

2. A Class D felony for a second or subsequent offense, except that KRS Chapter 532 to the contrary notwithstanding, the maximum sentence to be imposed shall be no greater than three (3) years.

KRS 218A.1415 Possession of controlled substance in first degree – Penalties

- (1) A person is guilty of possession of a controlled substance in the first degree when he or she knowingly and unlawfully possesses:
 - (a) A controlled substance that is classified in Schedules I or II and is a narcotic drug;
 - (b) A controlled substance analogue;
 - (c) Methamphetamine;
 - (d) Lysergic acid diethylamide;
 - (e) phencyclidine;
 - (f) Gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers and analogues; or
 - (g) Flunitrazepam, including its salts, isomers, and salts of isomers.
- (2) Possession of a controlled substance in the first degree is a Class D felony subject to the following provisions:
 - (a) The maximum term of incarceration shall be no greater than three (3) years, notwithstanding KRS Chapter 532;
 - (b) For a person's first or second offense under this section, he or she may be subject to a period of:
 1. Deferred prosecution pursuant to KRS 218A.14151; or
 2. Presumptive probation;
 - (c) Deferred prosecution under paragraph (b) of this subsection shall be the preferred alternative for a first offense; and
 - (d) If a person does not enter a deferred prosecution program for his or her first or second offense, he or she shall be subject to a period of presumptive probation, unless a court determines the defendant is not eligible for presumptive probation as defined in KRS 218A.010(37).

KRS 218A.1416 Possession of controlled substance in second degree – Penalties

- (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 lysergic acid diethylamide, naphthylprovalerone, 3,4-methylenedioxypyrovalerone, 3, 4- methylenedioxymethylcathinone, or 4- methylmethcathinone, phencyclidine, synthetic cannabinoid agonists, piperazines, salvia, or marijuana.
- (2) Possession of a controlled substance in the second degree is a Class A misdemeanor.

KRS 218A.1417 Possession of controlled substance in third degree – Penalties

- (1) A person is guilty of possession of a controlled substance in the third degree when he or she knowingly and unlawfully possesses a controlled substance classified in Schedules IV or V.
- (2) Possession of a controlled substance in the third degree is a Class A misdemeanor.

KRS 218A.1418 Theft of a controlled substance – Not considered theft under KRS Chapter 514

- (1) A person is guilty of theft of a controlled substance when he or she unlawfully takes or exercises control over a controlled substance belonging to another person with the intent to deprive him thereof.
- (2) Theft of a controlled substance is a Class D felony.
- (3) The acts specified in this section shall not constitute theft under KRS Chapter 514.

Marijuana Offenses

KRS 218A.1421 Trafficking in marijuana – Penalties

- (1) A person is guilty of trafficking in marijuana when he knowingly and unlawfully traffics in marijuana.
- (2) Trafficking in less than eight (8) ounces of marijuana is:
 - (a) For a first offense a Class A misdemeanor.
 - (b) For a second or subsequent offense a Class D felony.
- (3) Trafficking in eight (8) or more ounces but less than five (5) pounds of marijuana is:
 - (a) For a first offense a Class D felony.
 - (b) For a second or subsequent offense a Class C felony.
- (4) Trafficking in five (5) or more pounds of marijuana is:
 - (a) For a first offense a Class C felony.
 - (b) For a second or subsequent offense a Class B felony.
- (5) The unlawful possession by any person of eight (8) or more ounces of marijuana shall be prima facie evidence that the person possessed the marijuana with the intent to sell or transfer it.

KRS 218A.1422 Possession of marijuana – Penalty – Maximum term of incarceration

- (1) A person is guilty of possession of marijuana when he or she knowingly and unlawfully possesses marijuana.
- (2) Possession of marijuana is a Class B misdemeanor, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than forty-five (45) days.

KRS 218A.1423 Marijuana cultivation – Penalties

- (1) A person is guilty of marijuana cultivation when he knowingly and unlawfully plants, cultivates, or harvests marijuana with the intent to sell or transfer it.
- (2) Marijuana cultivation of five (5) or more plants of marijuana is:
 - (a) For a first offense a Class D felony.
 - (b) For a second or subsequent offense a Class C felony.
- (3) Marijuana cultivation of fewer than five (5) plants is:
 - (a) For a first offense a Class A misdemeanor.
 - (b) For a second or subsequent offense a Class D felony.
- (4) The planting, cultivating, or harvesting of five (5) or more marijuana plants shall be prima facie evidence that the marijuana plants were planted, cultivated, or harvested for the purpose of sale or transfer.

KRS 218A.1426 Trafficking in synthetic cannabinoid agonists or piperazines-Penalty

- (1) A person is guilty of trafficking in synthetic cannabinoid agonists or piperazines when he or she knowingly and unlawfully traffics in synthetic cannabinoid agonists or piperazines.
- (2) Trafficking in synthetic cannabinoid agonists or piperazines is a Class A Misdemeanor.

KRS 218A.1427 Possession of synthetic cannabinoid agonists or piperazines-Penalty – Maximum term of incarceration

- (1) A person is guilty of possession of synthetic cannabinoid agonists or piperazines when he or she knowingly and unlawfully possesses synthetic cannabinoid agonists or piperazines.
- (2) Possession of synthetic cannabinoid agonists or piperazines 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.

KRS 218A.1428 Manufacturing synthetic cannabinoid agonists or piperazines-Penalty