

2013 Legislative Changes to KCLM

SECTION 4

KRS 620.030 Duty to report dependency, neglect or abuse – Husband-wife and professional-client/patient privileges not grounds for refusal to report – Exceptions - Penalties

Penalty: KRS 620.990(1)

- (1) Any person who knows or has reasonable cause to believe that a child is ***dependent, neglected or abused*** shall immediately cause an oral or written report to be made to a local law enforcement agency or the Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.
- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) or (3) of this section, file with the local law enforcement agency or the Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
 - (a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;
 - (b) The child's age;
 - (c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;
 - (d) The name and address of the person allegedly responsible for the abuse or neglect; and
 - (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) Any person who knows or has reasonable cause to believe that a child is a victim of human trafficking as defined in KRS 529.010 shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; or the cabinet or its designated representative; or the Commonwealth's attorney or the county attorney; by telephone or otherwise. This subsection shall apply regardless of whether the person believed to have caused the human trafficking of the child is a parent, guardian, or person exercising custodial control or supervision.
- (4) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.
- (5) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.
- (6) Any person who intentionally violates the provisions of this section shall be guilty of a:
 - (a) Class B misdemeanor for the first offense;
 - (b) Class A misdemeanor for the second offense; and
 - (c) Class D felony for each subsequent offense.

KRS 620.040 Duties of prosecutor, police, and cabinet – Prohibition as to school personnel – Multidisciplinary teams

- (1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), or a report alleging a child is a victim of human trafficking pursuant to subsection (3) of KRS 620.030, the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
- (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.
- (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or Kentucky State Police concerning the action that has been taken on the investigation.
- (d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, or the human trafficking of a child, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or Kentucky State Police.
- (2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
- (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse or human trafficking of a child shall be considered high risk and shall not be referred to any other community agency.
- (c) The cabinet need not notify the local law enforcement agency or Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection unless the report involves the human trafficking of a child, in which case the notification shall be required.
- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse or human trafficking of a child.
- (4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury, is being sexually abused, or is a victim of human trafficking and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
 - (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
 - (6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.
 - (7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
 - (b) Membership of the multidisciplinary team shall include, but shall not be limited to, social service workers employed by the Cabinet for Families and Children and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates including advocates for victims of human trafficking, educators, and other related professionals, as deemed appropriate.
 - (c) The multidisciplinary team shall review child sexual abuse cases and child human trafficking cases involving commercial sexual activity referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
- * * * * *
- (f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
 - (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
 - (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
 - (i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

KRS 620.050 Immunity for good faith actions or reports – Investigations – Confidentiality of reports – Exceptions – Parent's access to records – Sharing of information by children's advocacy centers – Confidentiality of interview with child – Exceptions – Confidentiality of identifying information regarding reporting individual – Internal review and report

Penalty: KRS 620.990(1)

* * * * *

- (5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:
- (a) Persons suspected of causing dependency, neglect, or abuse;
 - (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
 - (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
 - (d) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
 - (e) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
 - (f) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;
 - (g) Employees or designated agents of a children's advocacy center; or
 - (h) Those persons so authorized by court order; or
 - (g) The external child fatality and near fatality review panel established by KRS 620.055.

* * * * *

SECTION 5

KRS 186.560 Mandatory revocation or denial of license – Causes – Period of revocation or denial – Prohibition against reductions of certain revocations or denials – Limited exception relating to enrollment in alcohol or substance abuse education or treatment programs

- (1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his or her:
- (a) conviction of any of the following offenses:
 - 1. Murder or manslaughter resulting from the operation of a motor vehicle;
 - 2. Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;
 - 3. Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;
 - 4. Any felony in the commission of which a motor vehicle is used;
 - 5. Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;
 - 6. Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;
 - 7. Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;
 - 8. Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period;
 - 9. Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085; and
 - 10. Conviction of operating a motor vehicle, motorcycle, or moped without an operator's license as required by KRS 186.410; or
 - (b) Being found incompetent to stand trial under KRS Chapter 504.
- (2) If the person convicted of any offense named in subsection (1) of this section or who is found incompetent to stand trial is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

- (3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.
- (4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1) (a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.
- (5) Except as provided in subsections (3), (4), (8), and (9) of this section, in all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. If the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, the person's operator's license shall not be revoked, but the person's operator's license shall be restricted to any terms and conditions the secretary in his discretion may require, provided the person has enrolled in an alcohol or substance abuse education or treatment program as the cabinet shall require. If the person fails to satisfactorily complete the education or treatment program or violates the restrictions on his operator's license, the cabinet shall immediately revoke his operator's license for a period of six (6) months.
- (6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.070, 189A.080, and 189A.090, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.
- (7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).
- (8) A person under the age of eighteen (18) who is convicted of the offenses of subsections (1) or (3) of this section, except for subsection (1)(a)8. of this section, shall have his license revoked until he reaches the age of eighteen (18) or shall have his license revoked as provided in this section, whichever penalty will result in the longer period of revocation.
- (9) A revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section due to a person being found incompetent to stand trial shall extend until the person is found competent to stand trial or the criminal case is dismissed.

KRS 189.517 Mini-truck—Definition—Criteria for operation—Permitted and prohibited uses

- (1) As used in this section, "mini-truck" means a lightweight Japanese kei class utility vehicle.
- (2) Except as provided in subsection (5) of this section, a person shall not operate a mini-truck upon any public highway or roadway or upon the right-of-way of any public highway or roadway.
- (3) A person shall not operate a mini-truck on private property without the consent of the landowner, tenant, or individual responsible for the property.
- (4) A person shall not operate a mini-truck on public property unless the governmental agency responsible for the property has approved the use of mini-trucks.
- (5) (a) A person may operate a mini-truck on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.
(b) A person may operate a mini-truck on any two (2) lane public highway if the operator is engaged in

farm or agricultural-related activities, construction, road maintenance, or snow removal.

- (c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where mini-trucks that are prohibited may be operated.
- (d) A person operating a mini-truck on a public highway under this subsection shall possess a valid operator's license.
- (e) A person operating a mini-truck on a public highway under this subsection shall comply with all applicable traffic regulations.
- (f) A person shall not operate a mini-truck under this subsection unless the mini-truck has at least two (2) headlights and two (2) taillights, which shall be illuminated at all times the mini-truck is in operation.
- (g) A person operating a mini-truck under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

KRS 189.990 Penalties

* * * * *

- (11) Any person who violates subsection (3) of KRS 189.560 shall be fined not less than thirty dollars (\$30) nor more than one hundred dollars (\$100) for each offense.

KRS 281A.010 Definitions

* * * * *

- (20) "**Hazardous materials**" has the same meaning as in 49 C.F.R. sec. 383.5

* * * * *

KRS 281A.170 Form of licenses – Limitations on licenses – Expiration

* * * * *

- (2) A commercial driver's license shall be issued with classifications, endorsements, and restrictions. Vehicles that require an endorsement shall not be driven unless the proper endorsement appears on the license and the applicant has passed the knowledge and skills test required by the State Police.
 - (a) Classifications:
 - 1. **Class A** - Any combination of vehicles with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand (10,000) pounds. Licensees with an "A" classification may with the proper endorsement drive Class B and C vehicles.
 - 2. **Class B** - Any single vehicle with a gross vehicle weight rating of twenty-six thousand and one (26,001) pounds or more, and any vehicle towing a vehicle not in excess of ten thousand (10,000) pounds. Licensees with a "B" classification may with the proper endorsements drive Class C vehicles.
 - 3. **Class C** - Any single vehicle with a gross weight rating of less than twenty-six thousand and one (26,001) pounds or any vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds which includes:
 - a. Vehicles designed to transport sixteen (16) or more passengers, including the driver; or
 - b. Vehicles used in the transportation of hazardous materials which requires the vehicle to be placarded under Title 49, Code of Federal Regulations, Part 172, sub-part F, as adopted by administrative regulations of the cabinet, pursuant to KRS Chapter 13A.

4. **Class D** - All other vehicles not listed in any other class.
 5. **Class E** - Moped only.
 6. **Class M** - Motorcycles. Licensees with a "M" classification may also drive Class E vehicles.
- (b) Endorsements:
1. **"H"** - Authorizes the driver to operate a vehicle transporting hazardous materials.
 2. **"T"** - Authorizes operation of double trailers and triple trailers in those jurisdictions allowing the operation of triple trailers.
 3. **"P"** - Authorizes operation of vehicles carrying passengers.
 4. **"N"** - Authorizes operation of tank vehicles.
 5. **"X"** - Authorizes operation of combination of hazardous materials and tank vehicle endorsements.
 6. **"R"** - Authorizes operation of all other endorsements not otherwise specified.
 7. **"S"** - Authorizes operation of school buses.
- (c) The Transportation Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to outline restrictions on the operation of commercial vehicles and the associated codes to identify such restrictions, which shall appear on the face of the commercial driver's license

* * * * *

KRS 304.39-117 Motor vehicle insurance card

Penalty: KRS 304.99-010

- (1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle. An insurer may provide an insurance card in either a paper or an electronic format.
- (2) The owner shall keep the paper insurance card or a portable electronic device to download the insurance card in his motor vehicle as prima facie evidence, except as provided in subsection (3) of this section, that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.
- (3) On and after January 1, 2006, as to personal motor vehicles as defined in KRS 304.39-087, the card and the database created by KRS 304.39-087 shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept a paper or electronic insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more than forty-five (45) days before the date on which the peace officer requests the card.
- (4) For purposes of this section:
 - (a) An insurance card in an electronic format means the display of an image on any portable electronic device, including a cellular phone or any other type of portable electronic device, depicting a current valid representation of the card;
 - (b) Whenever a person presents a mobile electronic device pursuant to this section, that person assumes all liability for any damage to the mobile electronic device; and
 - (c) When a person provides evidence of financial responsibility using a mobile electronic device to a peace officer, the peace officer shall only view the electronic image of the insurance card and is prohibited from viewing any other content on the mobile electronic device.

SECTION 6

KRS 218A.010 Definitions for chapter

* * * * *

- (44) **"Synthetic cannabinoids or piperazines"** means any chemical compound which is not approved

by the United States Food and Drug Administration, or if approved which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to 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) Naphthylmethylindenenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

(h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

(j) 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;

* * * * *

KRS 218A.050 Schedule I controlled substances

* * * * *

- (5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
- (a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);
 - (b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);
 - (c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine(2,5B-NBOMe); or
 - (d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).

* * * * *

KRS 218A.1418 Theft of controlled substances (Repealed. Delete from book.)

KRS 218A.1446 Requirements for dispensing of ephedrine-based products – Electronic log or recordkeeping mechanism – Thirty-day and one-year quantity limitations on ephedrine-based products – Exceptions – Preemption of local laws - Blocking mechanism – Annual report

* * * * *

- (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 a 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 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.

* * * * *

SECTION 8

KRS 500.092 Forfeiture of personal property not used as a residence

- (1) (a) Notwithstanding KRS 500.090, all personal property which is not used as a permanent residence in this state which is used in connection with or acquired as a result of a violation or attempted violation of any of the statutes set out in subsection (3) of this section shall be subject to forfeiture

under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.

- (b) Notwithstanding KRS 500.090, all real and personal property in this state which is used in connection with or acquired as a result of a violation or attempted violation of KRS 531.310 or 531.320 shall be subject to forfeiture under the same terms, conditions, and defenses and using the same process as set out in KRS 218A.405 to 218A.460 for property subject to forfeiture under that chapter.
- (2) Administrative regulations promulgated under KRS 218A.420 shall govern expenditures derived from forfeitures under this section to the same extent that they govern expenditures from forfeitures under KRS 218A.405 to 218A.460.
- (3) The following offenses may trigger forfeiture of personal property under subsection (1) of this section:
- (a) 17.546;
 - (b) KRS 508.140 and 508.150 involving the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, camera or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device;
 - (c) KRS 510.155;
 - (d) KRS 530.064(1)(a);
 - (e) KRS 531.030;
 - (f) KRS 531.040;
 - (g) KRS 531.310;
 - (h) KRS 531.320;
 - (i) KRS 531.335;
 - (j) KRS 531.340;
 - (k) KRS 531.350;
 - (l) KRS 531.360; and
 - (m) KRS 531.370.

KRS 510.155 Unlawful use of electronic means originating or received within the Commonwealth to induce a minor to engage in sexual or other prohibited activities -- Prohibition of multiple convictions arising from single course of conduct – Solicitation as evidence of intent

- (1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, 529.100 where that offense involves commercial sexual activity, or 530.064(1)(a), or Chapter 531.
- (2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.
- (3) The solicitation of a minor through electronic communication under subsection (1) of this section shall be prima facie evidence of the person's intent to commit the offense and the offense is complete at that point without regard to whether the person met or attempted to meet the minor
- (4) This section shall apply to electronic communications originating within or received within the Commonwealth.
- (5) A violation of this section is punishable as a Class D felony.

KRS 514.030 Theft by unlawful taking or disposition - Penalties

- (1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:
- (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
 - (b) Obtains immovable property of another or any interest therein with intent to benefit himself or

another not entitled thereto.

EDITOR'S NOTES:

- ***Most shoplifters are charged under this section, but other sections of this chapter may also be appropriate, See KRS 433.234 and 433.236 (above at page 7.2.3) for special provisions relating to "shoplifting".***
- ***The General Assembly authorized suspending operator's licenses for second or subsequent convictions under this section for theft of gasoline or special fuels from a "retail establishment" (see KRS 532.356(2) at page 8.8.4).***
- ***KRS 532.356 designates this section (not Theft of Services) as the proper charge.***
- ***By using shoplifting language ("retail establishment") the Legislature apparently approved treating "gas drive-offs" as a form of shoplifting, thus empowering officers to make warrantless arrests for a misdemeanor not committed in the officers' presence.***
- ***Officers should consult their prosecuting attorneys for local policy on whether or not to seize as vehicles used to transport stolen property (i.e., gasoline) the vehicles of persons who drive off without paying for gasoline – see KRS 514.130(1) herein at page 8.3.14.***

- (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless:
 - (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony;
 - (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense;
 - (c) The property is one (1) or more controlled substances valued collectively at less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (d) The value of the property is five hundred dollars (\$500) or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (e) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony;
 - (f) The value of the property is one million dollars (\$1,000,000) or more but less than ten million dollars (\$10,000,000), in which case it is a Class B felony; or
 - (g) The value of the property is ten million dollars (\$10,000,000) or more, in which case it is a Class B felony.
- (3) Any person convicted under subsection (2)(g) of this section shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed, any statute to the contrary notwithstanding.

KRS 516.030 Forgery in the second degree

- (1) A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument, or in the commission of a human trafficking offense as described in KRS 529.100 or 529.110, coerces another person to falsely make, complete, or alter a written instrument, which is or purports to be or which is calculated to become or to represent when completed:
 - (a) A deed, will, codicil, contract, assignment, commercial instrument, credit card or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or
 - (b) A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or
 - (c) A written instrument officially issued or created by a public office, public employee or governmental agency.
- (2) Forgery in the second degree is a Class D felony.

KRS 524.140 Disposal of evidence that may be subject to DNA testing – Motion to destroy – Liability for destruction –Penalty – Retention of biological material

* * * * *

- (7) Subject to KRS 17.172(9), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis

KRS 529.010 Definitions

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "**Advancing prostitution**"--A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he or she knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution.
- (2) "**Commercial sexual activity**" means prostitution, regardless of whether the trafficked person can be charged with prostitution, participation in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexually explicit performance;
- (3) "**Forced labor or services**" means labor or services that are performed or provided by another person and that are obtained through force, fraud or coercion;
- (4) "**Force, fraud, or coercion**" may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010;
- (5) "**Human trafficking**" refers to criminal activity whereby one (1) or more persons are subjected to engaging in:
 - (a) Forced labor or services; or
 - (b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion;

* * * * *

- (7) "**Labor**" means work of economic or financial value;
- (8) "**Minor**" means a person under the age of eighteen (18) years;
- (9) "**Profiting from prostitution**"--A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in proceeds of prostitution activity.
- (10) "**Services**" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor;
- (11) "**Sexual conduct**" means sexual intercourse or any act of sexual gratification involving the sex organs;
- (12) "**Sexually-explicit performance**" means a performance of sexual conduct involving:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviate sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
 - (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in a matter of a private, family nature not intended for distribution outside the family; and
- (13) "**Victim of human trafficking**" is a person who has been subjected to human trafficking.

KRS 529.020 Prostitution

- (1) Except as provided in KRS 529.120, a person is guilty of prostitution when he engages or agrees or offers to engage in sexual conduct with another person in return for a fee.
- (2) Prostitution is a Class B misdemeanor.

KRS 529.080 Loitering for prostitution purposes

- (1) Except as provided in KRS 529.120, a person is guilty of loitering for prostitution purposes when he loiters or remains in a public place for the purpose of engaging or agreeing or offering to engage in prostitution.
- (2) Loitering for prostitution purposes is a:
 - (a) Violation for the first offense;
 - (b) Class B misdemeanor for the second offense and each subsequent offense.

KRS 529.120 Treatment of minor suspected of prostitution offense

- (1) Notwithstanding KRS 529.020 or KRS 529.080, if it is determined after a reasonable period of custody for investigative purposes, that the person suspected of prostitution or loitering for prostitution is under the age of eighteen (18), then the minor shall not be prosecuted for an offense under KRS 529.020 or KRS 529.080.
- (2) A law enforcement officer who takes a minor into custody under subsection (1) of this section shall immediately make a report to the Cabinet for Health and Family Services pursuant to KRS 620.030. Pursuant to KRS 620.040, the officer may take the minor into protective custody.
- (3) The Cabinet for Health and Family Services shall commence an investigation into child dependency, neglect, or abuse pursuant to KRS 620.029.

KRS 530.065 Unlawful transaction with a minor in the second degree

- (1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana, synthetic drugs, illegal gambling activity, or any other criminal activity constituting a felony.
- (2) Unlawful transaction with a minor in the second degree is a Class D felony.

KRS 531.335 Possession of matter portraying a sexual performance by a minor

- (1) A person is guilty of possession or viewing of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he or she:
 - (a) Knowingly has in his or her possession or control any matter which visually depicts an actual sexual performance by a minor person; or
 - (b) Intentionally views any matter which visually depicts an actual sexual performance by a minor person.
- (2) The provisions of subsection (1)(b) of this section:
 - (a) Shall only apply to the deliberate, purposeful, and voluntary viewing of matter depicting sexual conduct by a minor person and not to the accidental or inadvertent viewing of such matter; and
 - (b) Shall not apply to persons viewing the matter in the course of a law enforcement investigation or criminal or civil litigation involving the matter.
- (3) Possession or viewing of matter portraying a sexual performance by a minor is a Class D felony.