

AN ACT relating to medical cannabis.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

- (1) Cannabis's recorded use as a medicine goes back nearly five thousand (5,000) years. Modern medical research has confirmed the beneficial uses for cannabis in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions, including cancer, multiple sclerosis, and HIV/AIDS, as found by the National Academy of Sciences' Institute of Medicine in March 1999;*
- (2) Studies published since the 1999 Institute of Medicine report have continued to show the therapeutic value of cannabis in treating a wide array of debilitating medical conditions. These include relief of the neuropathic pain caused by multiple sclerosis, HIV/AIDS, other illnesses and injuries that often fail to respond to conventional treatments, and relief of nausea, vomiting, and other side effects of drugs used to treat HIV/AIDS and hepatitis C, increasing the chances of patients continuing on life-saving treatment regimens;*
- (3) Cannabis has many currently accepted medical uses in the United States, having been recommended by thousands of licensed physicians to more than five hundred thousand (500,000) patients in states with medical cannabis laws. Cannabis's medical utility has been recognized by a wide range of medical and public health organizations, including the American Academy of HIV Medicine, the American College of Physicians, the American Nurses Association, the American Public Health Association, the Leukemia & Lymphoma Society, and many others;*
- (4) Data from the Federal Bureau of Investigation's Uniform Crime Reports and the*

Compendium of Federal Justice Statistics show that approximately ninety-nine (99) out of every one hundred (100) cannabis arrests in the United States are made under state law, rather than under federal law. Consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use cannabis;

(5) The states of Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Michigan, Montana, Nevada, New Hampshire, New Jersey, New Mexico, Oregon, Vermont, Rhode Island, and Washington, as well as the District of Columbia, have removed state-level criminal penalties from the medical use and cultivation of cannabis. Kentucky joins in this effort for the health and welfare of its citizens;

(6) States are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. Therefore, compliance with Sections 1 to 25 of this Act does not put the state of Kentucky in violation of federal law; and

(7) State law should make a distinction between the medical and nonmedical uses of cannabis. Therefore, the purpose of Sections 1 to 25 of this Act is to protect patients with debilitating medical conditions, as well as their practitioners and providers, from arrest and prosecution, criminal and other penalties, and property forfeiture, if such patients engage in the medical use of cannabis.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 1 to 25 of this Act, unless the context otherwise requires:

(1) "Bona fide practitioner-patient relationship" means that:

(a) A practitioner and patient have a treatment or consulting relationship, during the course of which the physician has completed an assessment of the patient's medical history and current medical condition, including an appropriate personal physical examination;

- (b) The practitioner has consulted with the patient with respect to the patient's debilitating medical condition; and
- (c) The physician is available to or offers to provide follow-up care and treatment to the patient, including but not limited to patient examinations;
- (2) "Cannabis" 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, extract, or preparation which contains any quantity of these substances. The term "cannabis" does not include industrial hemp as defined in KRS 260.850;
- (3) "Cardholder" means a qualifying patient, visiting qualifying patient, or a designated caregiver who has been issued and possesses a valid registry identification card;
- (4) "Compassion center agent" means a principal officer, board member, employee, or agent of a registered compassion center who is twenty-one (21) years of age or older and has not been convicted of a disqualifying felony offense;
- (5) "Cultivator agent" means a principal officer, board member, employee, or agent of a registered cultivator who is twenty-one (21) years of age or older and has not been convicted of a disqualifying felony offense;
- (6) "Debilitating medical condition" means:
- (a) A terminal illness, peripheral neuropathy, anorexia, cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, post-traumatic stress disorder, diabetes, fibromyalgia, autism, ulcerative colitis, injuries that significantly interfere with daily activities, or the treatment of these conditions;
- (b) A chronic or debilitating disease or medical condition or its treatment that

produces one (1) or more of the following: cachexia or wasting syndrome; severe, debilitating pain; severe nausea; seizures; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis; or

(c) Any other medical condition or its treatment added by the department, as provided for in Section 6 of this Act;

(7) "Department" means the Department for Public Health or its successor agency;

(8) "Designated caregiver" means a person who:

(a) Is at least twenty-one (21) years of age;

(b) Has agreed to assist with a patient's medical use of cannabis;

(c) Has not been convicted of a disqualifying felony offense; and

(d) Assists no more than five (5) qualifying patients with their medical use of cannabis;

(9) "Disqualifying felony offense" means:

(a) A felony offense that would qualify the person as a violent offender under KRS 439.3401; or

(b) A violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, not including:

1. An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed five (5) or more years earlier; or

2. An offense that consisted of conduct for which Sections 1 to 25 of this Act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of Sections 1 to 25 of this Act or was prosecuted by an authority other than the Commonwealth of Kentucky;

- (10) "Enclosed, locked facility" means a closet, room, greenhouse, building, or other enclosed area that is equipped with locks or other security devices that permit access only by the cardholder allowed to cultivate the plants or, in the case of a registered cultivator, the cultivator agents working for the registered cultivator. Two (2) or more registered qualifying patients or registered designated caregivers who reside in the same dwelling and have a registry identification card that removes state penalties for cannabis cultivation may share one (1) enclosed, locked facility for cultivation;
- (11) "Mature cannabis plant" means a cannabis plant that has flowers;
- (12) "Medical use" includes the acquisition, administration, cultivation, or manufacture in an enclosed, locked facility or the delivery, possession, transfer, transportation, or use of cannabis or paraphernalia relating to the administration of cannabis to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition. It does not include cultivation by a visiting qualifying patient or cultivation by a registered designated caregiver or registered qualifying patient who is not designated as being allowed to cultivate;
- (13) "Practitioner" has the same meaning as in KRS 218A.010, except that if the qualifying patient's debilitating medical condition is post-traumatic stress disorder, the practitioner shall only be a licensed psychiatrist. In relation to a visiting qualifying patient, "practitioner" means a person who is licensed with authority to prescribe controlled substances to humans in the state of the patient's residence;
- (14) "Qualifying patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition;
- (15) "Registered compassion center" means an entity registered pursuant to Section 14 of this Act that acquires, possesses, manufactures, delivers, transfers,

transports, sells, supplies, or dispenses cannabis, useable cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients;

(16) "Registered Cultivator" means a business entity registered pursuant to Section 15 of this Act that grows, processes, and delivers cannabis to a compassion center in accordance with Section 15 of this Act;

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

(18) "Registered safety compliance facility" means an entity registered under Section 16 of this Act by the department to provide one (1) or more of the following services:

(a) Testing cannabis produced for medical use, including for potency and contaminants; and

(b) Training, cultivator agents and compassion center agents. The training may include but need not be limited to information related to one (1) or more of the following:

1. The safe and efficient cultivation, harvesting, packaging, labeling, and distribution of cannabis;

2. Security and inventory accountability procedures; and

3. Up-to-date scientific and medical research findings related to medical cannabis;

(19) "Safety compliance facility agent" means a principal officer, board member, employee, or agent of a registered safety compliance facility who is twenty-one (21) years of age or older and has not been convicted of a disqualifying felony offense;

(20) "Seedling" means a cannabis plant that has no flowers and is larger than eight

(8) inches tall;

(21) "Usable cannabis" means the dried flowers of the cannabis plant and any mixture, extract, concentrate, resin, or preparation thereof, but does not include the seeds, stalks, and roots of the plant. It does not include the weight of any non cannabis ingredients combined with cannabis, including ingredients added to prepare a topical administration, food, or drink;

(22) "Verification system" means a telephone-based or Web-based system established and maintained by the department that is available to law enforcement personnel and compassion center agents on a twenty-four (24) hour basis for verification of registry identification cards;

(23) "Visiting qualifying patient" means a person who:

(a) Has been diagnosed with a debilitating medical condition;

(b) Possesses a valid registry identification card, or its equivalent, that was issued pursuant to the laws of another state, district, territory, commonwealth, insular possession of the United States, or country recognized by the United States that allows the person to use cannabis for medical purposes in the jurisdiction of issuance; and

(c) Is not a resident of Kentucky or who has been a resident of Kentucky for less than thirty (30) days; and

(24) "Written certification" means a document dated and signed by a practitioner, stating that in the practitioner's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. A written certification shall affirm that it is made in the course of a bona fide practitioner-patient relationship and shall specify the qualifying patient's debilitating medical condition.

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

READ AS FOLLOWS:

(1) A registered qualifying patient shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for the medical use of cannabis pursuant to Sections 1 to 25 of this Act, if the registered qualifying patient does not possess more than:

(a) Three (3) ounces offsite; and

(b) Twelve (12) mature cannabis plants and twelve (12) seedlings at the site where the cannabis is cultivated, if the qualifying patient has not specified that a designated caregiver will be allowed under state law to cultivate cannabis for the qualifying patient.

(2) A registered designated caregiver shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board for:

(a) Assisting a registered qualifying patient to whom he or she is connected through the department's registration process with the medical use of cannabis if the designated caregiver does not possess more than:

1. Three (3) ounces offsite for each qualifying patient to whom the registered caregiver is connected through the department's registration process; and

2. Twelve (12) mature cannabis plants and twelve (12) seedlings at the site where the cannabis is cultivated for each registered qualifying patient who has specified that the designated caregiver will be allowed under state law to cultivate cannabis for the qualifying patient; or

(b) Receiving compensation for costs associated with assisting a registered qualifying patient's medical use of cannabis if the registered designated caregiver is connected to the registered qualifying patient through the

department's registration process.

- (3) All mature cannabis plants and seedlings possessed pursuant to this section shall be kept in an enclosed, locked facility, unless they are being transported to a permissible location, including because the cardholder is moving, the registered qualifying patient has changed his or her designation of who can cultivate, or the plants are being given to someone allowed to possess them pursuant to Sections 1 to 25 of this Act. The three (3) ounce limits established in subsections (1) and (2) of this section may be exceeded during transportation under this subsection.
- (4) A visiting qualifying patient shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for the medical use of cannabis pursuant to Sections 1 to 25 of this Act, if the visiting qualifying patient does not possess more than three (3) ounces of usable cannabis.
- (5) A registered qualifying patient, visiting qualifying patient, or registered designated caregiver shall not be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board for:
- (a) Possession of cannabis that is incidental to medical use, but is not mature cannabis plants, seedlings, or usable cannabis;
- (b) Selling, transferring, or delivering cannabis seeds produced by the registered qualifying patient, visiting qualifying patient, or registered designated caregiver to a registered compassion center;
- (c) Transferring cannabis to a registered safety compliance facility for testing;
- or
- (d) Giving cannabis to a registered qualifying patient, a registered compassion center, or a registered designated caregiver for a registered qualifying patient's medical use where nothing of value is transferred in return, or for

offering to do the same, if the person giving the cannabis does not knowingly cause the recipient to possess more cannabis than is permitted by this section.

(6) (a) There shall be a presumption that a qualifying patient is engaged in, or a designated caregiver is assisting with, the medical use of cannabis in accordance with Sections 1 to 25 of this Act if the qualifying patient or designated caregiver:

1. Is in possession of a valid registry identification card, or, in the case of a visiting qualifying patient, its equivalent; and
2. Is in possession of an amount of cannabis that does not exceed the amount allowed under this section.

(b) The presumption may be rebutted by evidence that conduct related to cannabis was not for the purpose of treating or alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition in compliance with Sections 1 to 25 of this Act.

(7) A practitioner shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Kentucky Board of Medical Licensure or by any other occupational or professional licensing board, solely for providing written certifications or for otherwise stating that, in the practitioner's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition, except that nothing in Sections 1 to 25 of this Act shall prevent a practitioner from being sanctioned for:

(a) Issuing a written certification to a patient with whom the practitioner does

not have a bona fide practitioner-patient relationship; or

(b) Failing to properly evaluate a patient's medical condition.

(8) No person may be subject to arrest, prosecution, or denial of any right or privilege, including but not limited to civil penalty or disciplinary action by a court or occupational or professional licensing board, for:

(a) Selling cannabis paraphernalia to a cardholder upon presentation of a registry identification card in the recipient's name that has not expired or to a compassion center agent or registered safety compliance facility agent upon presentation of an unexpired copy of the entity's registration certificate;

(b) Being in the presence or vicinity of the medical use of cannabis as allowed under Sections 1 to 25 of this Act; or

(c) Assisting a registered qualifying patient with using or administering cannabis. For purposes of illustration and not limitation, this includes preparing a vaporizer for a registered qualifying patient's use or brewing tea for a registered qualifying patient. It does not include providing cannabis to a patient that the patient did not already possess.

(9) A registered compassion center shall not be subject to prosecution under state or local law, to search or inspection except by the department pursuant to Section 20 of this Act, to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for acting pursuant to Sections 1 to 25 of this Act and the department's administrative regulations for:

(a) Selling cannabis seeds to similar entities that are registered to dispense cannabis for medical use in other jurisdictions; or

(b) Acquiring, possessing, manufacturing, delivering, transferring, transporting, supplying, selling, or dispensing cannabis, usable cannabis,

related supplies, and educational materials to registered qualifying patients, visiting qualifying patients who have designated the compassion center to provide for them, registered designated caregivers on behalf of the registered qualifying patients who have designated the registered compassion center, or to other registered compassion centers.

(10) A registered compassion center agent shall not be subject to prosecution, search, or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, for working for a registered compassion center pursuant to Sections 1 to 25 of this Act and the department's administrative regulations to acquire, possess, manufacture, deliver, transfer, transport, supply, sell, or dispense cannabis or related supplies and educational materials to registered qualifying patients who have designated the registered compassion center to provide for them, to registered designated caregivers on behalf of the registered qualifying patients who have designated the registered compassion center, or to other registered compassion centers.

(11) A registered cultivator or cultivator agent acting on behalf of a registered cultivator shall not be subject to prosecution under state or local law, to search or inspection except by the department pursuant to Section 20 of this Act, or to seizure or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by court or business licensing board, for acting pursuant to Sections 1 to 25 of this Act and the department's administrative regulations for:

(a) Selling cannabis seeds to similar entities that are registered to cultivate cannabis for medical use in other jurisdictions; or

(b) Acquiring, possessing, cultivation, manufacturing, delivering, transferring, transporting, supplying, or selling usable cannabis and related supplies to

other registered cultivators or registered compassion centers;

(12) A registered safety compliance facility and registered safety compliance facility agents acting on behalf of a registered safety compliance facility shall not be subject to prosecution, search except by the department pursuant to Section 20 of this Act, seizure, or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a court or business licensing board, solely for acting in accordance with Sections 1 to 25 of this Act and the department's administrative regulations to provide the following services:

(a) Acquiring or possessing cannabis obtained from registered cardholders, registered cultivators, or registered compassion centers;

(b) Returning the cannabis to registered cardholders, registered cultivators, or registered compassion centers;

(c) Transporting cannabis that was produced by registered cardholders, registered cultivators, and registered compassion centers to or from those registered cardholders, registered cultivators, and registered compassion centers;

(d) The production or sale of educational materials related to medical cannabis;

(e) The production, sale, or transportation of equipment or materials other than cannabis to registered compassion centers, registered cultivators, registered caregivers, or cardholders including lab equipment and packaging materials, that are used by registered compassion centers, registered cultivators, and cardholders;

(f) Testing of medical cannabis samples, including for potency, pesticides, mold, and contamination;

(g) Providing training to cardholder, prospective cultivator agents, and

prospective compassion center agents, provided that only cardholders may be allowed to possess or cultivate cannabis and any possession or cultivation of cannabis must occur on the location registered with the department; and

(h) Receiving compensation for actions allowed under this section.

(13) Any cannabis, cannabis paraphernalia, lawful property, or interest in lawful property that is possessed, owned, or used in connection with the medical use of cannabis as allowed under Sections 1 to 25 of this Act, or acts incidental to such use, shall not be seized or forfeited. Sections 1 to 25 of this Act shall not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under Sections 1 to 25 of this Act, nor shall it prevent seizure or forfeiture if the basis for the action is unrelated to the cannabis that is possessed, manufactured, transferred, or used pursuant to Sections 1 to 25 of this Act.

(14) Mere possession of, or application for, a registry identification card or registration certificate shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person, property, or home of the person possessing or applying for the registry identification card. The possession of, or application for, a registry identification card shall not preclude the existence of probable cause if probable cause exists on other grounds.

(15) For the purposes of Kentucky law and any provisions to the contrary of Sections 1 to 25 of this Act, the medical use of cannabis by a cardholder or registered compassion center shall be considered lawful as long as it is in accordance with Sections 1 to 25 of this Act.

(16) No law enforcement officer employed by an agency which receives state or local government funds shall expend any state or local resources, including the officer's time, to effect any arrest or seizure of cannabis, or conduct any

investigation, on the sole basis of activity the officer believes to constitute a violation of the federal Controlled Substances Act, 21 U.S.C. secs. 801 et seq., if the officer has reason to believe that such activity is in compliance with state medical cannabis laws, nor shall any such officer expend any state or local resources, including the officer's time, to provide any information or logistical support related to such activity to any federal law enforcement authority or prosecuting entity.

(17) An attorney shall not be subject to disciplinary action by the Kentucky Bar Association or other professional licensing association for providing legal assistance to prospective or registered cultivators, compassion centers, or safety compliance facilities or others related to activity that is no longer subject to criminal penalties under state law pursuant to Sections 1 to 25 of this Act.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

This chapter does not authorize any person to engage in, and does not prevent the imposition of any civil, criminal, or other penalties for engaging in, the following conduct:

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

(2) Possessing cannabis, or otherwise engaging in the medical use of cannabis:

(a) In a school bus;

(b) On the grounds of any preschool or primary or secondary school; or

(c) In any correctional facility;

(3) Smoking cannabis:

(a) On any form of public transportation; or

(b) In any public place;

(4) Operating, navigating, or being in actual physical control of any motor vehicle,

aircraft, or motorboat or personal watercraft while under the influence of cannabis, except that a registered qualifying patient or visiting qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment; or

(5) Using cannabis, if that person does not have a debilitating medical condition.

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

(1) Except as provided in Sections 1 to 25 of this Act, a registered qualifying patient who uses cannabis for medical purposes shall be afforded all the same rights under state and local law, including those guaranteed under KRS Chapter 344, as the individual would have been afforded if he or she were solely prescribed pharmaceutical medications, as it pertains to:

(a) Any interaction with a person's employer;

(b) Drug testing by one's employer; or

(c) Drug testing required by any state or local law, agency, or government official.

(2) (a) The rights provided by this section do not apply to the extent that they conflict with an employer's obligations under federal law or regulations or to the extent that they would disqualify an employer from a monetary or licensing-related benefit under federal law or regulations.

(b) No employer is required to allow the ingestion of cannabis in any workplace or to allow any employee to work while under the influence of cannabis. A registered qualifying patient shall not be considered to be under the influence of cannabis solely because of the presence of metabolites or components of cannabis that appear in insufficient concentration to cause impairment.

- (3) No school or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for his or her status as a registered qualifying patient or a registered designated caregiver, unless failing to do so would violate federal law or regulations or cause the school or landlord to lose a monetary or licensing-related benefit under federal law or regulations.
- (4) For the purposes of medical care, including organ transplants, a registered qualifying patient's authorized use of cannabis in accordance with Sections 1 to 25 of this Act is the equivalent of the authorized use of any other medication used at the direction of a physician, and shall not constitute the use of an illicit substance or otherwise disqualify a qualifying patient from needed medical care.
- (5) A person otherwise entitled to custody of or visitation or parenting time with a minor shall not be denied such a right, and there shall be no presumption of neglect or child endangerment, for conduct allowed under Sections 1 to 25 of this Act, unless the person's actions in relation to cannabis were such that they created an unreasonable danger to the safety of the minor as established by clear and convincing evidence.
- (6) No school, landlord, or employer may be penalized or denied any benefit under state law for enrolling, leasing to, or employing a cardholder.

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

Any citizen may petition the department to add conditions to the list of debilitating medical conditions listed in Section 2 of this Act. The department shall consider petitions in the manner required by administrative regulations promulgated by the department, including public notice and hearing. The department shall approve or deny a petition within one hundred (100) days of its submission. The approval or denial of any petition is a final decision of the department subject to judicial review. Jurisdiction and venue are vested in the Franklin Circuit Court.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Nothing in Sections 1 to 25 of this Act requires:

- (a) A government medical assistance program or private insurer to reimburse a person for costs associated with the medical use of cannabis; or
- (b) Any person or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to smoke cannabis on or in that property.

(2) Nothing in this chapter prohibits an employer from disciplining an employee for ingesting cannabis in the workplace or working while under the influence of cannabis.

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

(1) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's administrative regulations:

- (a) A written certification issued by a practitioner within ninety (90) days immediately preceding the date of an application;
- (b) If the patient is not a visiting qualifying patient, documentation required to reasonably establish proof of residency in Kentucky;
- (c) If the patient is a visiting qualifying patient, a copy of his or her registry identification card or its equivalent that was issued pursuant to the laws of the jurisdiction of the person's residence;
- (d) The application or renewal fee;
- (e) The name, address, and date of birth of the qualifying patient, except that if the applicant is homeless no address is required;
- (f) The name, address, and telephone number of the qualifying patient's

practitioner;

(g) The name, address, and date of birth of the designated caregiver, if any, chosen by the qualifying patient, except that a visiting qualifying patient may not have a designated caregiver;

(h) The name of the registered compassion center the qualifying patient designates, if any;

(i) If the qualifying patient designates a designated caregiver, a designation as to whether the qualifying patient or designated caregiver will be allowed under state law to possess and cultivate cannabis plants for the qualifying patient's medical use;

(j) A statement, signed by the qualifying patient, pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to Sections 1 to 25 of this Act; and

(k) A signed statement from the designated caregiver, if any, agreeing to be designated as the patient's designated caregiver and pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to Sections 1 to 25 of this Act.

(2) The application for qualifying patients' registry identification cards shall ask whether the patient would like the department to notify him or her of any clinical studies needing human subjects for research on the medical use of cannabis. The department shall notify interested patients if it is notified of studies that will be conducted in the United States.

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the department shall:

(a) Verify the information contained in an application or renewal submitted pursuant to Section 8 of this Act, and approve or deny an application or

renewal, within fifteen (15) days of receiving a completed application or renewal application;

(b) Issue registry identification cards to a qualifying patient and his or her designated caregiver, if any, within five (5) days of approving the application or renewal. A designated caregiver must have a registry identification card for each of his qualifying patients; and

(c) Enter the registry identification number of the registered compassion center the patient designates into the verification system.

(2) The department shall not issue a registry identification card to a qualifying patient who is younger than eighteen (18) years of age unless:

(a) The qualifying patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and

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

1. Allow the qualifying patient's medical use of cannabis;

2. Serve as the qualifying patient's designated caregiver; and

3. Control the acquisition of the cannabis, the dosage, and the frequency of the medical use of cannabis by the qualifying patient.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The department may deny an application or renewal of a qualifying patient's registry identification card only if the applicant:

(a) Did not provide the required information or materials;

(b) Previously had a registry identification card revoked; or

(c) Provided false or falsified information.

- (2) The department may deny an application or renewal for a designated caregiver chosen by a qualifying patient whose registry identification card was granted only if:
- (a) The designated caregiver does not meet the requirements of Section 2 of this Act;
- (b) The applicant did not provide the information required;
- (c) The designated caregiver previously had a registry identification card revoked; or
- (d) The applicant or the designated caregiver provides false or falsified information.
- (3) The department may conduct a background check of the prospective designated caregiver in order to implement this section.
- (4) The department shall notify the qualifying patient who has designated someone to serve as his or her designated caregiver if a registry identification card will not be issued to the designated caregiver.
- (5) Denial of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Franklin Circuit Court.

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) Registry identification cards shall contain all of the following:
- (a) The name of the cardholder;
- (b) A designation of whether the cardholder is a designated caregiver or qualifying patient;
- (c) The date of issuance and expiration date of the registry identification card;
- (d) A random ten (10) character alphanumeric identification number, containing at least four (4) numbers and at least four (4) letters, that is

unique to the cardholder;

(e) If the cardholder is a designated caregiver, the random ten (10) character alphanumeric identification number of the qualifying patient the designated caregiver is receiving the registry identification card to assist;

(f) A clear designation as to whether the cardholder will be allowed under state law to possess the cannabis plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference;

(g) A photograph of the cardholder, if the department's administrative regulations require one; and

(h) The telephone number or Web address for the verification system.

(2) (a) Except as provided in this subsection, the expiration date shall be one (1) year after the date of issuance;

(b) If the practitioner stated in the written certification that the qualifying patient would benefit from cannabis until a specified earlier date, then the registry identification card shall expire on that date.

(3) The department may, at its discretion, electronically store in the card all of the information listed in subsection (1) of this section, along with the address and date of birth of the cardholder, to allow it to be read by law enforcement agents.

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The following notifications and department responses are required:

(a) A registered qualifying patient shall notify the department of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within ten (10) days of the change;

(b) A registered designated caregiver shall notify the department of any change

in his or her name or address, or if the designated caregiver becomes aware that the qualifying patient has died, within ten (10) days of the change or of becoming aware of the qualifying patient's death;

(c) Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient shall notify the department of the change;

(d) When a registered qualifying patient changes his or her preference as to who may cultivate cannabis for the qualifying patient, the qualifying patient shall notify the department of the change; and

(e) If a cardholder loses his or her registry identification card, he or she shall notify the department within ten (10) days of becoming aware the card has been lost.

(2) When a cardholder notifies the department of items listed in subsection (1) of this section, but remains eligible under Sections 1 to 25 of this Act, the department shall issue the cardholder a new registry identification card with a new random ten (10) character alphanumeric identification number within ten (10) days of receiving the updated information and a twenty dollar (\$20) fee. If the person notifying the department is a registered qualifying patient, the department shall also issue his or her registered designated caregiver, if any, a new registry identification card within ten (10) days of receiving the updated information.

(3) If a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered designated caregiver, the department shall promptly notify the designated caregiver. The registered designated caregiver's protections under Sections 1 to 25 of this Act as to that qualifying patient shall expire fifteen (15) days after notification by the department.

(4) A cardholder who fails to make a notification to the department that is required by this section is subject to a civil infraction, punishable by a penalty of no more than one hundred fifty dollars (\$150).

(5) A registered qualifying patient shall notify the department before changing his or her designated registered compassion center and pay a twenty dollar (\$20) fee. The department shall, within five (5) business days of receiving the notification, update the registered qualifying patient's entry in the identification registry system to reflect the change in designation and notify the patient that the change has been processed.

(6) If the registered qualifying patient's certifying practitioner notifies the department in writing that either the registered qualifying patient has ceased to suffer from a debilitating medical condition or that the practitioner no longer believes the patient would receive therapeutic or palliative benefit from the medical use of cannabis, the card shall become void. However, the registered qualifying patient shall have fifteen (15) days to dispose of or give away his or her cannabis.

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

(1) Except as provided in Section 4 of this Act and this section, an individual may assert a medical purpose for using cannabis as a defense to any prosecution of an offense involving cannabis intended for the patient's medical use, and this defense shall be presumed valid and the prosecution shall be dismissed if the evidence shows that:

(a) A practitioner states that, in the practitioner's professional opinion, after having completed a full assessment of the individual's medical history and current medical condition made in the course of a bona fide practitioner-patient relationship, the patient is likely to receive therapeutic or palliative benefit from cannabis to treat or alleviate the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition; and

- (b) The individual and the individual's designated caregiver, if any, were collectively in possession of a quantity of cannabis that was not more than was reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of treating or alleviating the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition; and
- (c) The individual was engaged in the acquisition, possession, cultivation, manufacture, use, or transportation of cannabis, paraphernalia, or both cannabis and paraphernalia, relating to the administration of cannabis to treat or alleviate the individual's debilitating medical condition or symptoms associated with the individual's debilitating medical condition; and
- (d) Any cultivation of cannabis occurred in an enclosed, locked area that only the person asserting the defense could access.
- (2) The defense and motion to dismiss shall not prevail if either of the following are proven:

 - (a) The individual had a registry identification card revoked for misconduct; or
 - (b) The purposes for the possession or cultivation of cannabis were not solely for palliative or therapeutic use by the individual with a debilitating medical condition who raised the defense.
- (3) An individual is not required to possess a registry identification card to raise the affirmative defense set forth in this section.
- (4) If an individual demonstrates the individual's medical purpose for using cannabis pursuant to this section, except as provided in Section 4 of this Act, the individual shall not be subject to the following for the individual's use of cannabis for medical purposes:

 - (a) Disciplinary action by an occupational or professional licensing board; or
 - (b) Forfeiture of any interest in or right to non cannabis, lawful property.

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Compassion centers may only operate if they have been issued a valid registration certificate from the department. When applying for a compassion center registration certificate, the applicant shall submit the following in accordance with the department's administrative regulations:

(a) A nonrefundable application fee in an amount not to exceed four thousand dollars (\$4,000);

(b) The proposed legal name of the compassion center;

(c) The proposed physical address of the compassion center and the proposed physical address of any additional locations, if any, where cannabis will be packaged, labeled, or otherwise prepared for distribution by the compassion center;

(d) The name, address, and date of birth of each principal officer and board member of the compassion center, except that all such individuals shall be at least twenty-one (21) years of age;

(e) Any instances in which a business or not-for-profit entity that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding; and

(f) Any information required by the department to evaluate the applicant pursuant to the competitive bidding process described in subsection (2) of this section.

(2) The department shall evaluate applications for compassion center registration certificates using an impartial and numerically scored competitive bidding process developed by the department in accordance with Sections 1 to 25 of this Act. The registration considerations shall consist of the following criteria:

- (a) The suitability of the proposed location or locations, including compliance with any local zoning laws and the geographic convenience to patients from throughout the Commonwealth to compassion centers should the applicant be approved;
 - (b) The principal officer and board members' relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation and preparation and their experience running businesses or not-for-profit entities;
 - (c) The proposed compassion center's plan for operations and services, including its staffing and training plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical cannabis to the registered patients in the state;
 - (d) The sufficiency of the applicant's plans for recordkeeping;
 - (e) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed;
 - (f) The applicant's plan for making medical cannabis available on an affordable basis to registered qualifying patients enrolled in Medicaid or receiving Supplemental Security Income or Social Security Disability Insurance; and
 - (g) The applicant's plan for safe and accurate packaging and labeling of medical cannabis, including the applicant's plan for ensuring that all medical cannabis is free of contaminants.
- (3) No later than one (1) year after the effective date of this Act, if at least five (5) applications have been submitted, the department shall issue compassion center registration certificates to the five (5) highest-scoring applicants, except that the department may divide the state into geographical areas and grant a registration

to the highest scoring applicant in each geographical area.

(4) No later than two (2) years after the effective date of this Act, the department shall issue registration certifications to at least one (1) compassion center registration certificate for each one hundred thousand (100,000) residents of Kentucky of the highest-scoring applicants not already awarded a registration certificate, if a sufficient number of additional applications have been submitted. The need to ensure an adequate geographic distribution may supersede the requirement that the approved applicants be granted registration certificates based solely on which applicants receive the highest scores. If the department determines, after reviewing the report issued pursuant to Section 23 of this Act, that additional compassion centers are needed to meet the needs of registered qualifying patients throughout the state, the department shall issue registration certificates to the corresponding number of applicants who score the highest.

(5) (a) At any time after two (2) years after the effective date of this Act that the number of outstanding and valid registered compassion center certificates is lower than the number of registration certificates the department is required to issue pursuant to subsections (3) and (4) of this section, the department shall accept applications for compassion centers and issue registration certificates to the corresponding number of additional applicants who score the highest, or that score the highest in given geographic areas.

(b) Notwithstanding this subsection, an application for a compassion center registration certificate shall be denied if any of the following conditions are met:

1. The applicant failed to submit the materials required by this section, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping administrative regulations promulgated by the department;

2. The applicant would not be in compliance with local zoning regulations issued in accordance with Section 18 of this Act;
 3. The applicant does not meet the requirements of Section 20 of this Act;
 4. One (1) or more of the prospective principal officers or board members has been convicted of a disqualifying felony offense;
 5. One (1) or more of the prospective principal officers or board members has served as a principal officer or board member for a registered compassion center that has had its registration certificate revoked; or
 6. One (1) or more of the principal officers or board members is younger than twenty-one (21) years of age.
- (6) After a compassion center is approved, but before it begins operations, it shall submit a registration fee to the department in the amount determined by the department's administrative regulations and, if a physical address had not been finalized when it applied, it shall submit a complete listing of all its physical addresses.
- (7) The department may issue a registration certificate to a compassion center without regard to its score and the population formula specified in this section if the center's activities are limited solely to manufacture and distribution of usable cannabis to other compassion centers.
- (8) The department shall issue each compassion center one (1) copy of its registration certificate for each compassion center location. Registration certificates shall include the compassion center's identification number. The department shall also provide each registered compassion center with the contact information for the verification system.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED

TO READ AS FOLLOWS:

(1) Registered cultivators shall:

- (a) Only grow, process, and deliver cannabis to a compassion center for fair market value and subject to applicable taxes for the transfer of agricultural products;
- (b) Be subject to the same rights, responsibilities, and protections as a compassion center;
- (c) The department shall issue enough cultivator registration certificates to ensure an adequate supply of cannabis to meet the demand of registered compassion centers and qualifying patients in the state; and
- (d) Only deliver usable cannabis after it has been checked by a safety compliance facility for potency and contaminants.

(2) Registered cultivators may only operate if they have been issued a valid registration certificate from the department. When applying for a registered cultivator certificate, the applicant shall submit the following in accordance with the department's administrative regulations:

- (a) A nonrefundable application fee in an amount not to exceed four thousand dollars (\$4,000);
- (b) The proposed legal name of the registered cultivator;
- (c) The proposed physical address of the registered cultivator and the proposed physical address of any additional locations, if any, where cannabis will be cultivated, harvested, packaged, labeled, or otherwise prepared for distribution to a compassion center or a registered safety compliance facility;
- (d) The name, address, and date of birth of each principal officer and board member of the registered cultivator, except that all such individuals shall be at least twenty-one (21) years of age;

- (e) Any instances in which a business or not-for-profit entity that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding.
- (3) The department shall evaluate applications for registered cultivator certificates using an impartial process developed by the department in accordance with Sections 1 to 25 of this Act. The registration considerations shall consist of the following criteria:
- (a) The suitability of the proposed location or locations, including compliance with any local zoning laws;
- (b) The principal officer and board members' relevant experience, including any training or professional licensing related to medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation and preparation and their experience running businesses or not-for-profit entities;
- (c) The proposed registered cultivator's plan for operations and services, including its staffing and training plans, whether it has sufficient capital to operate, and its ability to provide an adequate supply of medical cannabis to compassion centers in the state;
- (d) The sufficiency of the applicant's plans for recordkeeping;
- (e) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed; and
- (f) The applicant's plan for safe and accurate packaging and labeling of medical cannabis, including the applicant's plan for ensuring that all medical cannabis is free of contaminants.
- (4) An application for a registered cultivator certificate shall be denied if any of the following conditions are met:

- (a) The applicant failed to submit the materials required by this section, including if the applicant's plans do not satisfy the security, oversight, or recordkeeping administrative regulations promulgated by the department;
 - (b) The applicant would not be in compliance with local zoning regulations issued in accordance with Section 18 of this Act;
 - (c) The applicant does not meet the requirements of Section 20 of this Act;
 - (d) One (1) or more of the prospective principal officers or board members has been convicted of a disqualifying felony offense;
 - (e) One (1) or more of the prospective principal officers or board members has served as a principal officer or board member for a registered cultivator that has had its registration certificate revoked; or
 - (f) One (1) or more of the principal officers or board members is younger than twenty-one (21) years of age.
- (5) After a registered cultivator is approved, but before it begins operations, it shall submit a registration fee to the department in the amount determined by the department's administrative regulations and, if a physical address had not been finalized when it applied, it shall submit a complete listing of all its physical addresses.
- (6) The department shall issue each registered cultivator one (1) copy of its registration certificate for each registered cultivator location. Registration certificates shall include the registered cultivator's identification number. The department shall also provide each registered cultivator with the contact information for the verification system.

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) Safety compliance facilities may only operate if they have been issued a valid registration certificate from the department. When applying for a safety

compliance facility registration certificate, the applicant shall submit the following in accordance with the department's administrative regulations:

- (a) A nonrefundable application fee in an amount not to exceed four thousand dollars (\$4,000);
- (b) The proposed legal name of the safety compliance facility;
- (c) The proposed physical address of the safety compliance facility;
- (d) The name, address, and date of birth of each principal officer and board member of the safety compliance facility, except that all such individuals shall be at least twenty-one (21) years of age;
- (e) Any instances in which a business or not-for-profit entity that any of the prospective board members managed or served on the board of was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding; and
- (f) Any information required by the department to evaluate the applicant pursuant to the competitive bidding process described in subsection (2) of this section.

(2) The department shall evaluate applications for safety compliance facility registration certificates using an impartial and numerically scored competitive bidding process developed by the department in accordance with Sections 1 to 25 of this Act. The registration considerations shall consist of the following criteria:

- (a) The proposed principal officers' and board members' relevant experience, including any training or professional licensing related to analytical testing, medicine, pharmaceuticals, natural treatments, botany, or cannabis cultivation, preparation, and testing and their experience running businesses or not-for-profit entities;
- (b) The suitability of the proposed location, including compliance with any local zoning laws and the geographic convenience to cardholders and

registered compassion centers from throughout the Commonwealth to registered safety compliance facilities should the applicant be approved;

(c) The sufficiency of the applicant's plans for safety, security, and the prevention of diversion, including proposed locations and security devices employed; and

(d) The proposed safety compliance facility's plan for operations and services, including its staffing and training plans, and whether it has sufficient capital to operate.

(3) The department shall issue at least one (1) safety compliance facility registration certificate to the highest-scoring applicant within one (1) year of the effective date of this Act.

(4) (a) The department may issue additional safety compliance facility registration certificates to the highest-scoring applicant or applicants, or to the highest-applicant or applicants in a given geographic area. If the department determines, after reviewing the report issued pursuant to Section 23 of this Act, that additional safety compliance facilities are needed to meet the needs of cardholders and registered compassion centers throughout the state, the department shall issue registration certificates to the corresponding number of applicants who score the highest overall or in a geographic area.

(b) Notwithstanding subsections (3) and (4) of this section, an application for a safety compliance facility registration certificate shall be denied if any of the following conditions are met:

1. The applicant failed to submit the materials required by this section, including if the plans do not satisfy the security, oversight, or recordkeeping administrative regulations issued by the department;
2. The applicant would not be in compliance with local zoning regulations issued in accordance with Section 18 of this Act;

3. The applicant does not meet the requirements of Section 20 of this Act;
 4. One (1) or more of the prospective principal officers or board members has been convicted of a disqualifying felony offense;
 5. One (1) or more of the prospective principal officers or board members has served as a principal officer or board member for a registered safety compliance facility or registered compassion center that has had its registration certificate revoked; or
 6. One (1) or more of the principal officers or board members is younger than twenty-one (21) years of age.
- (5) After a safety compliance facility is approved, but before it begins operations, it shall submit a registration fee paid to the department in the amount determined by the department's administrative regulation and, if a physical address had not been finalized when it applied, its physical address.
- (6) The department shall issue each safety compliance facility a registration certificate, which shall include an identification number for the safety compliance facility. The department shall also provide the registered safety compliance facility with the contact information for the verification system.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) The department may, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the compassion center, cultivator, or safety compliance facility has been afforded an opportunity to be heard pursuant to KRS Chapter 13B, suspend or revoke a registration certificate for multiple or serious violations by the registrant or any of its agents of Sections 1 to 25 of this Act or any administrative regulations promulgated pursuant to those sections.
- (2) The department shall provide notice of suspension, revocation, fine, or other

sanction, as well as the required notice of the hearing, by mailing the same in writing to the compassion center, cultivator, or safety compliance facility at the address on the registration certificate. A suspension shall not be for a longer period than six (6) months.

(3) A registered cultivator may continue to cultivate and possess cannabis plants during a suspension, but it may not transfer or sell cannabis.

(4) A registered compassion center may possess cannabis during a suspension, but it may not dispense, transfer, or sell cannabis.

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Nothing shall prohibit local governments from enacting ordinances not in conflict with Sections 1 to 25 of this Act or with the department's administrative regulations regulating the time, place, and manner of registered compassion center operations and registered safety compliance facilities, except that no local government may prohibit registered compassion center operation altogether, either expressly or through the enactment of ordinances which make registered compassion center and registered safety compliance facility operation unreasonably impracticable in the jurisdiction.

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) Each registered compassion center, registered cultivator, and registered safety compliance facility shall conduct a background check into the criminal history of each person seeking to become a principal officer, board member, agent, volunteer, or employee before the person begins working at the registered compassion center, registered cultivator, or registered safety compliance facility. A registered compassion center, registered cultivator, or registered safety compliance facility may not employ any person who:

(a) Was convicted of a disqualifying felony offense; or

(b) Is under twenty-one (21) years of age.

(2) A registered compassion center, registered cultivator, or safety compliance facility agent shall have documentation when transporting cannabis on behalf of the registered safety compliance facility, cultivator, or compassion center that specifies the amount of cannabis being transported, the date the cannabis is being transported, the registry identification certificate number of the registered compassion center, cultivator, or safety compliance facility, and a contact number to verify that the cannabis is being transported on behalf of the registered compassion center, cultivator, or safety compliance facility.

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The operating documents of a registered compassion center, or a registered cultivator shall include procedures for its oversight and procedures to ensure accurate recordkeeping.

(2) A registered compassion center, cultivator, and safety compliance facility shall implement appropriate security measures to deter and prevent the theft of cannabis and unauthorized entrance into areas containing cannabis.

(3) A registered compassion center, cultivator, and safety compliance facility shall not be located within five hundred (500) feet of the property line of a pre-existing public or private school.

(4) A registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying, or dispensing cannabis for the purposes of distributing cannabis to any person except registered qualifying patients directly or through their designated caregivers.

(5) All cultivation of cannabis for registered compassion centers shall be grown by registered cultivators and take place in an enclosed, locked location at the

physical address or addresses provided to the department during the registration process, which can only be accessed by registered cultivator agents working on behalf of the registered cultivator.

(6) A registered compassion center shall not acquire usable cannabis or mature cannabis plants from any person other than another registered cultivator, a registered qualifying patient, or a registered designated caregiver. A registered compassion center may only acquire usable cannabis or mature cannabis plants from a registered qualifying patient or a registered designated caregiver, if the registered qualifying patient or registered designated caregiver receives no compensation for the cannabis.

(7) Before cannabis may be dispensed to a designated caregiver or a registered qualifying patient, a registered compassion center agent shall make a diligent effort to verify each of the following:

(a) That the registry identification card presented to the registered compassion center is valid, including by checking the verification system if it is operational;

(b) That the person presenting the card is the person identified on the registry identification card presented to the registered compassion center agent, including by examining government-issued photo identification; and

(c) That the registered compassion center for whom the compassion center agent is working is the designated compassion center for the registered qualifying patient who is obtaining the cannabis directly or through his or her designated caregiver.

(8) A registered compassion center shall not dispense more than three (3) ounces of cannabis to a registered qualifying patient, directly or through a designated caregiver, in any fourteen (14) day period. Registered compassion centers shall ensure compliance with this limitation by maintaining internal, confidential

records that include specific notations of how much cannabis is being dispensed to the registered qualifying patient and whether it was dispensed directly to the registered qualifying patient or to the designated caregiver. Each entry shall include the date and time the cannabis was dispensed.

(9) A registered compassion center or registered compassion center agent may only dispense cannabis to a visiting qualifying patient if he or she possesses a valid registry identification card and if the procedures in this section are otherwise followed.

(10) No person may advertise medical cannabis sales in printed materials, on radio or television, or by paid in-person solicitation of customers. This shall not prevent appropriate signs on the property of the registered compassion center, listings in business directories including telephone books, listings in cannabis-related or medical publications, or the sponsorship of health or not-for-profit charity or advocacy events.

(11) A registered compassion center shall not share office space with nor refer patients to a practitioner.

(12) A practitioner shall not refer patients to a registered compassion center or registered designated caregiver, advertise in a registered compassion center, or, if the practitioner issues written certifications, hold any financial interest in a registered compassion center.

(13) No person who has been convicted of a disqualifying felony offense may be a registered compassion center agent or a registered cultivator agent.

(14) Registered compassion centers, cultivators, and safety compliance facilities shall display their registration certificates on the premises at all times.

(15) The department may issue a civil fine of up to three thousand dollars (\$3,000) for violations of this section.

(16) The suspension or revocation of a certificate is a final department action, subject

to judicial review. Jurisdiction and venue for judicial review are vested in the Franklin Circuit Court.

(17) Any cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under Sections 1 to 25 of this Act shall have his or her registry identification card revoked and shall be subject to other penalties for the unauthorized sale of cannabis.

(18) The department may revoke the registry identification card of any cardholder who knowingly commits multiple or serious violations of Sections 1 to 25 of this Act.

(29) Registered compassion centers and registered cultivators are subject to reasonable inspection pursuant to the department's administrative regulations. The department shall give reasonable notice of an inspection under this subsection.

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) The following information received and records kept pursuant to the department's administrative regulations for purposes of administering Sections 1 to 25 of this Act are confidential and exempt from the Open Records Act, and not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the department to perform official duties pursuant to Sections 1 to 25 of this Act:

(a) Applications and renewals, their contents, and supporting information submitted by qualifying patients and designated caregivers, including information regarding their designated caregivers and practitioners;

(b) Applications and renewals, their contents, and supporting information submitted by or on behalf of compassion centers, cultivators, and safety compliance facilities in compliance with Sections 1 to 25 of this Act,

including their physical addresses;

(c) The individual names and other information identifying persons to whom the department has issued registry identification cards;

(d) Any dispensing information required to be kept under Section 20 of this Act or the department's administrative regulation which shall only identify cardholders, registered cultivators, and registered compassion centers by their registry identification numbers and shall not contain names or other personal identifying information; and

(e) Any department hard drives or other data-recording media that are no longer in use and that contain cardholder information shall be destroyed.

Data subject to this section shall not be combined or linked in any manner with any other list or database and it shall not be used for any purpose not provided for in Sections 1 to 25 of this Act.

(2) Nothing in this section precludes the following:

(a) Notification by the department's employees to state or local law enforcement about falsified or fraudulent information submitted to the department or of other apparently criminal violations of Sections 1 to 25 of this Act if the employee who suspects that falsified or fraudulent information has been submitted, conferred with his or her supervisor, and both agree that circumstances exist that warrant reporting;

(b) Notification by the department's employees to the Kentucky Board of Medical Licensure or other appropriate licensure board if the department has reasonable suspicion to believe a practitioner did not have a bona fide practitioner-patient relationship with a patient for whom he or she signed a written certification, if the department has reasonable suspicion to believe the practitioner violated the standard of care, or for other suspected violations of this act by a practitioner;

- (c) Notification by compassion center agents to the department of a suspected violation or attempted violation of Sections 1 to 25 of this Act or the administrative regulations issued thereunder;
 - (d) Verification by the department of registry identification cards pursuant to Section 23 of this Act; and
 - (e) The submission of the report required by Section 23 of this Act to the General Assembly.
- (3) It shall be a misdemeanor punishable by up to one hundred eighty (180) days in jail and a one thousand dollar (\$1,000) fine for any person, including an employee or official of the department or another state agency or local government, to breach the confidentiality of information obtained pursuant to Sections 1 to 25 of this Act.

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards and their addresses, telephone numbers, and registry identification numbers. This confidential list shall not be combined or linked in any manner with any other list or database, nor shall it be used for any purpose not provided for in Sections 1 to 25 of this Act.
- (2) Within one hundred twenty (120) days of the effective date of this Act, the department shall establish a verification system. The verification system shall allow law enforcement personnel, compassion center agents, registered cultivator agents, and safety compliance facility agents to enter a registry identification number to determine whether or not the number corresponds with a current, valid registry identification card. The system shall only disclose whether the identification card is valid, whether the cardholder is a registered qualifying patient or a registered designated caregiver, whether the cardholder is permitted

to cultivate cannabis under Sections 1 to 25 of this Act, and the registry identification number of the registered compassion center designated to serve the registered qualifying patient who holds the card or the registry identification number of the patient who is assisted by the registered designated caregiver who holds the card.

(3) The department shall, at a cardholder's request, confirm his or her status as a registered qualifying patient or registered designated caregiver to a third party, such as a landlord, employer, school, medical professional, or court.

(4) The department shall disclose the fact that a registry identification card was revoked to a prosecutor or court personnel in any case where the prosecutor or court personnel inquires about a specific person who is seeking to assert the protections of Section 13 of this Act. The prosecutor or court personnel shall provide the department with the person's name and date of birth.

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) (a) The department shall appoint a nine (9) member oversight committee composed of: one (1) member of the House of Representatives; one (1) member of the Senate; one (1) representative of the department; one (1) physician with experience in medical cannabis issues; one (1) nurse; one (1) board member or principal officer of a registered safety compliance facility; one (1) individual with experience in policy development or implementation in the field of medical cannabis; and three (3) registered patients.

(b) The oversight committee shall meet at least two (2) times per year for the purpose of evaluating and making recommendations to the General Assembly and the department regarding:

1. The ability of qualifying patients in all areas of the state to obtain

timely access to high-quality medical cannabis;

2. The effectiveness of the registered compassion centers, individually and together, in serving the needs of qualifying patients, including the provision of educational and support services, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the registered qualifying patients of the Commonwealth;
3. The effectiveness of the registered safety compliance facility or facilities, including whether a sufficient number is operating;
4. The sufficiency of the regulatory and security safeguards contained in Sections 1 to 25 of this Act and adopted by the department to ensure that access to and use of cannabis cultivated is provided only to cardholders;
5. Any recommended additions or revisions to the department's administrative regulations or Sections 1 to 25 of this Act, including those relating to security, safe handling, labeling, and nomenclature;
6. Any research studies regarding health effects of medical cannabis for patients; and
7. The effectiveness of the registered cultivators individually and together, in serving the needs of the registered compassion centers, the reasonableness of their fees, whether they are generating any complaints or security problems, and the sufficiency of the number operating to serve the registered compassion centers of the Commonwealth.

- (2) The department shall submit to the Legislative Research Commission an annual report that does not disclose any identifying information about cardholders, registered compassion centers, registered cultivators, registered caregivers, or

practitioners, but does contain, at a minimum, all of the following information:

- (a) The number of applications and renewals filed for registry identification cards;
- (b) The number of registered qualifying patients who are residents of Kentucky at the time of the report;
- (c) The number of registry identification cards that were issued to visiting qualifying patients at the time of the report;
- (d) The nature of the debilitating medical conditions of the qualifying patients;
- (e) The number of registry identification cards revoked for misconduct;
- (f) The number of practitioners providing written certifications for qualifying patients;
- (g) The number of registered compassion centers;
- (h) The number of registered cultivators at the time of the report; and
- (i) The number of registered caregivers at the time of the report.

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Not later than one hundred twenty (120) days after the effective date of this Act, the department shall promulgate administrative regulations:

- (1) Governing the manner in which the department shall consider petitions from the public to add debilitating medical conditions or treatments to the list of debilitating medical conditions set forth in Section 2 of this Act, including public notice of and an opportunity to comment in public hearings on the petitions;
- (2) Establishing the form and content of registration and renewal applications submitted under Sections 1 to 25 of this Act;
- (3) Governing the manner in which it shall consider applications for and renewals of registry identification cards, which may include creating a standardized written certification form;

- (4) Governing the following matters related to registered compassion centers and registered cultivators, with the goal of protecting against diversion and theft, without imposing an undue burden on the registered compassion centers or registered cultivators or compromising the confidentiality of cardholders:
- (a) Oversight requirements for registered compassion centers;
 - (b) Recordkeeping requirements for registered compassion centers and registered cultivators;
 - (c) Security requirements for registered compassion centers and registered cultivators, which shall include, at a minimum, lighting, video security, alarm requirements, on-site parking, and measures to prevent loitering;
 - (d) Electrical safety requirements;
 - (e) The competitive scoring process addressed in Section 14 of this Act;
 - (f) Procedures for suspending or terminating the registration certificates or registry identification cards of cardholders, registered compassion centers, cultivators, and safety compliance facilities that commit multiple or serious violations of the provisions of Sections 1 to 25 of this Act or the administrative regulations promulgated thereunder; and
 - (g) Labeling requirements for cannabis and cannabis products sold by compassion centers; and
- (5) Establishing application and renewal fees for registry identification cards, caregiver registration, and application and registration fees for compassion center, cultivator, and safety compliance facility certificates, according to the following:
- (a) The total fees collected shall generate revenues sufficient to offset all expenses of implementing and administering Sections 1 to 25 of this Act, except that fee revenues may be offset or supplemented by private donations;

- (b) The department may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's household income; and
- (c) The department may accept donations from private sources to reduce application and renewal fees.

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) If the department fails to promulgate administrative regulations to implement Sections 1 to 25 of this Act within the times provided for in Sections 1 to 25 of this Act, any citizen may commence an action in the Franklin Circuit Court to compel the department to perform the actions mandated pursuant to the provisions of Sections 1 to 25 of this Act.
- (2) If the department fails to issue a valid registry identification card in response to a valid application or renewal submitted pursuant to Sections 1 to 25 of this Act within twenty (20) days of its submission, the registry identification card shall be deemed granted, and a copy of the registry identification application or renewal and proof of receipt of the mailing shall be deemed a valid registry identification card.
- (3) If, at any time after one hundred forty (140) days following the effective date of this Act, the department has not established a process for accepting and approving or denying applications, a notarized statement by a qualifying patient containing the information required in an application pursuant to Section 8 of this Act, together with a written certification issued by a practitioner within ninety (90) days immediately preceding the notarized statement, shall be deemed a valid registry identification card for all purposes under Sections 1 to 25 of this Act.

➔Section 26. KRS 218A.040 is amended to read as follows:

The Cabinet for Health and Family Services shall place a substance in Schedule I if it

finds that the substance:

- (1) Has high potential for abuse; and
- (2) *Except for marijuana,* has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

➔Section 27. This Act shall be known and may be cited as the Cannabis Compassion Act.