

**218A.1412 Trafficking in controlled substance in first degree -- Penalties.**

- (1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:
  - (a) Four (4) grams or more of cocaine;
  - (b) Two (2) grams or more of methamphetamine;
  - (c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a narcotic drug, or a controlled substance analogue;
  - (d) Any quantity of heroin, fentanyl, carfentanil, or fentanyl derivatives; lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or
  - (e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.
- (2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.
- (3)
  - (a) Any person who violates the provisions of subsection (1)(a), (b), (c), or (d) of this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.
  - (b) Any person who violates the provisions of subsection (1)(e) of this section:
    1. Shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense; and
    2.
      - a. Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the time of arrest, or weapons, which given the totality of the circumstances indicate the trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.
      - b. This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.
  - (c) Any person convicted of a Class C felony offense or higher under this

section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin, fentanyl, carfentanil, or fentanyl derivatives.

**Effective:** June 29, 2017

**History:** Amended 2017 Ky. Acts ch. 168, sec. 5, effective June 29, 2017. -- Amended 2015 Ky. Acts ch. 66, sec. 14, effective March 25, 2015. -- Amended 2011 Ky. Acts ch. 2, sec. 9, effective June 8, 2011. -- Amended 2002 Ky. Acts ch. 259, sec. 1, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 169, sec. 1, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 606, sec. 63, effective July 15, 1998. -- Created 1992 Ky. Acts ch. 441, sec. 12, effective July 14, 1992.