

1 AN ACT relating to tallow-based cosmetic products.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➡ Section 1. KRS 217.015 is amended to read as follows:

4 For the purposes of KRS 217.005 to 217.215:

- 5 (1) "Advertisement" means all representations, disseminated in any manner or by any
6 means, other than by labeling, for the purpose of inducing, or which are likely to
7 induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;
- 8 (2) "Bread" and "enriched bread" mean only the foods commonly known and described
9 as white bread, white rolls, white buns, enriched white bread, enriched rolls, and
10 enriched white buns, as defined under the federal act. For the purposes of KRS
11 217.136 and 217.137, "bread" or "enriched bread" also means breads that may
12 include vegetables or fruit as an ingredient;
- 13 (3) "Cabinet" means the Cabinet for Health and Family Services or its designee;
- 14 (4) "Color" means but is not limited to black, white, and intermediate grays;
- 15 (5) "Color additive" means a material that:
 - 16 (a) Is a dye, pigment, or other substance made by a process of synthesis or similar
17 artifice, or extracted, isolated, or otherwise derived, with or without
18 intermediate or final change of identity, from a vegetable, animal, mineral, or
19 other source. ~~[Nothing in]~~ This paragraph shall ***not*** be construed to apply to
20 any pesticide chemical, soil or plant nutrient, or other agricultural chemical
21 solely because of its effect in aiding, retarding, or otherwise affecting, directly
22 or indirectly, the growth or other natural physiological process of produce of
23 the soil and thereby affecting its color, whether before or after harvest; or
 - 24 (b) When added or applied to a food, drug, or cosmetic, or to the human body or
25 any part thereof, is capable, alone or through reaction with another substance,
26 of imparting color. "Color additive" does not include any material that has
27 been or may in the future be exempted under the federal act;

- 1 (6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not
2 securely protected from dust, dirt, and as far as may be necessary by all reasonable
3 means, from all foreign or injurious contaminants;
- 4 (7) "Cosmetic" means:
- 5 (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into,
6 or otherwise applied to the human body or any part thereof for cleansing,
7 beautifying, promoting attractiveness, or altering the appearance; and
- 8 (b) Articles intended for use as a component of those articles, except that the term
9 shall not include soap;
- 10 (8) "Device," except when used in subsection (48) of this section, KRS 217.035(6),
11 KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments,
12 apparatus, and contrivances, including their components, parts, and accessories,
13 intended:
- 14 (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease
15 in man or other animals; or
- 16 (b) To affect the structure or any function of the body of man or other animals;
- 17 (9) "Dispense" means to deliver a drug or device to an ultimate user or research subject
18 by or pursuant to the lawful order of a practitioner, including the packaging,
19 labeling, or compounding necessary to prepare the substance for that delivery;
- 20 (10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the
21 use of an ultimate user;
- 22 (11) "Drug" means:
- 23 (a) Articles recognized in the official United States pharmacopoeia, official
24 homeopathic pharmacopoeia of the United States, or official national
25 formulary, or any supplement to any of them;
- 26 (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or
27 prevention of disease in man or other animals;

- 1 (c) Articles, other than food, intended to affect the structure or any function of the
2 body of man or other animals; and
- 3 (d) Articles intended for use as a component of any article specified in this
4 subsection but does not include devices or their components, parts, or
5 accessories;
- 6 (12) "Enriched," as applied to flour, means the addition to flour of vitamins and other
7 nutritional ingredients necessary to make it conform to the definition and standard
8 of enriched flour as defined under the federal act;
- 9 (13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental
10 Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;
- 11 (14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it
12 relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments
13 thereto;
- 14 (15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301
15 et seq., 52 Stat. 1040 et seq., or amendments thereto;
- 16 (16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed,
17 evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been
18 added, or which has been blended or compounded with, any fat or oil other than
19 milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of
20 substances used for flavoring purposes only, so that the resulting product is an
21 imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or
22 frozen desserts, whether or not condensed, evaporated, concentrated, frozen,
23 powdered, dried, or desiccated, whether in bulk or in containers, hermetically
24 sealed or unsealed. This definition does not mean or include any milk or cream
25 from which no part of the milk or butter fat has been extracted, whether or not
26 condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has
27 been added any substance rich in vitamins, nor any distinctive proprietary food

1 compound not readily mistaken for milk or cream or for condensed, evaporated,
 2 concentrated, powdered, dried, or desiccated milk or cream, if the compound is
 3 prepared and designed for the feeding of infants or young children, sick or infirm
 4 persons, and customarily used on the order of a physician, and is packed in
 5 individual containers bearing a label in bold type that the contents are to be used for
 6 those purposes; nor shall this definition prevent the use, blending, or compounding
 7 of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in
 8 bulk or in containers, hermetically sealed or unsealed, to or with which has been
 9 added, blended or compounded no other fat or oil other than milk or butter fat;

10 (17) "Flour" means only the foods commonly known as flour, white flour, wheat flour,
 11 plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising
 12 wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour,
 13 defined under the federal act;

14 (18) "Food" means:

- 15 (a) Articles used for food or drink for man or other animals;
- 16 (b) Chewing gum; and
- 17 (c) Articles used for components of any such article;

18 (19) "Food additive" means any substance the intended use of which results or may be
 19 reasonably expected to result, directly or indirectly, in its becoming a component or
 20 otherwise affecting the characteristics of any food, including any substance
 21 intended for use in producing, manufacturing, packing, processing, preparing,
 22 treating, packaging, transporting, or holding food; and including any source of
 23 radiation intended for any of these uses, if the substance is not generally
 24 recognized, among experts qualified by scientific training and experience to
 25 evaluate its safety, as having been adequately shown through scientific procedures
 26 or, in the case of a substance used in a food prior to January 1, 1958, through either
 27 scientific procedures or experience based on common use in food to be safe under

1 the conditions of its intended use; except that the term does not include:

- 2 (a) A pesticide chemical in or on a raw agricultural commodity;
- 3 (b) A pesticide chemical to the extent that it is intended for use or is used in the
- 4 production, storage, or transportation of any raw agricultural commodity;
- 5 (c) A color additive; or
- 6 (d) Any substance used in accordance with a sanction or approval granted prior to
- 7 the enactment of the Food Additives Amendment of 1958, pursuant to the
- 8 federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.;
- 9 or the Meat Inspection Act of 1907; and amendments thereto;

10 (20) "Food processing establishment" means any commercial establishment in which

11 food is manufactured, processed, or packaged for human consumption, but does not

12 include retail food establishments, home-based processors, or home-based

13 microprocessors;

14 (21) "Food service establishment" means any fixed or mobile commercial establishment

15 that engages in the preparation and serving of ready-to-eat foods in portions to the

16 consumer, including but not limited to: restaurants; coffee shops; cafeterias; short

17 order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains;

18 taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding

19 establishments; private, public or nonprofit organizations or institutions routinely

20 serving food; catering kitchens; commissaries; charitable food kitchens; or similar

21 places in which food is prepared for sale or service on the premises or elsewhere

22 with or without charge. It does not include food vending machines, establishments

23 serving beverages only in single service or original containers, or retail food stores

24 which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

25 (22) "Food storage warehouse" means any establishment in which food is stored for

26 subsequent distribution;

27 (23) "Immediate container" does not include package liners;

- 1 (24) "Imminent health hazard" means a significant threat or danger to health that is
 2 considered to exist when there is evidence sufficient to show that a product,
 3 practice, circumstance, or event creates a situation that requires immediate
 4 correction or cessation of operation to prevent illness or injury based on:
- 5 (a) The number of potential illnesses or injuries; or
 - 6 (b) The nature, severity, and duration of the anticipated illness or injury;
- 7 (25) "Interference" means threatening or otherwise preventing the performance of lawful
 8 inspections or duties by agents of the cabinet during all reasonable times of
 9 operation;
- 10 (26) "Label" means a display of written, printed, or graphic matter upon the immediate
 11 container of any article; and a requirement made by or under authority of KRS
 12 217.005 to 217.215 that any word, statement, or other information appearing on the
 13 label shall not be considered to be complied with unless the word, statement, or
 14 other information also appears on the outside container or wrapper, if any there be,
 15 of the retail package of the article, or is easily legible through the outside container
 16 or wrapper;
- 17 (27) "Labeling" means all labels and other written, printed, or graphic matter:
- 18 (a) Upon an article or any of its containers or wrappers; or
 - 19 (b) Accompanying the article;
- 20 (28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act,
 21 as amended, and under which definition its label is required to bear the statement
 22 "Caution: Federal law prohibits dispensing without prescription.";
- 23 (29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71
 24 et seq., 34 Stat. 1260 et seq., including any amendments thereto;
- 25 (30) "New drug" means:
- 26 (a) Any drug the composition of which is such that the drug is not generally
 27 recognized among experts qualified by scientific training and experience to

1 evaluate the safety of drugs as safe for use under the conditions prescribed,
 2 recommended, or suggested in the labeling thereof; or

3 (b) Any drug the composition of which is such that the drug, as a result of
 4 investigations to determine its safety for use under prescribed conditions, has
 5 become so recognized, but which has not, otherwise than in the investigations,
 6 been used to a material extent or for a material time under the conditions;

7 (31) "Official compendium" means the official United States pharmacopoeia, official
 8 homeopathic pharmacopoeia of the United States, official national formulary, or
 9 any supplement to any of them;

10 (32) "Person" means an individual, firm, partnership, company, corporation, trustee,
 11 association, or any public or private entity;

12 (33) "Pesticide chemical" means any substance that alone in chemical combination, or in
 13 formulation with one or more other substances, is an "economic poison" within the
 14 meaning of the Federal Insecticide, Fungicide and Rodenticide Act and
 15 amendments thereto, and that is used in the production, storage, or transportation of
 16 raw agricultural commodities;

17 (34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products
 18 Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any
 19 amendments thereto;

20 (35) "Practitioner" means medical or osteopathic physicians, dentists, chiropractors, and
 21 veterinarians who are licensed under the professional licensing laws of Kentucky to
 22 prescribe and administer drugs and devices. "Practitioner" includes optometrists
 23 when administering or prescribing pharmaceutical agents authorized in KRS
 24 320.240(12) to (14), advanced practice registered nurses as authorized in KRS
 25 314.011 and 314.042, physician assistants when administering or prescribing
 26 pharmaceutical agents as authorized in KRS 311.858, and health care professionals
 27 who are residents of and actively practicing in a state other than Kentucky and who

1 are licensed and have prescriptive authority under the professional licensing laws of
 2 another state, unless the person's Kentucky license has been revoked, suspended,
 3 restricted, or probated, in which case the terms of the Kentucky license shall
 4 prevail;

5 (36) "Prescription" means a written or oral order for a drug or medicine, or combination
 6 or mixture of drugs or medicines, or proprietary preparation, that is signed, given,
 7 or authorized by a medical, advanced practice registered nurse, dental, chiropody,
 8 veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure,
 9 mitigation, treatment, or prevention of disease in man or other animals;

10 (37) "Prescription blank" means a document that conforms with KRS 217.216 and is
 11 intended for prescribing a drug to an ultimate user;

12 (38) "Raw agricultural commodity" means any food in its raw or natural state, including
 13 all fruits that are washed, colored, or otherwise treated in their unpeeled natural
 14 form prior to marketing;

15 (39) "Retail food establishment" means any food service establishment, retail food store,
 16 or a combination of both within the same establishment;

17 (40) "Retail food store" means any fixed or mobile establishment where food or food
 18 products, including prepackaged, labeled sandwiches or other foods to be heated in
 19 a microwave or infrared oven at the time of purchase, are offered for sale to the
 20 consumer, and intended for off-premises consumption, but does not include
 21 establishments which handle only prepackaged, snack-type, nonpotentially
 22 hazardous foods, markets that offer only fresh fruits and vegetables for sale, food
 23 service establishments, food and beverage vending machines, vending machine
 24 commissaries, food processing establishments, or home-based processors;

25 (41) "Salvage distributor" means a person who engages in the business of distributing,
 26 peddling, or otherwise trafficking in any salvaged merchandise;

27 (42) "Salvage processing plant" means an establishment operated by a person engaged in

1 the business of reconditioning, labeling, relabeling, repackaging, reconditioning,
 2 sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or
 3 distributes for human or animal consumption or use any salvaged food, beverage,
 4 including beer, wine and distilled spirits, vitamins, food supplements, dentifrices,
 5 cosmetics, single-service food containers or utensils, containers and packaging
 6 materials used for foods and cosmetics, soda straws, paper napkins, or any other
 7 product of a similar nature that has been damaged or contaminated by fire, water,
 8 smoke, chemicals, transit, or by any other means;

9 (43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

10 (44) "Secretary" means the secretary of the Cabinet for Health and Family Services;

11 (45) "Temporary food service establishment" means any food service establishment
 12 which operates at a fixed location for a period of time, not to exceed fourteen (14)
 13 consecutive days;

14 (46) "Traffic" has the same meaning as it does in KRS 218A.010;

15 (47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

16 (48) If an article is alleged to be misbranded because the labeling is misleading, or if an
 17 advertisement is alleged to be false because it is misleading, in determining whether
 18 the labeling or advertisement is misleading, there shall be taken into account,
 19 among other things, not only representations made or suggested by statement, word,
 20 design, device, sound, or in any combination thereof, but also the extent to which
 21 the labeling or advertisement fails to reveal facts that are material in the light of the
 22 representations or material with respect to consequences which may result from the
 23 use of the article to which the labeling or advertisement relates under the conditions
 24 of use prescribed in the labeling or advertisement thereof or under the conditions of
 25 use as are customary or usual;

26 (49) The representation of a drug in its labeling or advertisement as an antiseptic shall be
 27 considered to be a representation that it is a germicide, except in the case of a drug

1 purporting to be, or represented as, an antiseptic for inhibitory use as a wet
 2 dressing, ointment, dusting powder, or other use involving prolonged contact with
 3 the body;

4 (50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs,
 5 devices, or cosmetics shall be considered to include the manufacture, production,
 6 processing, packing, exposure, offer, possession, and holding of those articles for
 7 sale, the sale, dispensing, and giving of those articles, and the supplying or applying
 8 of those articles in the conduct of any food, drug, or cosmetic establishment;

9 (51) "Home" means a primary residence occupied by the processor, that contains only
 10 two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators
 11 used for cold storage. This equipment shall have been designed for home use and
 12 not for commercial use, and shall be operated in the kitchen within the residence;

13 (52) "Formulated acid food product" means an acid food in which the addition of a small
 14 amount of low-acid food results in a finished equilibrium pH of 4.6 or below that
 15 does not significantly differ from that of the predominant acid or acid food;

16 (53) "Acidified food product" means a low-acid food to which acid or acidic food is
 17 added and which has a water activity value greater than 0.85, and a finished
 18 equilibrium pH of 4.6 or below;

19 (54) "Low-acid food" means foods, other than alcoholic beverages, with a finished
 20 equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

21 (55) "Acid food" means foods that have a natural pH of 4.6 or below;

22 (56) "Home-based processor" means a person who in his or her home, produces or
 23 processes pork lard or tallow-based cosmetic products or non-potentially
 24 hazardous foods, including but not limited to dried herbs, spices, nuts, candy, dried
 25 grains, whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum
 26 syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies, and who has a
 27 gross income of no more than sixty thousand dollars (\$60,000) annually from the

1 sale of the products;

2 (57) "Home-based microprocessor" means a farmer who, in the farmer's home or
 3 certified or permitted kitchen, produces or processes foods, including but not
 4 limited to acid foods, formulated acid food products, acidified food products, or
 5 low-acid canned foods, and who has a gross income of no more than sixty thousand
 6 dollars (\$60,000) annually from the sale of the product;

7 (58) "Certified" means any person or home-based microprocessor who:

8 (a) Has attended the Kentucky Cooperative Extension Service's microprocessing
 9 program or pilot microprocessing program and has been identified by the
 10 Kentucky Cooperative Extension Service as having satisfactorily completed
 11 the prescribed course of instruction; or

12 (b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;

13 (59) "Farmer" means a person who is a resident of Kentucky and owns or rents
 14 agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land
 15 pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to
 16 217.139, "farmer" also means any person who is a resident of Kentucky and has
 17 grown the primary horticultural and agronomic ingredients used in the home-based
 18 microprocessed products which they have produced; and

19 (60) "Farmers market temporary food service establishment" means any temporary food
 20 service establishment operated by a farmer who is a member of the market which
 21 operates within the confines of a farmers market registered with the Kentucky
 22 Department of Agriculture for the direct-to-consumer marketing of Kentucky-
 23 grown farm products from approved sources for a period of time not to exceed two
 24 (2) days per week for any consecutive six (6) months period in a calendar year.

25 ➡ Section 2. KRS 217.136 is amended to read as follows:

26 (1) A home-based processor shall be exempt from KRS 217.035, ~~and~~ 217.037, and
 27 217.095 if the following conditions are met:

- 1 (a) All finished product containers are clean, sanitary, and properly labeled
- 2 pursuant to subsection (3) of this section;
- 3 (b) All home-processed foods or pork lard or tallow-based cosmetic products
- 4 produced under this exemption are neither adulterated nor misbranded
- 5 pursuant to subsection (4) of this section; and
- 6 (c) All glass containers for jams, jellies, preserves, fruit butter, and similar
- 7 products are provided with suitable rigid metal covers.
- 8 (2) A home-based processor shall not produce or process for sale acid foods, acidified
- 9 food products, formulated acid food products, or low-acid canned foods.
- 10 (3) A home-based processor shall label each of its food or cosmetic products and
- 11 include the following information on the label of each of its food or cosmetic
- 12 products:
- 13 (a) The name and address of the home-based processing operation;
- 14 (b) The common or usual name of the food or cosmetic product;
- 15 (c) The ingredients of the food or cosmetic product, in descending order of
- 16 predominance by weight;
- 17 (d) The net weight and volume of the food or cosmetic product by standard
- 18 measure, or numerical count;
- 19 (e) The following statement in ten (10) point type: "This product is home-
- 20 produced and processed"; and
- 21 (f) The date the product was processed.
- 22 (4) Food or cosmetic products identified in KRS 217.015(56) and not labeled in
- 23 accordance with subsection (3) of this section are deemed misbranded.
- 24 (5) Food or cosmetic products identified in KRS 217.015(56) and produced, processed,
- 25 and labeled in accordance with subsection (3) of this section are acceptable food or
- 26 cosmetic products that may only be offered for sale directly to consumers within
- 27 this state, including from the home-based processor's home, whether by pick-up or

1 delivery, at a market, roadside stand, community event, or online. These food
2 products may be used in preparing and serving food.

3 (6) Food products identified in KRS 217.015(56) and labeled in accordance with
4 subsection (3) of this section shall not be required to be tested in determining
5 whether or not the food product is an acid food, acidified food product, formulated
6 acid food product, or low-acid food.

7 (7) The processing facilities of a home-based processor may be inspected annually by
8 the cabinet.

9 (8) A home-based processor shall be subject to product~~[food]~~ sampling and inspection
10 if it is determined that its ~~[food]~~ product is misbranded pursuant to subsection (4) of
11 this section or adulterated, or if a consumer complaint has been received.

12 (9) If the cabinet has reason to believe that an imminent health hazard exists it may
13 invoke cessation of production until it deems that the hazardous situation has been
14 addressed to the satisfaction of the cabinet.

15 (10) The cabinet shall promulgate administrative regulations to further delineate which
16 food or cosmetic products are subject to the definition of home-based processor, as
17 defined in KRS 217.015(56).

18 ~~(11) [No later than January 1, 2020, the cabinet shall develop and implement a~~
19 ~~registration system for home-based processors.]~~

20 ~~(12) Beginning January 1, 2020,]~~A home-based processor shall be registered with the
21 cabinet and include the following information:

22 (a) The name of the home-based processor and the physical address where
23 production or processing will occur; and

24 (b) A listing of the food or cosmetic products to be produced or processed.

25 ➔SECTION 3. A NEW SECTION OF KRS 217.005 TO 217.215 IS CREATED
26 TO READ AS FOLLOWS:

27 **(1) For the purposes of this section, "end consumer" means a person who is the last**

1 person to purchase any food product and who does not resell the food product.

2 (2) Notwithstanding any other provisions of law to the contrary, the secretary shall
3 promulgate administrative regulations in accordance with KRS Chapter 13A to:

4 (a) Exclude slaughtering and processing of poultry on a farm for the purpose
5 of conducting sales under 9 C.F.R. sec. 381.10 if the slaughtered and
6 processed poultry or poultry products are sold to an end consumer on a
7 farm, at a farmers market, or at a roadside stand;

8 (b) Require that poultry or poultry products processed under this section that
9 are sold on a farm be refrigerated at the point of sale and labeled in
10 compliance with the requirements of 9 C.F.R. sec. 381.10; and

11 (c) Require that poultry or poultry products processed under this section that
12 are sold at a farmers market or at a roadside stand be frozen at the point of
13 sale and labeled in compliance with the requirements of 9 C.F.R. sec.
14 381.10.

15 (3) Notwithstanding any other provisions of law to the contrary, a local
16 governmental agency shall not require any additional certification or inspection
17 of poultry or poultry products of a farmer acting in compliance with the
18 administrative regulations promulgated pursuant to this section.

19 ➡ Section 4. KRS 258.265 is amended to read as follows:

20 (1) An owner shall exercise proper care and control of his or her dog to prevent the dog
21 from violating any local government nuisance ordinance.

22 (2) Any peace officer or animal control officer may seize or destroy any dog found
23 running at large between the hours of sunset and sunrise, ~~and~~ unaccompanied, and
24 not under the control of its owner or handler. A peace officer or animal control
25 officer shall be under a duty to make a fair and reasonable effort to determine
26 whether any dog found at large between sunset and sunrise is a working livestock
27 dog, hound, or other hunting dog which has become lost temporarily from a pack or

wandered from immediate control of its owner~~[,]~~ or handler, and if he or she is reasonably sure that the dog is a working livestock dog or hunting dog, then he or she shall not destroy the dog~~[,]~~ unless it is found in the act of pursuing or wounding livestock, ~~for~~ wounding or killing poultry, or attacking human beings.

- (3) A working livestock dog, hound, or hunting dog may be unrestrained when engaged in lawful working or hunting activities while on private or public property designated or authorized for that purpose.

→ Section 5. KRS 259.120 is amended to read as follows:

Stray equines and stray cattle shall be taken up and posted in the following manner:

- (1) (a) Documentation of stray equines shall be taken before a county judge/executive of the district, who shall administer to the taker-up an oath, in substance, that the equine was taken up by him or her as a stray and that he or she has not defaced or altered the marks, brands, or other identifiers, including but not limited to microchips or freeze brands, of the equine.
- (b) Documentation of stray cattle shall be taken before a county judge/executive of the district, who shall administer to the taker-up an oath, in substance that the cattle were taken by him or her as strays on his or her premises within the preceding ten (10) days and that he or she has not defaced or altered the marks or brands of the cattle.
- (c) Duties of the county judge/executive pertaining to stray equines shall be to:
 1. Contract with a licensed veterinarian, who shall document the stray equine's breed, color, sex, marks, brands, scars, and other distinguishing features, perform a microchip scan, and identify the existence of lip tattoos, freeze brands, or microchips;
 2. Record the veterinarian's findings, the name and residence of the taker-up, and the location of the stray equine in a book to be kept by him or her for that purpose;

- 1 3. Maintain documentation in electronic and paper format; and
- 2 4. Send a copy of the documentation of the stray equine to the Office of
- 3 ~~the~~ State Veterinarian, who shall post notification on the Office of ~~the~~
- 4 State Veterinarian's website~~[Web-site]~~. The Office of ~~the~~ State
- 5 Veterinarian shall post one (1) photograph of the stray equine's front
- 6 view, including its head and feet, and one (1) photograph of the stray
- 7 equine's side view from muzzle to tail.

8 **(d) The county judge/executive:**

- 9 **1. May contract, subject to approval by the county legislative body, with a**
- 10 **person or organization that provides animal sheltering services to**
- 11 **perform those duties listed under this subsection and subsection (2) of**
- 12 **this section in lieu of the county judge/executive; and**
- 13 **2. Shall be immune from criminal liability and civil liability under KRS**
- 14 **259.140 for any discretionary act related to the taking up and posting**
- 15 **of stray equines;**
- 16 (2) The county judge/executive shall give to the taker-up a copy of the documentation
- 17 for the record and immediately deliver to the county clerk a certified copy of the
- 18 same record;
- 19 (3) The clerk shall immediately record the stray certificate of the county
- 20 judge/executive as provided by the taker-up in a book to be kept by him **or her** for
- 21 that purpose;
- 22 (4) The taker-up shall immediately post a copy of the county judge/executive's
- 23 certificate in the sheriff's office with jurisdiction over the area where the stray cattle
- 24 or stray equine was taken up after he **or she** has posted the stray. Hold time for stray
- 25 equines shall begin after all documentation has been properly filed and posted by
- 26 the county judge/executive and taker-up; and
- 27 (5) (a) If ownership is found from identifiers of the stray equine such as lip tattoos,

1 freeze brands, or microchips, efforts shall be made by the county/judge
2 executive or his or her designee to ascertain the owner by investigatory due
3 diligence in locating the owner and providing notice before holding time
4 expires. The owner/claimants of the stray equine shall reimburse the county
5 judge/executive for the cost of the veterinarian's assessment per the contracted
6 agreement.

7 (b) The taker-up shall be paid by the owner of the stray, if and when he or she
8 claims the stray or its value, the actual itemized costs incurred by the taker-up
9 for keeping the stray equine or cattle. In the event that a dispute arises relating
10 to ownership, adverse claimants, third-party claims or liens, value of the
11 equine, or actual itemized expenses incurred, the parties may file an action in
12 a court of competent jurisdiction of the county in which the stray equine was
13 taken up. The filing of an action under this paragraph shall toll holding time
14 as to vesting of ownership interests.

15 (c) The taker-up may have the stray equine sterilized only after the fifteen (15)
16 day holding period has expired and ownership vested pursuant to KRS
17 259.130, and any pending court cases pertaining to the stray equine have been
18 resolved.