

**218A.020 Cabinet for Health and Family Services to administer chapter -- Control of substances rescheduled under federal law -- Office of Drug Control Policy may request scheduling of substances similar to synthetic drugs.**

- (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) of this section, 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. If hydrocodone or any drug containing hydrocodone is rescheduled to Schedule II in this manner, the prescriptive authority existing on March 19, 2013, of any practitioner licensed under the laws of the Commonwealth to prescribe, dispense, or administer hydrocodone or drugs containing hydrocodone shall remain inviolate and shall continue to exist to the same extent as if those drugs had remained classified as Schedule III controlled substances.
- (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.

**Effective:** March 19, 2013

**History:** Amended 2013 Ky. Acts ch. 26, sec. 6, effective March 19, 2013. -- Amended 2012 Ky. Acts ch. 108, sec. 4, effective April 11, 2012. -- Amended 2005 Ky. Acts ch. 99, sec. 528, effective June 20, 2005. -- Amended 1998 Ky. Acts ch. 426, sec. 471, effective July 15, 1998. -- Amended 1974 Ky. Acts ch. 74, Art. VI, sec. 107(3). -- Created 1972 Ky. Acts ch. 226, sec. 3.