GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2014 REGULAR SESSION

SENATE BILL NO. 124

AS ENACTED

MONDAY, MARCH 31, 2014

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

1 AN ACT relating to drugs and declaring an emergency.

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

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

4 (1) "Administer" means the direct application of a controlled substance, whether by
5 injection, inhalation, ingestion, or any other means, to the body of a patient or
6 research subject by:

7 (a) A practitioner or by his or her authorized agent under his or her immediate
8 supervision and pursuant to his or her order; or

9 (b) The patient or research subject at the direction and in the presence of the
10 practitioner;

11 (2) "Anabolic steroid" means any drug or hormonal substance chemically and
12 pharmacologically related to testosterone that promotes muscle growth and includes
13 those substances listed in KRS 218A.090(5) but does not include estrogens,
14 progestins, and anticosteroids;

15 (3) "Cabinet" means the Cabinet for Health and Family Services;

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

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

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

22 (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this
23 subsection, means a substance:

24 1. The chemical structure of which is substantially similar to the structure
25 of a controlled substance in Schedule I or II; and

26 2. Which has a stimulant, depressant, or hallucinogenic effect on the
27 central nervous system that is substantially similar to or greater than the

1 stimulant, depressant, or hallucinogenic effect on the central nervous
2 system of a controlled substance in Schedule I or II; or
3 3. With respect to a particular person, which such person represents or
4 intends to have a stimulant, depressant, or hallucinogenic effect on the
5 central nervous system that is substantially similar to or greater than the
6 stimulant, depressant, or hallucinogenic effect on the central nervous
7 system of a controlled substance in Schedule I or II.
8 (b) Such term does not include:
9 1. Any substance for which there is an approved new drug application;
10 2. With respect to a particular person, any substance if an exemption is in
11 effect for investigational use for that person pursuant to federal law to
12 the extent conduct with respect to such substance is pursuant to such
13 exemption; or
14 3. Any substance to the extent not intended for human consumption before
15 the exemption described in subparagraph 2. of this paragraph takes
16 effect with respect to that substance;
17 (8) "Counterfeit substance" means a controlled substance which, or the container or
18 labeling of which, without authorization, bears the trademark, trade name, or other
19 identifying mark, imprint, number, or device, or any likeness thereof, of a
20 manufacturer, distributor, or dispenser other than the person who in fact
21 manufactured, distributed, or dispensed the substance;
22 (9) "Dispense" means to deliver a controlled substance to an ultimate user or research
23 subject by or pursuant to the lawful order of a practitioner, including the packaging,
24 labeling, or compounding necessary to prepare the substance for that delivery;
25 (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V
26 controlled substance to or for the use of an ultimate user;
27 (11) "Distribute" means to deliver other than by administering or dispensing a controlled

1 substance;
2 (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of
3 administration available as a single unit;
4 (13) "Drug" means:
5 (a) Substances recognized as drugs in the official United States Pharmacopoeia,
6 official Homeopathic Pharmacopoeia of the United States, or official National
7 Formulary, or any supplement to any of them;
8 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or
9 prevention of disease in man or animals;
10 (c) Substances (other than food) intended to affect the structure or any function of
11 the body of man or animals; and
12 (d) Substances intended for use as a component of any article specified in this
13 subsection.
14 It does not include devices or their components, parts, or accessories;
15 (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal
16 prosecution only, means an in-person medical examination of the patient conducted
17 by the prescribing practitioner or other health-care professional routinely relied
18 upon in the ordinary course of his or her practice, at which time the patient is
19 physically examined and a medical history of the patient is obtained. "In-person"
20 includes telehealth examinations. This subsection shall not be applicable to hospice
21 providers licensed pursuant to KRS Chapter 216B;
22 (15) "Hazardous chemical substance" includes any chemical substance used or intended
23 for use in the illegal manufacture of a controlled substance as defined in this section
24 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,
25 which:
26 (a) Poses an explosion hazard;
27 (b) Poses a fire hazard; or

1 (c) Is poisonous or injurious if handled, swallowed, or inhaled;
2 (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts,
3 isomers, or salts of isomers;
4 (17) "Immediate precursor" means a substance which is the principal compound
5 commonly used or produced primarily for use, and which is an immediate chemical
6 intermediary used or likely to be used in the manufacture of a controlled substance
7 or methamphetamine, the control of which is necessary to prevent, curtail, or limit
8 manufacture;
9 (18) "Intent to manufacture" means any evidence which demonstrates a person's
10 conscious objective to manufacture a controlled substance or methamphetamine.
11 Such evidence includes but is not limited to statements and a chemical substance's
12 usage, quantity, manner of storage, or proximity to other chemical substances or
13 equipment used to manufacture a controlled substance or methamphetamine;
14 (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and
15 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical,
16 positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer"
17 means the optical or geometric isomer;
18 (20) "Manufacture," except as provided in KRS 218A.1431, means the production,
19 preparation, propagation, compounding, conversion, or processing of a controlled
20 substance, either directly or indirectly by extraction from substances of natural
21 origin or independently by means of chemical synthesis, or by a combination of
22 extraction and chemical synthesis, and includes any packaging or repackaging of the
23 substance or labeling or relabeling of its container except that this term does not
24 include activities:
25 (a) By a practitioner as an incident to his or her administering or dispensing of a
26 controlled substance in the course of his or her professional practice;
27 (b) By a practitioner, or by his or her authorized agent under his supervision, for

1 the purpose of, or as an incident to, research, teaching, or chemical analysis
2 and not for sale; or
3 (c) By a pharmacist as an incident to his or her dispensing of a controlled
4 substance in the course of his or her professional practice;
5 (21) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the
6 seeds thereof; the resin extracted from any part of the plant; and every compound,
7 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin
8 or any compound, mixture, or preparation which contains any quantity of these
9 substances. The term "marijuana" does not include:
10 *(a)* Industrial hemp as defined in KRS 260.850;
11 ***(b) The substance cannabidiol, when transferred, dispensed, or administered***
12 ***pursuant to the written order of a physician practicing at a hospital or***
13 ***associated clinic affiliated with a Kentucky public university having a***
14 ***college or school of medicine; or***
15 ***(c) For persons participating in a clinical trial or in an expanded access***
16 ***program, a drug or substance approved for the use of those participants by***
17 ***the United States Food and Drug Administration***;
18 (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,
19 means an accounting of a patient's medical background, including but not limited to
20 prior medical conditions, prescriptions, and family background;
21 (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,
22 means a lawful order of a specifically identified practitioner for a specifically
23 identified patient for the patient's health-care needs. "Medical order" may or may
24 not include a prescription drug order;
25 (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,
26 means a record, other than for financial or billing purposes, relating to a patient,
27 kept by a practitioner as a result of the practitioner-patient relationship;

1 (25) "Methamphetamine" means any substance that contains any quantity of
2 methamphetamine, or any of its salts, isomers, or salts of isomers;
3 (26) "Narcotic drug" means any of the following, whether produced directly or indirectly
4 by extraction from substances of vegetable origin, or independently by means of
5 chemical synthesis, or by a combination of extraction and chemical synthesis:
6 (a) Opium and opiate, and any salt, compound, derivative, or preparation of
7 opium or opiate;
8 (b) Any salt, compound, isomer, derivative, or preparation thereof which is
9 chemically equivalent or identical with any of the substances referred to in
10 paragraph (a) of this subsection, but not including the isoquinoline alkaloids
11 of opium;
12 (c) Opium poppy and poppy straw;
13 (d) Coca leaves, except coca leaves and extracts of coca leaves from which
14 cocaine, ecgonine, and derivatives of ecgonine or their salts have been
15 removed;
16 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
17 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
18 (g) Any compound, mixture, or preparation which contains any quantity of any of
19 the substances referred to in paragraphs (a) to (f) of this subsection;
20 (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining
21 liability similar to morphine or being capable of conversion into a drug having
22 addiction-forming or addiction-sustaining liability. It does not include, unless
23 specifically designated as controlled under KRS 218A.030, the dextrorotatory
24 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
25 include its racemic and levorotatory forms;
26 (28) "Opium poppy" means the plant of the species papaver somniferum L., except its
27 seeds;

1 (29) "Person" means individual, corporation, government or governmental subdivision
2 or agency, business trust, estate, trust, partnership or association, or any other legal
3 entity;
4 (30) "Physical injury" has the same meaning it has in KRS 500.080;
5 (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
6 (32) "Pharmacist" means a natural person licensed by this state to engage in the practice
7 of the profession of pharmacy;
8 (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific
9 investigator, optometrist as authorized in KRS 320.240, advanced practice
10 registered nurse as authorized under KRS 314.011, or other person licensed,
11 registered, or otherwise permitted by state or federal law to acquire, distribute,
12 dispense, conduct research with respect to, or to administer a controlled substance
13 in the course of professional practice or research in this state. "Practitioner" also
14 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered
15 nurse authorized under KRS 314.011 who is a resident of and actively practicing in
16 a state other than Kentucky and who is licensed and has prescriptive authority for
17 controlled substances under the professional licensing laws of another state, unless
18 the person's Kentucky license has been revoked, suspended, restricted, or probated,
19 in which case the terms of the Kentucky license shall prevail;
20 (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal
21 prosecution only, means a medical relationship that exists between a patient and a
22 practitioner or the practitioner's designee, after the practitioner or his or her
23 designee has conducted at least one (1) good faith prior examination;
24 (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or
25 combination or mixture of drugs or medicines, or proprietary preparation, signed or
26 given or authorized by a medical, dental, chiropody, veterinarian, optometric
27 practitioner, or advanced practice registered nurse, and intended for use in the

1 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other
2 animals;
3 (36) "Prescription blank," with reference to a controlled substance, means a document
4 that meets the requirements of KRS 218A.204 and 217.216;
5 (37) "Presumptive probation" means a sentence of probation not to exceed the maximum
6 term specified for the offense, subject to conditions otherwise authorized by law,
7 that is presumed to be the appropriate sentence for certain offenses designated in
8 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That
9 presumption shall only be overcome by a finding on the record by the sentencing
10 court of substantial and compelling reasons why the defendant cannot be safely and
11 effectively supervised in the community, is not amenable to community-based
12 treatment, or poses a significant risk to public safety;
13 (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting
14 of a controlled substance;
15 (39) "Recovery program" means an evidence-based, nonclinical service that assists
16 individuals and families working toward sustained recovery from substance use and
17 other criminal risk factors. This can be done through an array of support programs
18 and services that are delivered through residential and nonresidential means;
19 (40) "Salvia" means Salvia divinorum or Salvinorin A and includes all parts of the plant
20 presently classified botanically as Salvia divinorum, whether growing or not, the
21 seeds thereof, any extract from any part of that plant, and every compound,
22 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its
23 extracts, including salts, isomers, and salts of isomers whenever the existence of
24 such salts, isomers, and salts of isomers is possible within the specific chemical
25 designation of that plant, its seeds, or extracts. The term shall not include any other
26 species in the genus salvia;
27 (41) "Second or subsequent offense" means that for the purposes of this chapter an

1 offense is considered as a second or subsequent offense, if, prior to his or her
2 conviction of the offense, the offender has at any time been convicted under this
3 chapter, or under any statute of the United States, or of any state relating to
4 substances classified as controlled substances or counterfeit substances, except that
5 a prior conviction for a nontrafficking offense shall be treated as a prior offense
6 only when the subsequent offense is a nontrafficking offense. For the purposes of
7 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not
8 constitute a conviction under this chapter;
9 (42) "Sell" means to dispose of a controlled substance to another person for
10 consideration or in furtherance of commercial distribution;
11 (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
12 (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is
13 not approved by the United States Food and Drug Administration or, if approved,
14 which is not dispensed or possessed in accordance with state and federal law, that
15 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-
16 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-
17 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any
18 compound in the following structural classes:
19 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole
20 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
21 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
22 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further
23 substituted in the indole ring to any extent and whether or not substituted in
24 the naphthyl ring to any extent. Examples of this structural class include but
25 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,
26 JWH-122, JWH-200, and AM-2201;
27 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole

1 structure with substitution at the nitrogen atom of the indole ring by an alkyl,
2 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-
3 piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further
4 substituted in the indole ring to any extent and whether or not substituted in
5 the phenyl ring to any extent. Examples of this structural class include but are
6 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
7 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with
8 substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl,
9 alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl,
10 or 2-(4-morpholinyl)ethyl group whether or not further substituted in the
11 indole ring to any extent and whether or not substituted in the phenyl ring to
12 any extent. Examples of this structural class include but are not limited to
13 AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
14 (d) Cyclohexylphenols: Any compound containing a 2-(3-
15 hydroxycyclohexyl)phenol structure with substitution at the 5-position of the
16 phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl,
17 cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl
18 group whether or not substituted in the cyclohexyl ring to any extent.
19 Examples of this structural class include but are not limited to CP 47,497 and
20 its C8 homologue (cannabicyclohexanol);
21 (e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-
22 naphthyl)methane structure with substitution at the nitrogen atom of the indole
23 ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-
24 methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not
25 further substituted in the indole ring to any extent and whether or not
26 substituted in the naphthyl ring to any extent. Examples of this structural class
27 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

1 the adamantyl ring system to any extent. Examples of this structural class
2 include but are not limited to AB-001 and AM-1248; or
3 (j) Any other synthetic cannabinoid or piperazine which is not approved by the
4 United States Food and Drug Administration or, if approved, which is not
5 dispensed or possessed in accordance with state and federal law;
6 (45) "Synthetic cathinones" means any chemical compound which is not approved by the
7 United States Food and Drug Administration or, if approved, which is not dispensed
8 or possessed in accordance with state and federal law (not including bupropion or
9 compounds listed under a different schedule) structurally derived from 2-
10 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or
11 thiophene ring systems, whether or not the compound is further modified in one (1)
12 or more of the following ways:
13 (a) By substitution in the ring system to any extent with alkyl, alkylenedioxy,
14 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further
15 substituted in the ring system by one (1) or more other univalent substituents.
16 Examples of this class include but are not limited to 3,4-
17 Methylenedioxycathinone (bk-MDA);
18 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of
19 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one
20 (buphedrone);
21 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or
22 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a
23 cyclic structure. Examples of this class include but are not limited to
24 Dimethylcathinone, Ethcathinone, and α-Pyrrolidinopropiophenone (α-PPP);
25 or
26 (d) Any other synthetic cathinone which is not approved by the United States
27 Food and Drug Administration or, if approved, is not dispensed or possessed

1 in accordance with state or federal law;
2 (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic
3 cathinones;
4 (47) "Telehealth" has the same meaning it has in KRS 311.550;
5 (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in
6 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic
7 substances, derivatives, and their isomers with similar chemical structure and
8 pharmacological activity such as the following:
9 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
10 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
11 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
12 (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,
13 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,
14 or sell a controlled substance;
15 (50) "Transfer" means to dispose of a controlled substance to another person without
16 consideration and not in furtherance of commercial distribution; and
17 (51) "Ultimate user" means a person who lawfully possesses a controlled substance for
18 his or her own use or for the use of a member of his or her household or for
19 administering to an animal owned by him or her or by a member of his or her
20 household.
21 ➔Section 2. In honor of her courage, as a reflection of her parents' love, and in
22 recognition of the hope embodied in this legislation, this Act shall be known and may be
23 cited as the Clara Madeline Gilliam Act.
24 ➔Section 3. Whereas the substance identified by this bill is of vital importance to
25 some of Kentucky's most vulnerable citizens, for whom time is of the essence, an
26 emergency is declared to exist, and this Act takes effect upon its passage and approval by
27 the Governor or upon its otherwise becoming a law.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 4/10/14