance which approaches the limit of**  
5 **detection and is incapable of being accurately measured;**

6 **(58)**~~(56)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture,  
7 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,  
8 dispense, or sell a controlled substance;

9 **(59)**~~(57)~~ "Transfer" means to dispose of a controlled substance to another person  
10 without consideration and not in furtherance of commercial distribution; and

11 **(60)**~~(58)~~ "Ultimate user" means a person who lawfully possesses a controlled substance  
12 for his or her own use or for the use of a member of his or her household or for  
13 administering to an animal owned by him or her or by a member of his or her  
14 household.

15 ➔Section 2. KRS 218A.1415 is amended to read as follows:

16 (1) A person is guilty of possession of a controlled substance in the first degree when  
17 he or she knowingly and unlawfully possesses:

- 18 (a) A controlled substance that is classified in Schedules I or II and is a narcotic  
19 drug;
- 20 (b) A controlled substance analogue;
- 21 (c) Methamphetamine;
- 22 (d) Lysergic acid diethylamide;
- 23 (e) Phencyclidine;
- 24 (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of  
25 isomers, and analogues; or
- 26 (g) Flunitrazepam, including its salts, isomers, and salts of isomers.

27 (2) Possession of a controlled substance in the first degree is:

1        **(a) For residue or a trace amount, a Class A misdemeanor; and**

2        **(b) For any other amount,** a Class D felony subject to the following provisions:

3            ~~1.[(a)]~~        The maximum term of incarceration shall be no greater than three  
4                                (3) years, notwithstanding KRS Chapter 532;

5            ~~2.[(b)]~~        For a person's first or second offense under this section, he or she  
6                                may be subject to a period of:

7                                ~~a.[(1)]~~Deferred prosecution pursuant to KRS 218A.14151; or

8                                ~~b.[(2)]~~Presumptive probation;

9            ~~3.[(c)]~~        Deferred prosecution under **subparagraph 2. of this** paragraph ~~[(b)]~~  
10                                ~~of this subsection~~ shall be the preferred alternative for a first offense;  
11                                and

12            ~~4.[(d)]~~        If a person does not enter a deferred prosecution program for his or  
13                                her first or second offense, he or she shall be subject to a period of  
14                                presumptive probation, unless a court determines the defendant is not  
15                                eligible for presumptive probation as defined in KRS 218A.010.

16        ➔Section 3. KRS 218A.1416 is amended to read as follows:

17        (1) A person is guilty of possession of a controlled substance in the second degree  
18                when he or she knowingly and unlawfully possesses: a controlled substance  
19                classified in Schedules I or II which is not a narcotic drug; or specified in KRS  
20                218A.1415; or a controlled substance classified in Schedule III; but not synthetic  
21                drugs, salvia, or marijuana.

22        (2) Possession of a controlled substance in the second degree is:

23            **(a) For residue or a trace amount, a Class B misdemeanor; and**

24            **(b) For any other amount,** a Class A misdemeanor.

25        ➔Section 4. KRS 218A.1417 is amended to read as follows:

26        (1) A person is guilty of possession of a controlled substance in the third degree when  
27                he or she knowingly and unlawfully possesses a controlled substance classified in



- 1           Schedules IV or V.
- 2   (2)   Possession of a controlled substance in the third degree is:
- 3           (a)   For residue or a trace amount, a Class B misdemeanor; and
- 4           (b)   For any other amount, a Class A misdemeanor.