GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2012 REGULAR SESSION

HOUSE BILL NO. 481

CORRECTED

TUESDAY, MARCH 13, 2012

The following bill was reported to the Senate from the House and ordered to be printed.

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Mary Lu Nelson

1 AN ACT relating to controlled substances and declaring an emergency.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO

4 READ AS FOLLOWS:

5 ***(1) (a) A person is guilty of trafficking in synthetic drugs when he or she***

6 ***knowingly and unlawfully traffics in synthetic drugs.***

7 ***(b) Trafficking in synthetic drugs is a Class A misdemeanor for the first offense***

8 ***and a Class D felony for each subsequent offense.***

9 ***(c) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for***

10 ***any offense under this subsection the court may impose a maximum fine of***

11 ***double the defendant's gain from the commission of the offense, in which***

12 ***case any fine money collected shall be divided between the same parties, in***

13 ***the same ratio, and for the same purposes as established for forfeited***

14 ***property under KRS 218A.420.***

15 ***(d) It shall be an affirmative defense to an offense under this subsection that***

16 ***the defendant committed the offense during the course of the defendant's***

17 ***employment as an employee of a retail store and that the defendant did not***

18 ***know and should not have known that the trafficked substance was a***

19 ***synthetic drug.***

20 ***(2) (a) A person is guilty of possession of synthetic drugs when he or she***

21 ***knowingly and unlawfully possesses synthetic drugs.***

22 ***(b) Possession of synthetic drugs is a Class B misdemeanor, except that, KRS***

23 ***Chapter 532 to the contrary notwithstanding, the maximum term of***

24 ***incarceration shall be no greater than thirty (30) days.***

25 ➔Section 2. KRS 217.065 is amended to read as follows:

26 Except for violations of KRS 218A.350, a drug or device shall be deemed to be

27 misbranded:

1 (1) If its labeling is false or misleading in any particular;
2 (2) If in package form unless it bears a label containing:
3 (a) The name and place of business of the manufacturer, packer, or distributor,
4 except that, in the case of a prescription drug, it shall bear the name and place
5 of business of the manufacturer, and the name and place of business of the
6 packer, or distributor, if other than the manufacturer; and
7 (b) An accurate statement of the quantity of the contents in terms of weight,
8 measure, or numerical count; provided that reasonable variations shall be
9 permitted, and exemptions as to small packages shall be established, by
10 regulations prescribed by the secretary;
11 (3) If any word, statement, or other information required by or under authority of KRS
12 217.005 to 217.215 to appear on the label or labeling is not prominently placed
13 thereon with such conspicuousness (as compared with other words, statements,
14 designs or devices, in the labeling) and in such terms as to render it likely to be read
15 and understood by the ordinary individual under customary conditions of purchase
16 and use;
17 (4) If it is for use by man and contains any quantity of the narcotic or hypnotic
18 substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal,
19 chloral, coca, cocaine, codeine, heroin, marijuana,~~[naphthylpyrovalerone, 3,4-~~
20 ~~methylenedioxypyrovalerone, 3,4 methylenedioxymethylcathinone, 4-~~
21 ~~methylmethcathinone, synthetic cannabinoid agonists or piperazines]~~ ***synthetic***
22 ***drugs***, salvia, morphine, opium, paraldehyde, peyote, or sulfonmethane, or any
23 chemical derivative of such substance, which derivative has been by the secretary
24 after investigation, found to be, and by regulations under KRS 217.005 to 217.215
25 designated as, habit forming; unless its label bears the name and quantity or
26 proportion of such substance or derivative and in juxtaposition therewith the
27 statement "Warning -- May be habit-forming";

1 (5) If it is a drug and is not designated solely by a name recognized in an official
2 compendium unless its label bears:
3 (a) The common or usual name of the drug, if such there be; and
4 (b) In case it is fabricated from two (2) or more ingredients, the common or usual
5 name of each active ingredient, including the kind and quantity or proportion
6 of any alcohol, and also including whether active or not the name and quantity
7 or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin,
8 amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis,
9 digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or
10 any derivative or preparation of any such substances, contained therein;
11 provided that to the extent that compliance with this subsection is
12 impracticable, exemptions shall be established by regulations promulgated by
13 the secretary;
14 (6) Unless its labeling bears:
15 (a) Adequate directions for use; and
16 (b) Such adequate warnings against use in those pathological conditions or by
17 children where its use may be dangerous to health, or against unsafe dosage or
18 methods or duration of administration or application, in such manner and
19 form, as are necessary for the protection of users; provided that where any
20 requirement of subsection (a) of this subsection, as applied to any drug or
21 device, is not necessary for the protection of the public health, the secretary
22 shall promulgate regulations exempting such drug or device from such
23 requirements;
24 (7) If it purports to be a drug the name of which is recognized in an official
25 compendium, unless it is packaged and labeled as prescribed therein; provided that
26 the method of packing may be modified with a consent of the cabinet. Whenever a
27 drug is recognized in both the United States Pharmacopoeia and the Homeopathic

1 Pharmacopoeia of the United States, it shall be subject to the requirements of the
2 United States Pharmacopoeia with respect to packaging and labeling unless it is
3 labeled and offered for sale as a homeopathic drug, in which case it shall be subject
4 to the provisions of the Homeopathic Pharmacopoeia of the United States, and not
5 to those of the United States Pharmacopoeia;
6 (8) If it has been found by the cabinet to be a drug liable to deterioration, unless it is
7 packaged in such form and manner, and its label bears a statement of such
8 precautions, as the secretary shall by administrative regulations require as necessary
9 for the protection of public health. No such administrative regulation shall be
10 established for any drug recognized in an official compendium until the secretary
11 shall have informed the appropriate body charged with the revision of such
12 compendium of the need for such packaging or labeling requirements and such body
13 shall have failed within a reasonable time to prescribe such requirements;
14 (9) (a) If it is a drug and its container is so made, formed, or filled as to be
15 misleading; or
16 (b) If it is an imitation of another drug; or
17 (c) If it is offered for sale under the name of another drug;
18 (10) If it is dangerous to health when used in the dosage, or with the frequency or
19 duration prescribed, recommended, or suggested in the labeling thereof;
20 (11) If:
21 (a) It is a drug intended for use by man which is a habit forming drug to which
22 subsection (4) of this section applies; or because of its toxicity or other
23 potentiality for harmful effect, or the method of its use, or the collateral
24 measures necessary to its use is not safe for use except under the supervision
25 of a practitioner, and is not dispensed upon a prescription unless prior to
26 dispensing its label bears the statement "Caution: Federal law prohibits
27 dispensing without prescription"; or

1 (b) It is a drug or device and its label (as originally packed) directs that it is to be
2 dispensed or sold only on prescription, unless it is dispensed or sold on a
3 prescription of an authorized practitioner and its label (as dispensed) bears the
4 name and place of business of the dispenser or seller, the serial number and
5 date of such prescription, and the name of such licensed practitioner. Such
6 prescriptions shall not be refilled except on the specific authorization of the
7 prescribing practitioner; provided that where any requirement of this
8 subsection, as applied to any drug or device, is not necessary for the protection
9 of the public health, the secretary shall promulgate regulations exempting such
10 drug or device from such requirement;
11 (12) A drug sold on a prescription of a practitioner (except a drug sold in the course of
12 the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be
13 exempt from the requirements of this section if:
14 (a) Such practitioner is licensed by law to administer such drug; and
15 (b) Such drug bears a label containing the name and place of business of the
16 seller, the serial number and date of such prescription, and the name of such
17 practitioner.
18 (13) It is not the intention of subsection (2)(a) of this section as amended herein to
19 require the name and place of business of the wholesaler to appear upon the label of
20 the package unless otherwise required by this section.
21 ➔Section 3. KRS 218A.010 is amended to read as follows:
22 As used in this chapter:
23 (1) "Administer" means the direct application of a controlled substance, whether by
24 injection, inhalation, ingestion, or any other means, to the body of a patient or
25 research subject by:
26 (a) A practitioner or by his or her authorized agent under his or her immediate
27 supervision and pursuant to his or her order; or

1 (b) The patient or research subject at the direction and in the presence of the
2 practitioner;
3 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
4 pharmacologically related to testosterone that promotes muscle growth and includes
5 those substances listed in KRS 218A.090(5) but does not include estrogens,
6 progestins, and anticosteroids;
7 (3) "Cabinet" means the Cabinet for Health and Family Services;
8 (4) "Child" means any person under the age of majority as specified in KRS 2.015;
9 (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical
10 and geometric isomers, and salts of isomers;
11 (6) "Controlled substance" means methamphetamine, or a drug, substance, or
12 immediate precursor in Schedules I through V and includes a controlled substance
13 analogue;
14 (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
15 subsection, means a substance:
16 1. The chemical structure of which is substantially similar to the structure
17 of a controlled substance in Schedule I or II; and
18 2. Which has a stimulant, depressant, or hallucinogenic effect on the
19 central nervous system that is substantially similar to or greater than the
20 stimulant, depressant, or hallucinogenic effect on the central nervous
21 system of a controlled substance in Schedule I or II; or
22 3. With respect to a particular person, which such person represents or
23 intends to have a stimulant, depressant, or hallucinogenic effect on the
24 central nervous system that is substantially similar to or greater than the
25 stimulant, depressant, or hallucinogenic effect on the central nervous
26 system of a controlled substance in Schedule I or II.
27 (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;

(8) "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;

(9) "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;

(10) "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;

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

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

(13) "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

1 prevention of disease in man or animals;
2 (c) Substances (other than food) intended to affect the structure or any function of
3 the body of man or animals; and
4 (d) Substances intended for use as a component of any article specified in this
5 subsection.
6 It does not include devices or their components, parts, or accessories;
7 (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
8 prosecution only, means an in-person medical examination of the patient conducted
9 by the prescribing practitioner or other health-care professional routinely relied
10 upon in the ordinary course of his or her practice, at which time the patient is
11 physically examined and a medical history of the patient is obtained. "In-person"
12 includes telehealth examinations. This subsection shall not be applicable to hospice
13 providers licensed pursuant to KRS Chapter 216B;
14 (15) "Hazardous chemical substance" includes any chemical substance used or intended
15 for use in the illegal manufacture of a controlled substance as defined in this section
16 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
17 which:
18 (a) Poses an explosion hazard;
19 (b) Poses a fire hazard; or
20 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
21 (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
22 isomers, or salts of isomers;
23 (17) "Immediate precursor" means a substance which is the principal compound
24 commonly used or produced primarily for use, and which is an immediate chemical
25 intermediary used or likely to be used in the manufacture of a controlled substance
26 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
27 manufacture;

1 (18) "Intent to manufacture" means any evidence which demonstrates a person's
2 conscious objective to manufacture a controlled substance or methamphetamine.
3 Such evidence includes but is not limited to statements and a chemical substance's
4 usage, quantity, manner of storage, or proximity to other chemical substances or
5 equipment used to manufacture a controlled substance or methamphetamine;
6 (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and
7 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical,
8 positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer"
9 means the optical or geometric isomer;
10 (20) "Manufacture," except as provided in KRS 218A.1431, means the production,
11 preparation, propagation, compounding, conversion, or processing of a controlled
12 substance, either directly or indirectly by extraction from substances of natural
13 origin or independently by means of chemical synthesis, or by a combination of
14 extraction and chemical synthesis, and includes any packaging or repackaging of the
15 substance or labeling or relabeling of its container except that this term does not
16 include activities:
17 (a) By a practitioner as an incident to his or her administering or dispensing of a
18 controlled substance in the course of his or her professional practice;
19 (b) By a practitioner, or by his or her authorized agent under his supervision, for
20 the purpose of, or as an incident to, research, teaching, or chemical analysis
21 and not for sale; or
22 (c) By a pharmacist as an incident to his or her dispensing of a controlled
23 substance in the course of his or her professional practice;
24 (21) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the
25 seeds thereof; the resin extracted from any part of the plant; and every compound,
26 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
27 or any compound, mixture, or preparation which contains any quantity of these

1 substances;
2 (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
3 means an accounting of a patient's medical background, including but not limited to
4 prior medical conditions, prescriptions, and family background;
5 (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,
6 means a lawful order of a specifically identified practitioner for a specifically
7 identified patient for the patient's health-care needs. "Medical order" may or may
8 not include a prescription drug order;
9 (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
10 means a record, other than for financial or billing purposes, relating to a patient,
11 kept by a practitioner as a result of the practitioner-patient relationship;
12 (25) "Methamphetamine" means any substance that contains any quantity of
13 methamphetamine, or any of its salts, isomers, or salts of isomers;
14 (26) "Narcotic drug" means any of the following, whether produced directly or indirectly
15 by extraction from substances of vegetable origin, or independently by means of
16 chemical synthesis, or by a combination of extraction and chemical synthesis:
17 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
18 opium or opiate;
19 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
20 chemically equivalent or identical with any of the substances referred to in
21 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
22 of opium;
23 (c) Opium poppy and poppy straw;
24 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
25 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
26 removed;
27 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

1 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
2 (g) Any compound, mixture, or preparation which contains any quantity of any of
3 the substances referred to in paragraphs (a) to (f) of this subsection;
4 (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining
5 liability similar to morphine or being capable of conversion into a drug having
6 addiction-forming or addiction-sustaining liability. It does not include, unless
7 specifically designated as controlled under KRS 218A.030, the dextrorotatory
8 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
9 include its racemic and levorotatory forms;
10 (28) "Opium poppy" means the plant of the species papaver somniferum L., except its
11 seeds;
12 (29) "Person" means individual, corporation, government or governmental subdivision
13 or agency, business trust, estate, trust, partnership or association, or any other legal
14 entity;
15 (30) "Physical injury" has the same meaning it has in KRS 500.080;
16 (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
17 (32) "Pharmacist" means a natural person licensed by this state to engage in the practice
18 of the profession of pharmacy;
19 (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
20 investigator, optometrist as authorized in KRS 320.240, advanced practice
21 registered nurse as authorized under KRS 314.011, or other person licensed,
22 registered, or otherwise permitted by state or federal law to acquire, distribute,
23 dispense, conduct research with respect to, or to administer a controlled substance
24 in the course of professional practice or research in this state. "Practitioner" also
25 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered
26 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
27 a state other than Kentucky and who is licensed and has prescriptive authority for

1 controlled substances under the professional licensing laws of another state, unless
2 the person's Kentucky license has been revoked, suspended, restricted, or probated,
3 in which case the terms of the Kentucky license shall prevail;
4 (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
5 prosecution only, means a medical relationship that exists between a patient and a
6 practitioner or the practitioner's designee, after the practitioner or his or her
7 designee has conducted at least one (1) good faith prior examination;
8 (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
9 combination or mixture of drugs or medicines, or proprietary preparation, signed or
10 given or authorized by a medical, dental, chiropody, veterinarian, optometric
11 practitioner, or advanced practice registered nurse, and intended for use in the
12 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
13 animals;
14 (36) "Prescription blank," with reference to a controlled substance, means a document
15 that meets the requirements of KRS 218A.204 and 217.216;
16 (37) "Presumptive probation" means a sentence of probation not to exceed the maximum
17 term specified for the offense, subject to conditions otherwise authorized by law,
18 that is presumed to be the appropriate sentence for certain offenses designated in
19 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
20 presumption shall only be overcome by a finding on the record by the sentencing
21 court of substantial and compelling reasons why the defendant cannot be safely and
22 effectively supervised in the community, is not amenable to community-based
23 treatment, or poses a significant risk to public safety;
24 (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
25 of a controlled substance;
26 (39) "Recovery program" means an evidence-based, nonclinical service that assists
27 individuals and families working toward sustained recovery from substance use and

1 other criminal risk factors. This can be done through an array of support programs
2 and services that are delivered through residential and nonresidential means;
3 (40) "Salvia" means Salvia divinorum or Salvinorin A and includes all parts of the plant
4 presently classified botanically as Salvia divinorum, whether growing or not, the
5 seeds thereof, any extract from any part of that plant, and every compound,
6 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
7 extracts, including salts, isomers, and salts of isomers whenever the existence of
8 such salts, isomers, and salts of isomers is possible within the specific chemical
9 designation of that plant, its seeds, or extracts. The term shall not include any other
10 species in the genus salvia;
11 (41) "Second or subsequent offense" means that for the purposes of this chapter an
12 offense is considered as a second or subsequent offense, if, prior to his or her
13 conviction of the offense, the offender has at any time been convicted under this
14 chapter, or under any statute of the United States, or of any state relating to
15 substances classified as controlled substances or counterfeit substances, except that
16 a prior conviction for a nontrafficking offense shall be treated as a prior offense
17 only when the subsequent offense is a nontrafficking offense. For the purposes of
18 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
19 constitute a conviction under this chapter;
20 (42) "Sell" means to dispose of a controlled substance to another person for
21 consideration or in furtherance of commercial distribution;
22 (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
23 (44) "Synthetic ***cannabinoids***~~[Cannabinoid agonists]~~ or piperazines" means any
24 chemical compound ***which is not approved by the United States Food and Drug***
25 ***Administration, or if approved which is not dispensed or possessed in accordance***
26 ***with state and federal law,*** that contains Benzylpiperazine ***(BZP)***;
27 Trifluoromethylphenylpiperazine ***(TFMPP)***; 1,1-Dimethylheptyl-11-

1 hydroxytetrahydrocannabinol ***(HU-210)***; 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-
2 (1-naphthoyl)indole; dexanabinol ***(HU-211)***; ***or any compound in the following***
3 ***structural classes:***~~[(1-(2-morpholin-4-ylethyl)indol-3-yl)-napthalen-1-ylmethanone~~
4 ~~(JWH-200); 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250); or 2-[(1R,3S)-~~
5 ~~3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol). The term shall not include~~
6 ~~synthetic cannabinoids that require a prescription, are approved by the United States~~
7 ~~Food and Drug Administration, and are dispensed in accordance with state and~~
8 ~~federal law;]~~
9 ***(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole***
10 ***structure with substitution at the nitrogen atom of the indole ring by an***
11 ***alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-***
12 ***piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further***
13 ***substituted in the indole ring to any extent and whether or not substituted in***
14 ***the naphthyl ring to any extent. Examples of this structural class include***
15 ***but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,***
16 ***JWH-122, JWH-200, and AM-2201;***
17 ***(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole***
18 ***structure with substitution at the nitrogen atom of the indole ring by an***
19 ***alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-***
20 ***piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further***
21 ***substituted in the indole ring to any extent and whether or not substituted in***
22 ***the phenyl ring to any extent. Examples of this structural class include but***
23 ***are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;***
24 ***(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure***
25 ***with substitution at the nitrogen atom of the indole ring by an alkyl,***
26 ***haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-***
27 ***piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further***

1 *substituted in the indole ring to any extent and whether or not substituted in*
2 *the phenyl ring to any extent. Examples of this structural class include but*
3 *are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098),*
4 *and RCS-4;*
5 *(d) Cyclohexylphenols: Any compound containing a 2-(3-*
6 *hydroxycyclohexyl)phenol structure with substitution at the 5-position of*
7 *the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,*
8 *cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl*
9 *group whether or not substituted in the cyclohexyl ring to any extent.*
10 *Examples of this structural class include but are not limited to CP 47,497*
11 *and its C8 homologue (cannabicyclohexanol);*
12 *(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-*
13 *naphthyl)methane structure with substitution at the nitrogen atom of the*
14 *indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl,*
15 *1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether*
16 *or not further substituted in the indole ring to any extent and whether or*
17 *not substituted in the naphthyl ring to any extent. Examples of this*
18 *structural class include but are not limited to JWH-175, JWH-184, and*
19 *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*
22 *alkyl, 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*
25 *in the naphthyl ring to any extent. Examples of this structural class include*
26 *but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-*
27 *368;*

1 *(g) Naphthylmethylindenes: Any compound containing a 1-(1-*
2 *naphthylmethyl)indene structure with substitution at the 3-position of the*
3 *indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,*
4 *cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl*
5 *group whether or not further substituted in the indene ring to any extent*
6 *and whether or not substituted in the naphthyl ring to any extent. Examples*
7 *of this structural class include but are not limited to JWH-176; or*
8 *(h) Any other synthetic cannabinoid or piperazine which is not approved by the*
9 *United States Food and Drug Administration, or if approved, which is not*
10 *dispensed or possessed in accordance with state and federal law;*
11 *(45) "Synthetic cathinones" means any chemical compound which is not approved by*
12 *the United States Food and Drug Administration, or if approved, which is not*
13 *dispensed or possessed in accordance with state and federal law (not including*
14 *bupropion or compounds listed under a different schedule) structurally derived*
15 *from 2-aminopropan-1-one by substitution at the 1-position with either phenyl,*
16 *naphthyl, or thiophene ring systems, whether or not the compound is further*
17 *modified in one (1) or more of the following ways:*
18 *(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy,*
19 *alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further*
20 *substituted in the ring system by one (1) or more other univalent*
21 *substituents. Examples of this class include but are not limited to 3,4-*
22 *Methylenedioxycathinone (bk-MDA);*
23 *(b) By substitution at the 3-position with an acyclic alkyl substituent. Examples*
24 *of this class include but are not limited to 2-methylamino-1-phenylbutan-1-*
25 *one (buphedrone);*
26 *(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or*
27 *methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a*

1 ***cyclic structure. Examples of this class include but are not limited to***
2 ***Dimethylcathinone, Ethcathinone, and α-Pyrrolidinopropiophenone (α-***
3 ***PPP); or***
4 ***(d) Any other synthetic cathinone which is not approved by the United States***
5 ***Food and Drug Administration, or if approved, is not dispensed or***
6 ***possessed in accordance with state or federal law;***
7 ***(46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any***
8 ***synthetic cathinones.***
9 ***(47)***[~~(45)~~] "Telehealth" has the same meaning it has in KRS 311.550;
10 ***(48)***[~~(46)~~] "Tetrahydrocannabinols" means synthetic equivalents of the substances
11 contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or
12 synthetic substances, derivatives, and their isomers with similar chemical structure
13 and pharmacological activity such as the following:
14 1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
15 2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
16 3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
17 ***(49)***[~~(47)~~] "Traffic," except as provided in KRS 218A.1431, means to manufacture,
18 distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute,
19 dispense, or sell a controlled substance;
20 ***(50)***[~~(48)~~] "Transfer" means to dispose of a controlled substance to another person
21 without consideration and not in furtherance of commercial distribution; and
22 ***(51)***[~~(49)~~] "Ultimate user" means a person who lawfully possesses a controlled substance
23 for his or her own use or for the use of a member of his or her household or for
24 administering to an animal owned by him or her or by a member of his or her
25 household.
26 ➔Section 4. KRS 218A.020 is amended to read as follows:
27 (1) The Cabinet for Health and Family Services shall administer this chapter and may

1 by regulation add substances to or delete or reschedule all substances enumerated in
2 the schedules set forth in this chapter. In making a determination regarding a
3 substance, the Cabinet for Health and Family Services may consider the following:
4 (a) The actual or relative potential for abuse;
5 (b) The scientific evidence of its pharmacological effect, if known;
6 (c) The state of current scientific knowledge regarding the substance;
7 (d) The history and current pattern of abuse;
8 (e) The scope, duration, and significance of abuse;
9 (f) The risk to the public health;
10 (g) The potential of the substance to produce psychic or physiological dependence
11 liability; and
12 (h) Whether the substance is an immediate precursor of a substance already
13 controlled under this chapter.
14 (2) After considering the factors enumerated in subsection (1) the Cabinet for Health
15 and Family Services may adopt a regulation controlling the substance if it finds the
16 substance has a potential for abuse.
17 (3) If any substance is designated, rescheduled, or deleted as a controlled substance
18 under federal law and notice thereof is given to the Cabinet for Health and Family
19 Services, the Cabinet for Health and Family Services may similarly control the
20 substance under this chapter by regulation.
21 (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic
22 substance from a schedule if the substance may be lawfully sold over the counter
23 without prescription under the provisions of the Federal Food, Drug and Cosmetic
24 Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of
25 1970, or the Kentucky Revised Statutes (for the purposes of this section the
26 Kentucky Revised Statutes shall not include any regulations issued thereunder).
27 ***(5) The Office of Drug Control Policy may request that the Cabinet for Health and***

1 ***Family Services schedule a substance substantially similar to a synthetic***
2 ***cannabinoid or piperazine or a synthetic cathinone. The cabinet shall consider***
3 ***the request utilizing the criteria established by this section and shall issue a***
4 ***written response within sixty (60) days of the scheduling request delineating the***
5 ***cabinet's decision to schedule or not schedule the substance and the basis for the***
6 ***cabinet's decision. The cabinet's response shall be provided to the Legislative***
7 ***Research Commission and shall be a public record.***
8 ➔Section 5. KRS 218A.050 is amended to read as follows:
9 Unless otherwise rescheduled by ***administrative*** regulation of the Cabinet for Health and
10 Family Services, the controlled substances listed in this section are included in Schedule
11 I:
12 (1) Any material, compound, mixture, or preparation which contains any quantity of the
13 following opiates, including their isomers, esters, ethers, salts, and salts of isomers,
14 esters, and ethers, unless specifically excepted, whenever the existence of these
15 isomers, esters, ethers, or salts is possible within the specific chemical designation:
16 Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine;
17 Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol;
18 Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide;
19 Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene;
20 Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene;
21 Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide;
22 Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol;
23 Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan;
24 Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide;
25 Trimeperidine.
26 (2) Any material, compound, mixture, or preparation which contains any quantity of the
27 following opium derivatives, including their salts, isomers, and salts of isomers,

1 unless specifically excepted, whenever the existence of these salts, isomers, or salts
2 of isomers is possible within the specific chemical designation: Acetorphine;
3 Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-
4 Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin;
5 Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine
6 methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine;
7 Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.
8 (3) Any material, compound, mixture, or preparation which contains any quantity of the
9 following hallucinogenic substances, their salts, isomers, or salts of isomers, unless
10 specifically excepted, whenever the existence of these salts, isomers, and salts of
11 isomers is possible within the specific chemical designation: 3, 4-
12 methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4,
13 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-
14 methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide;
15 Marijuana; Mescaline;~~[naphthylpyrovalerone; 3,4-methylenedioxypyrovalerone;~~
16 ~~3,4-methylenedioxymethylcathinone; 4-methylmethcathinone;]~~ Peyote; N-ethyl-3-
17 piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn;
18 Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-
19 one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic
20 ***drugs***~~[cannabinoid agonists or piperazines]~~; ***or*** salvia.
21 (4) Any material, compound, mixture, or preparation which contains any quantity of the
22 following substance having a depressant effect on the central nervous system,
23 including its salts, isomers, and salts of isomers, unless specifically excepted,
24 whenever the existence of these salts, isomers, or salts of isomers is possible within
25 the specific chemical designation: gamma hydroxybutyric acid.
26 ➔Section 6. KRS 218A.1401 is amended to read as follows:
27 (1) A person is guilty of selling controlled substances to a minor when he or she, being

1 eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any
2 quantity of a controlled substance other than~~[naphthylpyrovalerone, 3,4-~~
3 ~~methylenedioxypyrovalerone,3,4-methylenedioxymethylcathinone, 4-~~
4 ~~methylmethcathinone,]~~ synthetic ***drugs***~~[cannabinoid agonists, piperazines,]~~ or salvia
5 to any person under eighteen (18) years of age.
6 (2) Selling controlled substances to a minor is a Class C felony for a first offense, and a
7 Class B felony for each subsequent offense, unless a more severe penalty for
8 trafficking in controlled substances is applicable, in which case the higher penalty
9 shall apply.
10 ➔Section 7. KRS 218A.141 is amended to read as follows:
11 Any person convicted of, pleading guilty to, or entering an Alford plea to any offense
12 involving trafficking in a controlled substance, other than trafficking in ***salvia or***~~[~~
13 ~~naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-~~
14 ~~methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid~~
15 ~~agonists, piperazines, salvia, or trafficking in]~~ marijuana shall, in addition to any other
16 penalty authorized by law, be sentenced to:
17 (1) Pay the costs of disposal of the controlled substances;
18 (2) Pay the costs of disposal of all equipment, chemicals, materials, or other items used
19 in or in furtherance of the trafficking offense;
20 (3) Pay the costs involved with environmental clean-up and remediation required for
21 the real property and personal property used for or in furtherance of the trafficking
22 offenses; and
23 (4) Pay the costs of protecting the public from dangers from chemicals, materials, and
24 other items used for or in furtherance of the trafficking offense from the time of the
25 arrest until the time that the clean-up or remediation of the real and personal
26 property is concluded. The Commonwealth shall have a lien on all of the assets of
27 the defendant until the amount specified by the court under this subsection is paid in

1 full. The Commonwealth's attorney shall file the lien.

2 ➔Section 8. KRS 218A.1411 is amended to read as follows:

3 (1) Any person who unlawfully traffics in a controlled substance classified in Schedules
4 I, II, III, IV or V, or a controlled substance analogue in any building used primarily
5 for classroom instruction in a school or on any premises located within one
6 thousand (1,000) feet of any school building used primarily for classroom
7 instruction shall be guilty of a Class D felony, unless a more severe penalty is set
8 forth in this chapter, in which case the higher penalty shall apply. The measurement
9 shall be taken in a straight line from the nearest wall of the school to the place of
10 violation.

11 (2) The provisions of subsection (1) of this section shall not apply to any misdemeanor
12 offense relating to~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-~~
13 ~~methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid~~
14 ~~agonists, piperazines, or]~~ salvia.

15 ➔Section 9. KRS 218A.1413 is amended to read as follows:

16 (1) A person is guilty of trafficking in a controlled substance in the second degree
17 when:

18 (a) He or she knowingly and unlawfully traffics in:

19 1. Ten (10) or more dosage units of a controlled substance classified in
20 Schedules I and II that is not a narcotic drug; or specified in KRS
21 218A.1412***, and which is not a synthetic drug, salvia, or marijuana***; or

22 2. Twenty (20) or more dosage units of a controlled substance classified in
23 Schedule III;~~[but not naphthylpyrovalerone, 3,4-~~
24 ~~methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-~~
25 ~~methylmethcathinone, synthetic cannabinoid agonists or piperazines,~~
26 ~~salvia, or marijuana;]~~

27 (b) He or she knowingly and unlawfully prescribes, distributes, supplies, or sells

1 an anabolic steroid for:
2 1. Enhancing human performance in an exercise, sport, or game; or
3 2. Hormonal manipulation intended to increase muscle mass, strength, or
4 weight in the human species without a medical necessity; or
5 (c) Any quantity of a controlled substance specified in paragraph (a) of this
6 subsection in an amount less than the amounts specified in that paragraph.
7 (2) (a) Except as provided in paragraph (b) of this subsection, any person who
8 violates the provisions of subsection (1) of this section shall be guilty of a
9 Class D felony for the first offense and a Class C felony for a second or
10 subsequent offense.
11 (b) Any person who violates the provisions of subsection (1)(c) of this section
12 shall be guilty of:
13 1. A Class D felony for the first offense, except that KRS Chapter 532 to
14 the contrary notwithstanding, the maximum sentence to be imposed
15 shall be no greater than three (3) years; and
16 2. A Class D felony for a second offense or subsequent offense.
17 ➔Section 10. KRS 218A.1416 is amended to read as follows:
18 (1) A person is guilty of possession of a controlled substance in the second degree
19 when he or she knowingly and unlawfully possesses: a controlled substance
20 classified in Schedules I or II which is not a narcotic drug; or specified in KRS
21 218A.1415; or, a controlled substance classified in Schedule III; but not[
22 ~~naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-~~
23 ~~methylenedioxymethylcathinone, 4-methylmethcathinone,~~] synthetic ***drugs,***
24 [~~cannabinoid agonists, piperazines,~~]salvia, or marijuana.
25 (2) Possession of a controlled substance in the second degree is a Class A
26 misdemeanor.
27 ➔Section 11. KRS 218A.276 is amended to read as follows:

1 (1) A court may request the Division of Probation and Parole to perform a risk and
2 needs assessment for any person found guilty of possession of marijuana pursuant to
3 KRS 218A.1422,~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-~~
4 ~~methylenedioxymethylcathinone, or 4-methylmethcathinone pursuant to KRS~~
5 ~~218A.1454,]~~ synthetic ***drugs***~~[cannabinoid agonists or piperazines]~~ pursuant to
6 ***Section 1 of this Act,***~~[KRS 218A.1427,]~~ or salvia pursuant to KRS 218A.1451. The
7 assessor shall make a recommendation to the court as to whether treatment is
8 indicated by the assessment, and, if so, the most appropriate treatment or recovery
9 program environment. If treatment is indicated for the person, the court may order
10 him or ***her to the***~~[herthe]~~ appropriate treatment or recovery program as indicated by
11 the assessment that will effectively respond to the person's level of risk, criminal
12 risk factors, and individual characteristics as designated by the secretary of the
13 Cabinet for Health and Family Services where a program of treatment or recovery
14 not to exceed ninety (90) days in duration may be prescribed. The person ordered to
15 the designated treatment or recovery program shall present himself or herself for
16 registration and initiation of the treatment or recovery program within five (5) days
17 of the date of sentencing. If, without good cause, the person fails to appear at the
18 designated treatment or recovery program within the specified time, or if any time
19 during the program of treatment or recovery prescribed, the authorized director of
20 the treatment or recovery program finds that the person is unwilling to participate in
21 his or her treatment, the director shall notify the sentencing court. Upon receipt of
22 notification, the court shall cause the person to be brought before it and may
23 continue the order of treatment, or may rescind the treatment order and impose a
24 sentence for the possession offense. Upon discharge of the person from the
25 treatment or recovery program by the secretary of the Cabinet for Health and Family
26 Services, or his or her designee, prior to the expiration of the ninety (90) day period
27 or upon satisfactory completion of ninety (90) days of treatment, the person shall be

1 deemed finally discharged from sentence. The secretary, or his or her designee, shall
2 notify the sentencing court of the date of such discharge from the treatment or
3 recovery program.
4 (2) The secretary of the Cabinet for Health and Family Services, or his or her designee,
5 shall inform each court of the identity and location of the treatment or recovery
6 program to which a person sentenced by that court under this chapter shall be
7 initially ordered.
8 (3) In the case of a person ordered to an inpatient facility for treatment pursuant to this
9 chapter, transportation to the facility shall be provided by order of the court when
10 the court finds the person unable to convey himself or herself to the facility within
11 five (5) days of sentencing by reason of physical infirmity or financial incapability.
12 (4) The sentencing court shall immediately notify the designated treatment or recovery
13 program of the sentence and its effective date.
14 (5) The secretary of the Cabinet for Health and Family Services, or his or her designee,
15 may authorize transfer of the person from the initially designated treatment or
16 recovery program to another treatment or recovery program for therapeutic
17 purposes. The sentencing court shall be notified of termination of treatment by the
18 terminating treatment or recovery program and shall be notified by the secretary or
19 his or her designee of the new treatment or recovery program to which the person
20 was transferred.
21 (6) Responsibility for payment for treatment services rendered to persons pursuant to
22 this section shall be as under the statutes pertaining to payment by patients and
23 others for services rendered by the Cabinet for Health and Family Services, unless
24 the person and the treatment or recovery program shall arrange otherwise.
25 (7) None of the provisions of this section shall be deemed to preclude the court from
26 exercising its usual discretion with regard to ordering probation, presumptive
27 probation, or conditional discharge.

1 (8) In the case of any person who has been convicted of possession of marijuana,[
2 ~~naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-~~
3 ~~methylenedioxymethylcathinone, 4-methylmethcathinone,~~] synthetic ***drugs***
4 ~~[cannabinoid agonists, piperazines]~~, or salvia, the court may set aside and void the
5 conviction upon satisfactory completion of treatment, probation, or other sentence,
6 and issue to the person a certificate to that effect. A conviction voided under this
7 subsection shall not be deemed a first offense for purposes of this chapter or
8 deemed a conviction for purposes of disqualifications or disabilities imposed by law
9 upon conviction of a crime.
10 (9) If the court voids a conviction under this section, the court shall order the sealing of
11 all records in the custody of the court and any records in the custody of any other
12 agency or official, including law enforcement records, except as provided in KRS
13 27A.099. The court shall order the sealing on a form provided by the Administrative
14 Office of the Courts. Every agency with records relating to the arrest, charge, or
15 other matters arising out of the arrest or charge that is ordered to seal records, shall
16 certify to the court within sixty (60) days of the entry of the order that the required
17 sealing action has been completed.
18 (10) After the sealing of the record, the proceedings in the matter shall not be used
19 against the defendant. The court and other agencies shall reply to any inquiry that no
20 record exists on the matter. The person whose record is sealed shall not have to
21 disclose the fact of the record or any matter relating thereto on an application for
22 employment, credit, or other type of application.
23 (11) Inspection of the sealed records may thereafter be permitted by the court or upon a
24 motion by the person who is the subject of the records and only to those persons
25 named in the motion.
26 ➔Section 12. KRS 218A.350 is amended to read as follows:
27 (1) No person shall sell or transfer any substance, other than a controlled substance,

1 with the representation or upon creation of an impression that the substance which
2 is sold or transferred is a controlled substance.
3 (2) No person shall possess for sale or transfer any substance designed in any manner,
4 including but not limited to design of the item or its container, markings, or color,
5 to simulate a controlled substance.
6 (3) No person shall possess for sale or transfer any substance, not covered by
7 subsection (2) of this section which is not a controlled substance with the
8 representation or upon the creation of an impression that the substance held for sale
9 or transfer is a controlled substance.
10 (4) No person shall manufacture, package, repackage, advertise, or mark any substance,
11 which is not a controlled substance, in such a manner as to resemble a controlled
12 substance, for the purpose of creating the impression that the substance is a
13 controlled substance.
14 (5) For the purpose of determining whether this section has been violated, the court or
15 other authority shall include in its consideration the following:
16 (a) Whether the noncontrolled substance was packaged in a manner normally
17 used for the illegal sale of controlled substances;
18 (b) Whether the sale or attempted sale included an exchange of or demand for
19 money or other property as consideration, and whether the amount of the
20 consideration was substantially greater than the reasonable value of the
21 noncontrolled substance.
22 (c) Whether the physical appearance of the noncontrolled substance is
23 substantially identical to that of a controlled substance.
24 (6) In any prosecution brought under this section, it is not a defense to a violation of
25 this section that the defendant believed the noncontrolled substance to actually be a
26 controlled substance.
27 (7) ***(a)*** Any person who violates any of the provisions of this section shall be guilty of

1 a Class A misdemeanor for the first offense and a Class D felony for
2 subsequent offenses.
3 ***(b) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for***
4 ***any offense under this subsection the court may impose a maximum fine of***
5 ***double the defendant's gain from the commission of the offense, in which***
6 ***case any fine money collected shall be divided between the same parties, in***
7 ***the same ratio, and for the same purposes as established for forfeited***
8 ***property under KRS 218A.420.***
9 ***(c) It shall be an affirmative defense to an offense under this subsection that***
10 ***the defendant committed the offense during the course of the defendant's***
11 ***employment as an employee of a retail store and that the defendant did not***
12 ***know and should not have known that the trafficked substance was a***
13 ***synthetic drug.***
14 ➔Section 13. KRS 218A.410 is amended to read as follows:
15 (1) The following are subject to forfeiture:
16 (a) Controlled substances listed in Schedule I that are possessed, transferred, sold,
17 or offered for sale in violation of this chapter are contraband and shall be
18 seized and summarily forfeited to the state;
19 (b) Controlled substances listed in Schedule I, which are seized or come into the
20 possession of the state, the owners of which are unknown, are contraband and
21 shall be summarily forfeited to the state;
22 (c) Species of plants from which controlled substances in Schedules I and II may
23 be derived which have been planted or cultivated in violation of this chapter,
24 or of which the owners or cultivators are unknown, or which are wild growths,
25 may be seized and summarily destroyed or forfeited to the state. The failure,
26 upon demand by the law enforcement agency or its authorized agent, of the
27 person in occupancy or in control of land or premises upon which the species

1 of plants are growing or being stored, to produce an appropriate registration,
2 or proof that he or she is the holder thereof, constitutes authority for the
3 seizure and forfeiture of the plants;
4 (d) All substances, machinery, or devices used for the manufacture, packaging,
5 repackaging, or marking, and books, papers, and records, and all vehicles
6 owned and used by the seller or distributor for the manufacture, distribution,
7 sale, or transfer of substances in violation of KRS 218A.350 shall be seized
8 and forfeited to the state. Substances manufactured, held, or distributed in
9 violation of KRS 218A.350 shall be deemed contraband;
10 (e) All controlled substances which have been manufactured, distributed,
11 dispensed, possessed, being held, or acquired in violation of this chapter;
12 (f) All raw materials, products, and equipment of any kind which are used, or
13 intended for use, in manufacturing, compounding, processing, delivering,
14 importing, or exporting any controlled substance in violation of this chapter;
15 (g) All property which is used, or intended for use, as a container for property
16 described in paragraph (e) or (f) of this subsection;
17 (h) All conveyances, including aircraft, vehicles, or vessels, which are used, or
18 intended for use, to transport, or in any manner to facilitate the transportation,
19 for the purpose of sale or receipt of property described in paragraph (e) or (f)
20 of this subsection, but:
21 1. No conveyance used by any person as a common carrier in the
22 transaction of business as a common carrier is subject to forfeiture under
23 this section unless it is proven beyond a reasonable doubt that the owner
24 or other person in charge of the conveyance is a consenting party or
25 privy to a violation of this chapter;
26 2. No conveyance is subject to forfeiture under this section by reason of
27 any act or omission established by the owner thereof to have been

committed or omitted without his or her knowledge or consent;

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

4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana~~[, naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists, piperazines,]~~ or salvia;

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

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

1 forfeitable under this paragraph; and

2 (k) All real property, including any right, title, and interest in the whole of any lot
3 or tract of land and any appurtenances or improvements, which is used or
4 intended to be used, in any manner or part, to commit, or to facilitate the
5 commission of, a violation of this chapter excluding any misdemeanor offense
6 relating to marijuana***, synthetic drugs,***[~~, naphthylpyrovalerone, 3,4-~~
7 ~~methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-~~
8 ~~methylmethcathinone, synthetic cannabinoid agonists, piperazines,~~] or salvia,
9 except that property shall be forfeited under this paragraph, to the extent of an
10 interest of an owner, by reason of any act or omission established by the
11 Commonwealth to have been committed or omitted with the knowledge or
12 consent of the owner.

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

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

1 ➔Section 14. KRS 218A.992 is amended to read as follows:
2 (1) Other provisions of law notwithstanding, any person who is convicted of any
3 violation of this chapter who, at the time of the commission of the offense and in
4 furtherance of the offense, was in possession of a firearm, shall:
5 (a) Be penalized one (1) class more severely than provided in the penalty
6 provision pertaining to that offense if it is a felony; or
7 (b) Be penalized as a Class D felon if the offense would otherwise be a
8 misdemeanor.
9 (2) The provisions of this section shall not apply to a violation of KRS 218A.210,
10 ~~[218A.1426, 218A.1427, 218A.1428,]~~ 218A.1450, 218A.1451, ***or*** 218A.1452~~[, 218A.1453, 218A.1454, or 218A.1455]~~.
11
12 ➔Section 15. KRS 243.500 is amended to read as follows:
13 Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the
14 following causes:
15 (1) Conviction of the licensee or his agent or employee for selling any illegal beverages
16 on the licensed premises.
17 (2) Making any false, material statements in an application for a license or
18 supplemental license.
19 (3) Violation of the provisions of KRS 243.670.
20 (4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:
21 (a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or
22 244 or any act regulating the manufacture, sale, and transportation of alcoholic
23 beverages within two (2) consecutive years;
24 (b) Two (2) misdemeanors directly or indirectly attributable to the use of
25 intoxicating liquors within two (2) consecutive years; or
26 (c) Any felony.
27 (5) Failure or default of a licensee to pay an excise tax or any part of the tax or any

1 penalties imposed by or under the provisions of any statutes, ordinances, or Acts of
2 Congress relative to taxation, or for a violation of any administrative regulations
3 promulgated by the Department of Revenue made in pursuance thereof.
4 (6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600,
5 and 243.610, or granted under any Act of Congress relative to the regulation of the
6 manufacture, sale, and transportation of alcoholic beverages. Any license issued
7 under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells
8 the alcoholic beverages at a price in excess of the price set by federal or state
9 regulations.
10 (7) Setting up, conducting, operating, or keeping, on the licensed premises, any
11 gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or
12 facility for betting or transmitting bets on horse races; or permitting to be set up,
13 conducted, operated, kept, or engaged in, on the licensed premises, any such game,
14 device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This
15 section shall not apply to contests in which eligibility to participate is determined by
16 chance and the ultimate winner is determined by skill and the licensee has no direct
17 interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter
18 154A.
19 (8) Conviction of the licensee, his agents, servants, or employees for:
20 (a) The sale or use upon the licensed premises of those items described in KRS
21 218A.050 to 218A.130 as controlled substances***, including synthetic drugs***;
22 (b) Knowingly permitting the sale or use by patrons upon the licensed premises of
23 those items described in KRS 218A.050 to 218A.130 as controlled
24 substances***, including synthetic drugs***; or
25 (c) Knowingly receiving stolen property upon the licensed premises.
26 ➔Section 16. KRS 530.064 is amended to read as follows:
27 (1) A person is guilty of unlawful transaction with a minor in the first degree when he

1 or she knowingly induces, assists, or causes a minor to engage in:
2 (a) Illegal sexual activity; or
3 (b) Illegal controlled substances activity other than activity involving marijuana,[
4 ~~naphthylpyrovalerone, 3,4 methylenedioxypyrovalerone, 3,4-~~
5 ~~methylenedioxymethylcathinone, 4 methylmethcathinone,]~~ synthetic
6 ***drugs***[~~cannabinoid agonists or piperazines~~], or salvia as defined in KRS
7 218A.010;
8 Except those offenses involving minors in KRS Chapter 531 and in KRS 529.100
9 where that offense involves commercial sexual activity.
10 (2) Unlawful transaction with a minor in the first degree is a:
11 (a) Class C felony if the minor so used is less than eighteen (18) years old at the
12 time the minor engages in the prohibited activity;
13 (b) Class B felony if the minor so used is less than sixteen (16) years old at the
14 time the minor engages in the prohibited activity; and
15 (c) Class A felony if the minor so used incurs physical injury thereby.
16 ➔Section 17. The following KRS sections are repealed:
17 218A.1426 Trafficking in synthetic cannabinoid agonists or piperazines -- Penalty.
18 218A.1427 Possession of synthetic cannabinoid agonists or piperazines -- Penalty --
19 Maximum term of incarceration.
20 218A.1428 Manufacture of synthetic cannabinoid agonists or piperazines -- Penalty.
21 218A.1453 Trafficking in substituted cathinones -- Penalty.
22 218A.1454 Possession of substituted cathinones -- Penalty.
23 218A.1455 Manufacturing substituted cathinones – Penalty.
24 ➔Section 18. Whereas the substances specified in Sections 1 to 16 of this Act are
25 dangerous substances that pose a clear and present danger to the citizens of the
26 Commonwealth, and whereas no just reason exists for a delay in providing the
27 Commonwealth's citizens with the protections afforded by this Act, an emergency is

1 declared to exist and this Act takes effect upon its passage and approval by the Governor
2 or upon its otherwise becoming law.

Speaker-House of Representatives

President of Senate

Attest: Chief Clerk of House of Representatives

Approved Governor

Date 4-11-12