

# Prosecuting After Medical Cannabis.



JENNY TRUE REED, TRAFFIC SAFETY RESOURCE  
PROSECUTOR

[JREED@PROSECUTORS.KY.GOV](mailto:JREED@PROSECUTORS.KY.GOV)



# Medical Marijuana Law KRS 218B

# Basics of KRS 218B

- ▶ Changes apply to qualified patients, visiting patients and care givers.
- ▶ Only sold by Kentucky licensed dispensaries
- ▶ Only grown by Kentucky licensed cultivators
- ▶ Cannot drive impaired or use while driving even if a patient
- ▶ No one can smoke medical cannabis
- ▶ Must remain in the original package



Permits registered qualified patients to possess and use medical marijuana

Permits registered caregivers to possess

Allows registered physicians to prescribe

Dispensaries to sell approved products

Cultivation permitted by cannabis business or agent



# Will the patient possess a Medical Cannabis card?

## Registry ID Card Examples



Patient registry ID Card

Caregiver registry  
ID Card



Minor patient registry  
ID Card





## What kind of items can a registered patient possess?

- RAW PLANT MATERIAL
- VAPE CARTRIDGES IF OVER 21 YEARS OF AGE
- EDIBLES, OILS, PILLS, TINCTURES, DERMAL PATCHES GELS, LOTIONS, SOAPS

# What are the limits on the amount of cannabis a registered patient can possess?

**Supply limits and associated product formats**

Form of medical cannabis	10-day supply limit	30-day supply limit*	Example products
Raw plant material	37.5 grams	112 grams	N/A
Concentrates	9.5 grams	28 grams	<ul style="list-style-type: none"><li>▶ Vape cartridges</li><li>▶ Nebulizer solutions</li></ul>
THC-infused products	1,300 milligrams	3,900 milligrams	<ul style="list-style-type: none"><li>▶ Edibles</li><li>▶ Pills</li><li>▶ Capsules</li><li>▶ Oils</li><li>▶ Liquids</li><li>▶ Beverages</li><li>▶ Tinctures</li><li>▶ Suppositories</li><li>▶ Dermal patches</li></ul>
Non-consumable (topical) products	N/A**		<ul style="list-style-type: none"><li>▶ Gels</li><li>▶ Creams/lotions</li><li>▶ Ointments</li><li>▶ Cosmetics</li><li>▶ Soaps</li></ul>

*\*A medical cannabis practitioner may recommend an amount of medical cannabis for a thirty (30) day supply that is higher than the above supply limits if the practitioner reasonably believes that the established limits would not provide uninterrupted therapeutic or palliative relief to the qualified patient.*

*\*\* Non-consumable products will not count toward a qualified patient's supply limits.*

# How will we know it is medical cannabis?

ORIGINAL SEALED PACKAGE

TWO STEP PROCESS TO OPEN

WARNING LABEL REGARDING INFORMATION  
DEEMED APPROPRIATE BY CABINET

OPAQUE PACKAGE

EXPIRATION DATE

CANNOT VISUALLY RESEMBLE MAJOR BRANDS  
OF EDIBLE NON-CANNABIS PRODUCTS

NOT PRESENT AN ATTRACTIVE NUISANCE TO  
MINORS.

KRS 218B.140 (1)(C)(13)





# CANNOT!

- ▶ Operate, navigate or be in actual physical control of motor vehicle, aircraft, etc. while under the influence of medical cannabis.
- ▶ Consume MC while operating a motor vehicle, aircraft, etc.
- ▶ Possess in a vehicle within arms reach or less than a 2-step process to access
- ▶ Possess or engage in use at a preschool, primary or secondary school unless 2018B.045(4) is applicable.
- ▶ Possess in a correctional facility
- ▶ Possess on federal property

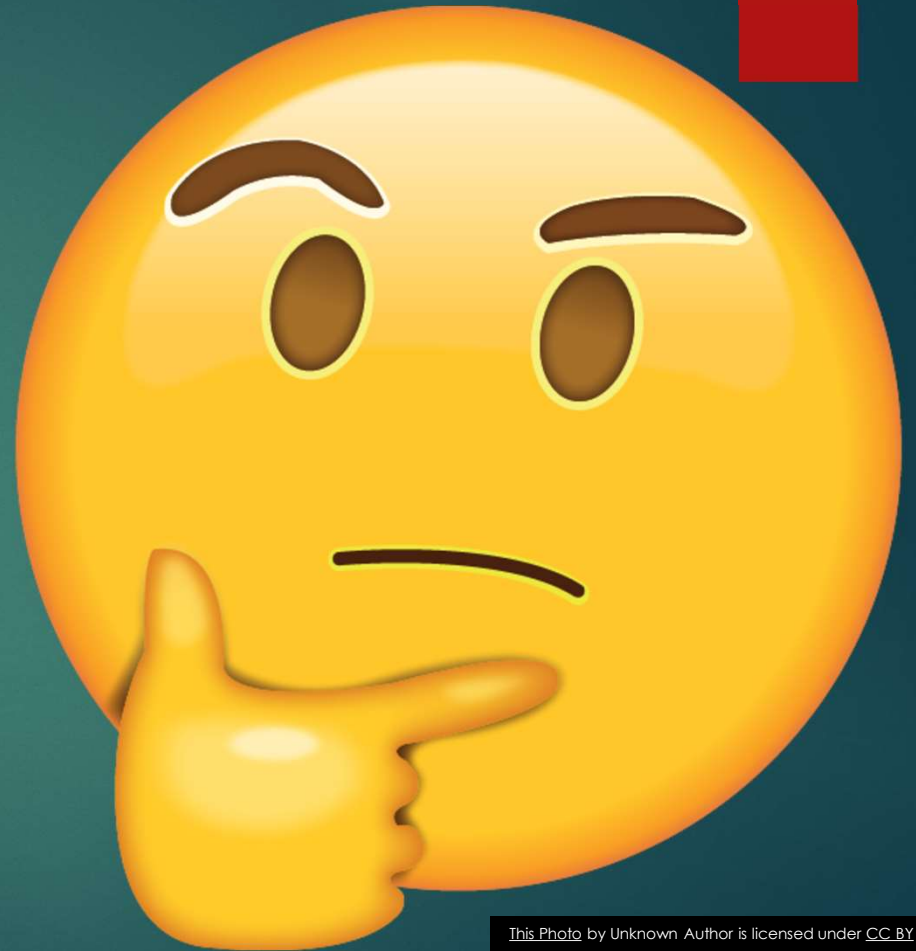


**A person cannot be considered under the influence solely due to:**

Presence of metabolites including, but not limited to carboxy THC (inactive metabolite)

11 hydroxy THC is the psychoactive metabolite.

KRS 218B.015



This Photo by Unknown Author is licensed under CC BY

Nothing has changed for those who  
are not patients or caregivers.



# Take a Team Approach





# Communication



[This Photo](#) by Unknown Author is licensed under [CC BY-NC](#)

# Guidelines for LEOs

- ▶ What to do when a qualified patient/caregiver has cannabis not in the original container.
- ▶ When to search when they smell the odor of combusted marijuana, raw marijuana and driver is a qualified patient/caregiver.
- ▶ What to do when presented with a forged card.
- ▶ What to do if patient/caregiver is in possession of a firearm?
- ▶ What to do if patient/caregiver is in a CMV and has a CDL?
- ▶ When to charge trafficking, promoting contraband 1<sup>st</sup> degree
- ▶ Documentation of contacting Ky Office of Medical Cannabis.

# Encourage LEOS to Ask Questions!

How was the cannabis ingested?

Last time used?

Frequent or chronic user

Type of cannabis used – sativa, indica, hybrid

On a scale of 1- 10

DRE exam

Look in mouth

# Jury Selection





# Jury Selection

- ▶ Focus on impairment rather than the drug
- ▶ How do you select a jury when the person is impaired by a Rx drug
- ▶ Regulations on its use like alcohol
- ▶ Ways to use marijuana
- ▶ Do not ask anyone on the jury if he or she is a patient. Confidentiality.
- ▶ People safer when they drive high

# What skills are needed to drive safely

- ▶ Write down what jury says and use in closing
- ▶ Who relies on you to drive safely and responsibly
- ▶ Skills needed to drive safely- imagine you are teaching someone to drive for the first time.
- ▶ Buzzed driving
- ▶ What does high look like- write down answers
- ▶ Apples = impairment- different ways to be impaired.
- ▶ Why take a drug if it doesn't affect you.

# Proving Impairment

- ▶ Key facts- form of marijuana used
- ▶ How ingested
- ▶ When ingested
- ▶ Frequent user
- ▶ Reason for stop
- ▶ Lab tests
- ▶ How does the drug make you feel



# Always request an expert



[This Photo](#) by Unknown Author is licensed under [CC BY-SA](#)



# Questions?

