

218A.500 Definitions for KRS 218A.500 and 218A.510 -- Unlawful practices -- Substance abuse treatment outreach program -- Informing peace officer about presence of needles or other sharp objects before search -- Retail pharmacy exception -- Narcotic drug testing products-- Penalties.

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

- (1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. The term "drug paraphernalia" does not include medicinal cannabis accessories as defined in KRS 218B.010. 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) Except as provided in subsection (7) of this section, testing equipment used, intended for use, or designed for use 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.
- (c) 1. Except as provided in subparagraph 2. of this paragraph, narcotic drug testing products utilized in determining whether a controlled substance contains a synthetic opioid or its analogues shall not be deemed drug paraphernalia under this section.
- 2. A narcotic drug testing product that is utilized in conjunction with the importation, manufacture, or selling of fentanyl or a fentanyl analogue in violation of this chapter shall be deemed drug paraphernalia under this section.
- (d) Notwithstanding any other statute to the contrary, possession of a narcotic drug testing product used in accordance with paragraph (c)1. of this subsection that contains residual or trace amounts of a synthetic opioid or an analogue thereof shall not be prosecuted as possession of a controlled substance under any provision of this chapter.
- (8) Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

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History: Amended 2023 Ky. Acts ch. 146, sec. 39, effective June 29, 2023; and ch. 166, sec. 1, effective June 29, 2023. -- Amended 2021 Ky. Acts ch. 56, sec. 2, effective June 29, 2021. -- Amended 2015 Ky. Acts ch. 66, sec. 18, effective March 25, 2015. -- Amended 2010 Ky. Acts ch. 149, sec. 14, effective April 13, 2010; and ch. 160, sec. 14, effective April 26, 2010. -- Amended 1992 Ky. Acts ch. 441, sec. 8, effective July 14, 1992. -- Created 1982 Ky. Acts ch. 413, sec. 2, effective July 15, 1982.

Legislative Research Commission Note (6/29/2023). This statute was amended by 2023 Ky. Acts chs. 146 and 166, which do not appear to be in conflict and have been codified together.

218A.010 Definitions for chapter.

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

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner;
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances classified as Schedule III controlled substances pursuant to KRS 218A.020 but does not include estrogens, progestins, and anticosteroids;
- (3) "Cabinet" means the Cabinet for Health and Family Services;
- (4) "Carfentanil" means any substance containing any quantity of carfentanil, or any of its salts, isomers, or salts of isomers;
- (5) "Certified community based palliative care program" means a palliative care program which has received certification from the Joint Commission;
- (6) "Child" means any person under the age of majority as specified in KRS 2.015;
- (7) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (8) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;
- (9)
 - (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
 - (b) Such term does not include:
 1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such

exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (10) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (11) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (12) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (13) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (14) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (15) "Drug" means:
 - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.

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

- (16) "Fentanyl" means a substance containing any quantity of fentanyl, or any of its salts, isomers, or salts of isomers;
- (17) "Fentanyl derivative" means a substance containing any quantity of any chemical compound, except compounds specifically scheduled as controlled substances by statute or by administrative regulation pursuant to this chapter, which is structurally derived from 1-ethyl-4-(N-phenylamido) piperidine:
 - (a) By substitution:
 1. At the 2-position of the 1-ethyl group with a phenyl, furan, thiophene, or ethyloxotetrazole ring system; and
 2. Of the terminal amido hydrogen atom with an alkyl, alkoxy, cycloalkyl, or furanyl group; and
 - (b) Which may be further modified in one (1) or more of the following ways:
 1. By substitution on the N-phenyl ring to any extent with alkyl, alkoxy,

- haloalkyl, hydroxyl, or halide substituents;
 - 2. By substitution on the piperidine ring to any extent with alkyl, allyl, alkoxy, hydroxy, or halide substituents at the 2-, 3-, 5-, and/or 6-positions;
 - 3. By substitution on the piperidine ring to any extent with a phenyl, alkoxy, or carboxylate ester substituent at the 4- position; or
 - 4. By substitution on the 1-ethyl group to any extent with alkyl, alkoxy, or hydroxy substituents;
- (18) "Good-faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;
- (19) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled;
- (20) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;
- (21) "Hydrocodone combination product" means a drug with:
- (a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or
 - (b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;
- (22) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;
- (23) "Industrial hemp" has the same meaning as in KRS 260.850;
- (24) "Industrial hemp products" has the same meaning as in KRS 260.850;
- (25) "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's

usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;

- (26) "Isomer" means the optical isomer, except the Cabinet for Health and Family Services may include the optical, positional, or geometric isomer to classify any substance pursuant to KRS 218A.020;
- (27) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
 - (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (28) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:
 - (a) Industrial hemp that is in the possession, custody, or control of a person who holds a license issued by the Department of Agriculture permitting that person to cultivate, handle, or process industrial hemp;
 - (b) Industrial hemp products that do not include any living plants, viable seeds, leaf materials, or floral materials;
 - (c) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine;
 - (d) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;
 - (e) A cannabidiol product derived from industrial hemp, as defined in KRS 260.850;
 - (f) For the purpose of conducting scientific research, a cannabinoid product derived from industrial hemp, as defined in KRS 260.850;
 - (g) A cannabinoid product approved as a prescription medication by the United States Food and Drug Administration; or
 - (h) Medicinal cannabis as defined in KRS 218B.010;

- (29) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;
- (30) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;
- (31) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;
- (32) "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;
- (33) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;
- (34) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.020, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;
- (35) "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds;
- (36) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;
- (37) "Physical injury" has the same meaning it has in KRS 500.080;
- (38) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- (39) "Pharmacist" means a natural person licensed by this state to engage in the practice

of the profession of pharmacy;

- (40) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, physician assistant as authorized under KRS 311.858, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;
- (41) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good-faith prior examination;
- (42) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (43) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (44) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (45) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (46) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;
- (47) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of

such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;

- (48) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (49) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (50) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (51) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:
 - (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
 - (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
 - (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylinroles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
- (f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;
- (h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;
- (i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or
- (j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not

dispensed or possessed in accordance with state and federal law;

- (52) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- (a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
 - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
 - (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (53) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (54) "Telehealth" has the same meaning it has in KRS 211.332;
- (55) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:
- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (56) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (57) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (58) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

Effective: June 29, 2023

History: Amended 2023 Ky. Acts ch. 146, sec. 34, effective June 29, 2023. -- Amended 2021 Ky. Acts ch. 123, sec. 1, effective June 29, 2021. -- Amended 2020 Ky. Acts ch. 39, sec. 9, effective July 15, 2020. -- Amended 2019 Ky. Acts ch. 84, sec. 4, effective June 27, 2019. -- Amended 2017 Ky. Acts ch. 45, sec. 12, effective March 20, 2017; ch. 61, sec. 1, effective June 29, 2017; and ch. 168, sec. 1, effective June 29, 2017. -- Amended 2016 Ky. Acts ch. 135, sec. 1, effective April 27, 2016. -- Amended 2014 Ky. Acts ch. 112, sec. 1, effective April 10, 2014. -- Amended 2013 Ky. Acts ch. 26, sec. 1, effective March 19, 2013; and ch. 134, sec. 15, effective June 25, 2013. -- Amended 2012 Ky. Acts ch. 108, sec. 3, effective April 11, 2012. -- Amended 2011 Ky. Acts ch. 2, sec. 5, effective June 8, 2011; and ch. 45, sec. 15, effective March 16, 2011. -- Amended 2010 Ky. Acts ch. 85, sec. 42, effective July 15, 2010; ch. 149, sec. 4, effective April 13, 2010; and ch. 160, sec. 4, effective April 26, 2010. -- Amended 2009 Ky. Acts ch. 12, sec. 48, effective June 25, 2009. -- Amended 2007 Ky. Acts ch. 124, sec. 1, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 5, sec. 4, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 150, sec. 7, effective June 20, 2005; and ch. 99, sec. 527, effective June 20, 2005. -- Amended 2003 Ky. Acts ch. 51, sec. 3, effective June 24, 2003. -- Amended 1998 Ky. Acts ch. 301, sec. 12, effective July 15, 1998; and ch. 606, sec. 62, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 376, sec. 3, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 412, sec. 2, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 441, sec. 1, effective July 14, 1992. -- Amended 1974 Ky. Acts ch. 225, sec. 5, effective June 21, 1974 -- Created 1972 Ky. Acts ch. 226, sec. 2, effective July 1, 1972.

Legislative Research Commission Note (4/10/2014). 2014 Ky. Acts ch. 112, sec. 2 provided that the amendments made to this statute in Section 1 of that Act shall be known and may be cited as the "Clara Madeline Gilliam Act."

Legislative Research Commission Note (4/11/2012). Under the authority of KRS 7.136(1), the Reviser of Statutes has altered the format of the text in subsection (48) of this statute during codification. The words in the text were not changed.

218A.1423 Marijuana cultivation -- Penalties. (Effective until January 1, 2025)

- (1) A person is guilty of marijuana cultivation when he knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it.
- (2) Marijuana cultivation of five (5) or more plants of marijuana is:
 - (a) For a first offense a Class D felony.
 - (b) For a second or subsequent offense a Class C felony.
- (3) Marijuana cultivation of fewer than five (5) plants is:
 - (a) For a first offense a Class A misdemeanor.
 - (b) For a second or subsequent offense a Class D felony.
- (4) The planting, cultivating, or harvesting of five (5) or more marijuana plants shall be prima facie evidence that the marijuana plants were planted, cultivated, or harvested for the purpose of sale or transfer.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 441, sec. 20, effective July 14, 1992.

218A.1411 Trafficking in controlled substance in or near school -- Exception for misdemeanor salvia offenses -- Penalty.

- (1) Any person who unlawfully traffics in a controlled substance classified in Schedules I, II, III, IV or V, or a controlled substance analogue in any building used primarily for classroom instruction in a school or on any premises located within one thousand (1,000) feet of any school building used primarily for classroom instruction shall be guilty of a Class D felony, unless a more severe penalty is set forth in this chapter, in which case the higher penalty shall apply. The measurement shall be taken in a straight line from the nearest wall of the school to the place of violation.
- (2) The provisions of subsection (1) of this section shall not apply to any misdemeanor offense relating to salvia.

Effective: April 11, 2012

History: Amended 2012 Ky. Acts ch. 108, sec. 8, effective April 11, 2012. -- Amended 2011 Ky. Acts ch. 2, sec. 8, effective June 8, 2011; and ch. 45, sec. 8, effective March 16, 2011.-- Amended 2010 Ky. Acts ch. 149, sec. 9, effective April 13, 2010; and ch. 160, sec. 9, effective April 26, 2010. -- Created 1992 Ky. Acts ch. 441, sec. 11, effective July 14, 1992.

218A.1401 Selling controlled substances other than salvia to minor -- Penalties.

- (1) A person is guilty of selling controlled substances to a minor when he or she, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of a controlled substance other than salvia to any person under eighteen (18) years of age.
- (2) Selling controlled substances to a minor is a Class C felony for a first offense, and a Class B felony for each subsequent offense, unless a more severe penalty for trafficking in controlled substances is applicable, in which case the higher penalty shall apply.

Effective: April 27, 2016

History: Amended 2016 Ky. Acts ch. 135, sec. 10, effective April 27, 2016. -- Amended 2012 Ky. Acts ch. 108, sec. 6, effective April 11, 2012. -- Amended 2011 Ky. Acts ch. 45, sec. 6, effective March 16, 2011. -- Amended 2010 Ky. Acts ch. 149, sec. 7, effective April 13, 2010; and ch. 160, sec. 7, effective April 26, 2010. -- Created 1992 Ky. Acts ch. 441, sec. 21, effective July 14, 1992.

218A.1421 Trafficking in marijuana -- Penalties. (Effective until January 1, 2025)

- (1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully traffics in marijuana.
- (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.

Effective: July 14, 1992

History: Created 1992 Ky. Acts ch. 441, sec. 18, effective July 14, 1992.