Department of
CRIMINAL JUSTICE TRAINING

KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET

2012

KENTUCKY GENERAL ASSEMBLY NEW LEGISLATION

INCLUDES EXTRAORDINARY SESSION

John W. Bizzack, Ph.D.
Commissioner

5/24/2012

Department of
CRIMINAL JUSTICE TRAINING
KENTUCKY JUSTICE AND PUBLIC SAFETY CABINET

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The Leadership Institute Branch of the Department of Criminal Justice Training offers a Web-based service to address questions concerning legal issues in law enforcement. Questions can now be sent via e-mail to the Legal Training Section at

docjt.legal@ky.gov

Questions concerning changes in statutes, current case laws and general legal issues concerning law enforcement agencies and/or their officers acting in official capacity will be addressed by the Legal Training Section.

Questions concerning the Kentucky Law Enforcement Council policies and KLEFPF will be forwarded to the DOCJT General Counsel for consideration.

Questions received will be answered in approximately two or three business days.

Please include in the query your name, rank, agency and a daytime phone number in case the assigned attorney needs clarification on the issues to be addressed.

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5/24/2012

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NOTE:

General Information concerning the Department of Criminal Justice Training may be found at http://docjt.ky.gov. Agency publications may be found at http://docjt.ky.gov/publications.asp.

In addition, the Department of Criminal Justice Training has a new service on its web site to assist agencies that have questions concerning various legal matters. Questions concerning changes in statutes, current case laws, and general legal issues concerning law enforcement agencies and/or their officers can now be addressed to docjt.legal@ky.gov. The Legal Training Section staff will monitor this site, and questions received will be forwarded to a staff attorney for reply. Questions concerning the Kentucky Law Enforcement Council policies and those concerning KLEFPF will be forwarded to the DOCJT General Counsel for consideration. It is the goal that questions received be answered within two to three business days (Monday-Friday). Please include in the query your name, agency, and a day phone number or email address in case the assigned attorney needs clarification on the issues to be addressed.

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2012 KENTUCKY GENERAL ASSEMBLY

EFFECTIVE DATE OF NEW LEGISLATION IS JULY 12, 2012

- unless noted as different in individual statutes

NOTE - CERTAIN BILLS ARE EMERGENCY LEGISLATION AND EFFECTIVE IMMEDIATELY UPON THE SIGNATURE OF THE GOVERNOR

SENATE

SENATE BILL 3 PSEUDOPHEDRINE

Section 1. KRS 218A.1446 is amended to read as follows:

KRS 218.1446 Requirements for dispensing of ephedrine-based products – Electronic log or recordkeeping mechanism – Thirty-day and one-year quantity limitations on ephedrine-based products – Blocking mechanism – Annual report. (NOTE: MODIFIED CATCHLINE)

(1) Any~~[nonprescription]~~ compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.

(2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:

(a) Produce a government issued photo identification showing the date of birth of the person; and

(b) Sign ***an electronic***~~[a written]~~ log or record showing the:

1. Date of the transaction;
2. Name, date of birth, and address of the person making the purchase; and
3. The amount and name of the compound, mixture, or preparation. ***Only*** an electronic ***logging or*** recordkeeping mechanism~~[may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is]~~ approved by the Office of Drug Control Policy ***may be utilized to meet the requirements of this subsection. No pharmacy may dispense or sell any compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers unless the electronic logging or***

recordkeeping mechanism required by this section is provided at no cost to the pharmacy.

(3) ***An electronic***[A] log ***or record***, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:

(a) Kept for a period of two (2) years; ***and***

(b) Subject to random and warrantless inspection by city, county, or state law enforcement officers[; and

(c) An electronic recordkeeping mechanism may be required in lieu of the written log or record described in subsection (2)(b) of this section if the costs of establishing and maintaining the mechanism are borne by the Commonwealth of Kentucky. Pursuant to administrative regulations promulgated by the Drug Enforcement and Professional Standards Branch and the Office of Drug Control Policy, pharmacies requesting an exemption to electronic reporting may file an exemption request to the above listed agencies. Any exemption may be granted upon a showing of imposition of additional cost by the pharmacy].

(4) (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars ($1,000) for each violation and may be evidence of a violation of KRS 218A.1438.

(b) If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.

(c) It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:

1. Fire, natural or manmade disaster, loss of power, and similar events;
2. Robbery, burglary, shoplifting, or other criminal act by a person on the premises;
3. A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or
4. Some other circumstance that establishes that an omission was inadvertent.

(5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than ***seven and one-fifth (7.2)***[nine (9)] grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period ***or twenty-four (24) grams within any one (1) year period provided that either of these limits***[provided this limit] shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition

to the ***thirty (30) day and the one (1) year restrictions***~~[nine (9) gram restriction]~~, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.

(6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ***nonprescription*** ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ***nonprescription*** ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.

(7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.

(8) The provisions of this section shall not apply to a:

(a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;

(b) Wholesaler lawfully distributing a product in the channels of commerce;

(c) Pharmacy with a valid permit from the Kentucky Board of Pharmacy;

(d) Health care facility licensed pursuant to KRS Chapter 216B;

(e) Licensed long-term care facility;

(f) Government-operated health department;

(g) Physician's office;

(h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;

(i) Public or private educational institution maintaining a health care program; or

(j) Government-operated or industrial medical facility serving its own employees.

(9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

(10) To be approved for use under this section, an electronic logging or recordkeeping system shall:

(a) Be designed to block the dispensing of any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, where the dispensing would exceed the quantity limitations established in this section or would be prohibited under KRS 218A.1440; and

(b) Allow unimpeded access by the Office of Drug Control Policy to any data stored in the system for statistical analysis purposes.

(11) The Office of Drug Control Policy shall prepare and submit to the

Legislative Research Commission an annual statistical report on the sale of compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers, including state and county sale amounts and numbers of individual purchasers.

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

KRS 218A.1440 Unlawful possession of ephedrine-based products – AOC to provide Office of Drug Control Policy with updated information on certain drug offenders – Convicting court to inform defendant of restrictions.
(1) (a) Notwithstanding KRS 218A.1446, it shall be unlawful for a person convicted after July 12, 2012 of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers until five (5) years have elapsed from the later of:
1. The date the person was convicted;
2. The date the person was discharged from incarceration; or
3. The date the person was released from probation, shock probation, parole, or other form of conditional discharge.
(b) Notwithstanding KRS 218A.1446, it shall be unlawful for a person convicted prior to the July 12, 2012 of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers without a prescription until five (5) years have elapsed from the later of:
1. The date the person was convicted;
2. The date the person was discharged from incarceration; or
3. The date the person was released from probation, shock probation, parole, or other form of conditional discharge.
(2) The Administrative Office of the Courts shall report monthly to the Office of Drug Control Policy for utilization in the electronic logging or recordkeeping mechanism required under KRS 218A.1446 the conviction of any person for any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anyhydrous ammonia, as well as the vacating, reversing, or overruling of any previously reported conviction. The information reported shall include:
(a) The defendant's name;
(b) The defendant's date of birth;
(c) The defendant's address;
(d) The defendant's identification number on a government-issued photographic identification document if available in the defendant's records readily available to the circuit clerk;

(e) Any offense or offenses specified in subsection (1) of this section for which the defendant was convicted;
(f) The defendant's date of conviction; and
(g) The defendant's sentence or, if applicable, that the conviction was reversed, overruled, or vacated.
(3) A court convicting a defendant of an offense triggering the prohibition established in subsection (1) of this section shall inform the defendant of the restrictions contained in this section. Failure of a court to provide the information in accordance with this subsection shall not affect the validity of the prohibition.

Section 3. The Administrative Office of the Courts, the Department of Corrections, and the Parole Board shall provide to the Office of Drug Control Policy the data in their possession relating to offenders coming within the prohibition established in KRS 218A.1440 (1)(b) as needed to allow the implementation of the blocking mechanism established in KRS 218.1446(10).

SENATE BILL 32 KENTUCKY BLUE ALERT SYSTEM

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

KRS 16.177 Operation and administration of Kentucky Blue Alert System – Administrative regulations.
(1) The Department of Kentucky State Police in cooperation with the Justice and Public Safety Cabinet, Transportation Cabinet, the Division of Emergency Management of the Department of Military Affairs, broadcasters, and the news media shall operate a system to notify the public when a peace officer has been killed, injured, or is missing in the line of duty and the department determines that public notification might aid in the apprehension of a suspect or the recovery of the officer. The system shall be known as the Kentucky Blue Alert System.
(2) The Kentucky Blue Alert System shall utilize existing resources, including but not limited to electronic highway signs; the Amber Alert System; law enforcement communications systems; electronic media; local, regional, and statewide media providers; and the Emergency Alert System, if authorized and under conditions permitted by the federal government.
(3) The Department of Kentucky State Police shall promulgate administrative regulations for the operation and administration of the Kentucky Blue Alert System.

SECTION 2. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

KRS 16.179 When public alert may be issued – Duties of requesting agency, department, and all law enforcement agencies in Kentucky.

(1) No public alert using the Kentucky Blue Alert System shall be issued unless requested by a law enforcement agency and, upon consultation with that agency, the department determines:
(a) That a peace officer has been killed, seriously injured, or is missing in the line of duty;
(b) That public notification is the most appropriate method of locating the officer or identifying and locating a suspected offender who poses an imminent threat to the public or other law enforcement personnel;
(c) That there is sufficient information available relating to the officer's last known location and the physical description of any suspected offender or vehicle involved that could be broadcast to assist in locating the officer or suspected offender; and
(d) The geographic area in which the notification shall be made.
(2) The requesting agency shall provide the information required by administrative regulation to the Department of Kentucky State Police prior to activation of the Kentucky Blue Alert System.
(3) If it is determined by the department that public notification shall be initiated, the department shall notify the public and private agencies and organizations that will provide the notification and provide those agencies and organizations with the information that the department deems necessary.
(4) All law enforcement agencies in the Commonwealth shall cooperate with the department in the provision and dissemination of information regarding any peace officer who has been killed, seriously injured, or is missing in the line of duty.
(5) No law enforcement agency, other than the department, shall activate the Kentucky Blue Alert System without the authority of the department.

Section 3. This Act shall be known as the Trooper Jonathan K. Leonard Kentucky Blue Alert System Act.

SENATE BILL 40 ALCOHOLIC BEVERAGES IN RESTAURANTS

Section 1. KRS 241.010 is amended to read as follows:

KRS 241.010 Definitions for KRS Chapters 241, 242, and 243.
As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

* * * * *

(34) "Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons ***at tables, booths, or bars where food may be served***~~[and lodging on the premises as authorized by KRS 219.021]~~ within a commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark with dining facilities for at least fifty (50) persons ***at tables, booths, or bars where food may be served***~~[and lodging on the premises as authorized by~~

~~KRS 219.021~~]. Notwithstanding the provisions of this subsection, a distillery which is listed as a National Historic Landmark and which has a souvenir retail liquor license under KRS 243.0305, shall be deemed a "qualified historic site" under this section;

* * * * *

(37) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its ***food and beverage***[~~gross~~] receipts from the sale of food;

* * * * *

Section 2. KRS 242.1295 is amended to read as follows:

KRS 242.1295 Licensing restrictions.

In no event shall a license be issued for any restaurant or any dining facility in a hotel, motel, or inn, unless the applicant can demonstrate to the director or administrator that gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total ***food and beverage***[~~gross~~] receipts of such restaurant or dining facility for the license period.

Section 3. KRS 243.032 is amended to read as follows:

KRS 243.032 Restaurant wine license.

(1) A restaurant wine license may be issued to an applicant, who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its[~~ gross~~] annual ***food and beverage*** income from the sale of food and has a minimum seating capacity of fifty (50) people at tables.

(2) The issuance of a restaurant wine license shall be subject to the limitations of KRS 241.060(2) and 241.065.

(3) A restaurant wine license shall authorize a licensee to purchase, receive, and sell wine at retail for consumption on the licensed premises. Such licensee shall purchase wine only from licensed wholesalers.

Section 4. KRS 243.220 is amended to read as follows:

KRS 243.220 Premises that may not be licensed for sales at retail.

[~~(1)~~]No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease or a permit for a term of not less than the license period.

[~~(2) (a) No premises shall be licensed for the sale of alcoholic beverages at retail unless the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.~~

~~(b) Paragraph (a) of this subsection shall not apply to a hotel, club, or restaurant, if the club or restaurant receives a minimum of fifty percent (50%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the cases~~

~~described in this paragraph the director or administrator to whom the application is made may, in the exercise of his or her sound discretion, decide whether the premises are to be licensed.]~~

Section 5. KRS 153.460 is amended to read as follows:

KRS 153.460 Levy of surcharge on tickets and on restaurant gross receipts by county containing city of first class or consolidated local government.

(1) As used in this section:

* * * * *

(b) "Restaurant" means any facility operated for profit which has minimum seating capacity of fifty (50) people at tables and which receives ***less than***[~~at least~~] fifty percent (50%) of its[~~ gross~~] annual ***food and beverage*** income from the sale of ***alcohol***[~~food~~].

*** * * * ***

Section 6. KRS 243.250 is amended to read as follows:

KRS 243.250 Business authorized by retail drink license.

A distilled spirits and wine retail drink license shall authorize the licensee to purchase, receive, possess, and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. The licensee shall purchase distilled spirits and wine only from licensed wholesalers, and unless he or she also holds a retail package license, he or she shall not buy or possess distilled spirits or wine in containers smaller than two hundred (200) milliliters. A licensee may purchase wine in containers not smaller than one hundred (100) milliliters if the wine does not exceed fourteen percent (14%) alcohol by volume and the retail drink license is held by a restaurant or private club which receives a minimum of fifty percent (50%) of its ***food and beverage*** income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. A licensee may buy mixed drinks in containers of a capacity not smaller than three hundred fifty-five (355) milliliters if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the licensee to sell distilled spirits or wine by the package.

Section 7. KRS 244.090 is amended to read as follows:

KRS 244.090 Persons whom licensees may not employ – Partial exception.

(1) A person holding any license under KRS 243.020 to 243.670 shall not knowingly employ in connection with his or her business any person who:

(a) Has been convicted of any felony within the last two (2) years. The provisions of this paragraph shall apply to any new applicant for a license issued under this chapter after July 15, 1998, but shall not apply to renewals of licenses that were originally issued prior to July 15, 1998, or supplemental licenses related to an original license if the original license was issued prior to July 15, 1998;

(b) Has been twice convicted of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors within the last two (2) years;

(c) Is under the age of twenty (20) years, unless the person is employed:
1. In a bottling house or room of a licensed distiller, vintner, brewer, or rectifier;
2. In an office of a wholesaler or manufacturer that is maintained in a building separate from the warehouses or factory or as provided in KRS 244.087; or
3. In any of the following establishments, if the employment is in a capacity that does not involve the sale or serving of alcoholic beverages:
a. A restaurant that derives at least fifty percent (50%) of its ***food and beverage***[~~gross~~] sales from the sale of food for consumption on the licensed premises; or
b. Any other establishment with alcoholic beverage sales not exceeding fifty percent (50%) of its gross sales.
(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.
(2) The provisions of paragraphs (a) and (b) of subsection (1) of this section shall not apply if the employee's duties do not involve the sale, service, delivery, or traffic in alcoholic beverages at the licensed premises.
(3) Violation of this section shall subject both employer and employee to penalties provided in this chapter and shall be cause for revocation of license.

Section 8. KRS 244.125 is amended to read as follows:

KRS 244.125 Prohibition against possession of loaded firearm in room where alcoholic beverages are being sold by the drink.
(1) Except as provided in subsection (3) of this section, no person shall be in possession of a loaded, as defined in KRS 237.060, firearm while actually within the room where alcoholic beverages are being sold by the drink of a building on premises licensed to sell distilled spirits and wine at retail by the drink for consumption on the licensed premises pursuant to KRS Chapter 243.
(2) This section shall not apply to the owner, manager, or employee of licensed premises, law enforcement officers, or special local peace officers commissioned pursuant to KRS 61.360.
(3) This section shall not apply to a bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and which receives ***less than***[~~at least~~] fifty percent (50%) of its[~~ gross~~] annual ***food and beverage*** income from the dining facilities by the sale of ***alcohol***[~~food~~].
(4) Nothing in this section shall be construed as permitting the carrying of a concealed deadly weapon in violation of KRS 527.020.
(5) Any firearm possessed in violation of this section shall be subject to forfeiture and shall be disposed of pursuant to KRS 237.090.

Section 9. KRS 244.290 is amended to read as follows:

KRS 244.290 Closed times for retail premises – Exception – Sunday sales.

(1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.

(3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail by the drink or by the package shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:

(a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or

(b) The legislative body of a city of the first, second, third, or fourth class or an urban-county government, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.

(4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:

(a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and

(b) Receive ***less than***~~[at least]~~ fifty percent (50%)~~[or more]~~ of their~~[gross]~~ annual ***food and beverage*** income from the dining facilities from the sale of ***alcohol***~~[food]~~.

(5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits director may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.

(6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:

(a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and

(b) The holders of distilled spirits and wine retail drink licenses have applied to the state director and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.

(7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

Section 10. KRS 244.295 is amended to read as follows:

KRS 244.295 Urban-county government may set liquor sale hours – Local option on Sunday sales in urban-county – Sunday sales extension.

(1) In any county containing an urban-county government, a premises that has been granted a license for the sale of distilled spirits or wine at retail shall not be permitted to remain open for any purpose between midnight and 6 a.m., or at any time during the twenty-four (24) hours of a Sunday, or during the hours the polls are open on any regular or primary election day unless the licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and the department is kept locked during the time mentioned above. The licensee shall be deemed to have complied with this section; except that the legislative body of an urban-county government in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries. Provided, however, distilled spirits or wine may not be sold in any portion of a county containing an urban-county government during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsections (2) and (3) of this section, and distilled spirits or wine may not be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours in which the licensee is prohibited from selling same.

(2) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of such urban-county government may by resolution or ordinance submit to the electorate a proposal to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour specified in the proposal by hotels, motels, convention centers,

convention hotel complexes, restaurants, racetracks, and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive ***less than***~~[at least]~~ fifty percent (50%)~~[or more]~~ of ***their***~~[gross]~~ annual ***food and beverage*** income from dining facilities by the sale of ***alcohol***~~[food]~~. The proposal to be submitted to the electorate shall be so framed that any voter who wishes to vote in favor of the limited Sunday sales of distilled spirits and wine by the drink may signify his approval by voting "yes" and any voter who wishes to vote against the limited Sunday sales of distilled spirits and wine by the drink may do so by voting "no." The election shall be held on a date stipulated by the legislative body, and the cost of the election shall be borne by the urban-county government. The proposal shall be published pursuant to KRS Chapter 424 and shall also be advertised by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election. The general election laws, including penalties for violations, shall apply to the election, except where those laws are inconsistent with the provisions of this section. The proposal submitted to the electorate shall be effective immediately if a majority of those voting on the proposal shall vote "yes."

* * * * *

Section 11. KRS 243.042 is amended to read as follows:

KRS 243.042 Qualified historic site license.

(1) A qualified historic site license ***may be issued to any establishment meeting the criteria established in KRS 241.010(34) as long as the establishment is within:***

(a) Any territory not under the provisions of KRS 242.190 to 242.430; or

(b) Any precinct that has authorized the sale of alcoholic beverages under KRS 242.1242.

(2) A qualified historic site license shall authorize the licensee to:

(a) Sell distilled spirits, wine, and malt beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037 and 244.330;

(b) Sell distilled spirits, wine, and malt beverages by the drink to patrons at public or private functions held on the premises; and

(c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310.

(3)~~[(2)]~~ Nothing in this section exempts the holder of a qualified historic site license from the provisions of KRS Chapters 241, 242, 243, and 244, or from any rules of the board as established by administrative regulations, except as expressly stated in this section.

SENATE BILL 55 EMERGENCY MUTUAL AID

SECTION 1. A NEW SECTION OF KRS CHAPTER 39B IS CREATED TO READ AS FOLLOWS:

KRS 39B.045 Mutual aid agreements between Kentucky or its agencies or political subdivisions and units of government from another state.
(1) As used in this section, "emergency" means an occurrence or condition in a jurisdiction within or outside of the Commonwealth that results in a situation:
(a) That poses an immediate risk to health, life, property, or the environment;
(b) That is not initially at the level of a disaster or emergency that requires a local or state declaration of disaster or emergency, even if such a local or state declaration is made after the initial request for mutual aid; and
(c) For which the governing jurisdiction determines:
1. The situation exceeds its ability to render appropriate aid; and
2. That it is in the public's best interest to request mutual aid from a governmental jurisdiction or private entity in another state with which the governing jurisdiction has entered into a mutual aid agreement under this section.
(2) (a) As used in this section, "emergency responder" means a person:
1. Who is required to possess a license, certificate, permit, or other official recognition for the person's expertise in a particular field or area of knowledge; and
2. Whose assistance is desirable during an emergency.
(b) The term includes, but is not limited to, the following:
1. Firefighters, hazardous materials personnel, specialized rescue personnel, extrication personnel, water rescue personnel, and other specialized personnel;
2. Emergency medical services personnel;
3. Physicians;
4. Nurses;
5. Mental health practitioners, veterinary practitioners, and other public health practitioners;
6. Emergency management personnel; and
7. Public works personnel.
(3) As used in this section, "political subdivision" has the same meaning as in KRS 39D.040.
(4) (a) In order to more adequately address emergencies that extend or exceed a jurisdiction's emergency response capabilities, either without rising to the level of a state or local declaration of a state disaster or emergency, or in the initial stages of an event that may later become a declared state of disaster or emergency, the state and any of its departments or agencies, or any political subdivision, may enter into written mutual aid agreements with units of government from another state that provide coordination of communications for, training for, response to, and standby for planned events and emergency responses within the Commonwealth of Kentucky or in another state.
(b) When an emergency responder from outside Kentucky is engaged in

training, standby, and emergency response in accordance with a mutual aid agreement under this section, the emergency responder from outside Kentucky is permitted to provide services within Kentucky in accordance with this section and the terms of the mutual aid agreement under this section.

(c) This section shall not be construed to prohibit a private entity or its employees from participating in the provision of mutual aid if:

1. The participating political subdivision approves the participation of the private entity; and

2. A contract between the political subdivision and the participating private entity permits the participation.

(5) If an emergency responder from a jurisdiction outside Kentucky holds a license, certification, or other permit recognized or issued by another state, that emergency responder is considered to be licensed, certified, and permitted in Kentucky to render aid involving such skill to meet the request for assistance under a mutual aid agreement signed pursuant to this section, so long as the emergency responder acts within the scope of:

(a) The emergency responder's license, certificate, or permit; and

(b) What would be authorized by an equivalent license, certificate, or permit from or recognized by the Commonwealth of Kentucky.

(6) All immunities from liability available to Kentucky political subdivisions, other units of local government in Kentucky, and their officers, agents, and employees within Kentucky are extended to political subdivisions and other units of local government from another state, and their officers, agents, and employees, who under a mutual aid agreement authorized by this section are:

(a) Providing mutual aid; or

(b) Engaged in training and exercises.

(7) (a) Emergency responders rendering mutual aid under a mutual aid agreement authorized by this section remain employees and agents of their respective employers and jurisdictions.

(b) A mutual aid agreement entered into under this section does not create an employment relationship between the jurisdiction requesting aid and the employees and agents of the jurisdiction rendering aid.

(c) All pension, relief, disability, death, worker's compensation, and all other benefits enjoyed by emergency responders rendering mutual aid under a mutual aid agreement authorized by this section extend to the services the emergency responders perform outside their respective jurisdictions, as if those services had been rendered in their own jurisdiction.

(8) A mutual aid agreement under this section shall be approved by each political subdivision entering into the mutual aid agreement. A copy of the mutual aid agreement, including any amendments, shall be delivered to the fiscal court or legislative body having countywide jurisdiction and the county emergency management agency of that jurisdiction.

(9) This section shall not be construed to limit, modify, or abridge:

(a) Kentucky's emergency management agency statutes; or

(b) The emergency management assistance compact under KRS 39A.950.

SENATE BILL 58 ARREST

Section 1. KRS 431.005 is amended to read as follows:

KRS 431.005 Arrest by peace officers – By private persons.
(1) A peace officer may make an arrest:
(a) In obedience to a warrant; or
(b) Without a warrant when a felony is committed in his ***or her*** presence; or
(c) Without a warrant when he ***or she*** has probable cause to believe that the person being arrested has committed a felony; or
(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his ***or her*** presence; or
(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his ***or her*** presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his ***or her*** presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person ***being arrested*** has violated KRS 189A.010 or KRS 281A.210***; or***
(f) Without a warrant when a violation of KRS 508.030 has occurred in the emergency room of a hospital without the officer's presence if the officer has probable cause to believe that the person being arrested has violated KRS 508.030. For the purposes of this paragraph, "emergency room" means that portion of a licensed hospital which has the primary purpose of providing emergency medical care, twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.

Section 2. KRS 431.015 is amended to read as follows:

KRS 431.015 Citation for misdemeanor – Arrest for certain misdemeanors – Failure to appear.
(1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b)***,***~~[and]~~ (c)***, and (d)*** of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.
(b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:
1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010;
2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or
3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.
(c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785.

(d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in the emergency room of a hospital pursuant to KRS 431.005(1)(f).

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his ***or her*** presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his ***or her*** presence or a violation of KRS 189A.010, not committed in his ***or her*** presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he ***or she*** will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

SENATE BILL 75 SLOW-MOVING VEHICLES
EMERGENCY – EFFECTIVE APRIL 11, 2012

Section 1. KRS 189.050 is amended to read as follows:

KRS 189.050 Rear, side, and clearance lights and lanterns. (NOTE: MODIFIED CATCHLINE)

* * * * *

(5) When in operation between sunset and sunrise on any highway, motorless vehicles, except bicycles, shall have in operation***:***

(a) A four (4) way *flasher system, with two (2) flashing yellow or amber lights visible from the front of the vehicle* ***for a distance of at least five hundred (500) feet*** and two (2) flashing red lights visible from the rear of the vehicle ***for a distance of at least five hundred (500) feet; or***

(b) Two (2) reflective lanterns, one (1) on either side of the rear of the vehicle, showing white to the front of the vehicle and red to the rear of the vehicle, with the lantern on the left side of the vehicle situated at least twelve (12) inches higher than the lantern on the right.

Section 2. KRS 189.820 is amended to read as follows:

KRS 189.820 Slow-moving vehicle emblem or reflective tape required – Display – Regulations for mounting emblem or reflective tape. (NOTE: MODIFIED CATCHLINE)

(1) ***Except as provided in subsection (4) of this section,*** all slow-moving vehicles sold, leased, or rented in, or for use within, the Commonwealth of Kentucky ~~[after January 1, 1971,]~~shall have affixed to them as standard equipment a slow-moving vehicle emblem.

(2) ***Except as provided in subsection (4) of this section,*** the slow-moving vehicle emblem shall be displayed as herein provided on all slow-moving vehicles operated day or night upon the public roads within the Commonwealth of Kentucky~~[, no later than January 1, 1973]~~.
(3) The slow-moving vehicle emblem shall be mounted as near the center of the rear of the slow-moving vehicle as is practicable, and the lower edge of the emblem shall be mounted at least three feet (3') or more above the road surface, and shall be maintained in a clean, reflective condition.
(4) As an alternative to the slow-moving vehicle emblem, one (1)-inch-wide white or silver reflective tape may be used on motorless slow-moving vehicles as follows:
(a) The rear of the vehicle shall be covered with a minimum of one hundred (100) square inches of the reflective tape;
(b) The reflective tape on the rear of the vehicle shall, at a minimum, outline the entire rear of the vehicle;
(c) Each side of the vehicle shall be covered with a minimum of thirty-six (36) square inches of reflective tape; and
(d) The highest point of the left front of the vehicle shall be covered with a minimum of twenty-four (24) square inches of reflective tape.

Section 3. KRS 189.830 is amended to read as follows:

KRS 189.830 Use of emblem or reflective tape restricted – Exemption from requirement. (NOTE: MODIFIED CATCHLINE)
(1) The slow-moving vehicle emblem shall be restricted to the uses specified herein and the use on any other type of vehicle or on other objects is prohibited.
(2) The ***slow-moving vehicle***~~[said]~~ emblem shall not be required on trailers or other drawn vehicles which do not obstruct the slow-moving vehicle emblem required on the towing vehicle.
(3) Highway construction or maintenance vehicles and public utility vehicles shall not require ***slow-moving vehicle***~~[said]~~ emblems when being guarded by flagmen or flares.
(4) The use of~~[such]~~ slow-moving vehicle emblems ***or alternate reflective tape, as required under KRS189.820,*** shall be in addition to any other reflective or lighting devices required by law.
(5) The slow-moving vehicle emblem shall not be used on a bicycle.

Section 4. Whereas, because the number of recent collisions that have occurred between motor vehicles and slow-moving vehicles which were not clearly marked is evidence that this is an urgent traffic safety issue in many areas of the Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

SENATE BILL 89 SEAT BELTS IN VANS

Section 1. KRS 189.125 is amended to read as follows:

KRS 189.125 Requirements for use of seat belts, child restraint systems, and child booster seats – Exceptions.
(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ***fifteen (15)*** [~~ten (10)~~] or fewer passengers and used for the transportation of persons, but the term does not include:
(a) Motorcycles;
(b) Motor driven cycles; or
(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

* * * * *

SENATE BILL 124 MOTOR VEHICLE LICENSES

Section 1. KRS 186.450 is amended to read as follows:

KRS 186.450 Instruction permits for motor vehicle and motorcycle – Application – Age requirements – Restrictions on driving with permit.

*** * * * ***

(4) ***(a)*** A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.
(b) When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.
(c) The requirements of paragraph (b) of this subsection shall not apply to a motor vehicle instruction permit holder being supervised on a multiple-vehicle driving range by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school.

*** * * * ***

Section 2. KRS 186.010 is amended to read as follows:

KRS 186.010 Definitions. (NOTE: MODIFIED CATCHLINE)

*** * * * ***

(18) "Multiple-vehicle driving range" means an enclosed area that is not part of a highway or otherwise open to the public on which a number of motor vehicles may be used simultaneously to provide driver training under the supervision of one (1) or more driver training instructors.

NOTE: See Also HOUSE BILL 328, which modifies same subject matter.

HOUSE

HOUSE BILL 23 JUDICIAL SALES

Section 1. KRS 426.200 is amended to read as follows:

KRS 426.200 Sale of land – Place of – Advertisement – Appraisement.
(1) Land shall be sold under execution to the highest bidder at the courthouse door of the county in which it lies. Only so much land shall be sold as will satisfy the execution under which the sale is made.
(2) The officer making the sale shall first advertise the time and place of sale by written notice describing the land to be sold, posted at the courthouse door and three other places in the vicinity of the land for fifteen days next preceding the sale, or by newspaper notice if required by KRS 426.560.
(3) Before a sale of land, the officer shall have the land appraised, under oath, by two disinterested, intelligent housekeepers of the county, who may be sworn by him. If the appraisers disagree, the officer shall act as umpire. If a part of a tract only is sold, the part sold shall, after the sale, be revalued in like manner. The appraisal shall be in writing, signed by the persons making it, ***subject to inspection by the public prior to the sale,*** and returned with the execution. The officer shall refer to and explain the proceeding in his return on the execution, which return shall be recorded in full.

Section 2. KRS 426.520 is amended to read as follows:

KRS 426.250 Appraisal of real property before judicial sale.
(1) Before any real property is to be sold under an order or judgment of a court, other than an execution, the commissioner or other officer selling the property shall have it appraised, under oath, by two (2) disinterested, intelligent housekeepers of the county, who may be sworn by the officer. If they disagree, the officer shall act as umpire. If only a part of a tract of land is sold, the part sold shall, after the sale, be revalued in like manner.
(2) The appraisal made shall be in writing, signed by the persons making it, and returned by the commissioner or officer to the court which made the order or rendered the judgment for the sale of the property. ***Prior to the sale,*** the appraisal shall be filed among the papers of the cause in which the judgment was rendered or the order made, and entered on the records of the court.

HOUSE BILL 71 PROBATE

Section 1. KRS 61.315 is amended to read as follows:

KRS 61.315 Benefits payable on death of certain peace officers, firefighters, correctional officers, jailers, National Guard or Reserve component – Administrative regulations – Estates to be exempted from probate fees – Funds allotted to a self-insuring account. (NOTE: MODIFIED CATCHLINE)

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, ***any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer,*** any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations.

(2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, ***any metropolitan or urban-county correctional officer with the power of a peace officer pursuant to KRS 446.010, any jailer or deputy jailer,*** any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty ***under Title 10 or Title 32 of the United States Code*** who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars ($80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay thirty-five thousand dollars ($35,000) to the surviving children; and

(b) Hold forty-five thousand dollars ($45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.

(4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it

pertains to police officers ***or any metropolitan or urban-county correctional officers with the power of a peace officer pursuant to KRS 446.010, or any jailers or deputy jailers***, including but not limited to defining when ***one***[~~a police officer~~] has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
(5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including but not limited to defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
(6) ***The estate of anyone whose spouse or surviving children would be eligible for benefits under subsection (2) of this section, and the estate of any regular member of the United States Armed Forces who names Kentucky as home of record for military purposes whose death occurs as a direct result of an act in the line of duty, shall be exempt from all probate fees, including but not limited to those established by the Supreme Court of Kentucky pursuant to KRS 23A.200 and 24A.170, or imposed under KRS 24A.185, 64.012, and 172.180.***
(7) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
(8)[~~(7)~~] Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

HOUSE BILL 72 LEOSA

Section 1. KRS 237.138 is amended to read as follows:

KRS 237.138 Application of KRS 237.138 to 237.142 to retired peace officers.
KRS 237.138 to 237.142 shall apply to any elected or appointed peace officer who is honorably retired and who:
(1) Meets the provisions of[~~ Section 3 of~~] the federal Law Enforcement Officers Safety Act[~~ of 2004, Pub. L. No. 108-277~~], 18 U.S.C. sec. 926C;
(2) Meets the provisions of KRS 237.138 to 237.142; and
(3) Desires to carry a concealed deadly weapon in conformity with the provisions of the federal Law Enforcement Officers Safety Act***, 18 U.S.C. sec. 926C***[~~ of 2004, Pub. L. 108-277~~].

Section 2. The Department of Kentucky State Police shall, utilizing the administrative regulation in contemplation of a statute process or the emergency administrative regulation process, promulgate administrative regulations conforming to changes in applicable Federal law.

HOUSE BILL 93 PERSONAL WATERCRAFT

Section 1. KRS 235.285 is amended to read as follows:

KRS 235.285 Personal watercraft – Use for towing – Prohibitions on use without personal flotation device or self-circling capability – General prohibitions of operation – Exceptions – Supervision of minors.

* * * * *

(4) A personal watercraft or motorboat operated on public waters shall ~~[at all times]~~be operated ***at all times*** according to the "Rules of the Road" ***in the Inland Navigation Rules, 33 C.F.R. pt. 83. A personal watercraft or motorboat shall be operated at all times***~~[and]~~ in a reasonable and prudent manner so as not to endanger human life, human physical safety, or property. A person shall not do any of the following while operating a personal watercraft or motorboat on public waters:
(a) Weave through congested watercraft traffic in a way that endangers human life, human physical safety, or property;
(b) Follow a watercraft that is towing an individual on water skis, a surfboard, or a water sport device in a way that endangers human life, human physical safety, or property;
(c) Jump the wake of another watercraft in a way that endangers human life, human physical safety, or property;
(d) Cut between a boat and the individual or individuals being towed by the boat;
(e) Cross paths with another watercraft when visibility around the other watercraft is so obstructed as to endanger human life, human physical safety, or property; or
(f) Steer a personal watercraft or motorboat toward an object or individual in the water and turn sharply at close range in a way that endangers human life, human physical safety, or property.
(5) A person shall not operate a personal watercraft on public waters at any time between sunset and the following sunrise.
(6) A person shall not operate a motorboat or personal watercraft within fifty (50) feet of a commercial motor vessel and its tow which is in operation on a waterway, except if the operator of the commercial motor vessel has given his or her consent.
(7) (a) A person under twelve (12) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth.
(b) Effective January 1, 1999, a person twelve (12) years of age through seventeen (17) years of age shall not operate a personal watercraft or motorboat over ten (10) horsepower on the public waters of the Commonwealth unless the person is in possession of a safe boating certificate or is accompanied, on board, by a person eighteen (18) years of age or older or in possession of a safe boating certificate.
(c) While operating a motorboat or a personal watercraft over ten (10) horsepower on the public waters of the Commonwealth, nonresidents twelve (12) years of age through seventeen (17) years of age shall have in their possession a Kentucky safe boating certificate or a recognized and equivalent boat operator licensing or safe boating certificate from another state or country.
(8) Subsections (1) to (6) of this section shall not apply to:

(a) A performer engaged in a professional exhibition; or
(b) A person participating in a regatta, a race, a marine parade, a tournament, or an exhibit that is held in compliance with administrative regulations adopted by the department.
(9) The parent, legal guardian, or other adult who has direct supervision over a minor under the age of eighteen (18) shall not knowingly authorize or permit the minor to operate a motorboat or personal watercraft in violation of this section.

HOUSE BILL 121 POW/MIA FLAGS

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

KRS 2.065 POW/MIA flag – Flags purchased or displayed by public institutions to be manufactured in United States.
(1) As used in this section, "Prisoner of War and Missing in Action or "POW/MIA flag" means the POW/MIA flag designated in 36 U.S.C. sec. 902 by the United States Congress as the symbol of the nation's commitment and concern for the fate of Americans still prisoner, missing in action, or otherwise unaccounted for as a result of hostile action.
(2) All POW/MIA flags purchased by a public institution or displayed by a public institution shall be manufactured in the United States.

HOUSE BILL 122 RESIDENTIAL CARE FACILITIES

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

KRS 65.879 Prohibition against local ordinances specifically applicable to residential care facilities for persons with a disability – Information to be provided by Cabinet for Health and Family Services – Facilities not exempted from general application ordinances.
(1) As used in this section:
(a) "Cabinet" means the Cabinet of Health and Human Services;
(b) "Local government" means a city, county, charter county, urban-county government, consolidated local government, or unified local government;
(c) "Persons with a disability" has the same meaning as in KRS 100.982; and
(d) "Residential care facility" means a residence, including a group home or staffed residence, operated and maintained by:
1. A private agency receiving state or federal funds; or
2. A government agency;
that provides services in a homelike setting for persons with disabilities.
(2) A local government shall not adopt or enforce any licensing or other requirements specifically applicable to residential care facilities providing services for persons with a disability beyond those required by statutes or

administrative regulations of the Commonwealth of Kentucky or the federal government.
(3) (a) A local government may adopt a resolution by its legislative body requesting the cabinet to provide information on each residential care facility within the requesting local government's boundaries. The cabinet shall provide information to the local government within thirty (30) days of the receipt of the resolution requesting this information. The information provided by the cabinet shall be limited to:
1. The physical location of the residential care facility or facilities; and
2. The name and contact information for the individual or organization primarily responsible for the oversight of the facility or facilities.
(b) Once a resolution has been filed by a local government the cabinet shall:
1. Provide that local government updated information if:
a. The number of residential facilities within the jurisdiction changes;
b. The physical location changes; or
c. The name and contact information for the individual or organization primarily responsible for the oversight changes; or
2. Provide an annual update of the information provided in this subsection, in the event that the provisions of subparagraph 1. of this subsection do not occur.
(c) The information provided in this subsection shall only be for the use of the local government's law enforcement agencies, fire protections services, or emergency service providers. The information provided by the cabinet shall not be subject to the provisions of KRS 61.872 thru KRS 61.884. This exemption applies solely to the local government receiving the information.
(4) This section shall not be construed to exempt residential care facilities from compliance with local government ordinances that apply generally within the jurisdiction, including but not limited to business licensing requirements, occupational license taxes, nuisance and property maintenance codes, public and fire safety ordinances, health and sanitation ordinances, zoning requirements as provided under KRS 100.984, or any other type of local ordinance of general application.

HOUSE BILL 171 DEADLY WEAPONS

SECTION 1. KRS 527.020 is amended to read as follows:

KRS 527.020 Carrying concealed deadly weapon.

* * * * *

(5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:
1. A Commonwealth's attorney or assistant Commonwealth's attorney;

2. A retired Commonwealth's attorney or retired assistant Commonwealth's attorney;
3.[2.] A county attorney or assistant county attorney;
4. A retired county attorney or retired assistant county attorney;
5.[3.] A justice or judge of the Court of Justice; and
6.[4.] A retired or senior status justice or judge of the Court of Justice.

* * * * *

NOTE: See Also HOUSE BILL 484, which modifies same subject matter.

HOUSE BILL 221 OPERATOR'S LICENSES

Section 1. KRS 186.412 is amended to read as follows:

KRS 186.412 License application -- Temporary license -- Personal identification card -- Child identification program -- Renewal of license by mail by citizens in military serving out-of-state -- Limited exemption for citizens with expired licenses who are returning from military -- Medical insignia -- Anatomical gift -- Limitation on number of licenses -- Married woman's name -- Witnesses for anatomical gifts – "Veteran" designation. (NOTE: MODIFIED CATCHLINE)

* * * * *

(19) Any person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under conditions other than dishonorable, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this section bear the word "veteran" on the face or the back of the license or personal identification card. The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214 form as proof of veteran status. The Circuit Clerk shall not be liable for fraudulent or misread DD-214 forms presented.

HOUSE BILL 232 SHERIFF'S COLLECTION FEES

Section 1. KRS 75.450 is amended to read as follows:

KRS 75.450 Fees for services – Exemptions – Response to all fires in jurisdiction required – Mission statement – Inclusion of fees on property tax bills – Collection and distribution – Collection fee for sheriff. (NOTE: MODIFIED CATCHLINE)

(1) A fire department which collects membership charges or subscriber fees for combatting fires or serving in other emergencies shall base its annual fee or charge on the level of protection offered.

(2) A fire department that responds to a fire or other emergency on the property of a

nonmember or nonsubscriber may charge the following fees for services rendered:
(a) Up to five hundred dollars ($500) for single family residential units; utility occupancies of two thousand (2,000) or fewer square feet; assembly and business occupancies having a capacity which does not exceed one hundred (100) persons; equipment; vehicles; and grass or woods fires; and
(b) Up to one thousand dollars ($1,000) for multifamily residential units; assembly and business occupancies having a capacity exceeding one hundred (100) persons; storage occupancies; utility occupancies of more than two thousand (2,000) square feet; and all industrial, educational, or institutional occupancies; and
(c) Up to five hundred dollars ($500) for responding to emergencies not covered in paragraphs (a) and (b) of this subsection, including response to high hazard occupancies as defined in KRS 198B.010. The department may be entitled to recover necessary and reasonable costs in excess of the five hundred dollar ($500) limit based upon submission of a written itemized claim for the total costs incurred. Disputes involving fees in excess of the five hundred dollar ($500) limit shall be submitted to arbitration by the commission.
(3) For the purposes of subsection (2)(a) and (b) of this section, the meaning of assembly, business, industrial, educational, and institutional occupancies shall be as defined in KRS 198B.010. The meaning of storage and utility occupancies shall be as defined in the Kentucky Building Code, Sections 311.1 and 312.1 respectively, promulgated pursuant to KRS 198B.050.
(4) Property owned by the Commonwealth of Kentucky and the federal government shall be exempt from charges.
(5) If more than one (1) department responds to a fire or other emergency, the fee shall be paid only to the department which is authorized to protect the property pursuant to KRS 75.440(2)(a).
(6) A fire department shall respond within its jurisdiction to all fires and to other emergencies for which it is responsible as set forth in its mission statement. A copy of each fire department mission statement shall be filed with the commission. A new department shall file its statement when it is incorporated. A department in existence on July 15, 1994, shall file its mission statement by July 1, 1995. A copy of the mission statement shall be posted in a conspicuous location in each station of the department, and shall be filed with the county clerk of each county in which the department has jurisdiction pursuant to KRS 75.440(2)(a). The mission statement shall remain in effect until amended, and filed and posted by the fire department in the locations as required by this subsection.
(7) If a fire department collects membership charges or subscriber fees, the fiscal court may adopt an ordinance to require the annual membership charges or subscriber fees to be added to property tax bills. In any county where the fiscal court has adopted such an ordinance, the county clerk shall add the annual membership charges or subscriber fees to the tax bills of the affected property owners in a place separate from the bill of the fire district tax or fire subdistrict tax so that ratepayers can ascertain the amount of the membership charges or subscriber fees apart from the fire district tax.
(8) The membership charges or subscriber fees shall be collected and distributed by the sheriff to the appropriate fire departments in the same manner as the other taxes on the bill and unpaid fees or charges shall bear the same penalty as general state and

county taxes. This shall be a lien on the property against which it is levied from the time of the levy. ***The fiscal court shall, in the ordinance set forth in subsection seven (7) of this section and in consultation with the sheriff and the fire department, set a collection fee for the sheriff to retain an amount not to exceed four and one-fourth percent (4.25%) of the membership charges or subscriber fees collected.***

Section 2. KRS 273.401 is amended to read as follows:

KRS 273.401 Fire department membership charges and subscriber fees may be added to property tax bills – Collection and distribution – Collection fee for sheriff. (NOTE: MODIFIED CATCHLINE)

(1) If a fire department created under the provisions of this chapter is authorized by law to collect membership charges or subscriber fees for combating fires or serving in other emergencies, the legislative body of the city or county where the fire department is located may require those annual membership charges or subscriber fees to be added to property tax bills. The county clerk shall add the annual membership charges or subscriber fees to the tax bills of the affected property owners.

(2) The membership charges or subscriber fees shall be collected and distributed by the sheriff to the appropriate fire departments in the same manner as the other taxes on the bill and unpaid fees or charges shall bear the same penalty as general state and county taxes. This shall be a lien on the property against which it is levied from the time of the levy. ***The legislative body of the city or county where the fire department is located shall, in consultation with the sheriff and the fire department, set a collection fee for the sheriff to retain an amount not to exceed four and one-fourth percent (4.25%) of the membership charges or subscriber fees collected.***

HOUSE BILL 293 ELECTIONS
EMERGENCY – EFFECTIVE MARCH 28, 2012

Section 1. KRS 117.265 is amended to read as follows:

KRS 117.265 Write-in vote – Requirements – Persons ineligible to be write-in candidate – Certified lists of qualified candidates. (NOTE: MODIFIED CATCHLINE)

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label for any office, by writing the name of his or her choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his or her choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, on or before the fourth Friday in

October preceding the date of the regular election and not later than the second Friday before the date of a special election. ***In the case of a special election administered under KRS 118.730, a declaration of intent to be a write-in candidate shall be filed at least twenty-eight (28) days before the day of the election.*** The declaration of intent shall be filed no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) A person shall not be eligible as a write-in candidate:

(a) For more than one (1) office in a regular or special election; or

(b) If his or her name appears upon the ballot label for any office, except that the candidate may file a notice of withdrawal prior to filing an intent to be a write-in candidate for office when a vacancy in a different office occurs because of:

1. Death;
2. Disqualification to hold the office sought;
3. Severe disabling condition which arose after the nomination; or
4. The nomination of an unopposed candidate.

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State on or before the fourth Friday in October preceding the date of the regular election for those offices. The declaration of intent shall be filed no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

Section 2. KRS 118.730 is amended to read as follows:

KRS 118.730 Writ for special election for member of General Assembly – Location where voting to be conducted when only one candidate nominated – Exceptions. (NOTE: MODIFIED CATCHLINE)

(1) When a vacancy exists in either house of the General Assembly during its session, the presiding officer of the house in which the vacancy exists shall issue a writ of election; when the General Assembly is not in session, the writ shall be issued by the Governor. The writ shall be signed by the officer issuing it, shall designate the day for holding the election, and shall be directed to the proper sheriff or sheriffs.

(2) If a writ of election has been issued to fill a vacancy in either house of the General Assembly and only one (1) candidate has been nominated under KRS 118.760 and KRS 118.770 and no candidate has filed a declaration of intent to be a

write-in candidate for the vacancy under KRS 117.265(2), the county clerks of the counties in the territory in which the special election is to be held shall conduct voting in only one (1) of the following:
(a) The county clerk's office; or
(b) Other place or places designated by the county board of elections and approved by the State Board of Elections.
(3) Subsection (2) of this section shall not apply when the writ of election calls for the election to be held on either:
(a) The day of a primary or general election; or
(b) The same day as any other special election, except an uncontested special election to fill a vacancy in either house of the General Assembly.

Section 3. KRS 118.740 is amended to read as follows:

KRS 118.740 Delivery of proclamations and writs to sheriff – Notice of election or special election. (NOTE: MODIFIED CATCHLINE).
(1) A copy of a proclamation issued under KRS 118.710 or 118.720, or a writ of election issued under KRS 118.730 shall be forwarded by mail to the sheriff of each county in the district in which the election is to be held, at least thirty-five (35) days before the election. The sheriff of each county in which an election is to be held shall give notice at least ***twenty-eight (28)***[~~thirty (30)~~] days before the day of election. If, from any cause, the sheriff cannot properly act, he shall immediately hand the writ or proclamation to the person authorized to act in his place.
(2) If a special election is administered under KRS 118.730(2), the notice required by subsection (1) of this section shall include the location of the election.

Section 4. KRS 118.770 is amended to read as follows:

KRS 118.770 Time for filing petitions and certificates of nomination for special election of Governor, congressional representative or General Assembly member.
When a writ of election or proclamation is issued to fill a vacancy as prescribed in KRS 118.710, 118.720, or 118.730, independent, or political organization, or political group petitions and certificates of nomination ***shall***[~~may~~] be filed ***at least*** twenty-eight (28) days before the day of election, and if filed with the Secretary of State shall be immediately certified by him or her to the proper county clerks.

Section 5. This Act shall be cited as The Dewayne Bunch Act.

Section 6. Whereas it is possible that a vacancy could occur in the General Assembly prior to ninety days after adjournment of the 2012 Regular Session of the General Assembly, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

NOTE: Although this provision is of little concern to most law enforcement

agencies, it is included because Sheriff's Offices are directly involved in the election process.

HOUSE BILL 328 MOTORCYCLES

Section 1. KRS 186.450 IS AMENDED TO READ AS FOLLOWS:

KRS 186.450 Instruction permits for motor vehicle and motorcycle – Application – Age requirements – Restrictions on driving with permit. (NOTE: MODIFIED CATCHLINE)

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid ***intermediate*** motor vehicle operator's license ***issued under KRS 186.452*** or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar ($6) fee pursuant to KRS 186.531.

(3) (a) An instruction permit ***to operate a motor vehicle*** shall be valid for three (3) years and may be renewed. ***An instruction permit to operate a motorcycle shall be valid for one (1) year and may be renewed one (1) time.***

(b) Except as provided in KRS 186.415, a person who has attained the age of sixteen (16) years and is under the age of eighteen (18) years shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.

(c) A person who was under eighteen (18) years of age at the time of application for an instruction permit and is eighteen (18) years of age or older shall have the instruction permit a minimum of one hundred eighty (180) days and complete a driver training program under KRS 186.410(4) before applying for an operator's license.

(d) A person who is at least eighteen (18) years of age and is under the age of twenty-one (21) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license.

(e) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(f) In accordance with KRS 15A.352(5), a person whose motorcycle instruction permit has expired may apply to the circuit clerk to receive a motorcycle operator's license or endorsement if the person presents proof of successful completion of a motorcycle safety education course approved by the Justice and Public Safety Cabinet under KRS 15A.350 to 15A.366.

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NOTE: See Also SENATE BILL 124, which modifies same subject matter.

HOUSE BILL 344 WILD PIGS

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

KRS 150.186 Release of hog or pig into the wild prohibited – Importing, possessing, or transporting wild or feral pig or boar prohibited – Accidental escape of livestock exempted.
(1) No person shall release a hog or pig from the family Suidae into the wild.
(2) No person shall import, possess, or transport in Kentucky any wild or feral pig, Eurasian or Russian boar, or any hybrid of these, whether born in the wild or captivity.
(3) This section shall not apply to the accidental escape of animals of the porcine species raised as livestock as defined in KRS 246.010.

Section 2. KRS 150.990 is amended to read as follows:

KRS 150.990 Penalties.

* * * * *

(17) Any person convicted of KRS 150.186 shall be guilty of a Class A misdemeanor and shall, whether licensed or license-exempt, forfeit his or her right to hunt, fish, trap, or be licensed as a commercial guide for a period of ten (10) years.

HOUSE BILL 369 KLEFPF

Section 1. KRS 15.460 is amended to read as follows:

KRS 15.460 Supplemental payments and pension contributions to local governments from fund – Supplements to qualified police officers, sheriffs, and deputy sheriffs – Receipt of supplement during period of military activation.
(NOTE: MODIFIED CATCHLINE)
(1) Except as provided in subsection (4)(a) of this section, beginning July 15, 1998, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars ($2,750) for each qualified police officer it

employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his or her qualifications brought to the local government. The supplement paid each police officer shall be in addition to his or her regular salary ***and, except as provided in subsection (4)(b) of this section, shall continue to be paid to an officer who is a member of:***

(a) The Kentucky National Guard during any period of activation under Title 10 or Title 32 of the United States Code, or KRS 38.030; or

(b) Any reserve component of the United States Armed Forces during any period of activation with the United States Armed Forces.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527 shall not receive a supplement.

(b) Each qualified sheriff who does not receive the maximum salary allowed by Section 246 of the Kentucky Constitution and KRS 64.527, excluding the expense allowance provided by KRS 70.170, shall upon annual settlement with the fiscal court under KRS 134.192, receive that portion of the supplement that will not cause his or her compensation to exceed the maximum salary.

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the annual settlement prepared under KRS 134.192 to the fund. The sheriff shall reimburse the fund if an audit of the annual settlement conducted pursuant to KRS 134.192 reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the annual settlement to the fund or to reimburse the fund after correction by audit, if required, shall not be qualified to participate in the fund for a period of two (2) years.

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his or her own budget or from the county treasurer if the sheriff pools his or her fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualification of his or her deputies to participate in the fund.

(4) (a) Eligible local units of government shall receive the salary supplement, excluding funds applicable to the employer's pension fund contribution, provided in subsection (1) of this section for distribution to an officer who is eligible under subsection (2) of this section.

(b) A qualified police officer receiving a salary supplement during any period of military activation, as provided in subsection (2) of this section, shall not be entitled to receive the employer's pension system contribution, and the salary supplement shall not be subjected to an employee's contribution to a pension system. The salary supplement shall otherwise be taxable for all purposes.

Section 2. KRS 15.470 is amended to read as follows:

KRS 15.470 Purposes for which assistance funds may be used.

*** * * * ***

(5) Each police officer receiving the state supplement who is also a member of the Kentucky National Guard or any reserve component of the United States Armed Forces shall continue to receive the state supplement during any period of military activation, as provided in subsection (2) of Section 1 of this Act; and
(6) Funds distributed or received pursuant to subsection (5) of this section shall be excluded from all aspects of the Kentucky Retirement Systems or any other retirement system.

HOUSE BILL 390 METALS

SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

KRS 433.900 Definitions for KRS 433.900 to 433.906.
As used in KRS 433.900 to 433.906, unless the context otherwise requires:
(1) "Applicant" means a secondary metals recycler seeking an application for a certificate of registration with the Office of Occupations and Professions of the Public Protection Cabinet, as provided KRS 433.902. If the secondary metals recycler is owned by a corporation, limited liability corporation, limited liability partnership, incorporated association, or any other entity organized for the purpose of engaging in business as a secondary metals recycler, "applicant" means the officers of these entities;
(2) "Ferrous metals" means any metal containing significant quantities of iron or steel;
(3) "Nonferrous metals" means metal not containing significant quantities of iron, including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof;
(4) "Name-based background check" means a statewide search of the centralized criminal history record information system by the Department of Kentucky State Police, utilizing the name, date of birth, and Social Security number of the applicant;
(5) "Restricted metals" means any of the following metal items:
(a) Manhole covers;
(b) Electric light poles or other utility poles;

(c) Guardrails;
(d) Street signs, traffic signs, or traffic signals;
(e) Whole road tiles;
(f) Funeral markers or funeral vases;
(g) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, e-clip, or rail tie junction;
(h) Condensing or evaporating coils made from copper, aluminum, or aluminum-copper, including the tubing or rods from a heating or air conditioning unit that is not from a window air conditioning unit or automobile air conditioning unit;
(i) Stainless steel beer kegs;
(j) A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a vehicle ; or
(k) Storm drain covers; and
(6) (a) "Secondary metals recycler" means:
1. Any person who is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value;
2. Any person who has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value, other than by the exclusive use of hand tools, by methods including but not limited to processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof; or
3. Any recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage, or other refuse, whether a dealer, collector, or vendor operates an established place of business or an itinerant business.
(b) "Secondary metals recycler" shall not include a municipal solid waste department or any entity which has been issued a municipal solid waste transporter license by the Kentucky Transportation Cabinet and which gathers or obtains ferrous or nonferrous metals in a vehicle registered in Kentucky to transport solid waste.

SECTION 2. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

KRS 433.902 Secondary metals recycler to obtain certificate of registration from Office of Occupations and Professions – Application – Name-based background check – Fees – Annual renewal – Display of certificate – Administrative regulations.
(1) (a) Each secondary metals recycler shall submit to a name-based background check as provided in subsection (2) of this section and obtain a certificate of registration from the Office of Occupations and Professions of the Public

Protection Cabinet within sixty (60) days of the effective date of administrative regulations promulgated pursuant to this section.
(b) The application for certificate of registration shall be in a form and format determined by the Office of Occupations and Professions of the Public Protection Cabinet and shall contain at a minimum the following:
1. The name of the secondary metals recycling business;
2. The name or names of each applicant;
3. The address of each secondary metals recycling business owned by the applicant; and
4. Contact information for the purposes of KRS 433.906.
(c) Any person listed on an application for a certificate of registration shall be at least eighteen (18) years of age prior to the date that the application is submitted.
(d) Any corporation, limited liability corporation, limited liability partnership, incorporated association, or any other entity engaged in business as, or organized for the purpose of engaging in business as, a secondary metals recycler submitting an application must be organized and qualified to do business in the Commonwealth.
(e) The Office of Occupations and Professions of the Public Protection Cabinet shall charge each applicant a reasonable fee established by administrative regulation equal to the actual administrative costs of processing an application for a certificate of registration.
(f) If an applicant is the owner of more than one (1) secondary metals recycling location, the Office of Occupations and Professions of the Public Protection Cabinet shall charge a fee for each location that is no greater than the actual administrative costs of processing the application for certificate of registration. Upon approval of the application, the Office of Occupations and Professions of the Public Protection Cabinet shall issue a certificate of registration for each location.
(g) Each applicant that receives a certificate of registration from the Office of Occupations and Professions of the Public Protection Cabinet as provided in this section shall be required to pay an annual renewal fee equal to the actual administrative costs of processing the renewal of the certificate for registration.
(h) The list of secondary metals recyclers registered with the Office of Occupations and Professions of the Public Protection Cabinet as provided in this section shall be public information and available upon written request to the Office of Occupations and Professions of the Public Protection Cabinet.
(2) (a) Prior to approval of the application, the Office of Occupations and Professions of the Public Protection Cabinet shall require a name-based background check on each applicant.
(b) Each applicant shall provide written authorization to the Department of Kentucky State Police to perform a name-based background check and release the results to the Office of Occupations and Professions of the Public Protection Cabinet.
(c) Any request for a name-based background check shall be on a form or through a process approved by the Department of Kentucky State Police, which

may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
(d) The Office of Occupations and Professions of the Public Protection Cabinet shall not issue a certificate of registration to an applicant if the name-based background check results reveal that the applicant has been convicted of, or entered a plea of guilty, an Alford plea, or a plea of nolo contendere to, a felony involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, or obtaining property by false pretenses, any felony drug offense, or knowingly and intentionally violating the laws of the Commonwealth relating to registration as a secondary metals recycler.
(3) A secondary metals recycler's certificate of registration shall be conspicuously displayed at the location of the secondary metals recycler listed on the application for certificate of registration or at each location if the secondary metals recycler owns more than one (1) business location.
(4) The Office of Occupations and Professions of the Public Protection Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.
(5) The Office of Occupations and Professions of the Public Protection Cabinet shall not be responsible for any disciplinary action against any secondary metals recycler seeking an application for certificate of registration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

KRS 433.904 Requirements for purchase of restricted metals by secondary metals recycler – Cash transactions prohibited – Payment to be made by check – Daily reports to sheriff and police – Confidentiality of information – Proof of ownership of restricted metals – Applicability.
(1) (a) A secondary metals recycler shall not enter into any cash transaction for the purchase of any restricted metals as defined in KRS 433.900.
(b) Payment by a secondary metals recycler for the purchase of restricted metals shall be made by check issued to the seller and payable to the seller.
(c) Each check for payment shall be mailed by the secondary metals recycler directly to the street address of the seller. Payment shall not be mailed to a post office box.
(d) Each check shall be mailed by the secondary metals recycler to the seller no sooner than one (1) day after the purchase transaction.
(2) At the close of each business day a secondary metals recycler shall make a report describing any purchases of restricted metals as defined in KRS 433.900, in digital format, in writing, or by other electronic means to:
(a) The sheriff of the county in which the purchase transaction was made by a secondary metals recycler and the sheriff of the county where the secondary metals recycler is located; and
(b) The police department of the city, county, charter county government, urban-county government, consolidated local government, or unified local government in which the purchase transaction was made and the police department of the city,

county, charter county government, urban-county government, consolidated local government, or unified local government in which the secondary metals recycler is located.
(c) The information required by this subsection shall remain confidential, and this information shall include the following disclosure: "This information is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you are not the intended recipient of this information, you are hereby notified that any use, distribution, copying, or disclosure of this communication is strictly prohibited. If you have received this information in error, please notify the sender and purge the communication immediately."
(3) A secondary metals recycler shall not purchase any restricted metals without obtaining reasonable proof that the seller owns the property, such as a receipt or bill of sale, or reasonable proof that the seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business, or entity owning the property and that the seller is authorized to sell the item of restricted metal. A secondary metals recycler may retain on file an official document on the letterhead of the person, business, or entity indicating that the seller is authorized to sell the restricted metal item. Such a letter must be dated within three hundred sixty-five (365) days of the transaction.
(4) The requirements for the purchase of restricted metals according to the provisions of subsections (1) and (2) of this section shall also apply to the purchase of copper wire or coaxial cable belonging to a utility or cable provider, such as communication, transmission, distribution, or service wire, by a secondary metals recycler.
(5) The provisions of subsections (1) and (3) of this section shall not apply to nonreturnable used beverage containers.
(6) The provisions of this section shall not apply to the following:
(a) The purchase of restricted metals from a secondary metals recycler;
(b) The purchase of restricted metals from an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;
(c) The purchase of restricted metals pursuant to a written contract, from a manufacturing, industrial, or other commercial vendor that generates restricted metals in the ordinary course of business; or
(d) A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title.

SECTION 4. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

KRS 433.906 Secondary metals recycler to maintain equipment to receive notifications of stolen restricted metals, ferrous metals, and nonferrous metals – Change in contact information to be reported to Office of Occupations and Professions.

(1) A secondary metals recycler shall maintain at its place of business, or otherwise have immediate access to, an e-mail address, facsimile, or other equipment of similar function on which notifications of stolen restricted metals, ferrous metals, and nonferrous metals may be expeditiously received from law enforcement officials or electronic metal theft notification systems.
(2) The equipment shall be operable at all times during the secondary metal recycler's customary business hours. The secondary metals recycler shall notify the Office of Occupations and Professions of the Public Protection Cabinet within two (2) days of any change to the contact information used for the purposes of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 512 IS CREATED TO READ AS FOLLOWS:

KRS 512.090 Unlawful acts relating to acquiring metals.
(1) A person is guilty of unlawful acts relating to acquiring metals when the person intentionally and without permission cuts, mutilates, defaces, or otherwise injures any personal or real property of another, including any fixtures or improvements, for the purpose of obtaining any restricted metal, nonferrous metal, or ferrous metal as defined in KRS 433.900, in any amount.
(2) Unlawful acts relating to acquiring metals is:
(a) A Class B misdemeanor with a fine of not more than two hundred fifty dollars ($250) or imprisonment in the county jail for less than ninety (90) days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is less than three thousand dollars ($3,000); or
(b) A Class D felony with a fine of not less than one thousand dollars ($1,000) and not more than ten thousand dollars ($10,000) or double his or her gain from commission of the offense, whichever is the greater, or imprisonment for not less than one (1) year but not more than five (5) years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is three thousand dollars ($3,000) or more.

Section 6. KRS 15.232 is amended to read as follows:

KRS 15.232 Concurrent jurisdiction in investigation and prosecution of offenses under KRS 433.890 to 433.896, 433.900 to 433.906, and 512.090. (NOTE: MODIFIED CATCHLINE)
The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys and county attorneys in the investigation and prosecution of offenses under KRS 433.890 to 433.896 ***and KRS 433.900 to 433.906 and KRS 512.090***.

Section 7. KRS 65.871 is amended to read as follows:

KRS 65.871 Location restrictions on sales of metals and products containing metal permitted – Conditions.
A city, county, urban-county, charter county, unified county, or consolidated local government may adopt an ordinance relating to the purchase of metals and metal-containing products provided the ordinance:
(1) Contains at least the provisions specified in KRS 15.232, 16.066, ***and KRS 433.900 to 433.90, KRS 512.090*** and 433.890 to 433.896, but which may contain additional provisions; and
(2) Does not specify a lesser penalty for a similar offense than specified in KRS 15.232, 16.066, ***KRS 512.090,*** and 433.890 to 433.896 or provides that the penalty specified in KRS 433.890 to 433.896 ***and KRS 512.090*** shall apply.

Section 8. (1) The General Assembly hereby recommends the creation of a Recyclable Metals Theft Prevention Working Group.
(2) The Recyclable Metals Theft Prevention Working Group may include:
(a) The commissioner of the Kentucky State Police or his or her designee;
(b) A representative of the Kentucky Sheriffs' Association;
(c) A representative of the Kentucky Association of Chiefs of Police;
(d) A representative of the Associated General Contractors of Kentucky;
(e) A representative of the Kentucky Recycling Association;
(f) A representative of the Kentucky League of Cities;
(g) A representative of the Kentucky Association of Counties;
(h) A representative of the Kentucky Municipal Utilities Association;
(i) A representative of the cable industry;
(j) A representative of a utility company;
(k) A representative of the telecommunications industry; and
(l) A representative of the railroad industry.
(3) The first meeting of the Recyclable Metals Theft Prevention Working Group may be no later than August 15, 2012. The working group may meet at least twice a year.

NOTE: SECTION 8 of this bill is not codified law, but is a recommendation by the General Assembly.

HOUSE BILL 396 DEFRAUDING A SECURED CREDITOR

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Section 3. KRS 517.060 is amended to read as follows:

KRS 517.060 Defrauding secured creditors.
(1) A person is guilty of defrauding secured creditors when he destroys, ***damages,*** removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest with intent ***either to lower the value of the secured interest or*** unlawfully to hinder enforcement of that interest.

(2) Defrauding secured creditors is a Class A misdemeanor unless the value of the property subject to the security interest is***:***
(a) Five hundred dollars ($500)[~~one hundred dollars ($100)~~] or more ***up to ten thousand dollars ($10,000)***, in which case it is a Class D felony***; or***
(b) Ten thousand dollars ($10,000) or more, in which case it is a Class C felony.

HOUSE BILL 439 SPEED LIMITS

Section 1. KRS 189.390 is amended to read as follows:

KRS 189.390 Speed – Secretary authorized to increase speed limit in certain areas by official order – Parking.
(3) The speed limit for motor vehicles on state highways shall be as follows, unless conditions exist that require lower speed for compliance with subsection (2) of this section, or the secretary of the Transportation Cabinet establishes a different speed limit in accordance with subsection (4) of this section:
(a) Sixty-five (65) miles per hour on interstate highways and parkways;
(b) Fifty-five (55) miles per hour on all other state highways; and
(c) Thirty-five (35) miles per hour in a business or residential district.
(4) (a) If the secretary of transportation determines, upon the basis of an engineering and traffic investigation, that any speed limit is greater or less than is reasonable or safe under the conditions found to exist at any intersection, or upon any part of a state highway, the secretary of transportation may establish by official order a reasonable and safe speed limit at the location. The secretary shall not increase any speed limit established by subsection (3) of this section in excess of sixty-five (65) miles per hour, except that, notwithstanding the provisions of subsection (3)(a) of this section, the secretary may increase the speed limit on any of the following segments of highway to seventy (70) miles per hour:
1. Interstate 24 (entire length);
2. Interstate 64 from Interstate 264 to the West Virginia state line;
3. Interstate 65 from Interstate 264 to the Tennessee state line;
4. ***Interstate 69 (entire length);***
5. Interstate 71 from Interstate 264 to Interstate 275;
6.[~~5.~~] Interstate 75 from the Tennessee state line to Interstate 275;
7.[~~6.~~] The Audubon Parkway (entire length);
8.[~~7.~~] The Julian M. Carroll Purchase Parkway (entire length);
9.[~~8.~~] The Bert T. Combs Mountain Parkway from Interstate 64 to the beginning of the Mountain Parkway Extension (KY 9009) in Wolfe County;
10.[~~9.~~] The Edward T. Breathitt Pennyrile Parkway (entire length);
11.[~~10.~~] The Wendell H. Ford Western Kentucky Parkway (entire length);
12.[~~11.~~] The Louie B. Nunn Cumberland Parkway (entire length);
13.[~~12.~~] The Martha Layne Collins Bluegrass Parkway (entire length); and
14.[~~13.~~] The William H. Natcher Parkway (entire length).

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HOUSE BILL 449 EVACUATION PLANS FOR CHILD-CARE FACILITIES

Section 1. KRS 199.895 is amended to read as follows:

KRS 199.995 Evacuation plans required for child-care centers and family child-care homes – Annual updating of plan – Provision of plan to local emergency management officials and parents. (NOTE: MODIFIED CATCHLINE).
(1) A child-care center licensed under KRS 199.896 ***and a family child-care home certified under KRS 199.8982*** shall have a written plan for evacuation in the event of fire, natural disaster, or other threatening situation that may pose a health or safety hazard to the children in the center ***or home.*** The plan shall include but not be limited to:
(a) A designated relocation site and evacuation route;
(b) Procedures for notifying parents of the relocation and ensuring family reunification;
(c) Procedures to address the needs of individual children including children with special needs;
(d) Instructions relating to the training of staff or the reassignment of staff duties, as appropriate;
(e) Coordination with local emergency management officials; and
(f) A program to ensure that appropriate staff are familiar with the plan's components.
(2) A child-care center ***and a family child-care home*** shall update the evacuation plan by December 31 each year.
(3) A child-care center ***and a family child-care home*** shall retain an updated copy of the plan for evacuation, provide an updated copy to appropriate local emergency management officials, and provide a copy to each parent, custodian, or guardian of the child at the time of the child's enrollment in the program and whenever the plan is updated.

HOUSE BILL 480 TRAFFIC SCHOOL

Section 1. KRS 186.574 is amended to read as follows:

KRS 186.574 State traffic school for new drivers and for traffic offenders – Fee – Procedures – County attorney-operated traffic safety program. (NOTE: MODIFIED CATCHLINE)

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(6) (a) Except as provided in paragraph (b) of this subsection, a county attorney may operate a traffic safety program for traffic offenders prior to the adjudication of the offense.
(b) Offenders alleged to have violated KRS 189A.010 or 304.30-010, offenders holding a commercial driver's license under KRS Chapter 281A, or offenders coming within the provisions of subsection (5)(b) or (c) of this section shall be excluded from participation in a county attorney-operated program.
(c) A county attorney that operates a traffic safety program:

1. May charge a reasonable fee to program participants, which shall only be used for payment of county attorney office operating expenses; and
2. Shall, by October 1 of each year, report to the Prosecutors Advisory Council the fee charged for the county attorney-operated traffic safety program and the total number of traffic offenders diverted into the county attorney-operated traffic safety program for the preceding fiscal year categorized by traffic offense.
(d) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney, pay a twenty-five dollar ($25) fee to the court clerk which shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries.

Section 2. KRS 15.720 is amended to read as follows:

KRS 15.720 Reports.
(1) The Attorney General shall submit***:***
(a) To the Governor and to the General Assembly a biennial report setting forth the activities of the unified prosecutorial system for the preceding fiscal years; to be included in this report are the activities of the Prosecutors Advisory Council, an abstract of the annual report of the local prosecutors, and suggestions and recommendations for the uniform enforcement of the criminal laws of the Commonwealth***; and***
(b) To the Legislative Research Commission an annual report, by January 15 of each year, setting forth the total number of traffic offenders diverted into county attorney-operated traffic safety programs for the preceding fiscal year categorized by county and by traffic offense, and the fee charged by each county attorney-operated traffic safety program.
(2) Each Commonwealth's attorney and county attorney shall be required by the council to submit such written reports as are determined necessary for the preceding calendar year.

HOUSE BILL 467 – GOLDEN ALERT

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Section 2. KRS 39F.010 is amended to read as follows:

KRS 39F.010 Definitions for chapter.
The following definitions apply in this chapter unless the context otherwise requires:
(1) ***"Developmental disability" has the same meaning as in KRS 387.510.*** [1]

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[1] **387.510 Definitions.**
(7) "Developmental disability" means a severe, chronic disability of a person which:
(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments, including pervasive developmental disorder;
(b) Is manifested before the person attains age twenty-two (22);
(c) Is likely to continue indefinitely;

(2) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:
(a) Light duty rescue;
(b) Extrication of persons from vehicles;
(c) Water rescue and recovery operations not utilizing divers;
(d) Search for lost, trapped, or missing persons not utilizing dogs;
(e) Low angle rescue and recovery operations; and
(f) High angle rescue and recovery operations.
(3)~~[(2)]~~ "Impaired ***person***~~[adult]~~" means a person~~[age eighteen (18) years of age or older]~~ who has a ***known or reported:***
(a) Developmental disability, including but not limited to autism, or traumatic brain injury~~[verified mental or cognitive impairment]~~ and whose disappearance poses a credible threat to the health or safety of the person, as determined by ***the Department of Kentucky State Police or*** a local law enforcement agency***; or***
(b) Physical, mental, or cognitive impairment or organic brain disorder, including but not limited to Alzheimer's disease, and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency.

* * * * *

(11) "Traumatic brain injury" has the same meaning as in KRS 211.470.

Section 3. KRS 39F.020 is amended to read as follows:

KRS 39F.020 Rescue squads – Formation – Authorization to operate within a jurisdiction – Functions – Public notification of lost or missing impaired persons. (NOTE: MODIFIED CATCHLINE)

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(4) Rescue squads shall contribute to public safety and welfare by performing functions which may include but not be limited to: removal of victims trapped in vehicles or structures; search for lost or missing persons or missing impaired ***persons***~~[adults]~~, except those sought for criminal acts; first aid; emergency evacuation; recovery of drowning victims; recovery of any corpse if not accessible by ambulance or hearse and if so authorized by the coroner; and traffic control at an accident scene when requested

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(d) Results in substantial functional limitations in three (3) or more of the following areas of major life activity:
1. Self-care;
2. Receptive and expressive language;
3. Learning;
4. Mobility;
5. Self-direction;
6. Capacity for independent living; and
7. Economic self-sufficiency; and
(e) Reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

by law enforcement authorities. Rescue squads organized for the purpose of searching for lost or missing ***persons which are searching for an*** impaired ***person***~~[adults]~~ shall work in cooperation with local media outlets to notify the public that an impaired ***person***~~[adult]~~ is lost or missing. Rescue squads shall not engage in law enforcement activities other than traffic control.
(5) The division shall administer funds appropriated for rescue equipment and training and the division shall promulgate administrative regulations to be applied to all rescue squads that apply for financial assistance.

Section 4. KRS 39F.180 is amended to read as follows:

KRS 39F.180 Reports of search and rescue missions – Golden Alert – Immediate search for lost, missing or overdue person permitted. (NOTE: MODIFIED CATCHLINE)
(1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:
(a) The local emergency management director; and
(b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.
(2) (a) Any search for a missing minor, as that term is defined in KRS 2.015, shall be ***immediately*** reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.
(b) ***A search for an impaired person as defined in KRS 39F(3)(a) shall immediately be reported as a Golden Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search.***
(c) A search for ***an impaired***~~[a]~~ person ***as defined in subsection (3)(b) of KRS 39F.010*** ~~[who is known or reported to have an organic brain disorder, including but not limited to Alzheimer's disease,]~~ shall immediately be reported as a Golden Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.
(d)~~[(c)]~~ The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.
(3) Any search and rescue mission which has lasted four (4) hours without the subject being located shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.

(4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:
(a) The search and rescue mission is discontinued; or
(b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.
(5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.
(6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.
(7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39F IS CREATED TO READ AS FOLLOWS:

KRS 39F.220 Training courses to contain instruction on behavioral characteristics and proper care of lost persons with traumatic brain injury or developmental disability.
(1) Each basic search and rescue course offered by or under the authority of the Division of Emergency Management shall contain not less than thirty (30) minutes of instruction in the behavioral characteristics of lost persons with a traumatic brain injury or developmental disability and the proper care of lost persons with a traumatic brain injury or developmental disability, including but not limited to autism.
(2) Each search and rescue management course offered by or under the authority of the Division of Emergency Management shall contain not less than one (1) hour of instruction in the behavioral characteristics of lost persons with a traumatic brain injury or developmental disability and the proper care of lost persons with a traumatic brain injury or developmental disability, including but not limited to autism.
(3) The Division of Emergency Management shall seek recommendations regarding the curricula for basic search and rescue training and search and

rescue management training sessions from organizations with a history of and demonstrable experience serving or advocating on behalf of individuals with autism, intellectual and developmental disabilities, or traumatic brain injuries.
(4) The time allotted for the subjects required by this section for each course and the content for each course shall be specified by administrative regulations promulgated by the Division of Emergency Management.

Section 6. Sections 2 through 5 of this Act shall be known as the "Chase McMurray Act."

HOUSE BILL 481 – SYNTHETIC DRUGS
EMERGENCY – EFFECTIVE APRIL 11, 2012

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

KRS 218A.1430 Trafficking in synthetic drugs – Penalties – Affirmative defense -- Possession of synthetic drugs -- Penalty.
(1) (a) A person is guilty of trafficking in synthetic drugs when he or she knowingly and unlawfully traffics in synthetic drugs.
(b) Trafficking in synthetic drugs is a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
(c) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for any offense under this subsection the court may impose a maximum fine of double the defendant's gain from the commission of the offense, in which case any fine money collected shall be divided between the same parties, in the same ratio, and for the same purposes as established for forfeited property under KRS 218A.420.
(d) It shall be an affirmative defense to an offense under this subsection that the defendant committed the offense during the course of the defendant's employment as an employee of a retail store and that the defendant did not know and should not have known that the trafficked substance was a synthetic drug.
(2) (a) A person is guilty of possession of synthetic drugs when he or she knowingly and unlawfully possesses synthetic drugs.
(b) Possession of synthetic drugs is a Class B misdemeanor, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than thirty (30) days.

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

KRS 217.065 When drug or device deemed misbranded.
Except for violations of KRS 218A.350, a drug or device shall be deemed to be misbranded:
(1) If its labeling is false or misleading in any particular;
(2) If in package form unless it bears a label containing:
(a) The name and place of business of the manufacturer, packer, or distributor, except that, in the case of a prescription drug, it shall bear the name and place of business of

the manufacturer, and the name and place of business of the packer, or distributor, if other than the manufacturer; and
(b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the secretary;
(3) If any word, statement, or other information required by or under authority of KRS 217.005 to 217.215 to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
(4) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana,~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists or piperazines]~~ ***synthetic drugs***, salvia, morphine, opium, paraldehyde, peyote, or sulfonmethane, or any chemical derivative of such substance, which derivative has been by the secretary after investigation, found to be, and by regulations under KRS 217.005 to 217.215 designated as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning -- May be habit-forming";
(5) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears:
(a) The common or usual name of the drug, if such there be; and
(b) In case it is fabricated from two (2) or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein; provided that to the extent that compliance with this subsection is impracticable, exemptions shall be established by regulations promulgated by the secretary;
(6) Unless its labeling bears:
(a) Adequate directions for use; and
(b) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users; provided that where any requirement of subsection (a) of this subsection, as applied to any drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirements;
(7) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein; provided that the method of packing may be modified with a consent of the cabinet. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homeopathic Pharmacopoeia of the

United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the Homeopathic Pharmacopoeia of the United States, and not to those of the United States Pharmacopoeia;
(8) If it has been found by the cabinet to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the secretary shall by administrative regulations require as necessary for the protection of public health. No such administrative regulation shall be established for any drug recognized in an official compendium until the secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements;
(9) (a) If it is a drug and its container is so made, formed, or filled as to be misleading; or
(b) If it is an imitation of another drug; or
(c) If it is offered for sale under the name of another drug;
(10) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;
(11) If:
(a) It is a drug intended for use by man which is a habit forming drug to which subsection (4) of this section applies; or because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner, and is not dispensed upon a prescription unless prior to dispensing its label bears the statement "Caution: Federal law prohibits dispensing without prescription"; or (b) It is a drug or device and its label (as originally packed) directs that it is to be dispensed or sold only on prescription, unless it is dispensed or sold on a prescription of an authorized practitioner and its label (as dispensed) bears the name and place of business of the dispenser or seller, the serial number and date of such prescription, and the name of such licensed practitioner. Such prescriptions shall not be refilled except on the specific authorization of the prescribing practitioner; provided that where any requirement of this subsection, as applied to any drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirement;
(12) A drug sold on a prescription of a practitioner (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this section if:
(a) Such practitioner is licensed by law to administer such drug; and
(b) Such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such practitioner.
(13) It is not the intention of subsection (2)(a) of this section as amended herein to require the name and place of business of the wholesaler to appear upon the label of the package unless otherwise required by this section.

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

KRS 218A.010 Definitions for chapter.
As used in this chapter:

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(44) "Synthetic ***cannabinoids***~~[Cannabinoid agonists]~~ 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:***~~[(1-(2-morpholin-4-ylethyl)indol-3-yl)-napthalen-1-ylmethanone (JWH-200); 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250); or 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol). The term shall not include synthetic cannabinoids that require a prescription, are approved by the United States Food and Drug Administration, and are dispensed in accordance with state and federal law;]~~
(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 AM630, 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) Naphthylmethylindoles: 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) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH 368; (g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176; 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, alkylenedioxy, 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.

(Remaining sections renumbered accordingly.)

Section 4. KRS 218A.020 is amended to read as follows:

KRS 218A.020 Cabinet for Health and Family Services to administer chapter – Office of Drug Control Policy may request scheduling of substances similar to synthetic drugs. (NOTE: MODIFIED CATCHLINE)
(1) The Cabinet for Health and Family Services shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for Health and Family Services may consider the following:
(a) The actual or relative potential for abuse;
(b) The scientific evidence of its pharmacological effect, if known;
(c) The state of current scientific knowledge regarding the substance;
(d) The history and current pattern of abuse;
(e) The scope, duration, and significance of abuse;
(f) The risk to the public health;
(g) The potential of the substance to produce psychic or physiological dependence liability; and
(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.
(2) After considering the factors enumerated in subsection (1) the Cabinet for Health and Family Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.
(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for Health and Family Services, the Cabinet for Health and Family Services may similarly control the substance under this chapter by regulation.
(4) The Cabinet for Health and Family Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).

(5) The Office of Drug Control Policy may request that the Cabinet for Health and Family Services schedule a substance substantially similar to a synthetic cannabinoid or piperazine or a synthetic cathinone. The cabinet shall consider the request utilizing the criteria established by this section and shall issue a written response within sixty (60) days of the scheduling request delineating the

cabinet's decision to schedule or not schedule the substance and the basis for the cabinet's decision. The cabinet's response shall be provided to the Legislative Research Commission and shall be a public record.

Section 5. KRS 218A.050 is amended to read as follows:

KRS 218A.050 Schedule I controlled substances.
Unless otherwise rescheduled by ***administrative*** regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

* * * * *

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline;~~[naphthylpyrovalerone; 3,4-methylenedioxypyrovalerone; 3,4-methylenedioxymethylcathinone; 4-methylmethcathinone;]~~ Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic ***drugs***~~[cannabinoid agonists or piperazines]~~; ***or*** salvia.

*** * * * ***

Section 6. KRS 218A.1401 is amended to read as follows:

KRS 218A.1401 Selling controlled substances other than synthetic drugs or salvia to minor – Penalties. (NOTE: MODIFIED CATCHLINE)
(1) A person is guilty of selling controlled substances to a minor when he or she, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of a controlled substance other than~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone,3,4-methylenedioxymethylcathinone, 4-methylmethcathinone,]~~ synthetic ***drugs***~~[cannabinoid agonists, piperazines,]~~ or salvia to any person under eighteen (18) years of age.
(2) Selling controlled substances to a minor is a Class C felony for a first offense, and a Class B felony for each subsequent offense, unless a more severe penalty for trafficking in controlled substances is applicable, in which case the higher penalty shall apply.

Section 7. KRS 218A.141 is amended to read as follows:

KRS 218A.141 Additional penalties for trafficking in controlled substance other than salvia or marijuana. (NOTE: MODIFIED CATCHLINE)

Any person convicted of, pleading guilty to, or entering an Alford plea to any offense involving trafficking in a controlled substance, other than trafficking in ***salvia or***[~~ naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists, piperazines, salvia, or trafficking in~~] marijuana shall, in addition to any other penalty authorized by law, be sentenced to:

(1) Pay the costs of disposal of the controlled substances;

(2) Pay the costs of disposal of all equipment, chemicals, materials, or other items used in or in furtherance of the trafficking offense;

(3) Pay the costs involved with environmental clean-up and remediation required for the real property and personal property used for or in furtherance of the trafficking offenses; and

(4) Pay the costs of protecting the public from dangers from chemicals, materials, and other items used for or in furtherance of the trafficking offense from the time of the arrest until the time that the clean-up or remediation of the real and personal property is concluded. The Commonwealth shall have a lien on all of the assets of the defendant until the amount specified by the court under this subsection is paid in full. The Commonwealth's attorney shall file the lien.

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

KRS 218A.1411 Trafficking in controlled substance in or near school – Exception for misdemeanor salvia offenses – Penalty. (NOTE: MODIFIED CATCHLINE)

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

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

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

KRS 218A.1413 Trafficking in controlled substances in second degree – Penalties.

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

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

1. Ten (10) or more dosage units of a controlled substance classified in Schedules I and II that is not a narcotic drug; or specified in KRS 218A.1412***, and which is not a synthetic drug, salvia, or marijuana***; or
2. Twenty (20) or more dosage units of a controlled substance classified in Schedule III;~~[but not naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists or piperazines, salvia, or marijuana;]~~
(b) He or she knowingly and unlawfully prescribes, distributes, supplies, or sells an anabolic steroid for:
1. Enhancing human performance in an exercise, sport, or game; or
2. Hormonal manipulation intended to increase muscle mass, strength, or weight in the human species without a medical necessity; or
(c) Any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amounts specified in that paragraph.
(2) (a) Except as provided in paragraph (b) of this subsection, any person who violates the provisions of subsection (1) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.
(b) Any person who violates the provisions of subsection (1)(c) of this section shall be guilty of:
1. A Class D felony for the first offense, except that KRS Chapter 532 to the contrary notwithstanding, the maximum sentence to be imposed shall be no greater than three (3) years; and
2. A Class D felony for a second offense or subsequent offense.

Section 10. KRS 218A.1416 is amended to read as follows:

KRS 218A.1416 Possession of controlled substance in second degree – Penalty.
(1) A person is guilty of possession of a controlled substance in the second degree when he or she knowingly and unlawfully possesses: a controlled substance classified in Schedules I or II which is not a narcotic drug; or specified in KRS 218A.1415; or, a controlled substance classified in Schedule III; but not~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone,]~~ synthetic ***drugs,*** ~~[cannabinoid agonists, piperazines,]~~salvia, or marijuana.
(2) Possession of a controlled substance in the second degree is a Class A misdemeanor.

Section 11. KRS 218A.276 is amended to read as follows:

KRS 218A.276 Assessment and treatment program for possessors of marijuana, synthetic drugs, or salvia – Rescission of treatment order – Voiding of conviction – Sealing of records. (NOTE: MODIFIED CATCHLINE)
(1) A court may request the Division of Probation and Parole to perform a risk and needs assessment for any person found guilty of possession of marijuana pursuant to KRS 218A.1422,~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-~~

~~methylenedioxymethylcathinone, or 4-methylmethcathinone pursuant to KRS 218A.1454,]~~ synthetic ***drugs***[~~cannabinoid agonists or piperazines]~~ pursuant to ***KRS 218A.1430,***[~~KRS 218A.1427,]~~ or salvia pursuant to KRS 218A.1451. The assessor shall make a recommendation to the court as to whether treatment is indicated by the assessment, and, if so, the most appropriate treatment or recovery program environment. If treatment is indicated for the person, the court may order him or ***her to the***[~~herthe]~~ appropriate treatment or recovery program as indicated by the assessment that will effectively respond to the person's level of risk, criminal risk factors, and individual characteristics as designated by the secretary of the Cabinet for Health and Family Services where a program of treatment or recovery not to exceed ninety (90) days in duration may be prescribed. The person ordered to the designated treatment or recovery program shall present himself or herself for registration and initiation of the treatment or recovery program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated treatment or recovery program within the specified time, or if any time during the program of treatment or recovery prescribed, the authorized director of the treatment or recovery program finds that the person is unwilling to participate in his or her treatment, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment, or may rescind the treatment order and impose a sentence for the possession offense. Upon discharge of the person from the treatment or recovery program by the secretary of the Cabinet for Health and Family Services, or his or her designee, prior to the expiration of the ninety (90) day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary, or his or her designee, shall notify the sentencing court of the date of such discharge from the treatment or recovery program.

(2) The secretary of the Cabinet for Health and Family Services, or his or her designee, shall inform each court of the identity and location of the treatment or recovery program to which a person sentenced by that court under this chapter shall be initially ordered.

(3) In the case of a person ordered to an inpatient facility for treatment pursuant to this chapter, transportation to the facility shall be provided by order of the court when the court finds the person unable to convey himself or herself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(4) The sentencing court shall immediately notify the designated treatment or recovery program of the sentence and its effective date.

(5) The secretary of the Cabinet for Health and Family Services, or his or her designee, may authorize transfer of the person from the initially designated treatment or recovery program to another treatment or recovery program for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating treatment or recovery program and shall be notified by the secretary or his or her designee of the new treatment or recovery program to which the person was transferred.

(6) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the Cabinet for Health and Family Services, unless the person and the treatment or recovery program shall arrange otherwise.

(7) None of the provisions of this section shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation, presumptive probation, or conditional discharge.

(8) In the case of any person who has been convicted of possession of marijuana,[~~ naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone,~~] synthetic ***drugs*** [~~cannabinoid agonists, piperazines~~], or salvia, the court may set aside and void the conviction upon satisfactory completion of treatment, probation, or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a first offense for purposes of this chapter or deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(9) If the court voids a conviction under this section, the court shall order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, except as provided in KRS 27A.099. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency with records relating to the arrest, charge, or other matters arising out of the arrest or charge that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the order that the required sealing action has been completed.

(10) After the sealing of the record, the proceedings in the matter shall not be used against the defendant. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is sealed shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(11) Inspection of the sealed records may thereafter be permitted by the court or upon a motion by the person who is the subject of the records and only to those persons named in the motion.

Section 12. KRS 218A.350 is amended to read as follows:

KRS 218A.350 Prohibited practices concerning substances that simulate controlled substances – Penalties.

(1) No person shall sell or transfer any substance, other than a controlled substance, with the representation or upon creation of an impression that the substance which is sold or transferred is a controlled substance.

(2) No person shall possess for sale or transfer any substance designed in any manner, including but not limited to design of the item or its container, markings, or color, to simulate a controlled substance.

(3) No person shall possess for sale or transfer any substance, not covered by subsection (2) of this section which is not a controlled substance with the representation or upon the creation of an impression that the substance held for sale or transfer is a controlled substance.

(4) No person shall manufacture, package, repackage, advertise, or mark any substance, which is not a controlled substance, in such a manner as to resemble a controlled substance, for the purpose of creating the impression that the substance is a controlled substance.

(5) For the purpose of determining whether this section has been violated, the court or other authority shall include in its consideration the following:
(a) Whether the noncontrolled substance was packaged in a manner normally used for the illegal sale of controlled substances;
(b) Whether the sale or attempted sale included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable value of the noncontrolled substance.
(c) Whether the physical appearance of the noncontrolled substance is substantially identical to that of a controlled substance.
(6) In any prosecution brought under this section, it is not a defense to a violation of this section that the defendant believed the noncontrolled substance to actually be a controlled substance.
(7) ***(a)*** Any person who violates any of the provisions of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.
(b) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for any offense under this subsection the court may impose a maximum fine of double the defendant's gain from the commission of the offense, in which case any fine money collected shall be divided between the same parties, in the same ratio, and for the same purposes as established for forfeited property under KRS 218A.420.
(c) It shall be an affirmative defense to an offense under this subsection that the defendant committed the offense during the course of the defendant's employment as an employee of a retail store and that the defendant did not know and should not have known that the trafficked substance was a synthetic drug.

Section 13. KRS 218A.410 is amended to read as follows:

KRS 218A.410 Property subject to forfeiture.
(1) The following are subject to forfeiture:
(a) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state;
(b) Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state;
(c) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state. The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he or she is the holder thereof, constitutes authority for the seizure and forfeiture of the plants;
(d) All substances, machinery, or devices used for the manufacture, packaging, repackaging, or marking, and books, papers, and records, and all vehicles owned and used by the seller or distributor for the manufacture, distribution, sale, or transfer of substances in violation of KRS 218A.350 shall be seized and forfeited to the state.

Substances manufactured, held, or distributed in violation of KRS 218A.350 shall be deemed contraband;
(e) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held, or acquired in violation of this chapter;
(f) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;
(g) All property which is used, or intended for use, as a container for property described in paragraph (e) or (f) of this subsection;
(h) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraph (e) or (f) of this subsection, but:
1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it is proven beyond a reasonable doubt that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;
2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his or her knowledge or consent;
3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he or she neither had knowledge of nor consented to the act or omission; and
4. The forfeiture provisions of this paragraph shall not apply to any misdemeanor offense relating to marijuana~~[, naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists, piperazines,]~~ or salvia;
(i) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter;
(j) Everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, all proceeds, including real and personal property, traceable to the exchange, and all moneys, negotiable instruments, and securities used, or intended to be used, to facilitate any violation of this chapter; except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by him or her to have been committed or omitted without his or her knowledge or consent. It shall be a rebuttable presumption that all moneys, coin, and currency found in close proximity to controlled substances, to drug manufacturing or distributing paraphernalia, or to records of the importation, manufacture, or distribution of controlled substances, are presumed to be forfeitable under this paragraph. The burden of proof shall be upon claimants of personal property to rebut this presumption by clear and convincing evidence. The burden of proof shall be upon the law enforcement agency to prove by clear and convincing evidence that real property is forfeitable under this paragraph; and
(k) All real property, including any right, title, and interest in the whole of any lot or tract of land and any appurtenances or improvements, which is used or intended to be used, in any manner or part, to commit, or to facilitate the commission of, a violation of this

chapter excluding any misdemeanor offense relating to marijuana***, synthetic drugs,***~~[, naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone, synthetic cannabinoid agonists, piperazines,]~~ or salvia, except that property shall be forfeited under this paragraph, to the extent of an interest of an owner, by reason of any act or omission established by the Commonwealth to have been committed or omitted with the knowledge or consent of the owner.
(2) Title to all property, including all interests in the property, forfeit under this section vests in the Commonwealth on the commission of the act or omission giving rise to forfeiture under this section together with the proceeds of the property after the time. Any property or proceeds subsequently transferred to any person shall be subject to forfeiture and thereafter shall be ordered forfeited, unless the transferee establishes in the forfeiture proceeding that he or she is a subsequent bona fide purchaser for value without actual or constructive notice of the act or omission giving rise to the forfeiture.
(3) If any of the property described in this section cannot be located; has been transferred to, sold to, or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value by any act or omission of the defendant; or, has been commingled with any property which cannot be divided without difficulty, the court shall order the forfeiture of any other property of the defendant up to the value of any property subject to forfeiture under this section.

Section 14. KRS 218A.992 is amended to read as follows:

KRS 218A.992 Enhancement of penalty when in possession of firearm at the time of commission of offense.
(1) Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who, at the time of the commission of the offense and in furtherance of the offense, was in possession of a firearm, shall:
(a) Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony; or
(b) Be penalized as a Class D felon if the offense would otherwise be a misdemeanor.
(2) The provisions of this section shall not apply to a violation of KRS 218A.210, ~~[218A.1426, 218A.1427, 218A.1428,]~~ 218A.1450, 218A.1451, ***or*** 218A.1452~~[, 218A.1453, 218A.1454, or 218A.1455]~~.

Section 15. KRS 243.500 is amended to read as follows:

KRS 243.500 Causes for which licenses may be revoked or suspended.
Any license issued under KRS 243.020 to 243.670 may be revoked or suspended for the following causes:
(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the licensed premises.
(2) Making any false, material statements in an application for a license or supplemental license.
(3) Violation of the provisions of KRS 243.670.
(4) Conviction of the licensee or any of his clerks, servants, agents, or employees of:

(a) Two (2) violations of the terms and provisions of KRS Chapter 241, 243, or 244 or any act regulating the manufacture, sale, and transportation of alcoholic beverages within two (2) consecutive years;
(b) Two (2) misdemeanors directly or indirectly attributable to the use of intoxicating liquors within two (2) consecutive years; or
(c) Any felony.
(5) Failure or default of a licensee to pay an excise tax or any part of the tax or any penalties imposed by or under the provisions of any statutes, ordinances, or Acts of Congress relative to taxation, or for a violation of any administrative regulations promulgated by the Department of Revenue made in pursuance thereof.
(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600, and 243.610, or granted under any Act of Congress relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 shall be revoked or suspended if the licensee sells the alcoholic beverages at a price in excess of the price set by federal or state regulations.
(7) Setting up, conducting, operating, or keeping, on the licensed premises, any gambling game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook, or facility. This section shall not apply to contests in which eligibility to participate is determined by chance and the ultimate winner is determined by skill and the licensee has no direct interest, or to the sale of lottery tickets sold under the provisions of KRS Chapter 154A.
(8) Conviction of the licensee, his agents, servants, or employees for:
(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances***, including synthetic drugs***;
(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances***, including synthetic drugs***; or
(c) Knowingly receiving stolen property upon the licensed premises.

Section 16. KRS 530.064 is amended to read as follows:

KRS 530.064 Unlawful transaction with a minor in the first degree.
(1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:
(a) Illegal sexual activity; or
(b) Illegal controlled substances activity other than activity involving marijuana,~~[naphthylpyrovalerone, 3,4-methylenedioxypyrovalerone, 3,4-methylenedioxymethylcathinone, 4-methylmethcathinone,]~~ synthetic ***drugs***~~[cannabinoid agonists or piperazines]~~, or salvia as defined in KRS 218A.010;
Except those offenses involving minors in KRS Chapter 531 and in KRS 529.100 where that offense involves commercial sexual activity.
(2) Unlawful transaction with a minor in the first degree is a:
(a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
(c) Class A felony if the minor so used incurs physical injury thereby.

SECTION 17. THE FOLLOWING KRS SECTIONS ARE REPEALED:
218A.1426 Trafficking in synthetic cannabinoid agonists or piperazines -- Penalty.
218A.1427 Possession of synthetic cannabinoid agonists or piperazines -- Penalty -- Maximum term of incarceration.
218A.1428 Manufacture of synthetic cannabinoid agonists or piperazines -- Penalty.
218A.1453 Trafficking in substituted cathinones -- Penalty.
218A.1454 Possession of substituted cathinones -- Penalty.
218A.1455 Manufacturing substituted cathinones – Penalty.

Section 18. Whereas the substances specified in Sections 1 to 16 of this Act are dangerous substances that pose a clear and present danger to the citizens of the Commonwealth, and whereas no just reason exists for a delay in providing the Commonwealth's citizens with the protections afforded by this Act, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HOUSE BILL 484 CCDW

Section 1. KRS 527.020 is amended to read as follows:

KRS 527.020 Carrying concealed deadly weapon.
(1) A person is guilty of carrying a concealed weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person.
(2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
(3) The director of the Division of Law Enforcement in the Department of Fish and Wildlife Resources, conservation officers of the Department of Fish and Wildlife Resources, and policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by law or by the government employing the officer.
(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be

constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
(5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:
1. A Commonwealth's attorney or assistant Commonwealth's attorney;
2. A county attorney or assistant county attorney;
3. A justice or judge of the Court of Justice; and
4. A retired or senior status justice or judge of the Court of Justice.
(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
(c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of Kentucky State Police.
(6) (a) Except provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and
3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.
(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such

permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(8) A loaded or unloaded firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in any enclosed container, compartment, or storage space installed as original equipment in a motor vehicle by its manufacturer, including but not limited to a glove compartment, center console, or seat pocket, regardless of whether said enclosed container, storage space, or compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a loaded or unloaded firearm or ammunition, or both, or other deadly weapon in a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction. This subsection shall not apply to any person prohibited from possessing a firearm pursuant to KRS 527.040.

(9) The provisions of this section shall not apply to a person who carries a concealed deadly weapon on or about his or her person without a license issued pursuant to KRS 237.110:

(a) If he or she is the owner of the property or has the permission of the owner of the property, on real property which he or she or his or her spouse, parent, grandparent, or child owns;

(b) If he or she is the lessee of the property or has the permission of the lessee of the property, on real property which he or she or his or her spouse, parent, grandparent, or child occupies pursuant to a lease; or

(c) If he or she is the sole proprietor of the business, on real property owned or leased by the business.

(10)~~[(9)]~~ Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

NOTE: See Also HOUSE BILL 171, which modifies same subject matter.

HOUSE BILL 500 FIREARMS REGULATION

Section 1. KRS 65.870 is amended to read as follows:

KRS 65.870 Local firearms control ordinances prohibited – Exemption from immunity – Declaratory and injunctive relief. (NOTE: MODIFIED CATCHLINE)

(1) No ***existing or future*** city, county,~~[or]~~ urban-county government, ***charter county, consolidated local government, unified local government, special district, local or regional public or quasi-public agency, board, commission, department, public corporation, or any person acting under the authority of any of these organizations*** may occupy any part of the field of regulation of the ***manufacture, sale, purchase, taxation,*** transfer, ownership, possession, carrying***, storage***, or transportation of firearms, ammunition,~~[or]~~ components of firearms***, components of ammunition, firearms accessories,*** or combination thereof.

(2) Any existing or future ordinance, executive order, administrative regulation, policy, procedure, rule, or any other form of executive or legislative action in violation of this section or the spirit thereof is hereby declared null, void, and unenforceable.

(3) Any person or organization specified in subsection (1) of this section shall repeal, rescind, or amend to conform, any ordinance, administrative regulation, executive order, policy, procedure, rule, or other form of executive or legislative action in violation of this section or the spirit thereof within six (6) months after the July 12, 2012.

(4) Pursuant to Section 231 of the Constitution of Kentucky insofar as any person or organization specified in subsection (1) of this section is considered an agent of the Commonwealth, it is the intent of the General Assembly to exempt them from any immunity provided in Section 231 of the Constitution of Kentucky to the extent provided in this section. A person or an organization whose membership is adversely affected by any ordinance, administrative regulation, executive order, policy, procedure, rule or any other form of executive or legislative action promulgated or caused to be enforced in violation of this section or the spirit thereof may file suit against any person or organization specified in subsection (1) of this section in any court of this state having jurisdiction over any defendant to the suit for declaratory and injunctive relief. A court shall award the prevailing party in any such suit:

(a) Reasonable attorney's fees and costs in accordance with the laws of this state; and

(b) Expert witness fees and expenses.

(5) If any person or organization specified in subsection (1) of this section violates this section or the spirit thereof, the court shall declare the improper ordinance, administrative regulation, executive order, policy, procedure, rule, or other form of executive or legislative action specified in subsection (1) of this

section null, void, and unenforceable, and issue a permanent injunction against the person or organization specified in subsection (1) of this section prohibiting the enforcement of such ordinance, administrative regulation, **executive** ***order, policy, procedure, rule, or any other form of executive or legislative action specified in subsection (1) of this section.***
(6) A violation of this section by a public servant shall be a violation of either KRS 522.020 or 522.030 depending on the circumstances of the violation.
(7) The provisions of this section shall not apply where a statute specifically authorizes or directs an agency or person specified in subsection (1) of this section to regulate a subject specified in subsection (1) of this section.

HOUSE BILL 509 TRANSPORTATION OF STEEL

Section 1. KRS 189.2715 is amended to read as follows:

KRS 189.2715 Annual overweight permit for transporting steel products or materials – Weight and mileage limitations.

(1) In order to promote economic development and retain jobs within this state, subject to the provisions of KRS 189.222, the department may promulgate administrative regulations pursuant to KRS Chapter 13A governing the issuance of annual permits for the operation of motor vehicles transporting steel products or steel materials in divisible or nondivisible loads to or from a facility manufacturing products in this state or a facility used for storage of those products, whose gross weight exceeds the limits prescribed by this chapter. In no instance shall the gross weight limits issued pursuant to this section exceed one hundred twenty thousand (120,000) pounds. The movement of the products or materials shall be limited to no more than **one hundred fifty (150)**[~~thirty-five (35)~~] miles within the state***.***

(2) A motor carrier transporting steel products or steel materials in divisible or nondivisible loads to or from a facility manufacturing steel products in this state or a facility used for storage of those products, may apply for an annual overweight permit pursuant to subsection (1) of this section. The permit shall be valid twenty-four (24) hours a day, but shall be limited to movements of steel products or steel materials of not more than ***one hundred fifty (150)***[~~thirty-five (35)~~] miles within the state. The cost of the annual permit shall be two hundred fifty dollars ($250).

HOUSE BILL 563 FIREARMS SALES

SECTION 1. A NEW SECTION OF KRS CHAPTER 527 IS CREATED TO READ AS FOLLOWS:

KRS 527.090 Fraudulent firearms transaction.
(1) As used in this section:
(a) "Licensed dealer" means a person who is licensed pursuant to 18 U.S.C. sec. 923 and pursuant to any laws of this Commonwealth and engages in the business of dealing in firearms;

(b) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal; and
(c) "Private seller" means a person who sells or offers for sale any firearm.
(2) A person is guilty of fraudulent firearm transaction when he or she knowingly:
(a) Solicits, persuades, encourages, or entices a licensed dealer or private seller of firearms to transfer a firearm under circumstances which the person knows would violate the laws of this Commonwealth or the United States;
(b) Provides to a licensed dealer or private seller of firearms what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a transfer of a firearm; or
(c) Procures another to engage in conduct prohibited by this section.
(3) Fraudulent firearm transaction is a Class D felony.

HCR 129 JUVENILE CODE TASK FORCE

A CONCURRENT RESOLUTION relating to the study of the Unified Juvenile Code and related statutes.
WHEREAS, the Unified Juvenile Code was enacted in 1986 after a thorough review of its predecessor statutes enacted in 1948 and upon review of statutes dating back to 1896; and
WHEREAS, significant amendments to the Unified Juvenile Code were enacted by the General Assembly in 1994 and nearly every session thereafter; and
WHEREAS, practitioners and participants in the juvenile justice system realize that the current Unified Juvenile Code, along with other statutes impacting the juvenile justice system, have been extensively added to and modified, resulting in ambiguity and inconsistency; and
WHEREAS, the General Assembly believes that the Unified Juvenile Code is in urgent need of review to remove these ambiguities and inconsistencies in order to provide the Commonwealth's children with the care and treatment needed;
NOW, THEREFORE, Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Unified Juvenile Code Task Force is hereby created.

Section 2. The Unified Juvenile Code Task Force shall consist of:
(1) The chair of the Senate Judiciary Committee, who shall be co-chair of the task force; however, if he or she declines to serve, the President of the Senate shall designate a member of the Senate to serve as co-chair of the task force;
(2) The chair of the House of Representatives Judiciary Committee, who shall be co-chair of the task force; however, if he or she declines to serve, the Speaker of the House of Representatives shall designate a member of the House of Representatives to serve as co-chair of the task force;
(3) A District Court or Family Court Judge recommended by the Chief Justice;
(4) The director of the Administrative Office of the Courts or his or her designee;

(5) A current or former county attorney or assistant county attorney with juvenile court experience recommended by the co-chairs;
(6) A current or former attorney from the Department of Public Advocacy with juvenile practice experience recommended by the public advocate;
(7) The commissioner of the Department of Juvenile Justice;
(8) The commissioner of the Department for Community Based Services;
(9) A superintendent from a local board of education recommended by the co-chairs;
(10) A current county judge/executive recommended by the co-chairs; and
(11) A provider of community based treatment services for children recommended by the co-chairs.

Section 3. (1) The Unified Juvenile Code Task Force may, based on prior research and recommendations and its own new research and recommendations, provide to the Interim Joint Committee on Judiciary and the Legislative Research Commission draft changes to the Unified Juvenile Code and other necessary statutes.
(2) The draft may, insofar as possible, provide for:

(a) The use of validated risk and needs assessments;
(b) Alternatives to incarceration;
(c) The use of community resources, education, and rehabilitation programs for both victims and defendants;
(d) Reinvestment of savings from reduction of the use of facilities for the detention and out-of-home placement of public offenders and status offenders into community-based treatment programs for public offenders and status offenders;
(e) Establishing means of protection and treatment for special needs children;
(f) The feasibility of establishing an age of criminal responsibility;
(g) Whether or not to eliminate status offenses or modify how status offenses are handled and status offenders are treated;
(h) An understanding of the issue and an improved system of identification of children exposed to domestic violence;
(i) A plan for an improved system of information sharing, coordination and provision of services, and response to children exposed to and affected by domestic violence and the impact of domestic violence on a child's behavior; and
(j) Such other recommendations for the modernization and improvement of the Unified Juvenile Code as may be needed and desirable.

Section 4. The Unified Juvenile Code Task Force may produce a draft of proposed changes to the Unified Juvenile Code and other necessary statutes for submission to the Interim Joint Committee on Judiciary and to the Legislative Research Commission no later than January 7, 2013.

Section 5. Final membership of the Unified Juvenile Code Task Force shall be subject to the consideration and approval of the Legislative Research Commission.

Section 6. Provisions of Sections 1 to 5 of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

2012 KENTUCKY GENERAL ASSEMBLY

EXTRAORDINARY SESSION

EFFECTIVE DATE OF NEW LEGISLATION IS July 20, 2012

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

KRS 218A.175 Pain management facilities – Physician ownership required – certification requirements – Payment for services rendered or good provided – Compliance with section as additional licensure condition – Penalty for violation.
(1) (a) As used in this section, "pain management facility" means a facility where the majority of patients of the practitioners at the facility are provided treatment for pain that includes the use of controlled substances and:
1. The facility's primary practice component is the treatment of pain; or
2. The facility advertises in any medium for any type of pain management services.
(b) "Pain management facility" does not include the following:
1. A hospital, including a critical access hospital, as defined in KRS Chapter 216, a facility owned by the hospital, or the office of a hospital-employed physician;
2. A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians;
3. A hospice program or residential hospice facility licensed under KRS Chapter 216B;
4. An ambulatory surgical center licensed under KRS Chapter 216B; or
5. A long-term-care facility as defined in KRS 216.510.
(2) Only a physician having a full and active license to practice medicine issued under KRS Chapter 311 shall have an ownership or investment interest in a pain management facility. Credit extended by a financial institution as defined in KRS 136.500 to the facility shall not be deemed an investment interest under this subsection. This ownership or investment requirement shall not be enforced against any pain management facility existing and operating on the date of this Act being approved by the Governor or otherwise becoming a law unless there is an administrative sanction or criminal conviction relating to controlled

substances imposed on the facility or any person employed by the facility for an act or omission done within the scope of the facility's licensure or the person's employment.
(3) Regardless of the form of facility ownership, beginning on the effective date of this Act at least one (1) of the owners or an owner's designee who is a physician employed by and under the supervision of the owner shall be physically present practicing medicine in the facility for at least fifty percent (50%) of the time that patients are present in the facility, and that physician owner or designee shall:
(a) Hold a current subspecialty certification in pain management by a member board of the American Board of Medical Specialties, or hold a current certificate of added qualification in pain management by the American Osteopathic Association Bureau of Osteopathic Specialists;
(b) Hold a current subspecialty certification in hospice and palliative medicine by a member board of the American Board of Medical Specialties, or hold a current certificate of added qualification in hospice and palliative medicine by the American Osteopathic Association Bureau of Osteopathic Specialists;
(c) Hold a current board certification by the American Board of Pain Medicine;
(d) Hold a current board certification by the American Board of Interventional Pain Physicians; or
(e) Have completed an accredited residency or fellowship in pain management.
(4) A pain management facility shall accept private health insurance as one of the facility's allowable forms of payment for goods or services provided and shall accept payment for services rendered or goods provided to a patient only from the patient or the patient's insurer, guarantor, spouse, parent, guardian, or legal custodian.
(5) If the pain management facility is operating under a license issued by the cabinet, the cabinet shall include and enforce the provisions of this section as additional conditions of that licensure. If the pain management facility is operating as the private office or clinic of a physician under KRS 216B.020(2), the Kentucky Board of Medical Licensure shall enforce the provisions of this section. The provisions of this subsection shall not apply to the investigation or enforcement of criminal liability.
(6) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

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

KRS 218A.205 Reports of improper, inappropriate, or illegal prescribing or dispensing of controlled substances – Administrative regulations for prescribing and dispensing protocols and license actions and requirements – Complaint procedure.
(1) As used in this section:
(a) "Reporting agency" includes:
1. The Department of Kentucky State Police;

2. The Office of the Attorney General;
3. The Cabinet for Health and Family Services; and
4. The applicable state licensing board; and
(b) "State licensing board" means:
1. The Kentucky Board of Medical Licensure;
2. The Kentucky Board of Nursing;
3. The Kentucky Board of Dentistry;
4. The Kentucky Board of Optometric Examiners;
5. The State Board of Podiatry; and
6. Any other board that licenses or regulates a person who is entitled to prescribe or dispense controlled substances to humans.
(2) (a) When a reporting agency or a law enforcement agency receives a report of improper, inappropriate, or illegal prescribing or dispensing of a controlled substance it may, to the extent otherwise allowed by law, send a copy of the report within three (3) business days to every other reporting agency.
(b) A county attorney or Commonwealth's attorney shall notify the Office of the Attorney General and the appropriate state licensing board within three (3) business days of an indictment or a waiver of indictment becoming public in his or her jurisdiction charging a licensed person with a felony offense relating to the manufacture of, trafficking in, prescribing, dispensing, or possession of a controlled substance.
(3) Each state licensing board shall by September 1, 2012, establish the following by administrative regulation for those licensees authorized to prescribe or dispense controlled substances:
(a) Mandatory prescribing and dispensing standards related to controlled substances;
(b) A prohibition on a practitioner dispensing greater than a forty-eight (48) hour supply of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone unless the dispensing is done as part of a narcotic treatment program licensed by the Cabinet for Health and Family Services;
(c) A procedure for temporarily suspending, limiting, or restricting a license held by a named licensee where a substantial likelihood exists to believe that the continued unrestricted practice by the named licensee would constitute a danger to the health, welfare, or safety of the licensee's patients or of the general public;
(d) A procedure for the expedited review of complaints filed against their licensees pertaining to the improper, inappropriate, or illegal prescribing or dispensing of controlled substances that is designed to commence an investigation within seven (7) days of a complaint being filed and produce a charging decision by the board on the complaint within one hundred twenty (120) days of the receipt of the complaint, unless an extension for a definite period of time is requested by a law enforcement agency due to an ongoing criminal investigation;
(e) The establishment and enforcement of licensure standards that conform to the following:

1. A permanent ban on licensees and applicants convicted after the effective date of this Act in this state or any other state of any felony offense relating to controlled substances from prescribing or dispensing a controlled substance;
2. Restrictions short of a permanent ban on licensees and applicants convicted in this state or any other state of any misdemeanor offense relating to prescribing or dispensing a controlled substance;
3. Restrictions mirroring in time and scope any disciplinary limitation placed on a licensee or applicant by a licensing board of another state if the disciplinary action results from improper, inappropriate, or illegal prescribing or dispensing of controlled substances; and
4. A requirement that licensees and applicants report to the board any conviction or disciplinary action covered by this subsection with appropriate sanctions for any failure to make this required report;
(f) A procedure for the continuous submission of all disciplinary and other reportable information to the National Practitioner Data Bank of the United States Department of Health and Human Services;
(g) If not otherwise required by other law:
1. A process for obtaining a national and state fingerprint-supported criminal record check conducted by the Federal Bureau of Investigation or by the Department of Kentucky State Police on an applicant for initial licensing; and
2. Submitting a query on each applicant for licensure to the National Practitioner Data Bank of the United States Department of Health and Human Services to retrieve any relevant data on the applicant; and
(h) Continuing education requirements beginning with the first full educational year occurring after July 1, 2012, that specify that at least seven and one-half percent (7.5%) of the continuing education required of the licensed practitioner relate to the use of the electronic monitoring system established in KRS 218A.202, pain management, or addiction disorders.
(4) A state licensing board shall employ or obtain the services of a specialist in the treatment of pain and a specialist in drug addiction to evaluate information received regarding a licensee's prescribing or dispensing practices related to controlled substances if the board or its staff does not possess such expertise, to ascertain if the licensee under investigation is engaging in improper, inappropriate, or illegal practices.
(5) Any statute to the contrary notwithstanding, no state licensing board shall require that a grievance or complaint against a licensee relating to controlled substances be sworn to or notarized, but the grievance or complaint shall identify the name and address of the grievant or complainant, unless the board by administrative regulation authorizes the filing of anonymous complaints. Any such authorizing administrative regulation shall require that an anonymous complaint or grievance be accompanied by sufficient corroborating evidence as would allow the board to believe, based upon a totality of the circumstances, that a reasonable probability exists that the complaint or grievance is meritorious.
(6) Every state licensing board shall cooperate to the maximum extent permitted by law with all state, local, and federal law enforcement agencies, and all professional licensing boards and agencies, state and federal, in the United

States or its territories in the coordination of actions to deter the improper, inappropriate, or illegal prescribing or dispensing of a controlled substance.

SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

KRS 218A.172 Protocols preceding initial prescribing or dispensing of Schedule II controlled substance or Schedule III controlled substance containing hydrocodone – Continuing course of treatment – Recordkeeping – Exemptions.
(1) Prior to the initial prescribing or dispensing of any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone to a human patient, a practitioner shall:
(a) Obtain a complete medical history and conduct a physical examination of the patient and document the information in the patient's medical record;
(b) Query the electronic monitoring system established in KRS 218A.202 for all available data on the patient;
(c) Make a written treatment plan stating the objectives of the treatment and further diagnostic examinations required;
(d) Discuss the risks and benefits of the use of controlled substances with the patient, the patient's parent if the patient is an unemancipated minor child, or the patient's legal guardian or health care surrogate, including the risk of tolerance and drug dependence; and
(e) Obtain written consent for the treatment.
(2) The practitioner shall conduct, at reasonable intervals based on the patient's individual circumstances, the course of treatment and provide to the patient any new information about the treatment. The course of treatment shall include the practitioner querying the electronic monitoring system established in KRS 218A.202 no less than once every three (3) months for all available data on the patient and reviewing that data before issuing any new prescription or refills for the patient for any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone.
(3) For each patient for whom a practitioner prescribes any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone, the practitioner shall keep accurate, readily accessible, and complete medical records which include:
(a) Medical history and physical examination;
(b) Diagnostic, therapeutic, and laboratory results;
(c) Evaluations and consultations;
(d) Treatment objectives;
(e) Discussion of risk, benefits, and limitations of treatments;
(f) Treatments;
(g) Medications, including date, type, dosage, and quantity prescribed or dispensed;
(h) Instructions and agreements; and
(i) Periodic reviews of the patient's file.
(4) This section shall not apply to:

(a) A licensee administering a controlled substance or anesthesia immediately prior to or during surgery;
(b) A licensee administering a controlled substance necessary to treat a patient in an emergency situation:
1. At the scene of an emergency;
2. In a licensed ground or air ambulance; or
3. In the emergency department or intensive care unit of a licensed hospital;
(c) A licensed pharmacist or other person licensed by the Kentucky Board of Pharmacy to dispense drugs or to a licensed pharmacy;
(d) A licensee prescribing or dispensing a controlled substance for a hospice patient when functioning within the scope of a hospice program or hospice inpatient unit licensed under KRS Chapter 216B. The hospice program shall maintain a plan of care in accordance with federal regulations;
(e) The prescribing of a Schedule III, IV, or V controlled substance by a licensed optometrist to a patient in accordance with the provisions of KRS 320.240; or
(f) The prescribing of a three (3) day supply of a Schedule III controlled substance following the performance of oral surgery by a dentist licensed pursuant to KRS Chapter 313.

Section 4. KRS 218A.202 is amended to read as follows:

KRS 218A.202 Electronic system for monitoring controlled substances – Required registration and reporting – Penalty for illegal use of system – Pilot or continuing project – Continuing education programs – Reports of failure to comply with section – Administrative regulations. *(NOTE: MODIFIED CATCHLINE)*
(1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy. ***The cabinet may contract for the design, upgrade, or operation of this system if the contract preserves all of the rights, privileges, and protections guaranteed to Kentucky citizens under this chapter and the contract requires that all other aspects of the system be operated in conformity with the requirements of this or any other applicable state or federal law.***
(2) A practitioner or a pharmacist ***authorized to prescribe or dispense controlled substances to humans shall register with the cabinet to use the system provided for in this section and shall maintain such registration continuously during the practitioner's or pharmacist's term of licensure and*** shall not have to pay a fee or tax specifically dedicated to the operation of the system.
(3) Every dispenser within the Commonwealth ***who is licensed to prescribe or dispense a controlled substance other than by the Board of Pharmacy,*** or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy***,*** shall report to the Cabinet for Health and Family

Services the data required by this section~~[in a timely manner]~~ as prescribed by the ***cabinet by administrative regulation until July 1, 2013, at which time the report shall be filed with the cabinet within one (1) day of the dispensing,***~~[cabinet]~~ except that reporting shall not be required for:

(a) A drug***, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone,*** administered directly to a patient; or

(b) A drug***, other than any Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone,*** dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.

(4) Data for each controlled substance that is dispensed shall include but not be limited to the following:

(a) Patient identifier;

(b) ***National drug code of the*** drug dispensed;

(c) Date of dispensing;

(d) Quantity dispensed;

(e) Prescriber; and

(f) Dispenser.

(5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.

(6) The Cabinet for Health and Family Services shall only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:

(a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;

(b) ***Employees of the Office of the Inspector General of the Cabinet for Health and Family Services who have successfully completed training for the electronic system and who have been approved to use the system,***~~[a]~~ Kentucky ***Commonwealth's attorneys and assistant Commonwealth's attorneys, county attorneys and assistant county attorneys, a*** peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;

(c) A state-operated Medicaid program ***in conformity with subsection (7) of this section***;

(d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
(e) A practitioner or pharmacist***, or employee of the practitioner's or pharmacist's practice acting under the specific direction of the practitioner or pharmacist,*** who requests information and certifies that the requested information is for the purpose of***:***
1. Providing medical or pharmaceutical treatment to a bona fide current ***or prospective*** patient***; or***
2. Reviewing and assessing the individual prescribing or dispensing patterns of the practitioner or pharmacist or to determine the accuracy and completeness of information contained in the monitoring system;
(f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing ***or dispensing*** practices;
2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing ***or dispensing*** may be occurring; or
3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing ***or dispensing*** may be occurring in that area;
(g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced practice registered nurse who is:
1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing ***or dispensing*** practices;
2. Associated in a partnership or other business entity with an advanced practice registered nurse who is already under investigation by the Board of Nursing for improper prescribing practices;
3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing ***or dispensing*** may be occurring; or
4. In a designated geographic area for which a report on a physician or another advanced practice registered nurse in that area indicates a substantial likelihood that inappropriate prescribing ***or dispensing*** may be occurring in that area; or
(h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.
(7) The Department for Medicaid Services ***shall***~~[may]~~ use any data or reports from the system for the purpose of identifying Medicaid ***providers or*** recipients whose ***prescribing, dispensing, or*** usage of controlled substances may be***:***
(a) Appropriately managed by a single outpatient pharmacy or primary care physician***;***
(b) Indicative of improper, inappropriate, or illegal prescribing or dispensing practices by a practitioner or drug seeking by a Medicaid recipient.
(8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except ***as provided in this section, in another***

statute, or by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:

(a) A ***person***[~~peace officer~~] specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with ***any*** other ***persons***[~~peace officers~~] specified in subsection (6)(b) of this section authorized to receive data or a report if the ***persons***[~~peace officers~~] specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each[~~ law enforcement~~] agency engaged in the investigation;[~~ and~~]

(b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section;[~~ and~~]

(c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B***; and***

(d) A practitioner, pharmacist, or employee who obtains data under subsection (6)(e) of this section may share the report with the patient or person authorized to act on the patient's behalf and place the report in the patient's medical record, with that individual report then being deemed a medical record subject to disclosure on the same terms and conditions as an ordinary medical record in lieu of the disclosure restrictions otherwise imposed by this section.

(9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

(10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.

(11) Intentional failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class ***B***[~~A~~] misdemeanor for the first offense and a Class ***A misdemeanor***[~~D felony~~] for each subsequent offense.

(12) Intentional disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class ***B misdemeanor***[~~D felony~~] for the first offense and a Class ***A misdemeanor***[~~C felony~~] for each subsequent offense.

(13) ***(a)*** The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, ***may***[~~shall~~] submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot ***or continuing*** project to study***, create, or maintain*** a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances.

(b) The pilot project shall:

1.[~~(a)~~] Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and

2.[~~(b)~~] Study the use of an interactive system that includes a relational data base with query capability.

(c) Funding to create or maintain a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances may be sought for a statewide system or for a system covering any geographic portion or portions of the state.

(14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.

(15) The Cabinet for Health and Family Services may***, by promulgating an administrative regulation,*** limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.

(16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.

(b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.

(c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and ***uses***[~~users~~] of the electronic system for monitoring established in this section.

(17) If the cabinet becomes aware of a prescriber's or dispenser's failure to comply with this section, the cabinet shall notify the licensing board or agency responsible for licensing the prescriber or dispenser. The licensing board shall treat the notification as a complaint against the licensee.

(18) The cabinet shall promulgate administrative regulations to implement the provisions of this section. Included in these administrative regulations shall be an error resolution process allowing a patient to whom a report had been disclosed under subsection (8) of this section to request the correction of inaccurate information contained in the system relating to that patient.

Section 5. KRS 218A.240 is amended to read as follows:

KRS 218A.240 Controlled substances – Duties and authority of state and local officers, Cabinet for Health and Family Services, and Kentucky Board of Pharmacy – Civil proceedings – Identification of trends – Identification of prescribers, dispensers, and patients for licensing board – Review of hospital's or health care facility's prescribing and dispensing practices. (NOTE: MODIFIED CATCHLINE)

(1) All police officers and deputy sheriffs directly employed full-time by state, county, city, urban-county, or consolidated local governments, the Department of Kentucky State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

* * * * *

(7) (a) The Cabinet for Health and Family Services shall ***proactively*** use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a ***state licensing*** board ***listed in KRS 218A.205***~~[responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances,]~~ if a report or analysis conducted under this subsection indicates that further investigation about ***improper,*** inappropriate or ***illegal***~~[unlawful]~~ prescribing or dispensing may be necessary by the board. ***The board shall consider each report and may, after giving due consideration to areas of practice, specialties, board certifications, and appropriate standards of care, request and receive a follow-up report or analysis containing relevant information as to the prescriber or dispenser and his or her patients.***

(b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure***, the Board of Nursing, the Office of Drug Control Policy,*** and the Board of Pharmacy, to be used to generate ***public*** trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.

~~[(c)]~~The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system. ***Except as provided in subsection (8) of this section, these trend reports shall not identify an individual prescriber, dispenser, or patient.***

~~[(d)]~~Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to ***this*** paragraph~~[(c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to KRS 218A.202(4),]~~ except that the report shall not identify an individual prescriber, dispenser, or patient.

~~[(e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.]~~

(8) If the cabinet deems it to be necessary and appropriate, upon the request of a state licensing board listed in KRS 218A.205, the cabinet shall provide the requesting board with the identity of prescribers, dispensers, and patients used to compile a specific trend report.

(9) Any hospital or other health care facility may petition the cabinet to review data from the electronic system specified in KRS 218A.202 as it relates to

employees of that facility to determine if inappropriate prescribing or dispensing practices are occurring. The cabinet may initiate any investigation in such cases as he or she determines is appropriate, and may request the assistance from the hospitals or health care facilities in the investigation.

Section 6. KRS 218A.245 is amended to read as follows:

KRS 218A.245 Reciprocal agreements with other states to share prescription drug monitoring information.

(1) The secretary of the Cabinet for Health and Family Services may enter into reciprocal agreements ***or a contract, either directly*** with any other state or states of the United States ***or with an organization administering the exchange of interstate data on behalf of the prescription monitoring program of one (1) or more states,*** to share prescription drug monitoring information if the other state's prescription drug monitoring program ***or the organization's data exchange program*** is compatible with the program in Kentucky. If the secretary elects to evaluate the prescription drug monitoring program of another state ***or organization*** as authorized by this section, priority shall be given to a state that is contiguous with the borders of the Commonwealth ***or an organization that offers connectivity with a contiguous state***.

(2) In determining compatibility, the secretary shall consider:

(a) The essential purposes of the program and the success of the program in fulfilling those purposes;

(b) The safeguards for privacy of patient records and its success in protecting patient privacy;

(c) The persons authorized to view the data collected by the program;

(d) The schedules of controlled substances monitored;

(e) The data required to be submitted on each prescription ***or dispensing***;

(f) Any implementation criteria deemed essential for a thorough comparison; and

(g) The costs and benefits to the Commonwealth in mutually sharing particular information available in the Commonwealth's database with the program under consideration.

(3) The secretary shall review any agreement on an annual basis to determine its continued compatibility with the Kentucky prescription drug monitoring program.

(4) The secretary shall prepare an annual report to the Governor and the Legislative Research Commission that summarizes any agreement under this section and that analyzes the effectiveness of that agreement in monitoring the ***prescribing and*** dispensing of controlled substances in the Commonwealth.

(5) Any agreement between the cabinet and another state ***or organization*** shall prohibit the sharing of information about a Kentucky resident, practitioner, pharmacist, or other prescriber ***or dispenser*** for any purpose not otherwise authorized by this section or KRS 218A.202.

SECTION 7. A NEW SECTION OF KRS CHAPTER 72 IS CREATED TO READ AS FOLLOWS:

KRS 72.026 Testing for presence of controlled substances in post-mortem examination – When required – Reporting of drug overdose – Administative regulations.
(1) Unless another cause of death is clearly established, in cases requiring a post-mortem examination under KRS 72.025 the coroner or medical examiner shall take a blood sample and have it tested for the presence of any controlled substances which were in the body at the time of death.
(2) If a coroner or medical examiner determines that a drug overdose is the cause of death of a person, he or she shall provide notice of the death to:
(a) The state registrar of vital statistics and the Department of Kentucky State Police. The notice shall include any information relating to the drug that resulted in the overdose. The state registrar of vital statistics shall not enter the information on the deceased person's death certificate unless the information is already on the death certificate; and
(b) The licensing board for the individual who prescribed or dispensed the medication, if known. The notice shall include any information relating to the drug that resulted in the overdose, including the individual authorized by law to prescribe or dispense drugs who dispensed or prescribed the drug to the decedent.
This subsection shall not apply to reporting the name of a pharmacist who dispensed a drug based on a prescription.
(3) The state registrar of vital statistics shall report, within five (5) business days of the receipt of a certified death certificate or amended death certificate, to the Division of Kentucky State Medical Examiners Office, any death which has resulted from the use of drugs or a drug overdose.
(4) The Justice and Public Safety Cabinet in consultation with the Kentucky State Medical Examiners Office shall promulgate administrative regulations necessary to administer this section.

Section 8. KRS 72.280 is amended to read as follows:

KRS 72.280 Annual report to the Justice and Public Safety Cabinet on drug-related deaths. (NOTE: MODIFIED CATCHLINE)
The Office of Drug Control Policy, in cooperation with the Division of Kentucky State Medical Examiners Office and its laboratory services***,*** shall prepare ***and publish on its Web site*** an annual ***public*** report to the secretary of the Justice Cabinet which includes***:***
(1) The number of drug-related deaths***;***~~[,]~~
(2) The decedent's age, race, and gender but not his or her name or address;
(3) The counties in which those deaths occurred***;***~~[, and]~~
(4) The ***scientific, trade,***~~[major categories]~~ or generic names of the drugs involved***; and***
(5) The method by which the drugs were obtained, when available.

Section 9. KRS 311.530 is amended to read as follows:

KRS 311.530 State Board of Medical Licensure -- Membership

(1) There is hereby created in state government an independent board to be known as the State Board of Medical Licensure which shall exercise all medical and osteopathic licensure functions heretofore exercised by the State Board of Health. The offices of the board shall be maintained at such place as is designated by the board.

(2) The board shall consist of fifteen (15) members, including the commissioner of public health, the dean of the University of Kentucky College of Medicine, the vice dean for clinical affairs of the University of Louisville School of Medicine, the dean of the ***University of*** Pikeville[~~ College~~] School of Osteopathic Medicine, and eleven (11) members appointed by the Governor.

(3) Of the Governor's appointees:

(a) One (1) member shall be a licensed osteopathic physician and shall be appointed from a list of three (3) names submitted by the Kentucky Osteopathic Association.

(b) Seven (7) members shall be licensed medical physicians and ***may***[~~shall~~] be appointed from a list of three (3) names submitted for each position by the Kentucky Medical Association. ***In making appointments under this paragraph, the Governor shall ensure that the physician members represent different specialties from a broad cross section of the medical profession.***

(c) Three (3) members shall be citizens at large who are representatives of any recognized consumer advocacy groups with an interest in the delivery of health care and are not associated with or financially interested in the practice or business regulated.

Section 10. KRS 314.121 is amended to read as follows:

KRS 314.121 Board of Nursing – Members – Appointment – Terms – Qualifications.

(1) The Governor shall appoint a Board of Nursing consisting of sixteen (16) members***:***[~~:~~]

(a) Nine (9) members shall be registered nurses licensed to practice in the Commonwealth***, with the Governor ensuring that the appointees represent different specialties from a broad cross-section of the nursing profession after soliciting and receiving nominations from recognized specialty state component societies***;

*** * * ***

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

KRS 315.335 Reporting of robbery, theft, or missing shipment of controlled substances.

(1) A pharmacy located in Kentucky which has a robbery or theft of a controlled substance shall:
(a) Immediately following the robbery or discovery of the theft report the incident to a law enforcement agency serving the geographic area in which the pharmacy is located; and
(b) Within three (3) business days report that robbery or theft to the Department of Kentucky State Police.
(2) A pharmacy which has mailed or shipped a controlled substance to a location in Kentucky and learns that the mailing or shipment did not arrive shall within three (3) business days report that nonreceipt to:
(a) The Department of Kentucky State Police; and
(b) If applicable, the United States Postal Inspection Service.
(3) The reports required pursuant to subsections (1) and (2) of this section shall contain at a minimum, if known and applicable:
(a) The name, National Drug Code, and quantity of each controlled substance involved;
(b) A description of the circumstances of the loss;
(c) The names and contact information of any witnesses; and
(d) The name and description of any person suspected of committing the offense or causing the loss.

SECTION 42. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

KRS 218A.390 Prescription Monitoring Program Compact.
The Prescription Monitoring Program compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

PURPOSE
The purpose of this interstate compact is to provide a mechanism for state prescription monitoring programs to securely share prescription data to improve public health and safety. This interstate compact is intended to:
A. Enhance the ability of state prescription monitoring programs, in accordance with state laws, to provide an efficient and comprehensive tool for:
1. Practitioners to monitor patients and support treatment decisions;
2. Law enforcement to conduct diversion investigations where authorized by state law;
3. Regulatory agencies to conduct investigations or other appropriate reviews where authorized by state law; and
4. Other uses of prescription drug data authorized by state law for purposes of curtailing drug abuse and diversion; and
B. Provide a technology infrastructure to facilitate secure data transmission.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Authentication" means the process of verifying the identity and credentials of a person before authorizing access to prescription data;

B. "Authorize" means the process by which a person is granted access privileges to prescription data;

C. "Bylaws" means those bylaws established by the interstate commission pursuant to Article VIII for its governance, or for directing or controlling its actions and conduct;

D. "Commissioner" means the voting representative appointed by each member state pursuant to Article VI of this compact;

E. "Interstate commission" or "commission" means the interstate commission created pursuant to Article VI of this compact;

F. "Member state" means any state that has adopted a prescription monitoring program and has enacted the enabling compact legislation;

G. "Practitioner" means a person licensed, registered or otherwise permitted to prescribe or dispense a prescription drug;

H. "Prescription data" means data transmitted by a prescription monitoring program that contains patient, prescriber, dispenser, and prescription drug information;

I. "Prescription drug" means any drug required to be reported to a state prescription monitoring program and which includes but is not limited to substances listed in the federal Controlled Substances Act;

J. "Prescription Monitoring Program" means a program that collects, manages, analyzes, and provides prescription data under the auspices of a state;

K. "Requestor" means a person authorized by a member state who has initiated a request for prescription data;

L. "Rule" means a written statement by the interstate commission promulgated pursuant to Article VII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule;

M. "State" means any state, commonwealth, district, or territory of the United States;

N. "Technology infrastructure" means the design, deployment, and use of both individual technology based components and the systems of such components to facilitate the transmission of information and prescription data among member states; and

O. "Transmission" means the release, transfer, provision, or disclosure of information or prescription data among member states.

ARTICLE III

AUTHORIZED USES AND RESTRICTIONS ON THE PRESCRIPTION DATA

A. Under the Prescription Monitoring Program compact a member state:
1. Retains its authority and autonomy over its prescription monitoring program and prescription data in accordance with its laws, regulations and policies;
2. May provide, restrict or deny prescription data to a requestor of another state in accordance with its laws, regulations and policies;
3. May provide, restrict or deny prescription data received from another state to a requestor within that state; and
4. Has the authority to determine which requestors shall be authorized.
B. Prescription data obtained by a member state pursuant to this compact shall have the following restrictions:
1. Be used solely for purposes of providing the prescription data to a requestor; and
2. Not be stored in the state's prescription monitoring program database, except for stored images, nor in any other database.
C. A state may limit the categories of requestors of another member state that will receive prescription data.
D. The commission shall promulgate rules establishing standards for requestor authentication.
1. Every member state shall authenticate requestors according to the rules established by the commission.
2. A member state may authorize its requestors to request prescription data from another member state only after such requestor has been authenticated.
3. A member state that becomes aware of a requestor who violated the laws or regulations governing the appropriate use of prescription data shall notify the state that transmitted the prescription data.

ARTICLE IV

TECHNOLOGY AND SECURITY

A. The commission shall establish security requirements through rules for the transmission of prescription data.
B. The commission shall foster the adoption of open (vendor- and technology-neutral) standards for the technology infrastructure.
C. The commission shall be responsible for acquisition and operation of the technology infrastructure.

ARTICLE V

FUNDING

A. The commission, through its member states, shall be responsible to provide for the payment of the reasonable expenses for establishing, organizing and administering the operations and activities of the interstate compact.

B. The interstate commission may levy on and collect annual dues from each member state to cover the cost of operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual dues amount shall be allocated in an equitable manner and may consist of a fixed fee component as well as a variable fee component based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states. Such a formula shall take into account factors including, but not limited to the total number of practitioners or licensees within a member state. Fees established by the commission may be recalculated and assessed on an annual basis.

C. Notwithstanding the above or any other provision of law, the interstate commission may accept non-state funding, including grants, awards and contributions to offset, in whole or in part, the costs of the annual dues required under Article V, Section B.

D. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the member states, except by and with the authority of the member states.

E. The interstate commission shall keep accurate accounts of all receipts and disbursements subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the interstate commission shall be audited annually by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE VI

INTERSTATE COMMISSION

The member states hereby create the Interstate Prescription Monitoring Program Commission. The Prescription Monitoring Program compact shall be governed by an interstate commission comprised of the member states and not by a third-party group or federal agency. The activities of the commission are the formation of public policy and are a discretionary state function.

A. The commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. The commission shall consist of one (1) voting representative from each member state who shall be that state's appointed compact commissioner and who is empowered to determine statewide policy related to matters governed by this compact. The compact commissioner shall be a policymaker within the agency that houses the state's Prescription Monitoring Program.

C. In addition to the state commissioner, the state shall appoint a non-voting advisor who shall be a representative of the state Prescription Monitoring

Program.

D. In addition to the voting representatives and non-voting advisor of each member state, the commission may include persons who are not voting representatives, but who are members of interested organizations as determined by the commission.

E. Each member state represented at a meeting of the commission is entitled to one vote. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the commission. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the commission, the appropriate appointing authority may delegate voting authority to another person from their state for a specified meeting. The bylaws may provide for meetings of the commission to be conducted by electronic communication.

F. The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings.

G. The commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the commission, with the exception of rulemaking. During periods when the commission is not in session the executive committee shall oversee the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary.

H. The commission shall maintain a robust committee structure for governance (i.e., policy, compliance, education, technology, etc.) and shall include specific opportunities for stakeholder input.

I. The commission's bylaws and rules shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records that would adversely affect personal privacy rights or proprietary interests.

J. The commission shall provide public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission may close a meeting, or portion thereof, where it determines by a two-thirds (2/3) vote of the members present that an open meeting would be likely to:

1. Relate solely to the commission's internal personnel practices and procedures;

2. Discuss matters specifically exempted from disclosure by federal and state statute;

3. Discuss trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Discuss investigative records compiled for law enforcement purposes; or
7. Specifically relate to the commission's participation in a civil action or other legal proceeding.
K. For a meeting, or portion of a meeting, closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission.

ARTICLE VII

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:
A. To oversee and maintain the administration of the technology infrastructure;
B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact, provided that no member state shall be required to create an advisory committee. The rules shall have the force and effect of statutory law and shall be binding in the member states to the extent and in the manner provided in this compact;
C. To establish a process for member states to notify the commission of changes to a state's prescription monitoring program statutes, regulations, or policies. This applies only to changes that would affect the administration of the compact;
D. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions;
E. To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;
F. To establish and maintain one (1) or more offices;
G. To purchase and maintain insurance and bonds;
H. To borrow, accept, hire or contract for personnel or services;
I. To establish and appoint committees including, but not limited to, an executive committee as required by Article VI, Section G, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder;
J. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
K. To seek and accept donations and grants of money, equipment, supplies, materials, and services, and to utilize or dispose of them;

L. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;
M. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;
N. To establish a budget and make expenditures;
O. To adopt a seal and bylaws governing the management and operation of the nterstate commission;
P. To report annually to the legislatures, Governors and Attorneys General of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission and shall be made publically available;
Q. To coordinate education, training and public awareness regarding the compact, its implementation and operation;
R. To maintain books and records in accordance with the bylaws;
S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and
T. To provide for dispute resolution among member states.

ARTICLE VIII

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

A. The interstate commission shall, by a majority of the members present and voting, within twelve (12) months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:
1. Establishing the fiscal year of the interstate commission;
2. Establishing an executive committee, and such other committees as may be necessary for governing any general or specific delegation of authority or function of the interstate commission;
3. Providing procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting;
4. Establishing the titles and responsibilities of the officers and staff of the interstate commission; and
5. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
B. The interstate commission shall, by a majority of the members present, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers

of the interstate commission.

C. Executive Committee, Officers and Staff

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

a. Managing the affairs of the interstate commission in a manner consistent ith the bylaws and purposes of the interstate commission;

b. Overseeing an organizational structure within, and appropriate procedures for the interstate commission to provide for the administration of the compact; and

c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the purpose of the interstate commission.

2. The executive committee may, subject to the approval of the interstate commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission, but shall not be a member of the interstate commission. The executive director shall hire and supervise such other persons as may be authorized by the interstate commission.

D. The interstate commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the interstate commission's executive director and employees or interstate commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The interstate commission shall defend the executive director, its employees, and subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the

actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

3. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE IX

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect. Any rules promulgated by the commission shall not override the state's authority to govern prescription drugs or each state's Prescription Monitoring Program.

B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the interstate commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the interstate commission's authority.

ARTICLE X

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law but, shall not override the state's authority to govern prescription

drugs or the state's Prescription Monitoring Program.
2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the interstate commission.
3. The interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, this compact or promulgated rules.
B. Default, Technical Assistance, Suspension and Termination - If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission shall:
1. Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.
2. Provide remedial training and specific technical assistance regarding the default.
3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the interstate commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
5. The state which has been suspended or terminated is responsible for all dues, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.
6. The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.
7. The defaulting state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.
C. Dispute Resolution
1. The interstate commission shall attempt, upon the request of a member

state, to resolve disputes which are subject to the compact and which may arise among member states.

2. The interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution as appropriate.

D. Enforcement

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission, may by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XI

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state that has enacted Prescription Monitoring Program legislation through statute or regulation is eligible to become a member state of this compact.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than six (6) of the states. Thereafter it shall become effective and binding on a state upon enactment of the compact into law by that state. The Governors of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.

C. The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XII

WITHDRAWAL AND DISSOLUTION

A. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective

date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state.

3. The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

B. Dissolution of the Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII

SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

1. All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

2. All agreements between the interstate commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits

imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 53. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:
KRS 218A.391 Gubernatorial appointments to Prescription Monitoring Program Compact – Senate confirmation.

The Governor shall be the appointing authority for those appointments Kentucky is entitled to make under KRS 218A.390, provided that all such appointments shall be subject to confirmation by the Senate.

Section 14. The Legislative Research Commission is requested to appoint a House Bill 1 Implementation Oversight Committee consisting of three senators and three representatives to monitor the implementation of this Act during the 2012 legislative interim.

Section 65. National Mortgage Settlement proceeds received by the Office of the Attorney General not to exceed $4,000,000 over the 2012-2014 fiscal biennium shall be transferred to the Cabinet for Health and Family Services, General Administration and Support budget unit, to be expended only for upgrades to and operation of the KASPER system in accordance with this Act. If sufficient funds from the National Mortgage Settlement proceeds are less than $4,000,000, then the balance necessary shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).