

AN ACT relating to the medical use of marijuana.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

*For the purposes of this section and Sections 2, 3, and 4 of this Act:*

- (1) "Cardholder" means a patient, visiting patient, or a designated caregiver who has been issued and possesses a valid registry identification card;*
- (2) "Cultivator" means an entity licensed under Sections 3 and 4 of this Act located in an economically depressed county as determined pursuant to Section 3 of this Act that grows, plants, possesses, packages unmodified medical marijuana, and sells medical marijuana only to a distributor, processor, or manufacturer;*
- (3) "Debilitating medical condition" means:*
  - (a) A terminal illness;*
  - (b) Severe or chronic pain;*
  - (c) Severe nausea;*
  - (d) Seizures;*
  - (e) Severe and persistent muscle spasms;*
  - (f) Cancer;*
  - (g) Glaucoma;*
  - (h) Positive status for human immunodeficiency virus;*
  - (i) Acquired immune deficiency syndrome;*
  - (j) Hepatitis C for which a patient is currently receiving antiviral treatment;*
  - (k) Amyotrophic lateral sclerosis;*
  - (l) Muscular dystrophy;*
  - (m) Crohn's disease;*
  - (n) Agitation of Alzheimer's disease;*
  - (o) Multiple sclerosis;*

- (p) Chronic pancreatitis;
- (q) Anorexia;
- (r) Lupus;
- (s) Muscular dystrophy;
- (t) Fibromyalgia;
- (u) Parkinson's disease;
- (v) Cachexia or wasting syndrome;
- (w) Post-traumatic stress disorder;
- (x) Spinal cord injury or disease;
- (y) Substance abuse, if a patient meets criteria established by the department pursuant to Section 2 of this Act;
- (z) Traumatic brain injury;
- (aa) The treatment of any of the conditions established pursuant to this subsection; and
- (ab) Any other medical condition determined by the department, on a case-by-case basis, to be debilitating or terminal following a written appeal by a physician. The department shall issue a written finding within ninety (90) days of receipt of the written appeal by the physician;
- (4) "Department" means the Department for Public Health or its successor agency;
- (5) "Dispensary" means an entity licensed under Sections 3 and 4 of this Act located in an economically depressed county as determined pursuant to Section 3 of this Act that acquires medical marijuana from a distributor and possesses, sells, supplies, and dispenses marijuana and cannabidiol and related supplies and educational materials to patients;
- (6) "Distributor" means a state-licensed entity that purchases marijuana from a cultivator, manufacturer, or processor and delivers, transfers, possesses, transports, supplies, and sells medical marijuana to a dispensary;

- (7) "Manufacturer" means an entity licensed under Sections 3 and 4 of this Act located in an economically depressed county as determined pursuant to Section 3 of this Act that acquires medical marijuana from a cultivator and prepares, trims, or otherwise modifies raw cannabis plant material, packages medical marijuana, and sells medical marijuana to a distributor;
- (8) "Marijuana" or "medical marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, or any compound, mixture, or preparation which contains any quantity of these substances. "Marijuana" or "medical marijuana" includes "marijuana" and "synthetic cannabinoid" as defined in KRS 218A.010;
- (9) "Medical order" means a written, electronic, or oral document, on a department approved form, that indicates a physician's signed, authorized, or given authority for a patient to receive an indicated amount or preparation of medical marijuana from a dispensary;
- (10) "Medical use" includes the acquisition, administration, delivery, possession, preparation, transfer, and transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a patient's debilitating medical condition or symptoms associated with a patient's debilitating medical condition. "Medical use" does not mean cultivating, processing, manufacturing, distributing, dispensing or supplying marijuana, except as otherwise permitted under Sections 1 to 11 of this Act;
- (11) "Patient" means an individual who has been diagnosed by a physician as having a debilitating medical condition and who possesses a registry identification card;
- (12) "Processor" means an entity licensed under Sections 3 and 4 of this Act located in an economically depressed county as determined pursuant to Section 3 of this

Act that purchases medical marijuana from a cultivator in order to manipulate, blend, prepare, and package medical marijuana products for sale to a distributor;

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

(14) "Visiting patient" means a person who has been authorized under laws of another state, district, territory, commonwealth, or insular possession of the United States to possess marijuana for medical use in the jurisdiction of issuance if the state, district, territory, commonwealth, or insular possession of the United States recognizes registry identification cards issued by Kentucky within its jurisdiction.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the Department for Public Health the Kentucky Medical Marijuana Program to regulate the manufacture, medical ordering, dispensing, and medical use of medical marijuana for the treatment of patients who have a debilitating medical condition.

(2) The department shall promulgate administrative regulations to regulate the manufacturing of medical marijuana. The administrative regulations shall include the following:

(a) Requiring a registered marijuana manufacturer, cultivator, distributor, or processor to contract with an independent laboratory to test the marijuana produced by the manufacturer. The department shall approve the laboratory chosen by a manufacturer, cultivator, distributor, or processor and require that the laboratory report test results be submitted to the manufacturer, cultivator, distributor, or processor and department.

(b) Establishing, publishing, and annually updating a list of varieties of

medical marijuana that possess a low level of tetrahydrocannabinol, including the substance cannabidiol, by comparing percentages of chemical compounds within a given variety against other varieties of medical marijuana; and

(c) Prioritizing the development, sale, and manufacture of medical marijuana products with a low level of tetrahydrocannabinol, including the substance cannabidiol, and encouraging priority access to medical marijuana containing a low level of tetrahydrocannabinol, including the substance cannabidiol, for patients younger than age eighteen (18) and patients who suffer from conditions that may benefit from medical marijuana containing a low level of tetrahydrocannabinol.

(3) The department shall promulgate administrative regulations to regulate the dispensing of medical marijuana. The administrative regulations shall include the following:

(a) Establishing a process to register dispensaries and operating or registering the operation of at least one (1) dispensary in each area development district of the Commonwealth within ninety (90) days of the effective date of this Act. An area development district that contains a Kentucky university having a college or school of medicine, at the discretion of the university, may have an additional dispensary focused on research and indigent care;

(b) Requiring dispensaries to:

1. Use any donated medical marijuana for research and indigent care. Donated medical marijuana shall be labeled and tracked by a dispensary and any published research using donated medical marijuana shall prominently note the manufacturer, variety, and any additional designating information required by the department;
2. Dispense only a variety of medical marijuana that contains a low level

of tetrahydrocannabinol, including the substance cannabidiol, to a patient younger than age eighteen (18) unless a physician submits documentation to the department that his or her patient who is younger than age eighteen (18) suffers from a debilitating medical condition and may benefit from a variety of marijuana that contains a higher level of tetrahydrocannabinol; and

3. Dispense up to a sixty (60) day supply of medical marijuana to a patient in accordance with a medical order; and

(c) Requiring a dispensary to employ or contract with a licensed pharmacist certified under Section 11 of this Act who shall review medical histories and any currently prescribed medications for potential negative drug interactions, provide counsel, and conduct additional relevant duties as determined by the department or the Kentucky Board of Pharmacy.

(4) The department shall promulgate administrative regulations to regulate registry identification cards for patients. The administrative regulations shall include the following:

(a) Establishing an application process for registry identification cards. The verification of information contained in an application or renewal application for a registry identification card shall be completed within fifteen (15) days of receiving a completed application or renewal application and shall be issued to a patient within five (5) days of approval. The department may deny an application or renewal of a patient's registry identification card if the applicant provides inadequate or false information or materials or had a previous registry identification card revoked. An application for a registry identification card shall include:

1. A written certification issued by a physician within ninety (90) days immediately preceding the date of an application that medical

- marijuana may assist the patient with the management of his or her debilitating medical condition;
2. The application or renewal fee;
  3. The name, address, and date of birth of the patient, except that if the patient is homeless, an alternative address may be used;
  4. The name, address, and telephone number of the patient's physician;  
and
  5. A statement, signed by the patient, pledging not to divert medical marijuana to anyone who is not allowed to possess medical marijuana;
- (b) Establishing, operating, and maintaining a secure database that shall be accessible to queries by dispensary agents, medical providers, pharmacists, and law enforcement agents;
- (c) Establishing a process to forward medical order information and a process to enter the registry identification card number and the dispensary the patient designates into the database and the system established in KRS 218A.202 if the department elects to forward information to that database;
- (d) Allowing a query of the database established in this section, and a query of the database established KRS 218A.202 if the department forwards information to that database, to assist with tracking a patient's medical history and medical use of marijuana and other controlled substances;
- (e) Issuing a registry identification card to a patient who is younger than eighteen (18) years of age if:
1. The patient's physician has explained the potential risks and benefits of the medical use of marijuana to the custodial parent or legal guardian with responsibility for health care decisions for the patient;  
and

2. The custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

  - a. Allow the qualifying patient's medical use of marijuana;
  - b. Serve as the qualifying patient's designated caretaker, if legally permitted; and
  - c. Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the patient; and

(f) Establishing a process to revoke the registry identification card of a patient for violating administrative regulations promulgated under this section or other provisions of KRS Chapter 218A.
- (5) The department shall promulgate administrative regulations to govern medical marijuana programs for the treatment of substance abuse and may establish an accreditation program for any facilities that offer this service. The administrative regulations shall include the following:

  - (a) Requiring a provider of medical marijuana for drug addiction treatment to keep adequate records to document and monitor patient care; and
  - (b) Requiring voluntary patient participation in the medical marijuana program for the treatment of substance abuse, including:

    1. An assessment by qualified personnel that utilize accepted medical criteria, such as the most current version of the Diagnostic and Statistical Manual for Mental Disorders, to determine that an individual is currently addicted to a substance, has been addicted for at least one (1) year, and may benefit from treatment by medical marijuana;
    2. A complete physical examination of every new patient; and
    3. A periodic assessment to update the patient's continued need for medical marijuana.



- (6) The department may charge an application fee and an annual fee to:
- (a) A cultivator;
  - (b) A dispensary that is not operated by the department or a Kentucky university having a college or school of medicine;
  - (c) A manufacturer;
  - (d) A processor;
  - (e) A distributor; and
  - (f) Any subcategory of licensure established pursuant to Section 3 of this Act.
- (7) The department may establish an expedited registration process for visiting patients and charge an enhanced processing fee.
- (8) The department shall promulgate administrative regulations to establish a process for disposing of unused quantities of medical marijuana.
- (9) Nothing in this section shall require the department to assume duties in relation to the medical marijuana program that are more than administrative in nature if federal law or a current and clear directive from the federal government indicates that duties assumed by the department that are more than administrative could result in federal prosecution or invalidation of the medical marijuana program established in this section.
- (10) If the department makes a determination that it is required by this section to conduct duties that are more than administrative in nature, then it shall continue to conduct duties that are administrative in nature and designate or enter into a contract with a nongovernmental entity to conduct any duties required by this section that are more than administrative in nature.
- (11) Nothing in this section shall prohibit a local legislative body from passing legislation to prohibit a dispensary within its jurisdiction.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) Within thirty (30) days of the effective date of this Act, the department, in consultation with the Consensus Forecasting Group, shall determine the five (5) most economically depressed counties in Kentucky and provide notice to the chosen counties' local governments and on its Web site.
- (2) Criteria to be used to determine the most economically depressed counties include the level of poverty per county, per capita income rates, and prevalence of local industry and jobs. The department may utilize other criteria, reports, studies, and staff employed by state government or state universities as necessary to determine the most economically depressed counties. The Department for Public Health shall publish the criteria used on its Web site and list the twenty-five (25) most economically depressed counties.
- (3) After the determination of the five (5) most economically depressed counties, the notified counties shall be given ninety (90) days to opt into manufacturing activities described in the medical marijuana program established in Sections 1 to 11 of this Act. If a county fails to opt in pursuant to this section, then the next most economically depressed county on the list shall be given the option to opt into manufacturing activities pursuant to this section within thirty (30) days. If the list of the twenty-five (25) most economically depressed counties is exhausted and five (5) counties willing to establish a manufacturing process pursuant to this section do not agree to participate, the department may accept applications from any county and grant rights to operate pursuant to this section to as many counties as necessary so that there are five (5) participating counties.
- (4) A county that opts into the manufacturing process described in this section shall have authority to grant two (2) licenses to cultivate, (2) licenses to process, and (2) licenses to manufacture to local persons. The counties that opt into the manufacturing process may also issue up to two (2) licenses based on any one (1) subcategory approved by the department. A person in the county may

simultaneously hold multiple different licenses established in this subsection but may not hold two (2) of the same license.

(5) A total of ten (10) cultivation sites may be authorized within the Commonwealth.

The cultivation sites shall be located in the five (5) most economically depressed counties as outlined in this section. Only two (2) cultivation sites may be established in any eligible county that authorizes cultivation sites pursuant to this section.

(6) Any cultivation site may deliver cultivated medical marijuana to a manufacturer, processor, or any subcategory of manufacturer or processor established by the department located within its county or may deliver to its own licensed facilities located within that county for manufacturing or processing.

(7) The department shall make an annual estimate of the amount of medical marijuana necessary to supply the needs of state and visiting patients and cardholders. This annual estimate shall serve as a guide for the licensed cultivators, manufacturers, processors, dispensaries, and distributors. The anticipated need as evidenced by the annual estimate shall be provided equally to the dispensaries from all licensed cultivators. However, licensed cultivators, manufacturers, and distributors may provide excess amounts of specific strains or varieties to dispensaries to respond to market pressures.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) (a) No person other than a licensed manufacturer, distributor, or processor shall acquire medical marijuana from a cultivator.

(b) No person other than a licensed distributor shall sell medical marijuana to a dispensary.

(c) No person other than a licensed distributor shall acquire medical marijuana from a cultivator, manufacturer, or processor.

(2) A total of three (3) distributors may be licensed within the Commonwealth by the department. The distributors shall provide all medical marijuana sold within any dispensary licensed by the Commonwealth and shall be the only purchaser of medical marijuana or any medical marijuana products received from a manufacturer, cultivator, or processor.

(3) No individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license from the department if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of or entered a plea of guilty or nolo contendere to:

(a) A crime relating to felony or misdemeanor trafficking or cultivation of a controlled substance as established in KRS Chapter 218A; or

(b) Any felony.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section and Sections 6, 7, and 8 of this Act, the following terms have the same meaning as in Section 1 of this Act:

(a) "Cardholder";

(b) "Debilitating medical condition";

(c) "Department";

(d) "Dispensary";

(e) "Manufacturer";

(f) "Marijuana" or "medical marijuana";

(g) "Medical order";

(h) "Medical use";

(i) "Patient"; and

(j) "Registry identification card"; and

(k) "Visiting patient."

(2) Notwithstanding any provision of state or local law to the contrary, including the provisions contained in KRS 217.065, 218A.050(3), 218A.1421, and 218A.1416, a patient shall not be subject to arrest by state or local law enforcement, prosecution or any penalty under state or municipal law, or denied any right or privilege for the medical use of marijuana in accordance with this chapter, if the patient is a cardholder and possesses an amount of medical marijuana that does not exceed the amount listed on his or her medical order.

(3) (a) A patient is presumed to be lawfully engaged in the medical use of marijuana in accordance with this chapter if the patient possesses a valid registry identification card and possesses an amount of medical marijuana that does not exceed the amount on a medical order.

(b) The presumption made in paragraph (a) of this subsection may be rebutted by evidence that conduct related to marijuana use was not for the purpose of treating or alleviating the patient's qualifying medical condition or symptoms or effects of the treatment associated with the patient's debilitating medical condition.

(4) A valid registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting patient to possess marijuana for medical use shall have the same force and effect as a valid registry identification card issued in Kentucky by the Department for Public Health, if the visiting patient also produces a statement from his or her health care provider that the visiting patient has a debilitating medical condition.

(5) A patient visiting from another state, district, territory, commonwealth, or insular possession of the United States may also elect to obtain a registry identification card from the department if he or she follows any requirements established

pursuant to Sections 2 and 3 of this Act.

(6) For the purposes of medical care, a patient's authorized medical use of marijuana in accordance with this chapter shall be considered the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the illegal use of a controlled substance under this chapter.

(7) A cardholder otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied that right solely for conduct allowed under Sections 1 to 11 of this Act, and there shall be no presumption of neglect, negligence, or child endangerment for an individual that has engaged solely in conduct allowed under Sections 1 to 11 of this Act.

(8) A person who ceases to be a patient shall have ten (10) days after notification by the department to dispose of any remaining medical marijuana by:

(a) Notifying local law enforcement and requesting that they dispose of the marijuana; or

(b) Disposing of the medical marijuana in a manner described by the department in an administrative regulation.

(9) A patient may use marijuana via combustion or heating though incineration on privately owned real property only with written permission of the property owner or, in the case of leased property, with the permission of the tenant in possession of the property. However, a tenant may permit a patient to use marijuana on leased property by ingestion or inhalation through vaporization or nebulization.

(10) Nothing in this section and Sections 1, 2, 3, 4, 6, 8, 9, 10, or 11 of this Act authorizes any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

(a) Undertaking any task under the influence of marijuana, when doing so would constitute negligence or professional malpractice;

(b) Possessing marijuana, or otherwise engaging in the medical use of marijuana:

1. In a school bus;
2. On the grounds of any preschool or primary or secondary school; or
3. In any correctional facility;

(c) Vaporizing marijuana:

1. On any form of public transportation; or
2. In any public place;

(d) Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, motorboat, or personal watercraft while under the influence of marijuana, except that a registered patient or visiting patient shall not be considered to be under the influence of marijuana solely because of the presence of metabolites or components of marijuana that appear in insufficient concentration to cause impairment; or

(e) Using marijuana, if that person does not have a debilitating medical condition.

(11) A patient who is found to be in possession of marijuana outside of his or her home who is not in possession of his or her registry identification card may be subject to a fine of up to one hundred dollars (\$100).

(12) In no case shall a patient, with or without his or her registry identification card in his or her possession, possess more than a ninety (90) day supply of medical marijuana as indicated by his or her medical order.

(13) The provisions of this section shall not apply in cases where the state or local law enforcement agency has probable cause to believe that a person is distributing medical marijuana to a person who is not allowed to possess it under Sections 1 to 11 of this Act. Any seizure of medical marijuana by law enforcement officers for a violation of this chapter shall be limited to the amount of marijuana in

excess of the quantities permitted under this section or Section 2 of this Act.

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A physician shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, or denied any right or privilege, including but not limited to a civil penalty or disciplinary action by any occupational or professional licensing entity, solely for providing a medical order for the use of marijuana. However, nothing shall prevent a professional licensing entity from sanctioning a provider for failing to properly evaluate a patient's medical condition or otherwise violating KRS 311.550 to 311.620.

(2) A dispensary-employed pharmacist shall not be subject to arrest by state or local law enforcement, prosecution, or penalty under state or municipal law, including but not limited to a civil penalty or disciplinary action by any occupational or professional licensing entity, or be denied any right or privilege solely for dispensing medical marijuana.

(3) A dispensary shall not be subject to prosecution under state or municipal law or to search or inspection, except as provided by the department by administrative regulation, for acting pursuant to Section 1, 2, 3, or 4 of this Act to deliver, transfer, supply, sell, or dispense marijuana and related supplies and educational materials to patients who have designated the dispensary to provide medical marijuana, cannabidiol, or related items or equipment for them or to other dispensaries.

(4) A dispensary employee shall not be subject to a search or arrest by state or local law enforcement, prosecution, or penalty in any manner under state or municipal law, or be denied any right or privilege for working for a dispensary pursuant to Section 1, 2, 3, or 4 of this Act.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO



READ AS FOLLOWS:

- (1) Any local or statewide smoking ban shall be binding on all use of smoked, nebulized, or vaporized medical marijuana, except that use of medical marijuana shall only be allowed in any indoor or partially enclosed designated smoking areas if a prominent sign explicitly permits such use. The department may permit the use of vaporizing or nebulizing devices for medical marijuana within medical or research facilities.
- (2) Nothing in Sections 1 to 11 of this Act shall be construed to require:
- (a) Any health insurance provider, health care plan, or medical assistance program to be liable for any claim for reimbursement for the medical use of marijuana;
- (b) Any individual or entity in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property; or
- (c) Any accommodation of the medical use of marijuana on the property or premises of any place of employment or on the property or premises of any jail, correctional facility, or other type of penal institution where prisoners reside or persons under arrest are detained. This chapter shall in no way limit an employer's ability to discipline an employee for ingesting marijuana in the workplace or for working while under the influence of marijuana.
- (3) Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of marijuana to avoid arrest or prosecution shall be guilty of a violation and may be fined five hundred dollars (\$500), which shall be in addition to any other penalties that may apply for making a false statement to a law enforcement officer or for the use of marijuana other than use undertaken pursuant to Sections 1 to 11 of this Act.
- (4) A patient, manufacturer, physician, pharmacist, dispensary, dispensary employee,

cardholder, or other person or entity involved in the operation, manufacture, administration, treatment, selling, purchasing, delivery, or medical use of marijuana or the implementation of Sections 1 to 11 of this Act shall not be subject to the tax established in KRS 138.870 to 138.889 if his or her activity is otherwise permissible under Sections 1 to 11 of this Act.

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

There is hereby created a Task Force on Risk Evaluation and Mitigation Strategies for Medical Marijuana. The task force shall study any dangers or complications caused by different varieties of medical marijuana and assist in establishing reasonable procedures for minimizing risks to patients, physicians, and the Commonwealth's citizens. Risk minimization may include but is not limited to restricting certain varieties of marijuana to specific debilitating medical conditions and restricting administration and delivery methods for specified varieties of marijuana. The task force shall be chaired by the commissioner of the department, and shall be composed of a reasonable number of members to be appointed by the Governor. The task force shall hold its first meeting no later than September 1, 2016, and shall meet at least twice per year. The task force shall publish a list of findings and forward it to the Legislative Research Commission by November 1 of each year.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

(1) The department shall establish a Medical Marijuana Division that shall collaborate with the Department for Public Health to design a system to appropriately monitor the use of medical marijuana in the Commonwealth and enforce Sections 1 to 11 of this Act.

(2) The Medical Marijuana Division shall employ peace officers to perform any inspections or enforcement necessary pursuant to Sections 1 to 11 of this Act and

any existing state laws relating to controlled substances and marijuana.

➔SECTION 10. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days of the effective date of this Act, the board shall establish, implement, and begin to issue certificates to physicians who elect to recommend medical marijuana pursuant to this section and Sections 1 to 9 of this Act.

(2) To obtain and maintain a certificate in good standing a physician shall:

(a) Not be subject to any licensing sanctions;

(b) Have remained in good standing with the board for the previous five (5) years;

(c) Comply with any administrative regulations promulgated by the board pursuant to this section and any administrative regulations promulgated by the Department for Public Health pursuant to Sections 1 to 9 of this Act;

(d) Complete the training component established in subsection (7) of this section; and

(e) Complete any continuing education requirement established pursuant to subsection (7) of this section.

(3) A physician that complies with the administrative regulations promulgated pursuant to this section who requests a certificate pursuant to this section shall be issued a medical marijuana certificate. If a physician fails to follow the administrative regulations promulgated pursuant to this section or Sections 1 to 9 of this Act, his or her certificate to recommend medical marijuana shall be revoked following a hearing held in accordance with KRS Chapter 13B. A certificate shall last for two (2) years and shall be reissued upon the election of the physician if he or she remains in good standing. The board shall not charge more than five hundred dollars (\$500) per two (2) year period for any certificate issued or reissued under this section.

- (4) Within ninety (90) days of the effective date of this Act, the board shall promulgate administrative regulations establishing standards for generating orders for medical marijuana. These standards shall follow any recommendations established by the department pursuant to Sections 1 to 9 of this Act, and may not limit generating an order for medical marijuana to only hemp, hemp products, or industrial hemp as defined by KRS 260.850. The board shall periodically review and amend the standards as necessary.
- (5) Within ninety (90) days of the effective date of this Act, the board shall promulgate administrative regulations for physicians generating medical orders for marijuana.
- (6) Administrative regulations promulgated pursuant to this section shall include but are not limited to the following:
- (a) Requiring a physician to conduct a medical assessment of any prospective patient that includes the individual's medical history and current medical condition;
  - (b) Requiring that a physician certify that a patient could benefit from medical marijuana and forwarding that diagnosis to the department so that a registry identification card can be created for the patient;
  - (c) Requiring a continuing patient-physician relationship in order for a medical order for marijuana to remain valid;
  - (d) Requiring that a physician periodically reevaluate a patient's need for medical marijuana and specify time periods for reevaluation of need that are consistent with reevaluation for controlled substances for pain medication;
  - (e) Requiring informed consent;
  - (f) Requiring that a physician establish a treatment plan that tailors the therapeutic or palliative use of marijuana to a patient's individual needs;

- (g) Requiring that a physician keep accurate and complete records for each patient;
- (h) Requiring a physician to exchange information with any secure databases established by the Department for Public Health to administer Sections 1 to 9 of this Act; and
- (i) Requiring a physician to conduct an examination and assessment at least once per year to determine whether medical marijuana continues to be an effective and appropriate treatment for a patient.
- (7) On or by the effective date of this Act, the board shall make a two (2) hour training component available on an in-person or Web-based format to educate physicians applying for a certificate to generate orders for the use of medical marijuana. Any training offered under this section shall educate physicians on any administrative regulations promulgated pursuant to this section and any administrative regulations promulgated by the Department for Public Health pursuant to Sections 1 to 9 of this Act. Any training offered pursuant to this subsection shall be periodically updated and may be offered as a continuing medical education credit. Any continuing training requirement established under this section shall not require more than one (1) hour per year of continuing training for physicians generating medical orders for marijuana.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

- (1) Within ninety (90) days of the effective date of this Act, the board shall implement a process to certify and begin to issue certificates to pharmacists who elect to participate in the dispensing process for medical marijuana pursuant to Section 1, 2, 3, or 4 of this Act. The board may charge a fee of no more than five hundred dollars (\$500) for a certificate.
- (2) A certified pharmacist shall:

- (a) Not be subject to any licensing sanctions;
  - (b) Have remained in good standing with the board for the previous five (5) years;
  - (c) Comply with any administrative regulations promulgated by the board pursuant to this section and any administrative regulations promulgated by the Department for Public Health pursuant to Sections 1 to 9 of this Act;
  - (d) Complete the training component established in this section; and
  - (e) Complete any continuing education requirement established in this section.
- (3) A certified pharmacist who completes all requirements shall be issued a certificate to dispense medical marijuana.
- (4) Within ninety (90) days of the effective date of this Act, the board shall promulgate administrative regulations establishing standards for dispensing medical marijuana. These standards shall follow any recommendations established by the Department for Public Health pursuant to Sections 1 to 9 of this Act and may not limit dispensed medical marijuana to hemp, hemp products, or industrial hemp as defined by KRS 260.850.
- (5) The board shall make in-person or Web-based training available to educate pharmacists applying for a certificate to dispense medical marijuana. Any training requirement established under this section shall not require more than one (1) hour per year of continuing training for pharmacists dispensing medical marijuana.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:
- (a) "Cultivator" has the same meaning as in Section 1 of this Act;
  - (b) "Department" means the Department of Revenue;
  - (c) "Distributor" has the same meaning as in Section 1 of this Act;

(d) "Manufacturer" has the same meaning as in Section 1 of this Act; and

(e) "Processor" has the same meaning as in Section 1 of this Act.

(2) Effective December 1, 2016:

(a) An excise tax is hereby imposed upon every cultivator, processor, and manufacturer for the privilege of selling medical marijuana products to a distributor at the rate of ten percent (10%) of the actual price for which the cultivator, processor, or manufacturer sells the marijuana products in this state; and

(b) An excise tax is hereby imposed upon every distributor for the privilege of selling medical marijuana products to a dispensary at the rate of ten percent (10%) of the actual price for which the distributor sells the medical marijuana products in this state.

(3) Cultivators, processors, manufacturers, and distributors of medical marijuana products shall:

(a) Register with the department; and

(b) Report and pay the tax levied under this section on or before the twentieth day of the calendar month following the month in which the medical marijuana products are sold. A tax return shall be filed for each reporting period whether or not tax is due.

(4) Any person who violates any provision of this section shall be subject to the uniform civil penalties imposed pursuant to KRS 131.180 and interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

(5) (a) Notwithstanding any other provision of this section, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of this section shall be personally and individually liable, both jointly and severally, for the

- taxes imposed under this section.
- (b) Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to every person holding a corporate office at the time the tax becomes or became due.
- (c) Notwithstanding any other provision of this chapter, KRS 275.150, 362.1-306(3) or predecessor law, or 362.2-404(3) to the contrary, the managers of a limited liability company, the partners of a limited liability partnership, and the general partners of a limited liability limited partnership, or any other person holding any equivalent office of a limited liability company, limited liability partnership, or limited liability limited partnership subject to the provisions of this section shall be personally and individually liable, both jointly and severally, for the tax imposed under this section.
- (d) Dissolution, withdrawal of the limited liability company, limited liability partnership, or limited liability limited partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to every manager of a limited liability company, partner of a limited liability partnership, or general partner of a limited liability limited partnership at the time the tax becomes or became due.
- (e) No person shall be personally and individually liable under this section who had no authority to truthfully account for, or pay over, any tax imposed by this section at the time the tax imposed becomes or became due.
- (f) "Taxes" as used in this section include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.



(6) The department shall administer the provisions of this chapter and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this section, conferred generally upon the department by the Kentucky Revised Statutes, including Chapters 131, 134, and 135.

(7) Every cultivator, processor, manufacturer, and distributor shall keep records, receipts, invoices, and other pertinent papers in such form as the department may require for not less than four (4) years from the making of such records, receipts, invoices, and other pertinent papers.

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The Medical Marijuana trust fund is hereby created within the State Treasury. The fund shall consist of funds collected from excise taxes imposed under Section 12 of this Act, registration fees, license fees, and fines imposed under Sections 1 to 11 of this Act, and any proceeds from grants, contributions, appropriations, or other moneys made available for purposes of this fund.

(2) Trust fund moneys shall be used to offset the costs and expenses of operating the medial marijuana program and enforcement activities established in Sections 1 to 11 of this Act. Any excess funds remaining shall be available to the secretary of the Justice and Public Safety Cabinet to provide funding for mental health treatment throughout the Commonwealth concentrating primarily on addiction treatment.

(3) Notwithstanding KRS 45.229, moneys in the fund not expended at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(4) Any interest earnings of the trust fund shall become part of the fund and shall not lapse.

(5) Moneys transferred to this fund are hereby appropriated for the purposes set

*forth in this section.*

→ Section 14. Sections 1 to 11 of this Act shall expire on January 1, 2022.