

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2013 REGULAR SESSION
Unofficial Document

Amend printed copy of SB 50/GA

Beginning on page 1, line 3, and continuing through page 20, line 27, by deleting the contents in its entirety, and inserting the following in lieu thereof:

"➔Section 1. KRS 260.850 is amended to read as follows:

As used in KRS 260.850 to 260.869, unless the context requires otherwise:

- (1) "Commission" means the Industrial Hemp Commission created by KRS 260.857;
- (2) ***"Grower" means any person or business entity licensed under KRS 260.850 to 260.869 by the commission as an industrial hemp grower***~~["Commissioner" means the Commissioner of the Department of Agriculture, or the Commissioner's designee];~~
- ~~{(3) "Department" means the Kentucky Department of Agriculture;}~~
- ~~(3){(4)}~~ "Hemp products" means all products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and certified seed for cultivation if the seeds originate from industrial hemp varieties;
- ~~(4){(5)}~~ "Industrial hemp" means ***all parts and varieties of the plant cannabis sativa, cultivated and possessed by a licensed grower, whether growing or not, that contains a tetrahydrocannabinol concentration of no more than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq. "Industrial hemp" as defined and applied in KRS 260.850 to 260.869 is excluded from the definition of marijuana in KRS***

Amendment No. HFA 3

Sponsor: Rocky Adkins

Committee Amendment: _____

Signed: _____

Floor Amendment: _____

LRC Drafter: Ludwig, Kelly

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: XXXXX

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~~218A.010~~ [all parts and varieties of the plant *cannabis sativa*, cultivated or possessed by a licensed grower, whether growing or not, that contain a tetrahydrocannabinol concentration of one percent (1%) or less by weight, except that the THC concentration limit of one percent (1%) may be exceeded for licensed industrial hemp seed research. Industrial hemp, as defined and applied for the purposes of KRS 260.850 to 260.869, shall be excluded from the definition of marijuana, as defined in KRS 218A.010];

(5) ***"Industrial hemp processor" means any person or business entity who uses industrial hemp for manufacturing into hemp products;***

(6) "Seed research" means research conducted to develop or recreate better strains of industrial hemp, particularly for the purposes of seed production. In conducting this research, higher THC concentration varieties of industrial hemp may be grown to provide breeding strains to revitalize the production of a Kentucky strain of industrial hemp. However, in no case shall the THC levels exceed three percent (3%); and

(7) "Tetrahydrocannabinol" or "THC" means the natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.

➔ Section 2. KRS 260.851 is amended to read as follows:

(1) The ***Kentucky State Police*** [department] shall promulgate administrative regulations, in accordance with the provisions of KRS Chapter 13A, to license research on industrial hemp and hemp products.

➔ Section 3. KRS 260.853 is amended to read as follows:

(1) The ***commission*** [Department of Agriculture] shall promote the research and development of ***industrial hemp and commercial*** markets for Kentucky industrial hemp and hemp products, [after the selection and establishment of the industrial hemp research program

~~and the Industrial Hemp Commission, and~~ provided that adequate funds are available for these purposes from the industrial hemp program fund. The ~~commission~~~~[department]~~ shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.

(2) *The commission shall establish a five (5) year industrial hemp research program through:*

(a) The licensure of industrial hemp growers to participate in demonstration projects organized and managed by the Kentucky State Police and who shall be able to sell the industrial hemp to other persons for processing; and

(b) The registration of industrial hemp processors~~[The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky].~~

(3) The ~~commission~~~~[selected institutions' industrial hemp research program]~~ shall undertake research of industrial hemp production in the state. The ~~commission~~~~[department]~~ shall *seek to obtain*~~[assist the industrial hemp research program in obtaining]~~ the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking *demonstration projects under* the industrial hemp research program, the ~~commission shall:~~~~[university or universities are authorized to:]~~

(a) Obtain a license from the Kentucky State Police to participate in demonstration projects and grow industrial hemp to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp for commercial products, including but not limited to hemp seed, paper, clothing, and oils;

- (b) *In accordance with this section, the commission shall* conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production;
 - (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
 - (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
 - (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
 - (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
 - (g) Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.
- (4) *In addition to the agronomy research and analysis authorized in subsection (3) of this section, the commission shall coordinate with the University of Kentucky Center for Applied Energy Research regarding the use of industrial hemp in new energy technologies. The research shall include but not be limited to evaluation of the use of industrial hemp plants to produce biofuels, growth of industrial hemp on reclaimed mine sites, the use of hemp seed oil in the production of fuels, and an assessment of the production costs, environmental issues, and costs and benefits involved.*
- (5)~~(4)~~ The authorization granted in subsections~~[subsection]~~ (2) and (3) of this section shall not subject the industrial hemp research program~~[or the selected university or universities where it is located]~~ to any criminal liability under the controlled substances laws of the

Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program or the selected university or universities that are not expressly permitted in the authorization.

~~(6)~~~~(5)~~ The authorization granted in subsections~~[subsection]~~ (2) and subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.

~~(7)~~~~(6)~~ The *Kentucky State Police shall establish a licensure program for industrial hemp growers to participate in demonstration projects and* ~~[selected university or universities of the industrial hemp research program]~~ shall notify the commission~~[headquarters of the Department of Kentucky State Police, the local barracks of the Department of Kentucky State Police]~~, and all other local law enforcement agencies of the duration, size, and location of all industrial hemp plots.

~~(8)~~~~(7)~~ The commission~~[Commissioner and the university or universities]~~ may cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp program fund.

~~(9)~~~~(8)~~ By December 31, 2013,~~[October 1, 2001]~~ and annually thereafter, the commission~~[university or universities]~~ shall report on the status and progress of the industrial hemp research program authorized by this section to the Governor and to the Legislative Research Commission~~[Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture, and the Interim Joint Committee on Natural Resources and Environment]~~.

➔Section 4. KRS 260.857 is amended to read as follows:

(1) The Kentucky Industrial Hemp Commission is created and is attached to the University of Kentucky Agricultural Experiment Station~~[Department of Agriculture]~~ for administrative

purposes. The membership of the commission shall consist of the following~~[seventeen (17)]~~ members~~[as follows]~~:

- ~~(a)~~~~(1)~~ The Speaker of the House of Representatives or the Speaker's designee;
- ~~(b)~~~~(2)~~ The President of the Senate or the President's designee;
- ~~(c)~~~~(3)~~ The chair of the Senate Agriculture Committee;
- ~~(d)~~~~(4)~~ The chair of the House Agriculture and Small Business Committee;
- ~~(e)~~~~(5)~~ The Commissioner of the Department of Agriculture or the Commissioner's designee;
- ~~(f)~~~~(6)~~ The commissioner of the Department of Kentucky State Police or the commissioner's designee;
- ~~(g)~~~~(7)~~ The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;
- ~~(h)~~~~(8)~~ The dean of the University of Kentucky College of Agriculture or the dean's designee~~[The chairs of the agriculture departments at the Kentucky university or universities where the industrial hemp research program is to be established]~~;
- ~~(i)~~~~(9)~~ One (1) member representing Eastern Kentucky University, Kentucky State University, University of Louisville, Morehead State University, Murray State University, Northern Kentucky University, or Western Kentucky University. These institutions shall be represented on the commission in rotation. Each institution choosing to participate shall be represented for two (2) years and then replaced by another of the institutions choosing to participate, in an order determined by the chair. No institution shall be returned to representation on the commission until each of the other institutions choosing to participate has been represented;
- ~~(j)~~ The president of the Kentucky Hemp Growers Cooperative Association;
- ~~(k)~~~~(10)~~ The president of the Kentucky Sheriffs' Association or the association

president's designee;

~~(l)~~⁽¹¹⁾ The president of the Kentucky Association of Chiefs of Police *or the association president's designee;* ~~and~~

~~(m)~~⁽¹²⁾ Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate~~, representing the following interests:~~

~~(a) Kentucky farmers with an interest in growing industrial hemp;~~

~~(b) Retailers of industrial hemp products;~~

~~(c) Wholesalers of industrial hemp products; and~~

~~(d) Manufacturers of industrial hemp products.];~~*and*

~~(n) Two (2) at-large members on a recommendation of the chairs and approved by a majority of the members of the commission.~~

(2) The commission shall be co-chaired by the dean of the University of Kentucky College of Agriculture or the dean's designee and the commissioner of the Department of Kentucky State Police or the commissioner's designee.

(3) A majority of the members of the commission shall constitute a quorum.

➔ Section 5. KRS 260.861 is amended to read as follows:

(1) The commission shall meet quarterly and may meet more often upon the call of the co-chairs~~chair~~ or by a majority of the members.

(2) The commission shall be appointed and conduct the first meeting by July 1, 2001.

(3) Except as provided in KRS 18A.200, members of the commission shall receive actual traveling expenses while attending meetings of the commission.

(4) Staff services for the commission shall be provided by the University of Kentucky Agricultural Experiment Station~~Department of Agriculture~~.

(5) Administrative expenses shall be paid from the industrial hemp program fund established in Section 7 of this Act.

➔Section 6. KRS 260.863 is amended to read as follows:

- (1) ***In addition to the report required in Section 3 of this Act***, the commission shall ~~develop recommendations on industrial hemp legislation by December 15, 2001, and annually thereafter shall]report[on the recommendations]to the Governor[~~, ~~the Interim Joint Committee on Agriculture, the Interim Joint Committee on Natural Resources and Environment,~~] and to the Legislative Research Commission with respect to industrial hemp policies and practices that will result in the proper legal growing, management, use, and marketing of the state's potential industrial hemp industry. These policies and practices shall, at a minimum, address the following:
 - (a) Federal laws and regulatory constraints;
 - (b) The economic and financial feasibility of an industrial hemp market in Kentucky;
 - (c) Kentucky businesses that utilize industrial hemp;
 - (d) Examination of research on industrial hemp production and utilization;
 - (e) The potential for globally marketing Kentucky industrial hemp;
 - (f) Feasibility study of private funding for the Kentucky industrial hemp research program;
 - (g) Law enforcement concerns;
 - (h) Statutory and regulatory schemes for growing of industrial hemp by private producers; and
 - (i) Technical support and education about industrial hemp.
- (2) The commission shall also continue to monitor the research and development of industrial hemp in the United States and the Kentucky industrial hemp research program.

➔Section 7. KRS 260.869 is amended to read as follows:

- (1) There is established and created in the State Treasury a ***trust and agency*** fund entitled the ***"industrial hemp program fund"*** ~~[Industrial Hemp Program Fund"]~~ to ***be administered by***

the commission to provide funds to offset the costs of the industrial hemp program, the ~~[Kentucky Industrial Hemp]~~commission, *and expenses incurred by the Kentucky State Police in relation to the industrial hemp program.*

- (2) The fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private. Money deposited in the fund *is hereby appropriated for purposes set out in this section*~~[shall be disbursed by the State Treasurer upon the warrant of the Commissioner of Agriculture or the Commissioner's representative].~~
- (3) *Notwithstanding KRS 45.229,* any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any *interest or other* income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse *but shall be carried forward for purposes of the fund*~~[, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the industrial hemp program].~~

➔SECTION 8. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky State Police shall establish conditions and procedures for the licensing of industrial hemp growers.*
- (2) *Any person seeking to grow industrial hemp shall apply to the Kentucky State Police for a license on a form provided by the Kentucky State Police. The application shall include:*
- (a) *The name and mailing address of the grower;*
 - (b) *The legal description and global positioning coordinates sufficient for locating the production fields to be used to grow industrial hemp. A license shall authorize industrial hemp propagation only on the land areas specified in the license; and*
 - (c) *Submittal to the Kentucky State Police on the license application of a written consent granting a state or national criminal history check and a signed statement*

- indicating whether the applicant has ever been convicted of a felony or misdemeanor. A person with a prior felony drug conviction within ten (10) years of applying for the industrial hemp grower license shall not be eligible for the license.*
- (3) The license shall be valid for a period of one (1) year and may be renewed in successive years.*
- (4) The minimum number of acres to be planted for each license shall be established by the commission.*
- (5) The Kentucky State Police shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish the fee amount of the industrial hemp grower license.*
- (6) A copy of, or appropriate electronic record of, any license granted by the Kentucky State Police under the industrial hemp research program shall be forwarded immediately to the sheriff of the county or counties where the industrial hemp is licensed to be planted, grown, and harvested.*
- (7) All records, data, and information filed in support of an industrial hemp grower application shall be considered proprietary and subject to inspection only upon order of a court of competent jurisdiction.*
- (8) The Kentucky State Police shall be responsible for monitoring licensed industrial hemp growers and demonstration plots and shall randomly test the industrial hemp for compliance with THC levels and for other appropriate purposes at the cost of the industrial hemp grower.*

➔SECTION 9. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

- (1) A person shall obtain an industrial hemp grower license prior to planting or growing any industrial hemp in this state. An industrial hemp grower license holder who has planted*

and grown industrial hemp pursuant to a valid growers license may sell industrial hemp produced by the grower to an industrial hemp processor for processing.

- (2) A grower granted an industrial hemp grower license to produce industrial hemp shall:
- (a) Maintain records that reflect compliance with KRS 260.850 to 260.869 and with all other state laws regulating the planting and cultivation of industrial hemp;
 - (b) Retain all industrial hemp production records for at least three (3) years;
 - (c) Allow industrial hemp crops, throughout sowing, growing, and harvesting, to be inspected by and at the discretion of the commission or its designees, and law enforcement personnel;
 - (d) File with the commission documentation indicating that the industrial hemp seeds planted were of a type and variety certified to have no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.;
 - (e) Notify the commission of the sale or distribution of any industrial hemp grown under the license and the names and addresses of the persons to whom the industrial hemp was sold or distributed; and
 - (f) Provide the commission with copies of any contracts between the licensee and any person to whom industrial hemp was sold or distributed.
- (3) The commission shall assist the applicant in the compliance with the requirements of this section.
- (4) Any person licensed to grow industrial hemp under KRS 260.850 to 260.869 may import and resell industrial hemp seed that has been certified as having no more THC concentration than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. secs. 801 et seq.
- (5) Only industrial hemp grower licensees or their designees or agents shall be permitted to

transport industrial hemp off a plant production site. When transporting industrial hemp off the plant production site, the licensees or their designees or agents shall carry with them the licensing documents from the commission, evidencing that the industrial hemp is from certified seed.

➔SECTION 10. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

Any person possessing an industrial hemp grower license who does not comply with the requirements of KRS 260.850 to 260.869 shall have his or her license revoked and shall forfeit the right to grow industrial hemp for a period of up to five (5) years.

➔SECTION 11. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall develop a voluntary registration system for industrial hemp processors who are not growers and who store, process, or manufacture industrial hemp into hemp products.

(2) Conditions for the registration of industrial hemp processors shall include:

(a) The development of a standard form to include the name and address of the industrial hemp processor, a description of the activity planned, or description of the equipment, facilities, or locations in which the industrial hemp will be moved, housed, possessed, or processed;

(b) Establishment of a valid registration period;

(c) The forwarding of a copy of, or appropriate electronic record of, any industrial hemp processor registration granted by the commission to the Kentucky State Police and the sheriff of the county or counties where the hemp is stored, possessed, or manufactured;

(d) Maintenance of records that reflect compliance KRS 260.850 to 260.869 and with

all other state laws regulating the processing of industrial hemp;

(e) Periodic inspections by the commission or its agents of the receiving and processing facilities of any person or business entity holding an industrial hemp processor's registration; and

(f) Notification to the commission of the sale or distribution of any industrial hemp processed by the registered industrial hemp processor and the names and addresses of the persons to whom the industrial hemp was sold or distributed.

→SECTION 12. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

Industrial hemp growers licensed under KRS 260.850 to 260.869 may be eligible to receive funds received by the state under the Master Settlement Agreement and placed in the rural development fund established in KRS 248.655.

→SECTION 13. A NEW SECTION OF KRS 260.850 TO 260.869 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in KRS 260.850 to 260.869 shall be construed to authorize any person to violate any federal rules or regulations.

(2) If any part of KRS 260.850 to 260.869 conflicts with a provision of federal law regarding industrial hemp that has been adopted in Kentucky under KRS 260.865, the federal provision shall control to the extent of the conflict.

→Section 14. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or

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

1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;
- (8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;
- (9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;
- (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;
- (11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;
- (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;
- (13) "Drug" means:
- (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

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

objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;

- (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;
- (20) "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;
 - (b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;
- (21) "Marijuana" means all parts of the plant *Cannabis* sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. *The term*

"marijuana" does not include industrial hemp as defined in Section 1 of this Act;

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

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

person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

- (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;
- (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
- (36) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;
- (37) "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;
- (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;
- (39) "Recovery program" means an evidence-based, nonclinical service that assists individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are

delivered through residential and nonresidential means;

- (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant presently classified botanically as *Salvia divinorum*, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus *salvia*;
- (41) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;
- (42) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;
- (43) "Serious physical injury" has the same meaning it has in KRS 500.080;
- (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural

classes:

- (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;
- (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;
- (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;
- (d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-

- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);
- (e) Naphthylmethylindeles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;
- (f) Naphthoypyrroles: Any compound containing a 3-(1-naphthoypyrrole) structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;
- (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176; or
- (h) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or

possessed in accordance with state and federal law;

- (45) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:
- (a) By substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents. Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);
 - (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);
 - (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α -Pyrrolidinopropiophenone (α -PPP); or
 - (d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;
- (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;
- (47) "Telehealth" has the same meaning it has in KRS 311.550;
- (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the

plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
 - (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
 - (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;
- (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;
- (50) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution; and
- (51) "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

- (a) "Commission" means the Industrial Hemp Commission created by KRS 260.857;**
- (b) "Grower" has the same meaning as in Section 1 of this Act;**
- (c) "Hemp products" has the meaning as in Section 1 of this Act;**
- (d) "Industrial hemp" has the same meaning as in Section 1 of this Act; and**
- (e) "Industrial hemp processor" has the same meaning as in Section 1 of this Act.**

(2) For taxable years beginning after December 31, 2013, and before January 1, 2019, there is hereby created a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040, and KRS 141.0401, with the ordering of credits as provided in Section 16 of this

Act, for certain purchases, leases, or rentals made by licensed growers to grow industrial hemp and registered industrial hemp processors to manufacture hemp into hemp products.

(3) The credit shall be equal to one hundred percent (100%) of the following costs:

(a) Of a licensed grower to grow industrial hemp:

1. The purchase, lease, or rental of farm machinery used to grow industrial hemp, and repair parts, replacement parts, and fuel required for the operation of that farm machinery;
2. The purchase of industrial hemp seed and fertilizer used to grow industrial hemp; and
3. Any Kentucky sales and use tax paid by the grower on the items described in subparagraphs 1. and 2. of this paragraph; and

(b) Of a registered industrial hemp processor to manufacture industrial hemp into hemp products:

1. The purchase of industrial hemp and other raw materials used to manufacture industrial hemp products;
2. The purchase, lease, or rental of machinery used to manufacture industrial hemp products, and repair parts, replacement parts, and fuel required for the operation of that machinery;
3. The purchase of industrial supplies and industrial tools used to manufacture industrial hemp products; and
4. Any Kentucky sales and use tax paid by the industrial hemp processor on the items described in subparagraphs 1. to 3. of this paragraph.

(4) (a) The purchase, lease, or rental of real property, office equipment, office supplies, or motor vehicles, or the purchase of fuel for motor vehicles, does not qualify for the

credits provided for in this section.

- (b) The credit created by this section shall not be allowed to an industrial hemp processor who does not manufacture industrial hemp into hemp products.*
- (5) The tax credit provided under this section shall apply in the tax year in which the purchase, lease, or rental occurs. If the credit cannot be taken in full in the year in which the purchase, lease, or rental occurs, the tax credit may be carried forward for a period not to exceed five (5) years.*
- (6) The department may request copies of the taxpayer's industrial hemp grower's license or industrial hemp processor's registration, invoices, purchase receipts, lease or rental agreements, and any other information that the department determines necessary to verify the cost of the item, the item's use in the growing or processing of industrial hemp, and the amount of credits to be taken.*
- (7) On or before October 1, 2014, and on or before every October 1 thereafter, the department shall report to the commission the total number and gross amount of each type of tax credit claimed, and the total amount of tax credits carried forward on returns processed during the fiscal year ending prior to the October reporting date.*

➔Section 16. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
2. For taxable years beginning after December 31, 2006, the limited liability entity

tax credit permitted by KRS 141.0401;

- (b) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
- (c) ***The qualified farming operation credit permitted by KRS 141.412;***
- (d) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- ~~(e)(d)~~ The health insurance credit permitted by KRS 141.062;
- ~~(f)(e)~~ The tax paid to other states credit permitted by KRS 141.070;
- ~~(g)(f)~~ The credit for hiring the unemployed permitted by KRS 141.065;
- ~~(h)(g)~~ The recycling or composting equipment credit permitted by KRS 141.390;
- ~~(i)(h)~~ The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- ~~(j)(i)~~ The coal incentive credit permitted under KRS 141.0405;
- ~~(k)(j)~~ The research facilities credit permitted under KRS 141.395;
- ~~(l)(k)~~ The employer GED incentive credit permitted under KRS 151B.127;
- ~~(m)(l)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
- ~~(n)(m)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
- ~~(o)(n)~~ The environmental stewardship credit permitted by KRS 154.48-025;
- ~~(p)(o)~~ The clean coal incentive credit permitted by KRS 141.428;
- ~~(q)(p)~~ The ethanol credit permitted by KRS 141.4242;
- ~~(r)(q)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- ~~(s)(r)~~ The energy efficiency credits permitted by KRS 141.436;
- ~~(t)(s)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;
- ~~(u)(t)~~ The Endow Kentucky~~[tax]~~ credit permitted by KRS 141.438;~~[and]~~

- (v)~~(u)~~ The New Markets Development Program~~[-tax]~~ credit permitted by KRS 141.434; *and*
- (w) The industrial hemp credit permitted by Section 15 of this Act.*
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069;
 - (d) The household and dependent care credit permitted by KRS 141.067; and
 - (e) The new home credit permitted by KRS 141.388.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305;
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c);
 - (d) The certified rehabilitation credit permitted by KRS 171.397(1)(b)~~[141.382(1)(b)]~~;
and
 - (e) The film industry tax credit allowed by KRS 141.383.
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and

the tax imposed by KRS 141.0401 in the following order:

- (a) The economic development credits computed under KRS 141.347, 141.381, 141.384, 141.400, 141.401, 141.402, 141.403, 141.407, 141.415, 154.12-2088, and 154.27-080;
- (b) ***The qualified farming operation credit permitted by KRS 141.412;***
- (c) The certified rehabilitation credit permitted by KRS 171.397(1)(a);
- ~~(d)(e)~~ The health insurance credit permitted by KRS 141.062;
- ~~(e)(d)~~ The unemployment credit permitted by KRS 141.065;
- ~~(f)(e)~~ The recycling or composting equipment credit permitted by KRS 141.390;
- ~~(g)(f)~~ The coal conversion credit permitted by KRS 141.041;
- ~~(h)(g)~~ The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
- ~~(i)(h)~~ The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
- ~~(j)(i)~~ The coal incentive credit permitted under KRS 141.0405;
- ~~(k)(j)~~ The research facilities credit permitted under KRS 141.395;
- ~~(l)(k)~~ The employer GED incentive credit permitted under KRS 151B.127;
- ~~(m)(l)~~ The voluntary environmental remediation credit permitted by KRS 141.418;
- ~~(n)(m)~~ The biodiesel and renewable diesel credit permitted by KRS 141.423;
- ~~(o)(n)~~ The environmental stewardship credit permitted by KRS 154.48-025;
- ~~(p)(o)~~ The clean coal incentive credit permitted by KRS 141.428;
- ~~(q)(p)~~ The ethanol credit permitted by KRS 141.4242;
- ~~(r)(q)~~ The cellulosic ethanol credit permitted by KRS 141.4244;
- ~~(s)(r)~~ The energy efficiency credits permitted by KRS 141.436;

~~(t)~~~~(s)~~ The ENERGY STAR home or ENERGY STAR manufactured home credit permitted by KRS 141.437;

~~(u)~~~~(t)~~ The railroad maintenance and improvement credit permitted by KRS 141.385;

~~(v)~~~~(u)~~ The railroad expansion credit permitted by KRS 141.386;

~~(w)~~~~(v)~~ The Endow Kentucky~~[tax]~~ credit permitted by KRS 141.438;~~[and]~~

~~(x)~~~~(w)~~ The New Markets Development Program~~[tax]~~ credit permitted by KRS 141.434; *and*

~~(y)~~ *The industrial hemp credit permitted by Section 15 of this Act.*

(6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable credits shall be taken in the following order:

(a) The corporation estimated tax payment credit permitted by KRS 141.044;

(b) The certified rehabilitation credit permitted by KRS 171.397(1)(b)~~[141.382(1)(b)]~~;
and

(c) The film industry tax credit allowed in KRS 141.383.

➔Section 17. The following KRS section is repealed:

260.859 Quorum for commission -- Chair."