

FINANCE AND ADMINISTRATION CABINET  
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Andy Beshear  
Governor

P.O. Box 798  
Frankfort, Kentucky 40602-0798  
Phone: 1.800.693.8211  
Fax: 1.502.696.7293

Holly M. Johnson  
Secretary

Diana L. Barber  
Interim Executive Director

July 13, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 11 KAR 4:080. Student Aid Applications.  
11 KAR 5:145. CAP grant award determination procedure.  
11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) program.  
11KAR 16:020. Early Childhood Development Scholarship Program disbursement.  
11 KAR 22:010. Dual Credit Scholarship Program.  
11 KAR 23:010. Optometry Scholarship Program.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 11 KAR 4:080, 11 KAR 5:145, 11 KAR 15:090, 11KAR 16:020, 11 KAR 22:010, and 11 KAR 23:010, the Kentucky Higher Education Assistance Authority, proposes the attached amendments to 11 KAR 4:080, 11 KAR 5:145, 11 KAR 15:090, 11KAR 16:020, 11 KAR 22:010, and 11 KAR 23:010.

Sincerely,

Miles F. Justice, Senior Associate Counsel  
Kentucky Higher Education Assistance

Authority  
100 Airport Road  
Frankfort, KY 40601

**Staff-suggested Amendment**

**Version 7/13/2022**

**Kentucky Higher Education Assistance Authority  
Division of Student and Administrative Services**

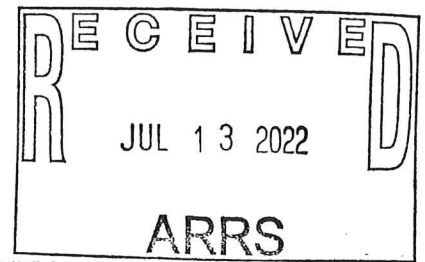
**11 KAR 4:080. Student aid applications.**

**Page 1**

**Section 1**

**Line 19**

After "Applications.", delete "In order".



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Kentucky Higher Education Assistance



Authority  
100 Airport Road  
Frankfort, KY 40601

## **Staff-suggested Amendment**

**Version 7/13/2022**

### **Kentucky Higher Education Assistance Authority Division of Student and Administrative Services**

#### **11 KAR 5:145. CAP grant award determination procedure.**

##### **Page 1**

##### **NECESSITY, FUNCTION, AND CONFORMITY paragraph**

##### **Line 7**

After "KRS 164.748(4)", "authorizes".

Delete "requires".

##### **Page 2**

##### **Section 2(1)(a) and (b)**

##### **Lines 3 and 4**

After "enrolled in a two", insert "(2)".

Delete "-".

After "enrolled in a four", insert "(4)".

Delete "-".

##### **Page 2**

##### **Section 2(3)**

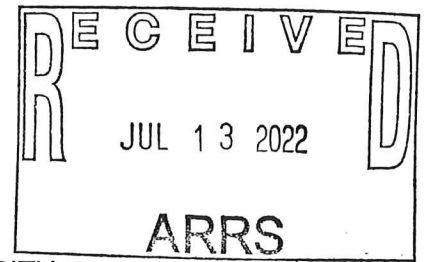
##### **Line 16**

After "two", insert "(2)".

Delete "-".

After "in a four", insert "(4)".

Delete "-".



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Kentucky Higher Education Assistance

Authority  
100 Airport Road  
Frankfort, KY 40601

**Staff-suggested Amendment**

**Version 7/13/2022**

**Kentucky Higher Education Assistance Authority  
Division of Student Administrative Services**

**11 KAR 15:090. Kentucky Educational Excellence Scholarship (KEES) program.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Lines 16, 17, and 18**

After "SAT and ACT.", delete the following:

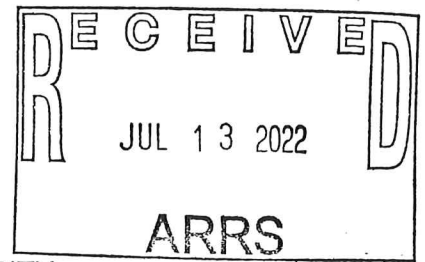
KRS 164.7881(6) requires the authority to promulgate administrative regulations establishing a five (5) year postsecondary education program standard.

**Page 8**

**Section 5(3)(b)**

**Line 5**

After "one", insert "(1)".



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100 Airport Road  
Frankfort, KY 40601



**Staff-suggested Amendment**

**Version 7/13/2022**

**Kentucky Higher Education Assistance Authority  
Division of Student and Administrative Services**

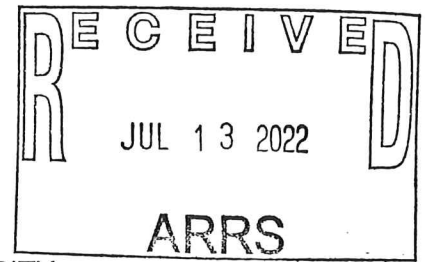
**11 KAR 16:020. Early Childhood Development Scholarship Program disbursement.**

**Page 1**

**Section 1**

**Lines 15 and 16**

After "shall include", delete "the following".



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**11 KAR 22:010.** Dual Credit Scholarship Program.  
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Kentucky Higher Education Assistance

Authority  
100 Airport Road  
Frankfort, KY 40601

## Subcommittee Substitute

### KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student and Administrative Services (As Amended at ARRS)

#### 11 KAR 22:010. Dual Credit Scholarship Program.

RELATES TO: KRS 164.786

STATUTORY AUTHORITY: KRS 164.786(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.786(3) requires the Kentucky Higher Education Assistance Authority to administer the Dual Credit Scholarship program and to promulgate administrative regulations needed for administration thereof. This administrative regulation establishes the provisions for administration of this scholarship program, including definitions, applications, awards, disbursements, refunds, and reporting.

Section 1. Definitions. (1) "Academic term" is defined ***by [in]*** KRS 164.786(1)(a).

(2) "Academic year" is defined ***by [in]*** KRS 164.786(1)(b).

(3) "Approved dual credit course" is defined ***by [in]*** KRS 164.786(1)(c).

(4) "Authority" is defined ***by [in]*** KRS 164.786(1)(d).

(5) "Certified high school" means any Kentucky public high school, a high school of a model or practice school under KRS 164.380, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with the curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160.

(6) "Dual credit tuition rate ceiling" is defined ***by [in]*** KRS 164.786(1)(f).

(7) "Eligible high school student" is defined ***by [in]*** KRS 164.786(1)(g).

(8) "Non-certified high school" means any private, parochial, church, or home school located in Kentucky that has not been certified by the Kentucky Board of Education.

(9) "Participating institution" is defined ***by [in]*** KRS 164.786(1)(h).

***(10) "Priority consideration" means that applications received prior to October 1 in a particular year shall be considered first for scholarship awards within that academic year.***

Section 2. Application and Award. (1) The method by which an application is submitted for an eligible high school student shall be determined by the type of high school in which the student is enrolled.

(a) A certified high school shall submit to the authority a data file in a format specified by the authority that identifies each eligible high school ***student who [that]*** is enrolled in an approved dual credit course.

1. Certified high school file submissions ***shall [must]*** be submitted to the authority by September 15 for the fall semester and February 1 for the spring semester of the academic year in which the award is made.

2. Within two ***(2)*** business days of receipt of a data file from a certified high school, the authority shall load the data provided by the high school and create a unique scholarship link on

each student's account at [kheaa.com](http://kheaa.com).

3. Each eligible high school student shall then sign in at [kheaa.com](http://kheaa.com) to access their scholarship application and designate their choice of participating institution and semester for each scholarship award being requested.

(b) An eligible high school student attending a non-certified high school shall submit to the authority a Dual Credit Scholarship Application as required by 11 KAR 4:080, Section 1(10).

(2) To the extent funds are available, the authority shall award scholarships to each eligible high school student and notify the student's participating institution of the award.

(3) The priority consideration deadline for an eligible high school student to submit a scholarship request for the fall semester is October 1. Final requests for both fall and spring semester scholarships shall be submitted no later than March 1 of the academic year in which the award is made.

Section 3. Enrollment Verification. (1) The participating institution shall verify the eligibility of each student and submit to the authority a complete and accurate enrollment verification record that shall include **[the following]**:

- (a) The prefix and number of the approved dual credit course the student is enrolled in;
- (b) The number of credit hours of the approved dual credit course;
- (c) The per-credit hour cost being charged by the participating institution, not to exceed the dual credit tuition rate ceiling established by the authority; and
- (d) The academic year and academic term of the approved dual credit course being reported.

(2) **If [In the event]** the approved dual credit course has a required laboratory, the participating institution shall report the laboratory prefix, number, and credit hours in addition to the course information specified in subsection (1) **of this section**. The cost of the laboratory **shall [will]** be paid in addition to the approved dual credit course as part of the scholarship award and shall not count against the student's course eligibility limit.

Section 4. Disbursement and Delivery of Funds. (1) Within thirty (30) days following receipt of the enrollment verification record, scholarship funds shall be disbursed by the authority to the participating institution for subsequent application to the account of the eligible high school student.

(2) The amount disbursed by the authority shall equal the number of credit hours in which the student is enrolled for the approved dual credit course multiplied by the per credit hour cost for each scholarship award, not to exceed the dual credit tuition rate ceiling.

(3) The participating institution shall:

- (a) Be responsible for proper disbursement of scholarship funds to each eligible student during the academic term for which each award is intended;
- (b) Be liable for disbursement to the wrong individual or to an ineligible student, or for untimely disbursement pursuant to this section; and
- (c) Make restitution to the authority of any amount improperly disbursed.

(4) Failure of the participating institution to make restitution when required shall, without precluding other remedies, be cause for limitation, suspension, or termination of the participation of the participating institution in accordance with 11 KAR 4:020.

Section 5. Returns. (1) The participating institution shall return the full scholarship disbursement amount to the authority for any course or laboratory in which enrollment was reported in error or the student was not enrolled ***[in the course]***.

(2) The participating institution shall not assess any charges to the student ***if [should]*** a return of funds to the authority ***is [be]*** required.

(3) ***No later than thirty (30) days after the end of the term in which the student's enrollment was reported in error,*** the participating institution shall remit to the authority the amount of scholarship funds allocated to be returned ***[as soon as possible but no later than thirty (30) days after the end of the term in which the student's enrollment was reported in error]***.

(4) The participating institution shall notify the authority of the return through the electronic process established for that purpose by the authority. The return information shall include:

- (a) The student's name and Social Security number;
- (b) The reason for the refund or repayment;
- (c) The amount being returned;
- (d) The semester and year for which the award was made; and
- (e) The course associated with the return.

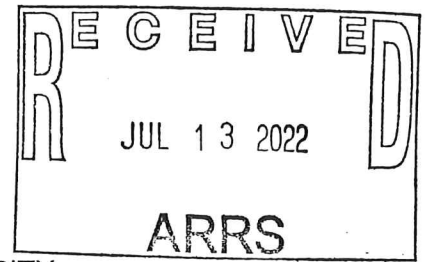
Section 6. Reporting. (1) Within 30 days of the end of each academic term, the participating institution shall submit to the authority the student's final grade for each course for which scholarship funds were received, except that the final grade for an approved dual credit course reported as a yearlong course and disbursed for the fall academic term shall be submitted to the authority within 30 days of the end of the spring academic term.

(2) Reports under this section shall be completed before funds for the next academic term under this program will be disbursed by the authority.

Section 7. Records. A participating institution shall:

- (1) Establish an organized system of records pertaining to scholarship recipient eligibility;
- (2) Maintain these records for a period of not less than three (3) years after the award year in which the recipient ceased enrollment; and
- (3) Upon request, make available to the authority:
  - (a) All records relied upon by that participating institution to certify that any recipient of funds from the authority is ***for*** an eligible student; and
  - (b) Information necessary to verify that the participating institution has complied with:
    - 1. KRS 164.786;
    - 2. 11 KAR Chapter 22; and
    - 3. Representations and requirements contained in its agreement with the authority.

CONTACT PERSON: Hon. Diana L. Barber, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7298, fax (502) 696-7293, email dbarber@kheaa.com.



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July 13, 2022

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Sincerely,

Miles F. Justice, Senior Associate Counsel  
Kentucky Higher Education Assistance



Authority  
100 Airport Road  
Frankfort, KY 40601

**Staff-suggested Amendment**

**Version 7/13/2022**

**Kentucky Higher Education Assistance Authority  
Division of Student and Administrative Services**

**11 KAR 23:010. Optometry Scholarship Program.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Line 10**

After "administration", delete "of the".

**Page 1**

**Section 1(3), (4), and (5)**

**Lines 17, 18, and 19**

After "is defined", insert "by".

Delete "in".

**Page 1**

**Section 2(1)**

**Line 20**

After "Award. (1)", delete "In order".

**Page 2**

**Section 2(4)**

**Line 14**

After "scholarship receipt", insert "shall be".

Delete "is".

**Page 2**

**Section 3(1)(b)**

**Line 22**

After "selection process", insert "shall".

Delete "will".

**Page 3**

**Section 3(2)**

**Line 2**

After "on a two", insert "(2)".

Delete "-".

**Page 3**

**Section 5**

**Line 9**

After "the authority", insert "shall".  
Delete "will".

**Page 3**

**Section 6(2)**

**Line 16**

After "one-half", insert "(1/2)".



## KENTUCKY PUBLIC PENSIONS AUTHORITY

David L. Eager, Executive Director

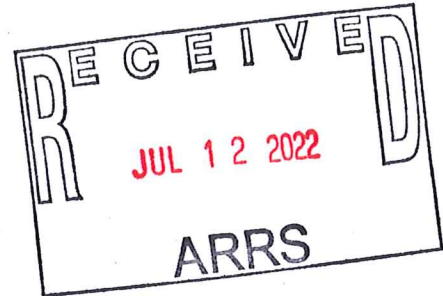
1260 Louisville Road • Frankfort, Kentucky 40601  
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Kentucky Public  
Pensions Authority

July 12, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulations Complier  
Administrative Regulation Review Subcommittee  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601



**Re: Amendment to 105 KAR 1:390, Employment after retirement.**

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 105 KAR 1:390, the Kentucky Public Pensions Authority proposes the attached amendment to 105 KAR 1:390.

Sincerely,

*Jessica Beaubien*

Jessica Beaubien  
Policy Specialist  
Kentucky Public Pensions Authority  
1260 Louisville Road  
Frankfort, Kentucky 40601

**SUGGESTED SUBSTITUTE**

**FINANCE AND ADMINISTRATION CABINET  
Kentucky Retirement Systems**

**105 KAR 1:390. Employment after retirement.**

RELATES TO: KRS 15.420(2)(a), 16.010, 16.505[(45)], 61.505, 61.510, 61.565, 61.590, 61.637, 61.675, 61.702, 70.291 - 70.293, 78.510[(3), (18)], 78.545, 78.5540, 78.625, 78.635, 95.022, 158.441, 164.952, 26 U.S.C. 401(a), 26 C.F.R. 1.401-1, 1.401(a)-1

STATUTORY AUTHORITY: KRS 61.505(1)(g) [(f)], 61.590, 61.637(18), 78.5540(5) [61.645(9)(e)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) [(f)] authorizes the Kentucky Public Pensions Authority [61.645(9)(e) requires the Board of Trustees of Kentucky Retirement Systems] to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with [necessary or proper in order to carry out the purposes and provisions of] KRS 16.505 to 16.652, 61.510 to 61.705, [16.505 to 16.652], and 78.510 to 78.852. KRS 61.637(18) and 78.5540(5) requires the [requires] Kentucky Public Pensions Authority [Retirement Systems] to promulgate administrative regulations to implement the requirements of KRS 61.637 and 78.5540. This administrative regulation concerns the administration of KRS 61.637 and 78.5540 in conjunction with federal law regarding bona fide separation from service and changes in employment relationship if a retired member returns to employment with a [Kentucky Retirement Systems] participating employer in a retirement system operated by the Kentucky Public Pensions Authority. 26 C.F.R. 1.401-1(a)(2) requires that a qualified plan expressly provide in its statutes and administrative regulations (plan documents) how it shall administer its plan in accordance with federal law in order to maintain the tax qualified status of the plan. This administrative regulation is necessary to maintain the tax qualified status of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System under 26 U.S.C. 401(a), and to comply with the provisions established in 26 C.F.R. 1.401-1(b)(1)(i) and 1.401(a)-1. [This administrative regulation establishes provisions relating to employment after retirement.]

**Section 1. Definitions.**

**(1) [Unless otherwise defined in this section, the definitions contained in KRS 16.505, 61.510, and 78.510 shall apply to this administrative regulation.]**

**(2) Prior to April 1, 2021, "Agency" means:**

**(a) Prior to April 1, 2021, the Kentucky Retirement Systems, which administered the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System; and**

**(b) Beginning [Effective] April 1, 2021, ["agency" means] the Kentucky Public Pensions Authority, which is authorized to carry out the day-to-day administrative needs of the Kentucky Retirement Systems (comprised of the State Police Retirement System and the Kentucky Employees Retirement System) and the County Employees Retirement System.**

**(2) "Employee" means a retired member who is performing services for an employer in a manner that demonstrates an employment relationship under the common law factors used by the Internal Revenue Service.**

**(3) "Employer" is defined by KRS 16.505(3), 61.510(6), and 78.510(7).**

**(4) "File" means a form has been received at the retirement office by mail, fax, secure email, in-person delivery, or upload via Self Service on the Web site maintained by the agency (if available).**

**(5) "Fiscal Year" is defined by KRS 16.505(32), 61.510(19), and 78.510(19).**

**(6) "Hazardous position" is defined by KRS 78.510(42).**

**(7) "Member" is defined by KRS 16.505(21), 61.510(8), and 78.510(8).**

**(8) "Month" is defined by KRS 16.505(34), 61.510(35), and 78.510(32).**

**(9) "Nonhazardous position" is defined by KRS 61.510(44) and 78.510(41).**

**(10)[(4)] "Retirement" [Initial retirement] [date] means the member's effective retirement date as described in KRS 61.590(5) and 78.545.**

**(5)] "Non-participating position" means any position of employment with a participating employer other than a regular full-time position [as defined by KRS 61.510(21), 78.510(21), and 61.680(6)] or a regular full-time officer position [as defined by KRS 16.505(22)].**

**(11)[(6)](2)] "Participating employer" means any employer that participates in one (1) of the systems operated [administered] by the agency [Kentucky Retirement Systems].**

**(12)[(7)](3)] "Participating position" means a regular full-time position [as defined by KRS 61.510(21)], [and] [78.510(21), and 61.680(6)] or a regular full-time officer position [as defined by KRS 16.505(22)].**

**(13)[(8)](4)] "Reemployment" means the retired member's first date of employment with a participating employer following his or her most recent [initial] retirement date.**

**(14) "Regular full-time officer position" is defined by KRS 16.505(22).**

**(15) "Regular full-time position" is defined by KRS 61.510(21), 61.680(6), 78.510(21), and 78.545(16).**

**(16) "Retired member" is defined by KRS 16.505(11), 61.510(24), and 78.510(23).**

**(17) "Retirement date" means the member's effective retirement date as described in KRS 61.590(5) and 78.545(4).**

**(18) "Retirement office" is defined by KRS 16.505(28), 61.510(31), and 78.510(29).**

**(19) "School board" is defined by KRS 78.510(4).**

**(20) "Service" is defined by KRS 16.505(6), 61.510(9), and 78.510(9).**

**(21)[(9)] "Systems" means the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System.**

**(22) "Volunteer" is defined by KRS 61.510(42) and 78.510(39).**

## Section 2. Form 6000 Certification.

(1) In order to retire with the systems operated by the agency [Kentucky Retirement Systems], an eligible member shall submit a Form 6000, Notification of Retirement, as incorporated by reference in 105 KAR 1:200. The Form 6000, Notification of Retirement, shall comply with the requirements of KRS 61.590, KRS 78.545, and 105 KAR 1:200.

(2) The agency [Kentucky Retirement Systems] shall not process a Form 6000, Notification of Retirement, until the member certifies on the Form 6000 that there is no prearranged agreement for reemployment with a participating employer after the member's [initial] retirement date.

## Section 3. Employment After Retirement.

(1) A retired member who is reemployed with a participating employer in any position, including participating positions and non-participating positions, shall have:

- (a) A bona fide separation from service as provided in subsection (2) of this section; and
- (b) A break in service as provided in subsection (3) of this section.

(2)

(a) "Bona fide separation from service" as provided in this section shall include a cessation of the employment relationship between the member and the member's employer without a prearranged agreement when the member retires that he or she will return to work for any participating employer in any capacity.

(b) "Prearranged agreement" as provided in this section shall not include reemployment accepted more than twelve (12) [calendar] months after the member's [initial] retirement date.

(c) An elected official's retirement shall be voided due to the existence of a prearranged agreement if, within twelve (12) months of [initial] retirement, the official is reelected and takes office in the same position as the elected official held prior to retirement [from which the official retired].

(3) "Break in service" as provided in this section shall require that:

- (a) A member who retired from a hazardous position shall have a one (1) **[calendar]** month break in service before returning to work with any participating employer in a hazardous participating position.
- (b) Except as provided in paragraph (a) of this subsection, a member who retired from a hazardous or nonhazardous position shall have a three (3) **[calendar]** month break in service before returning to work with any participating employer.

(4)

~~[(a)]~~ If a retired member seeks reemployment with a participating employer within twelve (12) months of his or her ~~[initial]~~ retirement date, then the following shall be filed at the retirement office:

(a) The ~~[the]~~ participating employer shall certify that there was no prearranged agreement on ~~[-The participating employer shall file at the retirement office]~~ a completed Form 6751, Employer Certification Regarding Reemployment; ~~[-]~~

(b) A ~~[The retired member shall file at the retirement office a completed]~~ Form 6754, Member Reemployment Certification, completed by the retired member; and

(c) Any other information requested by the agency from the participating employer and the retired member pursuant to KRS 61.637(8) and 78.5540(2)(a).

(5)

(a) The agency ~~[Kentucky Retirement Systems]~~ shall issue a final determination to the retired member no later than thirty (30) days after receipt of all required forms and additional requested information.

(b) If the agency ~~[Kentucky Retirement Systems]~~ determines that the retired member failed to have a bona fide separation from service or a break in service and returned to work with any participating employer in any position, including a participating position or a non-participating position, the retired member's retirement shall be voided and he or she shall repay all retirement allowances, dependent child payments, and health plan premiums paid by the ~~systems~~ ~~[Kentucky Retirement Systems]~~.

#### Section 4. Independent Contractors and Leased Employees.

(1)

[(a)] If a retired member seeks to provide services to a participating employer as an independent contractor, under a professional services contract, or as a leased employee~~[Both the retired member and the participating employer shall file written notice at the retirement office if,]~~ within twelve (12) months of the retired member's ~~[initial-]~~retirement date, then the following shall be filed at the retirement office:~~[the retired member provides services to a participating employer as an independent contractor or as a leased employee.]~~

(a)~~[(b)]~~ A ~~[The participating employer shall file at the retirement office a]~~ Form 6752, Employer Certification of Independent Contractor/Leased Employee, completed by the participating employer;~~[-]~~

(b)~~[(c)]~~ A ~~[The retired member shall file at the retirement office a completed]~~ Form 6754, Member Reemployment Certification, completed by the member;

(c) A ~~[and a]~~ complete copy of any contract under which services are provided by the retired member to the participating employer; and

(d) Any other information requested by the agency from the participating employer and the retired member pursuant to KRS 61.637(9) and 78.5540(2)(b).

(2) The agency shall apply common law factors used by the Internal Revenue Service (IRS), in accordance with IRS Publication 1779, to determine whether a retired member is an employee of the participating employer or an independent contractor of the participating employer.

(3)

(a) The agency ~~[Kentucky Retirement Systems]~~ shall issue a final determination to the retired member no later than thirty (30) days after receipt of all required forms and requested information.

(b) If the agency ~~[Kentucky Retirement Systems]~~ determines that the retired member is an employee of the participating employer, rather than an independent contractor or leased employee through a leasing company, staffing agency, or other entity:

1. ~~[-]~~ The retired member shall be subject to the provisions of Section 3 of this administrative regulation and shall ~~[be required to]~~ have a "bona fide separation from service" and "break in service ~~[-]~~"; and



~~2.[(c) If the agency determines that the retired member is an employee of the participating employer, rather than an independent contractor or leased employee through a leasing company, staffing agency, or other entity,] The employer shall [be required to]do the following:~~  
~~a. [1.] Report the retired member as required by KRS 61.675, KRS 78.625, and 105 KAR 1:145;~~  
~~b. [2.] Pay employer contributions for the retired member as specified by KRS 61.565, 61.702, and 78.635; and~~  
~~c. [3.] Reimburse the systems for the cost of health insurance premiums paid by the systems for the retired member.~~

## Section 5. Volunteers.

(1)

~~[(a)] If a retired member seeks to volunteer with a participating employer[Both the retired member and participating employer shall file written notice at the retirement office if,] within twelve (12) months of the retired member's [initial]retirement date, then the following shall be filed at the retirement office:[the retired member seeks to volunteer with a participating employer.]~~

~~(a)[(b)] A[The participating employer shall file at the retirement office a completed] Form 6753, Employer Certification of Volunteer, completed by the participating employer;[-]~~

~~(b)[(c)] A[The retired member shall file at the retirement office a completed] Form 6754, Member Reemployment Certification, completed by the retired member; and~~

~~(c) Any other information requested by the agency from the participating employer and retired member pursuant to KRS 61.637(8) and 78.5540(2)(a).~~

(2)

~~(a) The agency [Kentucky Retirement Systems] shall issue a final determination to the retired member no later than thirty (30) days after receipt of all required forms and requested information.~~

~~(b) If the Agency [Kentucky Retirement Systems] determines that the retired member is an employee of the participating employer, rather than a volunteer:~~

~~1. [,] The retired member shall be subject to the provisions of Section 3 of this administrative regulation and shall [be required to] have a "bona fide separation from service" and "break in service [.]"; and~~

~~2. [(c) If the agency determines that the retired member is an employee of the participating employer, rather than a volunteer,] The employer shall [be required to] do the following:~~

~~a. [1.] Report the retired member as required by KRS 61.675, 78.625, and 105 KAR 1:145;~~

~~b. [2.] Pay employer contributions for the retired member as specified by KRS 61.565, 61.702, and 78.635; and~~

~~c. [3.] Reimburse the systems for the cost of health insurance premiums paid by the systems for the retired member.~~

## Section 6. Health Insurance Premium Reimbursements for Retired Members Reemployed by Multiple Participating Employers.

~~(1) If a retired member is reemployed by multiple participating employers in a [calendar]month in positions that qualify as regular full-time[pursuant to KRS 61.510(21), 61.680(6), 78.510(21), and 78.545(16)], each participating employer shall be responsible for reimbursing the systems for a portion of the health insurance premium paid by the systems to provide coverage for the retired member for that [calendar]month that is equal to the cost of the premium divided by the number of participating employers that are not exempt from reimbursement of health insurance premiums.~~

~~(2) Participating employers that are exempt from reimbursement of health insurance premiums under Section 7 of this administrative regulation, or by virtue of being a school board employing the retired member for eighty (80) days or less during the fiscal year, are not responsible for health insurance premiums under this section.~~

## Section 7. Exemption for Payment Of Employer Contributions and Reimbursement of Health Insurance Premiums for Retired Members Reemployed as Police Officers and School Resource Officers.

(1)

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 for a term of appointment of no more than one (1) year if a completed Form 6760, County Police or Sheriff Appointment of Retired Police Officer, and the supporting documentation required by the Form 6760 are on file at the retirement office prior to the start of the retired member's term of appointment.

(b) If a completed Form 6760, County Police or Sheriff Appointment of Retired Police Officer, and the supporting documentation required by the Form 6760 are not on file at the retirement office prior to the start of the retired member's term of appointment as a police officer pursuant to KRS 70.291 to 70.293, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 effective in the [calendar] month after a completed Form 6760 and supporting documentation are on file at the retirement office.

(2)

(a) For each subsequent term of reappointment after the initial term of appointment listed on the completed Form 6760, County Police or Sheriff Appointment of Retired Police Officer, described in subsection (1) of this section, the participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 for a term of reappointment of no more than one (1) year if a completed Form 6764, Recertification of Retired Police Officer, is on file at the retirement office prior to the start of the retired member's term of reappointment.

(b) If a completed Form 6764, Recertification of Retired Police Officer, is not on file at the retirement office prior to the start of the retired member's term of reappointment as a police officer pursuant to KRS 70.291 to 70.293, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 70.291 to 70.293 effective in the [calendar] month after a completed Form 6764 and supporting documentation are on file at the retirement office.

(3)

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems to provide coverage for a retired member reemployed as a school resource officer pursuant to KRS 158.441 for a term of appointment of no more than one (1) year if a completed Form 6766, Appointment of Retired School Resource Officer, and the supporting documentation required by the Form 6766 are on file at the retirement office prior to the start of the retired member's term appointment.

(b) If a completed Form 6766, Appointment of Retired School Resource Officer, and the supporting documentation required by the Form 6766 are not on file at the retirement office prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a school resource officer pursuant to KRS 158.441 effective in the [calendar] month after a completed Form 6766 and supporting documentation are on file at the retirement office.

(4)

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a Kentucky State Police school resource officer pursuant to KRS 158.441 for a term of appointment of no more than one (1) year if a completed Form 6767, Appointment of Kentucky State Police School Resource Officer, and the supporting documentation required by the Form 6767 are on file at the retirement office prior to the start of the retired member's term appointment.

(b) If a completed Form 6767, Appointment of Kentucky State Police School Resource Officer, and the supporting documentation required by the Form 6767 are not on file at the retirement office prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a Kentucky State Police school resource officer pursuant to KRS 158.441

effective in the ~~[calendar]~~ month after a completed Form 6767 and supporting documentation are on file at the retirement office.

(5)

(a) A participating employer shall be exempt from paying employer contributions and from reimbursing the systems for the cost of the health insurance premiums paid by the systems for a retired member reemployed as a police officer by a postsecondary institution pursuant to KRS 164.952 for a term of appointment of no more than one (1) year if a completed Form 6768, Postsecondary Institution Appointment of Retired Police Officer, and the supporting documentation required by the Form 6768 are on file at the retirement office prior to the start of the retired member's term appointment.

(b) If a completed Form 6768, Postsecondary Institution Appointment of Retired Police Officer, and the supporting documentation required by the Form 6768 are not on file at the retirement office prior to the start of the retired member's term appointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer by a postsecondary institution pursuant to KRS 164.952 in the ~~[calendar]~~ month after a completed Form 6768 and supporting documentation are on file at the retirement office.

(6) A participating employer shall not be eligible for exemption from payment of employer contributions or from reimbursing the systems for the costs of health insurance premiums for any retired members reemployed as a police officer pursuant to KRS 95.022 unless a Form 6769, Certification of Employed Police Officers Calendar Year 2015, is on file at the retirement office.

(7)

(a) A participating employer with a Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file at the retirement office shall be exempt from paying employer contributions and from reimbursing the systems for the costs of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 95.022 for a term of appointment of no more than one (1) year if a completed Form 6770, City Appointment of Retired Police Officer, and the supporting documentation required by the Form 6770 are on file at the retirement office prior to the start of the retired member's term of appointment.

(b) If a completed Form 6770, City Appointment of Retired Police Officer, and the supporting documentation required by the Form 6770 are not on file at the retirement office prior to the start of the retired member's term of appointment, then the participating employer with a Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file at the retirement office shall be exempt from paying employer contributions and reimbursements of health insurance premiums for a retired member reemployed as a police officer pursuant to KRS 95.022 effective in the ~~[calendar]~~ month after a completed Form 6770 and supporting documentation are on file at the retirement office.

(8)

(a) Each subsequent term of reappointment after the initial term of appointment listed on the completed Form 6770, City Appointment of Retired Police Officer, described in subsection (7) of this section, the participating employer with a Form 6769, Certification of Employed Police Officers Calendar Year 2015, on file shall be exempt from paying employer contributions and health insurance premiums paid by the systems for a retired member reemployed as a police officer pursuant to KRS 95.022 for a term of reappointment of no more than one (1) year if a completed Form 6774, City Recertification of Retired Police Officer, is on file at the retirement office prior to the start of the retired member's term of reappointment.

(b) If a completed Form 6774, City Recertification of Retired Police Officer, is not on file at the retirement office prior to the start of the retired member's term of reappointment, then the participating employer shall be exempt from paying employer contributions and reimbursements of health insurance premiums for retired member reemployed as a police officer pursuant to KRS 95.022 in the ~~[calendar]~~ month after a completed Form ~~6774~~~~[6764]~~ is on file at the retirement office.

#### Section 8. ~~[Section 6.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

- (a) Form 6751, "Employer Certification Regarding Reemployment," March 2022~~[June 2019]~~;
- (b) Form 6752, "Employer Certification of Independent Contractor/Leased Employee," April 2021~~[June 2019]~~;
- (c) Form 6753, "Employer Certification of Volunteer," April 2021~~[June 2019]~~; and]
- (d) Form 6754, "Member Reemployment Certification," April 2021;
- (e) Form 6760, "County Police or Sheriff Appointment of Retired Police Officer," March 2022;
- (f) **Form 6764, "Recertification of Retired Police Officer," June 2019;**
- (g) Form 6766, "Appointment of Retired School Resource Officer," March 2022;
- ~~(h)~~**(g)** Form 6767, "Appointment of Kentucky State Police School Resource Officer," March 2022;
- ~~(i)~~**(h)** Form 6768, "Postsecondary Institution Appointment of Retired Police Officer," March 2022;
- ~~(j)~~**(i)** Form 6769, "Certification of Employed Police Officers Calendar Year 2015," July 2016;
- ~~(k)~~**(j)** Form 6770, "City Appointment of Retired Police Officer," March 2022; **and**
- ~~(l)~~**(k)** Form 6774, "City Recertification of Retired Police Officer," July 2016; **and**~~[June 2019.]~~
- (m) Internal Revenue Service Publication 1779, "Independent Contractor or Employee," March 2012.**

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Public Pensions Authority ~~[Retirement Systems]~~, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8:00 a.m. to 4:30 p.m. This material is also available on the Authority's Web site at [kyret.ky.gov](http://kyret.ky.gov).

CONTACT PERSON: Michael Board, Executive Director Office of Legal Services, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, email [Legal.Non-Advocacy@kyret.ky.gov](mailto:Legal.Non-Advocacy@kyret.ky.gov), telephone (502) 696-8800 ext. 8647, facsimile (502) 696-8801.



## Recertification of Retired Police Officer

**IMPORTANT NOTICE: The appointing employer will be invoiced unless this form is fully completed.**

### Member Information

Member Name:	Member ID:	
Reemploying Employer:	Employer Code:	
Was the member previously approved for reemployment pursuant to KRS 70.291 - 70.293 or KRS 164.950 - 164.980? <input type="radio"/> Yes <input type="radio"/> No		
Term of Appointment (cannot exceed one year):	Begin Date:	End Date:

### Employer Certification

Pursuant to Penalty of Perjury, I certify that the following statements are true:

My name is \_\_\_\_\_ and I hold the position of Chief of Police/Reporting  
Official for \_\_\_\_\_ and I have reappointed the retired member identified above for the  
term identified above.

I further acknowledge that I have full understanding that any person who provides a false statement, report, or representation is  
subject to the penalty of perjury in accordance with KRS 523.010, et seq.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_



## IRS Tax Publications

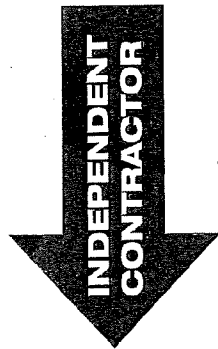
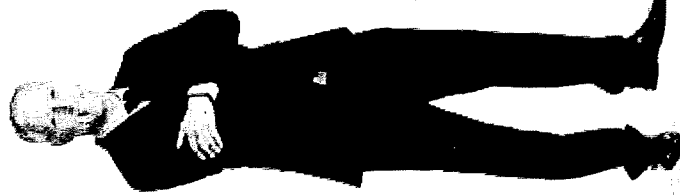
If you are not sure whether you are an employee or an independent contractor, get Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding. Publication 15-A, Employer's Supplemental Tax Guide, provides additional information on independent contractor status.

## IRS Electronic Services

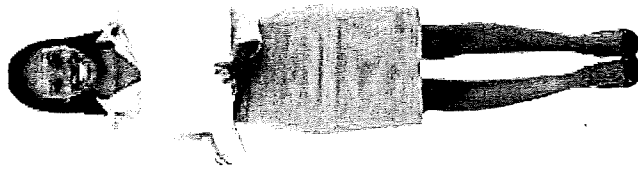
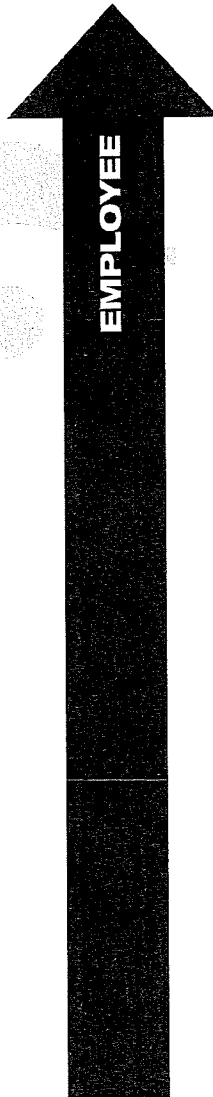
You can download and print IRS publications, forms, and other tax information materials on the Internet at [www.irs.gov](http://www.irs.gov). You can also call the IRS at 1-800-829-3676 (1-800-TAX-FORM) to order free tax publications and forms.

Publication 1796, 2007 IRS Tax Products CD (Final Release), containing current and prior year tax publications and forms, can be purchased from the National Technical Information Service (NTIS). You can order Publication 1796 toll-free by calling 1-877-233-6767 or via the Internet at [www.irs.gov/cdorders](http://www.irs.gov/cdorders).

Call 1-800-829-4933, the Business and Speciality Tax Line, if you have questions related to employment tax issues.



# OR



# Independent Contractor or Employee

## Which are you?

For federal tax purposes, this is an important distinction. Worker classification affects how you pay your federal income tax, social security and Medicare taxes, and how you file your tax return. Classification affects your eligibility for social security and Medicare benefits, employer provided benefits and your tax responsibilities. If you aren't sure of your work status, you should find out now. This brochure can help you.

The courts have considered many facts in deciding whether a worker is an independent contractor or an employee. These relevant facts fall into three main categories: behavioral control; financial control; and relationship of the parties. In each case, it is very important to consider all the facts – no single fact provides the answer. Carefully review the following definitions.

### Behavioral Control

These facts show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done – as long as the employer has the right to direct and control the work. For example:

**Instructions** – if you receive extensive instructions on how work is to be done, this suggests that you are an employee. Instructions can cover a wide range of topics, for example:

- how, when, or where to do the work
- what tools or equipment to use
- what assistants to hire to help with the work
- where to purchase supplies and services

If you receive less extensive instructions about what should be done, but not how it should be done, you may be an independent contractor. For instance, instructions about time and place may be less important than directions on how the work is performed.

**Training** – if the business provides you with training about required procedures and methods, this indicates that the business wants the work done in a certain way, and this suggests that you may be an employee.

### Financial Control

These facts show whether there is a right to direct or control the business part of the work. For example:

**Significant Investment** – if you have a significant investment in your work, you may be an independent contractor. While there is no precise dollar test, the investment must have substance. However, a significant investment is not necessary to be an independent contractor.

**Expenses** – if you are not reimbursed for some or all business expenses, then you may be an independent contractor, especially if your unreimbursed business expenses are high.

**Opportunity for Profit or Loss** – if you can realize a profit or incur a loss, this suggests that you are in business for yourself and that you may be an independent contractor.

### Relationship of the Parties

These are facts that illustrate how the business and the worker perceive their relationship. For example:

**Employee Benefits** – if you receive benefits, such as insurance, pension, or paid leave, this is an indication that you may be an employee. If you do not receive benefits, however, you could be either an employee or an independent contractor.

**Written Contracts** – a written contract may show what both you and the business intend. This may be very significant if it is difficult, if not impossible, to determine status based on other facts.

## When You Are an Employee...

■ Your employer must withhold income tax and your portion of social security and Medicare taxes. Also, your employer is responsible for paying social security, Medicare, and unemployment (FUTA) taxes on your wages. Your employer must give you a Form W-2, Wage and Tax Statement, showing the amount of taxes withheld from your pay.

■ You may deduct unreimbursed employee business expenses on Schedule A of your income tax return, but only if you itemize deductions and they total more than two percent of your adjusted gross income.

## When You Are an Independent Contractor...

■ The business may be required to give you Form 1099-MISC, Miscellaneous Income, to report what it has paid to you.

■ You are responsible for paying your own income tax and self-employment tax (Self-Employment Contributions Act – SECA). The business does not withhold taxes from your pay. You may need to make estimated tax payments during the year to cover your tax liabilities.

■ You may deduct business expenses on Schedule C of your income tax return.



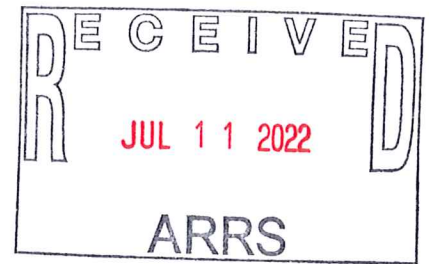




ANDY BESHEAR  
GOVERNOR

**KENTUCKY BOARD OF PHARMACY**

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**EXECUTIVE DIRECTOR**

CHRISTOPHER P. HARLOW, PHARM.D.

July 11, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, Kentucky 40601

RE: **201 KAR 2:020**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 2:020, the Board of Pharmacy proposes the attached amendment to 201 KAR 2:020.

Christopher P. Harlow, Pharm.D.  
Executive Director  
Kentucky Board of Pharmacy

Final, 6-27-2022

SUGGESTED SUBSTITUTE

BOARD AND COMMISSIONS  
Board of Pharmacy

201 KAR 2:020. Examination.

RELATES TO: KRS 218A.205~~(8)(7)~~, 315.050

STATUTORY AUTHORITY: KRS 218A.205~~(8)(7)~~, 315.050(2), 315.191(1), (2), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.050(2) and 315.191(1)(c) authorize the board to promulgate administrative regulations to prescribe the time, place, method, manner, scope, and subjects of examinations. KRS 218A.205~~(8)(7)~~ requires the board to establish requirements for background checks for licensees. This administrative regulation establishes the examination and application requirements for obtaining a license to practice pharmacy in Kentucky.

Section 1. The examination for licensure shall include:

- (1) The North American Pharmacist Licensure Examination (NAPLEX); and
- (2) The Multistate Pharmacy Jurisprudence Examination (MPJE).

Section 2. Both the NAPLEX and the MPJE examinations are graded as pass or fail.~~[The passing score on the required examinations shall be:]~~

- ~~[(1)] [At least seventy five (75) on the basis of the NAPLEX and the MPJE grades shall not be used in computing the NAPLEX; and]~~
- ~~[(2)] [At least seventy five (75) on the basis of the MPJE.]~~

Section 3. If an applicant fails an examination~~[to obtain the necessary scores in any of the tests]~~ described in Section 2 of this administrative regulation, the applicant may upon proper application retake the examination~~[tests upon the payment of the fee set forth in 201 KAR 2:050 plus any direct costs for test materials and supplies]~~. An applicant is limited to three (3) attempts for each examination without further board approval. An applicant is limited to a lifetime limit of five (5) attempts on each examination~~[who has failed any test may retake that test within one (1) year of the date the applicant first failed the test without having to reapply]~~.

Section 4. If after three (3) examination attempts, the applicant has not passed, to qualify for two (2) additional attempts, the applicant shall~~[must]~~:

- (1) For the NAPLEX, complete a refresher course and submit to the Board of Pharmacy a certificate of completion; and
- (2) For the MPJE, submit to the Board of Pharmacy:
  - (a) Proof of (5) five hours of ACPE or board approved continuing education in the topic of pharmacy law;~~[;]~~ or
  - (b) A certificate of completion of a refresher course.

Section 5. All results of examinations shall be preserved according to the Board of Pharmacy Record Retention Schedule.

~~Section 6. [Section 5:] [Fees submitted with an application shall be nonrefundable.]~~

~~[Section 6:]~~ Prior to approval for examination, an applicant shall:

- (1) Submit to a nation-wide criminal background investigation by means of fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; **[and]**
- (2) Submit to a query to the National Practitioner Data Bank of the United States Department of Health and Human Services;**[.]**
- (3) Submit an Initial Application for Pharmacist Licensure that reports:
  - (a) Name, maiden, and other names used currently or previously;
  - (b) Address and telephone number;
  - (c) Date of birth;
  - (d) Social Security number;
  - (e) Citizenship;
  - (f) Sex;
  - (g) Name of pharmacy school;
  - (h) Intern Registration Number;
  - (i) Record of any conviction for any felony or misdemeanor offense;
  - (j) Record of any state licensing agency refusal of licensure, failure of examination, or refusal of examination; and
  - (k) Certificate of moral standing.
- (4) Submit a Certification of ~~College~~**[pharmacy school]** Graduation ***completed by the Dean of the College of Pharmacy where the applicant graduated pharmacy school; and***
- (5) Submit a Certification of Intern Hours ***completed by the College of Pharmacy where the applicant graduated, or the State Board of Pharmacy if the hours are outside of Kentucky.***

Section 7. [License,]Fee. An applicant shall submit[:]

[(1)] [An Initial Application for Pharmacist Licensure pursuant to KRS 315.050; and]

[(2)] [As appropriate,] the fee established by 201 KAR 2:050, Section 1(1).

Section 8. Incorporation by Reference.

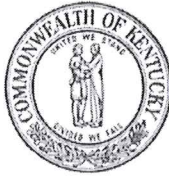
(1) ***The following material is incorporated by reference: (a)*** "Initial Application for Pharmacist Licensure", Form 1, 3/2022~~[42/2019]~~; ***(b)***~~, is incorporated by reference.~~

~~(2)] "Certification of College Graduation", Form 2, 03/2022; and (c)~~***is incorporated by reference.***

~~(3)] "Certification of Intern Hours", Form 3, 03/2022. (2)~~***is incorporated by reference.***

~~(4)]~~ This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Pharmacy, State Office Building Annex, Suite 300, 125 Holmes Street, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. ***This material is also available on the board's Web site at <https://pharmacy.ky.gov/Forms/Pages/default.aspx>.***

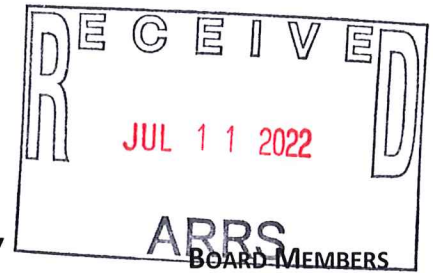
CONTACT PERSON: Christopher P. Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.



ANDY BESHEAR  
GOVERNOR

**KENTUCKY BOARD OF PHARMACY**

125 Holmes Street, Suite 300  
State Office Building Annex  
Frankfort, Kentucky 40601  
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JASON BELCHER, CONSUMER  
PETER P. COHRON, R.PH.  
MEREDITH FIGG, PHARM.D.  
ANTHONY TAGAVI, PHARM.D.  
JOHN FULLER, R.PH.  
JONATHAN VAN LAHR, R.PH.

**EXECUTIVE DIRECTOR**  
CHRISTOPHER P. HARLOW, PHARM.D.

July 11, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, Kentucky 40601

RE: **201 KAR 2:225**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 2:225, the Board of Pharmacy proposes the attached amendment to 201 KAR 2:225.

Christopher P. Harlow, Pharm.D.  
Executive Director  
Kentucky Board of Pharmacy

Final, 6-27-2022

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS  
Board of Pharmacy

**201 KAR 2:225. Special limited pharmacy permit – Medical gas.**

RELATES TO: KRS 217.015(11), 315.010(9), 315.020, 315.035, 315.191(1)(a)

STATUTORY AUTHORITY: KRS 315.020, 315.035, 315.191(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 315.191(1)(a) authorizes the board to promulgate ~~administrative~~~~administrative~~~~administrative~~ regulations to regulate and control all matters set forth in KRS Chapter 315 relating to pharmacists and pharmacies. This administrative regulation establishes, consistent with the requirements of KRS 315.191(1)(a), minimum requirements for the permitting of those entities that distribute medical gases.

Section 1. Definitions.

- (1) "Medical gases" means gases (including liquefied gases) classified by FDA as drugs or devices that are used for medical applications and which may be stored and administered through the use of Medical Gas Related Equipment, which may or may not be required under Federal or State law for the immediate container to bear the label, "Rx only" or "Caution: Federal or State law prohibits dispensing without a prescription.
- (2) "Special limited pharmacy ~~permit~~~~permits~~~~permit~~" means a permit issued to a pharmacy that provides miscellaneous specialized pharmacy service and functions.

Section 2. General Requirements.

- (1)
  - (a) An applicant for a special limited pharmacy permit for medical gases shall comply with the requirements of 201 KAR 2:180, except Section 5 and 201 KAR 2:205, except that the pharmacist-in-charge designated on the special permit shall be exempt from the requirements of 201 KAR 2:205, Section 2(2).
  - (b) The pharmacist-in-charge shall review the records and do an onsite visit of the special limited pharmacy permit ~~applicant~~~~application~~~~applicant~~ for medical gases not less than once each quarter.
- (2) An applicant for a special limited pharmacy permit for medical gases shall prepare and adopt a policy and procedures manual that sets forth a detailed description of how the:
  - (a) Operation will comply with applicable federal, state, or local laws or administrative regulations; and
  - (b) Licensee will maintain the premises so that the medical gas remains secure and complies with applicable compendial monographs of official pharmacopoeias.
- (3) An applicant for a special limited pharmacy permit for medical ~~gases~~~~gas~~~~gases~~ shall be inspected by the board prior to the issuance of the license.

Section 3. Qualifications for License.

- (1) The board shall consider the following in reviewing the qualifications of an applicant for a special limited pharmacy permit for medical gases:
  - (a) The applicant's experience in the sale or distribution of prescription drugs, including controlled substances;
  - (b) A felony conviction of the applicant under federal, state, or local laws;
  - (c) The furnishing by the applicant of false or fraudulent material in a previous application for:

1. A special limited pharmacy permit for medical gases; or
  2. A federal or state medical assistance program;
  - (d) Suspension or revocation of an applicant's license or permit by federal, state, or local government; and
  - (e) Compliance with requirements under a previously granted license or permit.
- (2) The board shall deny an application for a special limited pharmacy permit for medical gases, if an applicant has:
- (a) Been convicted for a violation of federal, state, or local laws relating to:
    1. The practice of pharmacy;
    2. Drugs; or
    3. Federal or state medical assistance programs.
  - (b) Furnished false or fraudulent material in the application for a special limited pharmacy permit for medical gases;
  - (c) Failed to maintain or make available required records to the:
    1. Board; or
    2. Federal, state, or local law enforcement officials;
  - (d) Failed to comply with applicable federal, state, and local laws and regulations relating to medical gas; or
  - (e) Failed to provide appropriate land, buildings, and security necessary to properly carry on the business described in his application.

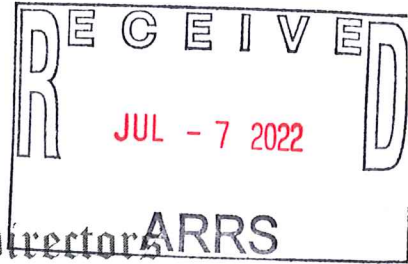
#### Section 4. License Fees; Renewals. An applicant shall submit:

- (1) An initial or renewal application for a special limited pharmacy permit ~~for~~<sup>for</sup> medical gases on either the ~~[ ]~~<sup>[ ]</sup> Application for Special Limited Pharmacy Permit ~~[-]~~<sup>[-]</sup> Medical Gas or the ~~[ ]~~<sup>[ ]</sup> Application for Special Limited Pharmacy Permit – Medical Gas Renewal~~[ ]~~<sup>[ ]</sup>; and
- (2) As appropriate, the:
  - (a) Initial application fee established by 201 KAR 2:050, Section 1(8); or
  - (b) Renewal fee established by 201 KAR 2:050, Section 1(9).

#### Section 5. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "Application for Special Limited Pharmacy Permit – Medical Gas", March 2022~~[May 2020]~~; and
  - (b) "Application for Special Limited Pharmacy Permit – Medical Gas Renewal", March 2022~~[May 2020]~~.
- (2) This ~~material~~<sup>form</sup>~~[material]~~ may be ~~[obtained, ]~~<sup>inspected,</sup> ~~[or] copied, or obtained,~~<sup>subject to applicable copyright law,</sup> at the Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, Frankfort, Kentucky 40601-8204, Monday through Friday, 8 a.m. to 4:30 p.m.~~[, Monday through Friday], 8 a.m. to 4:30 p.m.]~~. **This material is also available on the board's Web site at <https://pharmacy.ky.gov/Forms/Pages/default.aspx>.**

CONTACT PERSON: Christopher Harlow, Executive Director, Kentucky Board of Pharmacy, 125 Holmes Street, Suite 300, State Office Building Annex, Frankfort, Kentucky 40601, phone (502) 564-7910, fax (502) 696-3806, email Christopher.harlow@ky.gov.



## Kentucky Board of Embalmers and Funeral Directors

### Board Members

James O. Strunk, Chairman  
Jonathan Rideout, Vice Chair  
Ronald Raymond  
Danny Percell  
Greg Lakes

9114 Leesgate Rd Ste 4  
Louisville KY, 40222  
502-426-4589  
800-866-3256  
502-426-4117  
kbefd.ky.gov

### Staff Members

Kanetha Dorsey, Executive Director  
Julie Peoples, Administrative Assistant

July 7, 2022

Ms. Emily Caudill  
Regulations Compiler  
Legislative Research Commission 029,  
Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 15:050, the Board of Embalmers and Funeral Directors proposes the attached suggested amendment to 201 KAR 15:050.

Sincerely

Kanetha Dorsey, MSSW  
Executive Director  
KBEFD 9114 Leesgate Rd, Ste 4  
Louisville, KY 40222  
502-426-4589 (office)  
800-866-3256 (toll free)  
402-426-4117 (fax)



**Staff-suggested Amendment**

**7/5/2022**

**BOARDS AND COMMISSIONS  
Board of Embalmers and Funeral Directors**

**201 KAR 15:050. Apprenticeship and supervision requirements.**

**Page 13**

**Section 6(1)(a)**

**Line 3**

After "Application", insert "7/2022".

Delete "9/2019".



1 Section 6. Incorporation by Reference. (1) The following material is incorporated by  
2 reference:

- 3 (a) "Apprenticeship Application", 7/2022;
- 4 (b) "Change of Apprentice Supervisor", 9/2019;
- 5 (c) "Apprenticeship Sworn Statement", 9/2019;
- 6 (d) "Level II Apprentice Application", 9/2019; and
- 7 (e) "Apprentice Travel Form", 2017.

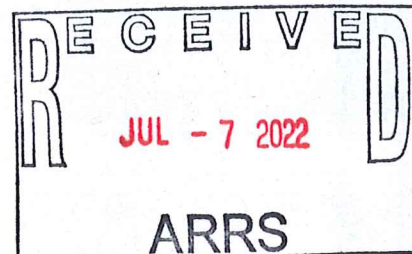
8 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law,  
9 at the Kentucky Board of Embalmers and Funeral Directors, 9114 Leesgate Rd, Ste 4,  
10 Louisville, Kentucky 40222, Monday through Friday, 8 a.m. to 4:30 p.m.

502-429-3300  
800-305-2042  
Fax: 502-429-1245

## KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300  
Louisville, Kentucky 40222-5172  
[kbn.ky.gov](http://kbn.ky.gov)

Andy Beshear  
Governor



July 1, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Complier  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601

Re: **201 KAR 20:070**. Licensure by examination.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:070, the Kentucky Board of Nursing proposes the attached agency amendment to 201 KAR 20:070.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey R. Prather".

Jeffrey R. Prather, General Counsel  
Kentucky Board of Nursing  
312 Whittington Parkway, Suite 300  
Louisville, KY 40222  
Phone: (502) 338-2851  
Email: [Jeffrey.prather@ky.gov](mailto:Jeffrey.prather@ky.gov)

Final, 6-15-2022

**AGENCY AMENDMENT**

**BOARDS AND COMMISSIONS**  
**Board of Nursing**

**201 KAR 20:070. Licensure by examination.**

**Page 5**

**Section 6(2)**

**Line 22**

After "4:30 p.m.", insert the following:

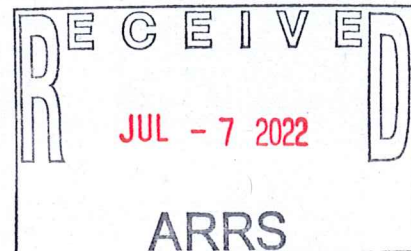
(3) This material is also available on the agency's Web site at <https://kbn.ky.gov>.

502-429-3300  
800-305-2042  
Fax: 502-429-1245

## KENTUCKY BOARD OF NURSING

312 Whittington Parkway, Suite 300  
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[kbn.ky.gov](http://kbn.ky.gov)

Andy Beshear  
Governor



July 1, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Complier  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601

Re: 201 KAR 20:240. Fees for applications and for services.

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:240, the Kentucky Board of Nursing proposes the attached agency amendment to 201 KAR 20:240.

Sincerely,

Jeffrey R. Prather, General Counsel  
Kentucky Board of Nursing  
312 Whittington Parkway, Suite 300  
Louisville, KY 40222  
Phone: (502) 338-2851  
Email: [Jeffrey.prather@ky.gov](mailto:Jeffrey.prather@ky.gov)

Final, 6-16-2022

**AGENCY AMENDMENT**

**BOARDS AND COMMISSIONS**  
**Board of Nursing**

**201 KAR 20:240. Fees for applications and for services.**

**Page 1**

**RELATES TO**

**Line 5**

After "314.041", insert "(11)".

Delete "(8)".

After the comma immediately following, insert "(13)".

Delete "(10)".

**Lines 5-6**

After "314.051(2),", insert "(13)".

Delete "(10)".

**Page 1**

**STATUTORY AUTHORITY**

**Line 7**

After "KRS 314.041", insert "(11)".

Delete "(8)".

After the comma immediately following, insert "(13)".

Delete "(10)".

After "314.051(2),", insert "(13)".

Delete "(10)".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Lines 13-14**

After "KRS 314.041", insert "(11)".

Delete "(8)".

**Line 14**

After the comma immediately following, insert "(13)".

Delete "(10)".

After "314.051(2),", insert "(13)".

Delete "(10)".



**KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES**

**Rich Storm**  
Commissioner

#1 Sportsman's Lane  
Frankfort, Kentucky 40601  
Phone (502) 564-3400  
Fax (502) 564-0506

**Brian Clark**  
Deputy Commissioner

*July 8, 2022 gsz*

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 301 KAR 2:132 Elk hunting seasons, permits, zones, and requirements, 301 KAR 2:172  
Deer hunting seasons, zones, and requirements, 301 KAR2:221 Waterfowl seasons and limits.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:132 Elk hunting seasons, permits, zones, and requirements, 301 KAR 2:172 Deer hunting seasons, zones, and requirements, 301 KAR2:221 Waterfowl seasons and limits, proposes the attached amendment to 301 KAR 2:132, 301 KAR 2:172 and 301 KAR 2:221.

Sincerely,

Jenny Gilbert  
Commissioner's Office  
Kentucky Department of Fish and Wildlife Resources  
1 Sportsmen's Lane  
Frankfort, KY 40601

**SUGGESTED SUBSTITUTE**  
Final Version: 6/30/2022 8:50 AMM

**TOURISM, ARTS AND HERITAGE CABINET**  
**Department of Fish and Wildlife Resources**

**301 KAR 2:132. Elk hunting seasons, permits, zones, and requirements.**

RELATES TO: KRS 150.010, 150.170(4), 150.180, 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.177, 150.178, 150.390(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit wildlife conservation organizations. KRS 150.178 authorizes the department to issue cooperator permits to landowners who enroll property for public hunting access. KRS 150.390(3) requires the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits may be used, procedures for elk damage abatement, and any postseason hunt held after the quota hunts.

**Section 1. Definitions.**

- (1) "Antlered elk" means an elk having visible polished antler protruding above the hairline.
- (2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.
- (3) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
- (4) "Bait":
  - (a) Means a substance composed of grains, minerals, salt, fruits, vegetables, hay, or any other food materials, whether natural or manufactured, that could lure, entice, or attract wildlife; and
  - (b) Does not mean the establishment and maintenance of plantings for wildlife, foods found scattered solely as the result of normal agricultural planning or harvesting practices, foods available to wildlife through normal agricultural practices of livestock feeding if the areas are occupied by livestock actively consuming the feed on a daily basis, or standing farm crops under normal agricultural practices.
- (5) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.
- (6) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.
- (7) "Elk" means *Cervus canadensis nelsoni*.
- (8) "Elk Restoration Permit" or "ERP" means an elk permit given to a landowner or lessee who allows the department to capture elk on the landowner or lessee's property for restoration or restocking purposes.
- (9) "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.
- (10) "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters into an agreement with the department to allow public access and hunting for at least five (5) years.
- (11) "Loyalty Redraw" means a secondary drawing to award any unpurchased elk quota hunt permits, remaining after the purchase deadline for those individuals initially drawn for the elk quota hunt, to members of the longest-applying year-cohort of resident elk hunt drawing applicants.



~~(12)~~~~[(11)]~~ "Muzzleloader" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

~~(13)~~~~[(12)]~~ "Out-of-zone" means all counties not included in the restoration zone.

~~(14)~~~~[(13)]~~ "Restoration zone" means the Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

~~(15)~~~~[(14)]~~ "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

~~(16)~~~~[(15)]~~ "Unit" means a designated area in the restoration zone with specific management restrictions.

~~(17)~~~~[(16)]~~ "Voucher cooperator" means a landowner or lessee who owns or leases at least 100 acres of land in the restoration zone and enters into an agreement with the department to allow elk hunting access.

~~(18)~~~~[(17)]~~ "Youth" means a person under the age of sixteen (16) by the first date of the hunt.

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk that are causing property damage. A person authorized to destroy an elk shall:

- (1) Attach a department-issued destruction tag to an elk prior to moving the carcass; and
- (2) Not remove the destruction tag until the carcass is processed.

Section 3. Elk Quota Hunts.

(1) The elk quota hunt application period shall be August 1 of the year preceding a given calendar year's elk hunt season~~January 1~~ to April 30 of the year of that season.

(2) An applicant shall:

- (a) Complete the elk quota hunt application process on the department's Web site at fw.ky.gov; and
- (b) Pay a nonrefundable application fee of ten (10) dollars.

(3) The commissioner shall extend the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period.

(4) There shall be a random electronic drawing from each applicant pool.

(5) Youths may enter a separate drawing pool for either-sex elk permits that shall be valid for use during all elk seasons, pursuant to Section ~~9~~~~[(7)(4)]~~ of this administrative regulation.

(6) A youth shall not apply for the youth-only elk quota hunt more than once per application period.

(7) An applicant for the youth-only elk quota hunt may also apply for a regular quota hunt, as established in subsection (12) of this section.

(8) A youth drawn for the youth-only elk quota hunt shall not be drawn in any other elk quota hunt held during the same calendar year.

(9) A youth drawn for the youth-only elk quota hunt shall be ineligible to be drawn in the youth-only elk quota hunt in subsequent years.

(10) Nonresidents shall not comprise more than ten (10) percent of all drawn applicants in each quota hunt pool, except that the Loyalty Redraw shall exclude nonresidents.

(11) A quota hunt permit awarded from any department-administered drawing shall not be transferable.

(12) In addition to the youth-only quota hunt, there shall be three (3) separate regular elk quota hunts consisting of:

- (a) Antlered firearms;
- (b) Antlerless firearms; and
- (c) Either-sex archery and crossbow.

(13) An applicant shall:

- (a) Apply only once for an individual elk quota hunt;
- (b) Not be eligible to be drawn in more than one (1) of the three (3) quota hunt pools;



- (c) Only be selected by a random electronic drawing;~~and~~
  - (d) Pay a nonrefundable application fee of ten (10) dollars for each entry; **and**;
  - (e) If selected, be eligible to purchase a quota elk hunt permit for the applicable season and hunt type until midnight (eastern) on June 15 of the hunt year.
- (14) A person who is drawn for an elk quota hunt, including Loyalty Redraw applicants who purchase elk quota hunt permits offered to them through the Loyalty Redraw secondary drawing, shall be ineligible to be drawn for any elk quota hunt for the following three (3) years.
- (15) A person who does not have access to the department's Web site to apply for any quota hunt may contact the department toll free at (800)858-1549 for assistance in applying.

#### Section 4. Loyalty Redraw.

- (1) Annually, if there are unpurchased elk hunt permits remaining~~ing~~ after the purchase deadline for those initially drawn for the elk quota hunt, a Loyalty Redraw shall be held.
- (2) The Loyalty Redraw shall consist of a secondary random electronic drawing to award elk quota hunt permits not purchased before midnight (eastern) on June 15 of the hunt year, and shall be conducted before the Elk Hunting Unit drawing.
- (3) The Loyalty Redraw shall be limited to resident applicants from the three (3) elk quota hunt pools, plus the youth-only quota hunt pool who have applied for at least one **(1)** elk quota hunt permit for the most consecutive years including the current year, without ever being drawn for at least one **(1)** elk quota hunt permit.
- (4) Resident applicants who are eligible for the Loyalty Redraw shall be automatically entered into the secondary drawing elk quota hunt pools for which they applied in the current hunt year.
- (5) This secondary drawing procedure shall mirror the primary electronic random drawing for quota elk hunt permits, except that nonresident applicants shall be excluded.
- (6) A Loyalty Redraw applicant who is drawn for an available leftover permit may purchase the appropriate quota elk hunt permit until midnight (eastern) on June 30.
- (7) A Loyalty Redraw permit holder who does not apply for the Elk Hunting Unit drawing by midnight (eastern) on June 30 of the hunt year shall be automatically entered into the unit drawing for random assignment to an Elk Hunting Unit.
- (8) An applicant who is eligible for the Loyalty Redraw in a given year and is drawn for quota elk hunt permit in the secondary drawing, and who does not purchase the elk quota hunt permit for which he or she is drawn in that year, shall be:
  - (a) Ineligible for the Loyalty Redraw until he or she accumulates the required number of consecutive years of applications necessary to again qualify for the Loyalty Redraw; and
  - (b) Eligible to apply for the next year's elk quota hunts without waiting three (3) years.

#### Section 5. Landowner Cooperator Permits.

- (1) With the approval of the commission, the commissioner shall issue to a landowner cooperator:
  - (a) One (1) either-sex permit annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement;
  - (b) Two (2) antlerless-only permits annually per 5,000 acres of land enrolled with the department in a hunting access agreement for the duration of the agreement; or
  - (c) One (1) antlerless-only permit annually per 5,000 acres of land enrolled with the department in an elk hunting access agreement for the duration of the agreement.
- (2) A recipient of a landowner cooperator permit shall comply with the season, bag limit, and hunter requirements in Sections 8[7] and 9[8] of this administrative regulation.

- (3) A landowner cooperator permit shall only be used on the land that is established in the agreement, except that it may be used on adjacent property if:
- (a) The adjacent property is owned by a different landowner; and
  - (b) The adjacent landowner has granted permission to the permit holder.
- (4) A landowner cooperator permit may be transferred to any person eligible to hunt in Kentucky, but prior to hunting, the landowner cooperator or person who has received the transferred permit shall provide the department with the hunter's:
- (a) Name;
  - (b) Fish and Wildlife customer identification number;
  - (c) Address; and
  - (d) Telephone number.
- (5) The landowner cooperator permit shall not be transferable if it was already used for the harvest of an elk.
- (6) Public access agreements with the department shall be recorded in writing.

Section 6.~~[Section 5.]~~ Voucher Cooperator Permits.

- (1) A voucher cooperator shall accrue one (1) voucher point for each legally harvested elk.
- (2) A voucher cooperator who accrues ten (10) total points on land enrolled pursuant to Section 1(17) of this administrative regulation shall receive one (1) either-sex elk permit from the department.
- (3) A recipient of a voucher cooperator elk permit shall comply with all ~~[of]~~ the requirements established in Sections ~~8~~<sup>8</sup>[7] and ~~9~~<sup>9</sup>[8] of this administrative regulation.
- (4) A voucher cooperator elk permit shall only be used on:
- (a) The property enrolled with the department per agreement; or
  - (b) Other property that the landowner or lessee owns or leases.
- (5) A voucher cooperator permit may be transferable to any person eligible to hunt in Kentucky.
- (6) If a voucher cooperator permit is to be transferred, then the landowner, lessee, or person who has received the transferred permit shall provide to the department by August 15 the hunter's:
- (a) Name;
  - (b) Fish and Wildlife customer identification number;
  - (c) Address; and
  - (d) Telephone number.
- (7) A permit shall not be transferable after being used for the harvest of an elk.

Section 7.~~[Section 6.]~~ Elk Restoration Permits.

- (1) A landowner or lessee who allows the department to capture elk on the landowner or lessee's property shall accrue one (1) point for each captured elk.
- (2) A landowner or lessee who accrues ten (10) total points shall receive one (1) either-sex elk permit from the department that shall only be used the following hunting season.
- (3) A recipient of an ERP shall comply with all the requirements established in Sections ~~8~~<sup>8</sup>[7] and ~~9~~<sup>9</sup>[8] of this administrative regulation.
- (4) An ERP shall only be used on property that the ERP recipient owns or leases.
- (5) An ERP recipient may transfer the permit to any person eligible to hunt in Kentucky.
- (6) If an ERP recipient transfers an ERP to another hunter, then the ERP recipient shall provide to the department by August 15 the hunter's:
- (a) Name;
  - (b) Address;
  - (c) Telephone number; and

- (d) Fish and Wildlife customer identification number.
- (7) An ERP shall be invalid if it has already been used to harvest an elk.

Section 8.~~[Section 7.]~~ Hunter Requirements.

- (1) A person shall carry proof of purchase of a valid Kentucky hunting license and valid elk permit while hunting, unless exempted by KRS 150.170.
- (2) The statewide bag limit shall be one (1) elk per hunter per license year.
- (3) If a legal elk hunter kills any elk[;]:
  - (a) The person shall immediately cease hunting elk for the remainder of the elk season; and
  - (b) The elk permit held by that individual shall immediately become invalid.
- (4) A drawn applicant~~[hunter]~~ may apply to hunt in up to five (5) units. **The drawn applicant shall complete**~~[by completing]~~ the application process on the department's Web site at fw.ky.gov.
  - (a) Up to three (3) drawn applicants~~[hunters]~~ may apply for their unit choices as a party.
  - (b) If the party is drawn for a unit, then all hunters in the party shall be assigned to that same unit.
  - (c) If the number of slots remaining in the quota is less than the number of hunters in the next party selected, the entire party shall be assigned to the party's next choice ranking or be assigned to a unit by the department.
- (5) A drawn applicant~~[hunter]~~ who does not apply for a unit shall be assigned to a unit by the department.
- (6) An applicant~~[A hunter]~~ drawn for a unit may hunt only in the assigned unit, except that a person who is drawn for any elk quota hunt may hunt on his or her land within the restoration zone.
- (7) An elk hunter or any person accompanying an elk hunter shall comply with hunter orange requirements established in 301 KAR 2:172.
- (8) An elk hunter shall not:
  - (a) Take elk except during daylight hours;
  - (b) Use dogs, except to recover wounded elk using leashed tracking dogs;
  - (c) Hunt over bait inside the elk restoration zone;
  - (d) Drive elk from outside the assigned area;
  - (e) Take an elk while it is swimming;
  - (f) Use electronic calls or electronic decoys; or
  - (g) Take an elk if the hunter is in a vehicle, boat, or on horseback, except that a disabled hunter who has a hunting method exemption permit issued pursuant to 301 KAR 3:027 may use a stationary vehicle as a hunting platform.
- (9) A person shall:
  - (a) Obtain a vehicle tag from the department prior to hunting elk in the restoration zone; and
  - (b) Display the vehicle tag in the windshield of the vehicle while hunting elk.
- (10) A youth shall be accompanied by an adult who shall remain in a position to take immediate control of the youth's firearm.
- (11) An adult accompanying a youth shall not be required to possess a hunting license or elk permit if the adult is not hunting.
- (12) A person shall only use the equipment and ammunition established in paragraphs (a) through (e) of this subsection to take an elk:
  - (a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider, either fixed or upon expansion;
  - (b) A firearm:
    - 1. With an action that fires a single round of ammunition upon each manipulation of the trigger;

- 2. Of .270 caliber or larger; and
- 3. Loaded with centerfire, single projectile ammunition designed to expand upon impact;
- (c) A muzzleloader of .50 caliber or larger;
- (d) A shotgun of twenty (20) gauge or larger loaded with a shell containing one (1) projectile; or
- (e) A handgun loaded with:
  - 1. Centerfire cartridges;
  - 2. Bullets of .270 caliber or larger designed to expand upon impact; and
  - 3. Cartridges with a case length of 1.285 inches or larger.
- (13) A crossbow shall contain a working safety device.
- (14) An elk hunter shall not use a magazine capable of holding more than ten (10) rounds.
- (15) A quota elk hunter shall only take an elk of the type and sex determined by the permit drawn.
- (16) A hunter drawn for a firearms elk permit shall hunt elk pursuant to that permit only during the five (5) day period assigned during the initial drawing.
- (17) An individual who receives or is transferred a landowner cooperator permit, a voucher cooperator permit, an elk restoration permit, or a special commission permit may hunt in all of the quota hunts and shall hunt in accordance with the seasons, limits, and equipment established in Section 8[7] of this administrative regulation.
- (18)
  - (a) A person who is drawn for an elk quota hunt permit or was issued a landowner cooperator permit, a special commission permit, an elk restoration permit, or voucher cooperator permit shall complete and submit a post-season elk hunting survey on the department's Web site at fw.ky.gov no later than the last day of February.
  - (b) A person who fails to comply with the requirements established in paragraph (a) of this subsection shall be ineligible to apply for any quota hunt or no-hunt option the following year.

Section 9.~~[Section 8.]~~ Elk Quota Hunt Seasons and Limits.

- (1) A person drawn for an either-sex archery and crossbow permit shall use archery or crossbow equipment to take either-sex elk from the:
  - (a) Second Saturday in September through the fourth Friday in September; and
  - (b) First Saturday in December through the second Friday in December.
- (2) A person drawn for an antlered firearms permit shall use any legal equipment as established in Section 8[7](12) of this administrative regulation to take an antlered elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:
  - (a) Last Saturday in September for five (5) consecutive days; or
  - (b) First Saturday in October for five (5) consecutive days.
- (3) A person drawn for an antlerless firearms permit shall use any legal equipment as established in Section 8[7](12) of this administrative regulation to take an antlerless elk during one (1) of two (2) five (5) day periods randomly assigned by the department from the:
  - (a) Last Saturday in November for five (5) consecutive days; or
  - (b) Last Saturday in December for five (5) consecutive days.

Section 10.~~[Section 9.]~~ Unit Boundaries and Elk Viewing Areas.

- (1) Hunting unit boundaries and the boundaries of the Appalachian Wildlife Center Viewing Area are incorporated by reference.
- (2) Elk viewing areas shall be closed to all elk hunting.

Section 11.~~[Section 10.]~~ Tagging and Checking Requirements.

- (1) Immediately after taking an elk, a hunter shall record on a hunter's log:
  - (a) The species harvested;
  - (b) The sex of the animal;
  - (c) Date of harvest; and
  - (d) County of harvest.
- (2) A hunter shall check a harvested elk before midnight on the day the elk is recovered by:
  - (a) Calling (800) 245-4263 and providing the requested information; or
  - (b) Completing the online check-in process at fw.ky.gov.
- (3) A hunter who has checked in an elk shall record the confirmation number on a hunter's log.
- (4) If the hide or head is removed from the carcass before the elk is checked in, then the hunter shall be required to demonstrate proof of the sex of the elk.
  - (a) For antlered elk the hunter shall retain the:
    1. Head with antlers; or
    2. Testicles, scrotum, or penis attached to the carcass; or
  - (b) For antlerless elk the hunter shall retain the:
    1. Head;
    2. Udder or vulva attached to the carcass; or
    3. Testicles, scrotum, or penis attached to the carcass.
- (5) If a harvested elk leaves the possession of the hunter, the hunter shall attach to the carcass a hand-made tag that contains the hunter's:
  - (a) Confirmation number;
  - (b) Name; and
  - (c) Telephone number.
- (6) A person shall not provide false information in:
  - (a) Completing the hunter's log;
  - (b) Checking an elk; or
  - (c) Creating a carcass tag.

Section 12.~~[Section 14.]~~ Elk Hunting on Public Land.

- (1) A person drawn for an elk quota hunt or the recipient of a special commission permit may hunt on the areas listed in paragraphs (a) through (f) of this subsection within the restoration zone pursuant to the conditions of the permit received:
  - (a) Wildlife Management Areas;
  - (b) Hunter Access Areas;
  - (c) State forests;
  - (d) Big South Fork National River and Recreation Area;
  - (e) Daniel Boone National Forest; or
  - (f) Jefferson National Forest.
- (2) Portions of Paintsville Lake WMA that lie out of the restoration zone shall be subject to the requirements established in Section 14~~[13]~~ of this administrative regulation.
- (3) Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.
- (4) Paul Van Booven WMA and Fishtrap Lake WMA shall be designated as an elk viewing area and shall be closed to all elk hunting.
- (5) A person shall not mimic the sound of an elk on public land open to elk hunting from September 1 until the opening of the elk archery season.

Section 13.~~[Section 12.]~~ Out-of-zone Elk Hunting.

- (1) The methods for taking deer and the deer seasons established in 301 KAR 2:172 shall apply to a person taking elk outside of the restoration zone, except that a hunter shall comply with the equipment and ammunition requirements established in Section 8[7] of this administrative regulation.
- (2) Unless exempted by KRS 150.170, a person who is hunting out-of-zone elk shall possess:
  - (a) A valid Kentucky hunting license; and
  - (b) An out-of-zone elk permit.
- (3) A person may take an elk of either sex, which shall not count toward the person's deer bag limit.
- (4) Any elk harvested out-of-zone shall be telechecked pursuant to Section 11 of this administrative regulation.

Section 14.[Section 13.] Elk Antlers.

- (1) A person who takes possession of any elk antler that has the skull or skull plate attached to it shall contact the department's Law Enforcement Division within twenty-four (24) hours.
- (2) An elk shed shall be legal to possess.

Section 15.[Section 14.] Elk Permit Deferral. A person who is the holder[recipient] of a valid elk quota hunt permit, landowner cooperator permit, voucher cooperator permit, an ERP, or special commission permit may defer use of the permit to the following year if:

- (1)~~(a)~~ There is a death of the permit holder's:

~~1.[(a)]~~ Spouse;

~~2.[(b)]~~ Child; or

~~3.[(c)]~~ Legal guardian, if the permit holder is under eighteen (18) years old; and

- ~~(b)[(2)]~~ The permit holder provides to the department a death certificate and one (1) of the following documents prior to May 1 of the year following the hunting season:

~~1.[(a)]~~ A marriage certificate;

~~2.[(b)]~~ A birth certificate; or

~~3.[(c)]~~ An affidavit of paternity or maternity;

- ~~(2)[; or (3)]~~ The permit holder ***shall be/is*** a member of one ***(1)*** of the service branches of the U.S. Armed Forces in either an active duty, reserve component, or National Guard status as of April 30 of the hunt year~~[- and meets both of the following conditions]:~~

~~(a) Is deployed or assigned to military duty outside the continental United States[;] or assigned to military duty to another location or duty station so[such] that his or her assignment makes impracticable participation in the hunt for which the permit was drawn; and~~

~~(b) The permit holder submits to the department electronically via email or fax[;] or by mail, postmarked or received before midnight of the day immediately prior to the opening day of the applicable hunting season, a copy of military orders, or if unavailable, a letter from a commanding officer, documenting the permit holder's overseas deployment, overseas duty assignment, or assignment outside of Kentucky, showing that the effective ***date or dates[date(s)]*** of the assignment include one ***(1)*** or more of the hunt dates for which the hunter holds a permit; or~~

~~***(3)[; (4)]*** A permit holder that meets criteria in (3) above may also automatically defer his or her permit for a second year if the military ***assignment or assignments[assignment(s)]*** make impracticable participation in his or her assigned hunt during the year following his or her obtaining the permit, but in either case ***shall[must]*** provide to the elk program by May 1 of his or her actual hunt year, a copy of applicable military orders (or official letter) that made use of the permit impracticable for the first, or first and second, elk seasons after first obtaining the elk permit.~~

Section 16.[Section 15.] Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Elk Hunting Units" map, 2019 edition; and

(b) "Appalachian Wildlife Center Viewing Area" map, 2019 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., Eastern Time.

CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email [fwpubliccomments@ky.gov](mailto:fwpubliccomments@ky.gov).



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

**Rich Storm**  
Commissioner

#1 Sportsman's Lane  
Frankfort, Kentucky 40601  
Phone (502) 564-3400  
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**Brian Clark**  
Deputy Commissioner

July 8, 2012 *gs*

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 301 KAR 2:132 Elk hunting seasons, permits, zones, and requirements, 301 KAR 2:172  
Deer hunting seasons, zones, and requirements, 301 KAR 2:221 Waterfowl seasons and limits.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:132 Elk hunting seasons, permits, zones, and requirements, 301 KAR 2:172 Deer hunting seasons, zones, and requirements, 301 KAR 2:221 Waterfowl seasons and limits, proposes the attached amendment to 301 KAR 2:132, 301 KAR 2:172 and 301 KAR 2:221.

Sincerely,

Jenny Gilbert  
Commissioner's Office  
Kentucky Department of Fish and Wildlife Resources  
1 Sportsmen's Lane  
Frankfort, KY 40601



## **SUGGESTED SUBSTITUTE**

Final Version: 6/30/2022 9:22 AM

### **TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources**

#### **301 KAR 2:172. Deer hunting seasons, zones, and requirements.**

RELATES TO: KRS 150.010, 150.177, 150.180, 150.411(3), 150.990, 237.110

STATUTORY AUTHORITY: KRS 150.025(1), 150.170, 150.175, 150.390(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife, to regulate bag limits and methods of take, and to make these requirements apply to a limited area. KRS 150.170 authorizes exemptions for certain people from hunting license and permit requirements. KRS 150.175 authorizes the kinds of licenses and permits to be issued by the department. KRS 150.390(1) prohibits the taking of deer in any manner contrary to any provisions of KRS Chapter 150 or KAR Title 301. This administrative regulation establishes deer hunting seasons and zones, bag limits, legal methods of taking, and checking and recording requirements for deer hunting.

#### Section 1. Definitions.

(1) "Additional deer permit" means a permit that allows the holder to take up to two (2) additional deer beyond those allowed by the statewide deer permit in the following combinations:

- (a) One (1) antlered deer and one (1) antlerless deer; or
- (b) Two (2) antlerless deer.

(2) "Adult" means a person who is at least eighteen (18) years of age.

(3) "Air gun" means a pneumatic gun fired by a charge of compressed air.

(4) "Antlered deer" means a male or female deer, excluding male fawns, with a visible antler protruding above the hairline.

(5) "Antlerless deer" means a male or female deer with no visible antler protruding above the hairline.

(6) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.

(7) "Arrow" means the projectile fired from a bow or crossbow.

(8) "Centerfire" means a type of gun that detonates a cartridge by the firing pin striking a primer in the middle of the end of the cartridge casing.

(9) "Crossbow" means a bow with a string designed or fitted with a device to hold an arrow at full or partial draw without aid from the archer.

(10) "Chronic Wasting Disease" or "CWD" means a transmissible spongiform encephalopathy found in cervids.

(11) "CWD Surveillance Zone" means an area designated as being subject to special deer hunting regulations due to a CWD positive cervid detection.

(12)[(10)] "Deer" means a member of the species *Odocoileus virginianus*.

(13)[(11)] "Firearm" means a breech or muzzle-loading rifle, shotgun, or handgun.

(14)[(12)] "License year" means the period from March 1 through the last day of February.

(15)[(13)] "Modern gun" means an air gun, rifle, handgun, or shotgun that is loaded from the rear of the barrel.

(16)[(14)] "Muzzle-loading gun" means a rifle, shotgun, or handgun that is loaded from the discharging end of the barrel or discharging end of the cylinder.

~~(17)~~~~(15)~~ "Novice deer hunter" means a person who has not harvested more than two (2) deer in Kentucky in the last ten (10) years.

~~(18)~~~~(16)~~ "Shed" means an antler that has naturally been cast off the skull as a part of the annual growth and replacement process.

~~(19)~~~~(17)~~ "Special deer hunt" means a one (1) or two (2) day deer hunt sponsored and overseen by the department on private land that:

(a) Allows a novice deer hunter to use a modern gun outside of modern gun deer season; and

(b) Shall be made available only to a:

1. Kentucky resident;

2. Person enrolled as a resident or non-resident student in a public or non-public postsecondary institution located in Kentucky; or

3. Member of the United States military or his or her spouse or children stationed at a military base in Kentucky.

~~(20)~~~~(18)~~ "Statewide deer hunting requirements" means the season dates, zone descriptions, bag limits, and other requirements for deer hunting established in this administrative regulation.

~~(21)~~~~(19)~~ "Statewide deer permit" means a permit, which, in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

~~(22)~~~~(20)~~ "Youth" means a person under the age of sixteen (16) by the date of the hunt.

~~(23)~~~~(21)~~ "Youth deer permit" means a permit, which in conjunction with appropriate licenses, seasons, and methods, allows the holder to take:

(a) One (1) antlered deer and no more than three (3) antlerless deer; or

(b) No more than four (4) antlerless deer.

~~(24)~~~~(22)~~ "Zone" means an area consisting of counties designated by the department within which deer hunting season dates and limits are set for the management and conservation of deer in Kentucky.

## Section 2. License and Deer Permit Requirements.

(1) Unless license exempt, as established in KRS 150.170, a person shall carry a valid:

(a) Kentucky hunting license while hunting; and

(b) Deer permit while hunting.

(2) Unless license exempt, as established in KRS 150.170, a youth shall carry a valid:

(a) Kentucky youth hunting license while hunting; and

(b) Youth deer permit while hunting.

## Section 3. Hunter Restrictions.

(1) A deer hunter shall not:

(a) Take a deer except during daylight hours;

(b) Use dogs, except leashed tracking dogs, to recover a wounded deer;

(c) Take a deer that is swimming;

(d) From a vehicle, boat, or on horseback, take a deer, except that a hunter with a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform; and

(e) Possess or use a decoy or call powered by electricity from any source.

(2) A person shall only use the equipment established in paragraphs (a) through (e) of this subsection to take a deer:

(a) A crossbow or archery equipment loaded with a broadhead of seven-eighths (7/8) inch or wider upon expansion;

(b) A firearm:

1. With an action that fires a single round of ammunition upon each manipulation of the trigger; and
2. Loaded with centerfire, single projectile ammunition designed to expand upon impact;

(c) A muzzle-loading gun;

(d) A shotgun loaded with a shell containing single projectile ammunition designed to expand upon impact; or

(e) An air gun:

1. Of .35 caliber or larger;
2. Charged by an external tank; and
3. Loaded with single projectile ammunition designed to expand upon impact.

(3) A person shall only use a weapon that complies with the appropriate season established in Section 5 of this administrative regulation to take a deer.

(4) A crossbow shall contain a working safety device.

(5) A person shall not use a magazine capable of holding more than ten (10) rounds to take a deer.

#### Section 4. Hunter Orange Clothing Requirements.

(1) During the modern gun deer season, muzzle-loader season, and any youth gun season, a person hunting any species during daylight hours and any person accompanying a hunter, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest except while hunting waterfowl or mourning dove.

(2) During an elk firearm season, as established in 301 KAR 2:132, a person hunting any species and any person accompanying a hunter within the elk restoration zone, shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest, except while hunting waterfowl or mourning dove.

(3) The hunter orange portions of a garment worn to fulfill the requirements of this section:

- (a) May display a small section of another color; and
- (b) Shall not have mesh weave openings exceeding one-fourth (1/4) inch by any measurement.

(4) A camouflage-pattern hunter orange garment worn without additional solid hunter orange on the head, back, and chest shall not meet the requirements of this section.

#### Section 5. Statewide Season Dates.

(1) A deer hunter may use archery equipment to hunt deer statewide from the first Saturday in September through the third Monday in January.

(2) A deer hunter may take deer with a modern gun statewide beginning the second Saturday in November for sixteen (16) consecutive days.

(3) A deer hunter may use a muzzle-loading gun to hunt deer statewide:

- (a) For two (2) consecutive days beginning the third Saturday in October;
- (b) For nine (9) consecutive days beginning the second Saturday in December; and
- (c) During any season in which a modern gun may be used to take deer.

(4) A deer hunter may use a crossbow to hunt deer statewide from the third Saturday in September through the third Monday in January.

(5) A youth or a legal resident hunter sixty-five (65) years or older may hunt with a crossbow from the first Saturday in September through the third Monday in January.

(6) There shall be a youth gun season for two (2) consecutive days beginning on the second Saturday in October, in which a youth deer hunter shall comply with this administrative regulation and all other statewide deer hunting requirements.

(7) There shall be a free youth weekend for two (2) consecutive days beginning on the Saturday after Christmas during which a youth:

- (a) Shall not be required to have a hunting license or deer permit; and
- (b) Shall comply with this administrative regulation and all other statewide deer hunting requirements.

#### Section 6. Zones.

(1) Zone 1 shall consist of Anderson, Ballard, Boone, Bracken, Bullitt, Caldwell, Calloway, Campbell, Carlisle, Carroll, Christian, Crittenden, Franklin, Fulton, Gallatin, Grant, Graves, Green, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jefferson, Kenton, Larue, Livingston, Lyon, Marshall, Mason, McClean, McCracken, Mercer, Muhlenberg, Nelson, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Todd, Trigg, Trimble, Union, Washington, Webster, and Woodford Counties.

(2) Zone 2 shall consist of Adair, Allen, Barren, Bath, Bourbon, Boyd, Boyle, Breckinridge, Butler, Carter, Casey, Clark, Daviess, Edmonson, Fayette, Fleming, Grayson, Greenup, Hancock, Jessamine, Lawrence, Lewis, Lincoln, Logan, Madison, Marion, Meade, Metcalf, Monroe, Montgomery, Nicholas, Ohio, Taylor, and Warren Counties.

(3) Zone 3 shall consist of Cumberland, Elliott, Estill, Garrard, Johnson, Laurel, Morgan, Powell, Pulaski, Rowan, Simpson, Wayne, and Wolfe Counties.

(4) Zone 4 shall consist of Bell, Breathitt, Clay, Clinton, Floyd, Harlan, Jackson, Knott, Knox, Lee, Leslie, Letcher, Magoffin, Martin, McCreary, Menifee, Owsley, Perry, Pike, Rockcastle, Russell, and Whitley Counties.

#### Section 7. Season and Zone Limits.

(1) A person shall not take more deer than each zone allows, as established in this section.

(2) A person shall not take more than one (1) antlered deer per license year, regardless of permit type used or zone hunted, except as established in 301 KAR 2:111, 2:178, or 3:100.

(3) A person may take an unlimited number of antlerless deer in Zone 1 if the person has purchased the appropriate additional deer permits.

(4) A person may take up to a total of four (4) deer in Zone 2.

(5) In Zone 3, a person may take up to a total of four (4) deer, except that a firearm or air gun shall not be used to take a total of more than one (1) antlerless deer.

(6) In Zone 4, a person may take one antlerless deer, but only during:

- (a) Archery season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;
- (b) Crossbow season, except that a person shall not take an antlerless deer during modern gun season, the October muzzleloader season, or the first six (6) days of the December muzzleloader season;
- (c) Any youth weekend; or
- (d) The last three (3) days of the December muzzleloader season.

#### Section 8. Supervision of Youth Gun Deer Hunters.

(1) An adult shall:

- (a) Accompany a person under sixteen (16) years old; and
- (b) Remain in a position to take immediate control of the youth's gun.

(2) An adult accompanying a youth hunter shall not be required to possess a hunting license or deer permit if the adult is not hunting.

#### Section 9. Harvest Recording.

(1) Immediately after taking a deer, and prior to moving the carcass, a person shall record, in writing:

- (a) The species taken;
- (b) The date taken;
- (c) The county where taken; and
- (d) The sex of the deer taken on one (1) of the following:
  - 1. The hunter's log section on the reverse side of a license or permit;
  - 2. The hunter's log produced in a hunting guide;
  - 3. A hunter's log printed from the Internet;
  - 4. A hunter's log available from any KDSS agent; or
  - 5. An index or similar card.
- (2) The person shall retain and possess the completed hunter's log while the person is in the field during the current hunting season.

#### Section 10. Checking a Deer.

- (1) A person shall check a harvested deer before 11:59 p.m. on the day the deer is recovered by:
  - (a) Calling (800) 245-4263 and providing the requested information; or
  - (b) Completing the online check-in process at [fw.ky.gov](http://fw.ky.gov).
- (2) A person who has checked in a deer shall record the confirmation number on a hunter's log.
- (3) If a hunter removes the hide or head of a harvested deer before the deer is checked in, then the hunter shall retain the deer parts established in paragraphs (a) and (b) of this subsection:
  - (a) For antlered deer, the:
    - 1. Head with antlers; or
    - 2. Testicles, scrotum, or penis attached to the carcass; or
  - (b) For antlerless deer, the:
    - 1. Head; or
    - 2. Udder or vulva attached to the carcass.
- (4) If a hunter transfers possession of a harvested deer, or if the harvested deer is out of the hunter's possession, the hunter shall attach to the carcass a hand-made tag that contains the following information:
  - (a) The confirmation number;
  - (b) The hunter's name; and
  - (c) The hunter's telephone number.
- (5) A person shall not provide false information while:
  - (a) Completing the hunter's log;
  - (b) Checking a deer; or
  - (c) Creating a carcass tag.

#### Section 11. Transporting and Processing Deer.

- (1) A person shall:
  - (a) Not transport an unchecked deer out of Kentucky;
  - (b) Have proof that a deer or parts of deer brought into Kentucky were legally taken; or
  - (c) Not sell deer hides except to a licensed:
    - 1. Fur buyer;
    - 2. Fur processor; or
    - 3. Taxidermist.
- (2) A taxidermist or an individual who commercially butchers deer shall not accept a deer carcass or any part of a deer without a valid disposal permit issued by the department pursuant to KRS 150.411(3) or a proper carcass tag as established in Section 10 of this administrative regulation.

(3) An individual who commercially butchers deer shall keep accurate records of the hunter's name, address, confirmation number, and date received for each deer in possession and retain the records for a period of one (1) year.

#### Section 12. Special Deer Hunt Program.

(1) A special deer hunt shall:

- (a) Consist of a minimum of ten (10) novice deer hunters selected on a first-come, first-served basis;
- (b) Take place on private land with the permission of the landowner;
- (c) Only be overseen and sponsored by department employees; and
- (d) Take place during the archery deer season.

(2) A special deer hunt participant shall possess a valid hunting license and deer permit, except if the participant is license-exempt, as established in KRS 150.170.

#### Section 13. Antlers.

- (1) A person shall not use a device that is designed to entangle or trap the antlers of a deer.
- (2) A shed of a deer shall be legal to possess.

#### Section 14. CWD Surveillance Zone Requirements.

(1) A CWD Surveillance Zone shall be limited to an area surrounding the location(s) of CWD positive cervid detections as biologically and logistically necessary to monitor and combat the spread of CWD. The areas designated as part of the CWD Surveillance Zone shall be published on the department's **Web site[website]** at fw.ky.gov.

(2) In any area identified as a CWD Surveillance Zone, the following requirements **shall be effective[will go into effect]**:

(a) In addition to items in Sections 10 and 11 above **a hunter[all hunters]** harvesting deer in a CWD Surveillance Zone shall:

- 1. Transport the entire carcass or the entire head; and
- 2. Telecheck confirmation number to a KDFWR authorized check station in the CWD Surveillance Zone during the identified time periods as advertised by the department at <https://fw.ky.gov>.

(b) **A hunter harvesting deer in a CWD Surveillance Zone** shall not:

- 1. Transport a full carcass or any part thereof outside of the CWD Surveillance Zone, except deboned meat, clean skull plates, antlers, antlers attached to a clean skull plate, clean skulls, clean teeth, finished taxidermy work, and hides of legally harvested cervids; **or[.]**
- 2. Bait or feed any wildlife inside the CWD Surveillance Zone, except for:
  - a. Normal agricultural practices, including food plots;
  - b. Hanging bird feeders within the curtilage of the home; and
  - c. Furbearer trapping attractants, except grain salt or mineral.

CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-0506, email [fwpubliccomments@ky.gov](mailto:fwpubliccomments@ky.gov).



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

**Rich Storm**  
Commissioner

#1 Sportsman's Lane  
Frankfort, Kentucky 40601  
Phone (502) 564-3400  
Fax (502) 564-0506

**Brian Clark**  
Deputy Commissioner

July 8, 2012 *JS*

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 301 KAR 2:132 Elk hunting seasons, permits, zones, and requirements., 301 KAR 2:172  
Deer hunting seasons, zones, and requirements., 301 KAR 2:221 Waterfowl seasons and limits.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 2:132 Elk hunting seasons, permits, zones, and requirements, 301 KAR 2:172 Deer hunting seasons, zones, and requirements, 301 KAR 2:221 Waterfowl seasons and limits, proposes the attached amendment to 301 KAR 2:132, 301 KAR 2:172 and 301 KAR 2:221.

Sincerely,

Jenny Gilbert  
Commissioner's Office  
Kentucky Department of Fish and Wildlife Resources  
1 Sportsmen's Lane  
Frankfort, KY 40601

## SUGGESTED SUBSTITUTE

Final Version: 6/30/2022 9:42 AM

### TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources

#### 301 KAR 2:221. Waterfowl seasons and limits.

RELATES TO: KRS 150.010(45), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600, 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600 authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

#### Section 1. Definitions.

- (1) "Active military personnel" means a member of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training.
- (2) "Adult" means a person who has reached his or her 18th birthday.
- (3) "Dark geese[goose]" means [a] Canada geese[goose], cackling geese[goose], white-fronted geese[goose], or brants.
- (4)[(2)] "Light geese[Goose]" is defined by KRS 150.010(20)[means a snow goose or Ross's goose].
- (5)[(3)] "Light geese conservation order[Goose Conservation Order]" is defined by KRS 150.010(21)[50 C.F.R. 21.60].
- (6) "Veteran" means a person who served in the active military, naval, air, or space service, and who was discharged or released therefrom under conditions other than dishonorable.
- (7)[(4)] "Waterfowl" is defined by KRS 150.010(45).
- (8) "Youth" means a person who has not reached his or her 16th birthday.

#### Section 2.

- [(4)] Except as established in 301 KAR 2:222[, or 2:225[, or 2:226], a person shall not hunt waterfowl except during the seasons established in this administrative regulation.
- [(2)] ~~[Hunting zones, special hunt areas, and reporting areas are established in 301 KAR 2:224.]~~

#### Section 3. Season Dates.

- (1) The duck, coot, and merganser season shall:
  - (a) Begin on Thanksgiving Day for four (4) consecutive days; and
  - (b) Be from December 7 through January 31.
- (2) The dark geese[goose] season shall be from Thanksgiving Day through February 15.
- (3) The light geese[light goose] season shall be from Thanksgiving Day through February 15.
- (4) The light geese conservation order[Light Goose Conservation Order] season shall be from February 16 through March 31.
- (5) A person shall not hunt [a] light or dark geese[goose] in:
  - (a) The areas of Laurel River Lake as posted by sign; or



(b) Cave Run Lake and the public land inside the boundary formed by Highways 801, 1274, 36, 211, US 60, and Highway 826.

#### Section 4. Ballard Zone.

(1) The Ballard Zone includes the portion of Ballard County north and west of:

(a) The Ballard-McCracken County line to State Road 358;

(b) State Road 358 to US 60;

(c) US 60 to the city limits of Wickliffe; and

(d) The city limits Wickliffe to the center of the Mississippi River.

(2) In the Ballard Zone, ~~[as established in 301 KAR 2:224,]~~ a person hunting waterfowl shall:

(a) Not hunt or establish a blind within:

1. 100 yards of another blind; or

2. Fifty (50) yards of a property line; and

(b) Not possess more than one (1) uncased or loaded shotgun while in a blind.

(3)~~[(2)]~~ The requirements of subsection (1) of this section shall not apply if the Light Geese~~[Goose]~~ Conservation Order, as established in Section 3 of this administrative regulation, is the only waterfowl season open, excluding falconry seasons.

#### Section 5. Bag and Possession Limits.

(1) Ducks. The daily limit shall be six (6), which shall not include more than:

(a) Four (4) mallards;

(b) Two (2) hen mallards;

(c) Three (3) wood ducks;

(d) Two (2) black ducks;

(e) Two (2) redheads;

(f) One (1) pintail;

(g) One(1) scaup beginning Thanksgiving Day for four (4) consecutive days and December 7 through December 17;

(h) Two (2) scaup beginning on December 18 through January 31;

(i) One (1) mottled duck; or

(j) Two (2) canvasbacks.

(2) Coot. The daily limit shall be fifteen (15).

(3) Merganser. The daily limit shall be five (5), which shall not include more than two (2) hooded mergansers.

(4) Dark geese~~[goose]~~. The daily limit shall be five (5), which shall not include more than:

(a) Three (3) Canada geese or cackling geese, in combination;

(b) Two (2) white-fronted geese; or

(c) One (1) brant.

(5) Light geese~~[goose]~~. The daily limit shall be twenty (20), except that there shall not be a limit during the light geese conservation order~~[Light Goose Conservation Order]~~ season.

(6) The possession limit shall be triple the daily limit, except that there shall not be a light geese~~[goose]~~ possession limit.

#### Section 6. Shooting Hours. A person shall not hunt waterfowl except from one-half (1/2) hour before sunrise until:

(1) Sunset, except as established in 301 KAR 2:222; or

(2) One-half (1/2) hour after sunset if hunting light geese during the light geese conservation order~~[Light Goose Conservation Order]~~ season.

#### Section 7. Falconry Waterfowl Season and Limits.

- (1) The light geese~~[goose]~~ season shall be from Thanksgiving Day through February 15.
- (2) The light geese conservation order~~[Light Goose Conservation Order]~~ season shall be from February 16 through March 31.
- (3) The season for all other waterfowl shall be from Thanksgiving Day through February 15.
- (4) The daily limit shall be three (3) waterfowl, except that there shall not be a limit on light geese during the light geese conservation order~~[Light Goose Conservation Order]~~ season.
- (5) The possession limit shall be nine (9) waterfowl, except that there shall not be a possession limit on light geese during the light geese conservation order~~[Light Goose Conservation Order]~~ season.

#### Section 8. Permit for the Light Geese Conservation Order Season~~[Light Goose Conservation Order Season]~~.

- (1) A person hunting light geese during the light geese conservation order~~[Light Goose Conservation Order]~~ season shall first obtain a free permit by completing the online Snow Geese~~[Goose]~~ Conservation Order Permit process on the department's Web site at fw.ky.gov.
- (2) A person hunting light geese during the light geese conservation order~~[Light Goose Conservation Order]~~ season shall submit a Snow Geese~~[Goose]~~ Conservation Order Permit Survey to the department by April 10.

#### Section 9. ~~[A]~~Special Youth Waterfowl Season.

- (1) A youth ***shall only[may]*** hunt waterfowl and gallinule on the Saturday before Thanksgiving and the second Saturday in February.
- (2) A youth hunter shall be accompanied by an adult;
- (3) Youth hunters shall obey the provisions of 301 KAR 2:221 and 301 KAR 2:222, except that he or she may hunt on the dates ***established[provided]*** in this administrative regulation;
- (4) An adult accompanying a youth who is waterfowl hunting shall:
  - (a) Remain in a position to take immediate control of the youth's firearm;
  - (b) Not hunt ducks, coots, mergansers, and gallinules; and
  - (c) Not be required to possess a hunting license or waterfowl permit if he or she is not hunting.

#### Section 10. A Special Veterans and active Military Personnel Waterfowl Hunting Season.

- (1) A veteran or active military personnel ***shall only[may]*** hunt waterfowl and gallinule on the Sunday before Thanksgiving and the second Sunday in February.
- (2) Veteran hunters shall obey the provisions of 301 KAR 2:221 and 301 KAR 2:222, except that applicable hunters ***shall only[may]*** hunt on the dates ***established[provided]*** in this administrative regulation.
- (3) While in the field during the special veterans and active military personnel waterfowl hunting season, waterfowl hunters shall either have a state hunting license showing veteran status or carry proof of their veteran or active military personnel status. Acceptable forms of proof shall be a current military identification card, a VA-issued identification card, state issued driver's license or identification card with a veteran's designation, or an original or copy of a DD Form 214, DD Form 215, NGB Form 22, NGB Form 22-a, or DD Form 256.

#### Section 11.~~[Section 9.]~~ Incorporation by Reference.

- (1) The following material is incorporated by reference:

- (a) "Snow ~~Geese~~[Goose] Conservation Order Permit", ~~April 2022~~[January 2014]; and
  - (b) "Snow ~~Geese~~[Goose] Conservation Order Permit Survey", ~~April 2022~~[January 2014].
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. or online at:
- (a) <https://app.fw.ky.gov/snowgoosesurvey/snowgoose.aspx> for the "Snow Geese Conservation Permit"; and
  - (b) <https://app.fw.ky.gov/snowgoosesurvey/snowgoosesurvey.aspx> for the "Snow Geese Conservation Order Permit Survey."

CONTACT PERSON: Jenny Gilbert, Department of Fish and Wildlife Resources, Administration Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone: (502) 564-3400, fax: (502) 564-0506, email: [fwpubliccomments@ky.gov](mailto:fwpubliccomments@ky.gov)



Andy Beshear  
Governor

**KENTUCKY STATE POLICE**

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Frankfort, Kentucky 40601  
[www.kentuckystatepolice.org](http://www.kentuckystatepolice.org)

Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: **502 KAR 10:010** Definitions

502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

REVISED:  
7/7/2022 12:50 PM  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**502 KAR 10:010. Definitions.**

Page 1

AGENCY NAME

Line 2

After "Department of", insert "Kentucky".

Page 1

**NECESSITY, FUNCTION, AND CONFORMITY**

After "Commissioner of the", insert the following:

Department of Kentucky State Police

Delete "department".

Page 1

**Section 1**

After "Section 1.", delete beginning with "As employed" and ending with "following meanings:".

Page 1

**Section 1(1)**

After " "Commissioner" ", insert the following:

is defined by KRS 332.015(2).

Delete the remainder of subsection (1) in its entirety.

Page 2

**Section 1(2)**

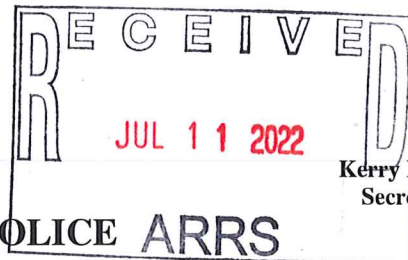
After "(2)", insert the following:

"Driver training" is defined by KRS 332.015(3).

(3)

**NOTE TO REGULATIONS COMPILER:**

***Please renumber the remaining subsections accordingly.***



Kerry Harvey  
Secretary

Andy Beshear  
Governor

**KENTUCKY STATE POLICE**  
919 Versailles Road  
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[www.kentuckystatepolice.org](http://www.kentuckystatepolice.org)

Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: **502 KAR 10:120** Hazardous materials endorsement requirements

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:120, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached agency amendment to 502 KAR 10:120.

Sincerely,

A handwritten signature in black ink that reads "Angela Parker".

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

**AGENCY AMENDMENT**  
**+JUSTICE AND PUBLIC SAFETY CABINET**  
**Department of Kentucky State Police**

**502 KAR 10:120. Hazardous materials endorsement requirements.**

**Page 1**

**AGENCY NAME**

**Line 2**

After "Department of", insert "Kentucky".

**Page 1**

**Section 1(2)**

**Line 19**

After "(2)", insert the following:

"CDL testing location" means the department's regional CDL testing  
offices

(3)

**Page 1**

**Section 1(3)**

**Line 20**

Before "(3)", insert "(4)".

Delete "(3)".

**Page 2**

**Section 1(4)**

**Line 1**

Before "(4)", insert "(5)".

Delete "(4)".

After "1572.15(d)(4).", delete the following:

(5) "Fingerprint centers" means the department's regional offices  
established to process the fingerprints of applicants for a hazardous  
materials endorsement for a commercial driver's license holder under KRS  
281A.170(23)(b).

**Page 2**

**Section 2(1)**

**Line 18**

After "TSA.", insert the following:

The applicant shall submit application information in accordance with 49 C.F.R. 1572.9.

Delete the following:

A "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652-0027, containing all information necessary for the TSA to complete the required assessment as described in 49 C.F.R. 1572.9 shall be submitted by the applicant.

**Page 3**

**Section 2(3)**

**Line 3**

After "identification," insert "and".

**Line 5**

After "1652", delete the following:

, and a certified check of \$115 for the fingerprint fee

**Page 3**

**Section 2(4)**

**Line 6**

After "(4)", insert the following:

An applicant shall pay a \$115 fee for a fingerprint-based background check. The fee may be paid by:

(a) Certified check;

(b) Cashier's check;

(c) Money order; or

(d) Electronically before the appointment at

[https://secure.kentucky.gov/formservices/KSP/Hazmat\\_FP](https://secure.kentucky.gov/formservices/KSP/Hazmat_FP).

(5)

**Page 3**

**Section 3(4) [now (5)]**

**Line 6**

After "fingerprinted by KSP", insert the following:

at a regional CDL testing location

**Page 3**

**Section 3(5) [now (6)]**

**Line 9**

Before "(5)", insert "(6)".



Delete "(5)".

**Page 3**

**Section 3(6)** *[now (7)]*

**Line 13**

Before "(6)", insert "(7)".

Delete "(6)".

**Page 3**

**Section 3(7)** *[now (8)]*

**Line 18**

Before "(7)", insert "(8)".

Delete "(7)".

**Page 4**

**Section 3(4)**

**Line 13**

After "1652-0027", insert the following:

(5) A renewal applicant shall pay a \$115 fee for a fingerprint-based background check. The fee may be paid by:

(a) Certified check;

(b) Cashier's check;

(c) Money order; or

(d) Electronically before the appointment at

[https://secure.kentucky.gov/formservices/KSP/Hazmat\\_FP](https://secure.kentucky.gov/formservices/KSP/Hazmat_FP).

(6)

Delete the following:

, and a certified check of \$115 for the fingerprint fee.

**Page 4**

**Section 3(5)** *[now (6)]*

**Line 16**

After "fingerprinted by KSP", insert the following:  
at a regional CDL testing location

**Page 4**

**Section 3(6)** *[now (7)]*

**Line 18**

Before "(6)", insert "(7)".  
Delete "(6)".

**Page 4**

**Section 3(7)** *[now (8)]*

**Line 22**

Before "(7)", insert "(8)".  
Delete "(7)".

**Page 5**

**Section 3(8)** *[now (9)]*

**Line 3**

Before "(8)", insert "(9)".  
Delete "(8)".

**Page 5**

**Section 3(9)** *[now (10)]*

**Line 8**

Before "(9)", insert "(10)".  
Delete "(9)".

**Page 5**

**Section 3(10)** *[now (11)]*

**Line 13**

Before "(10)", insert "(11)".  
Delete "(10)".

**Line 14**

After "hazardous", insert "materials".

**Pages 5-6**

**Section 5**

**Lines 21-22, 1**

Delete Section 5 in its entirety.

**Page 6**

**Section 6**

**Lines 15-20**

Delete Section 6 in its entirety.



Andy Beshear  
Governor

**KENTUCKY STATE POLICE**

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[www.kentuckystatepolice.org](http://www.kentuckystatepolice.org)

Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions

502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

**REVISED:**  
**7/7/2022 12:52 PM**  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**502 KAR 10:020. Department facilities; facility inspection; conflict of interest.**

**Page 1**

**AGENCY NAME**

**Line 2**

After "Department of", insert "Kentucky".

**Page 1**

**Section 1(1)**

**Line 13**

After "(1)", insert "A".

Delete "No".

**Line 14**

After "agent", insert "shall not".

Delete "will".

**Page 1**

**Section 1(2)**

**Line 16**

After "(2)", insert "A".

Delete "No".

After "employee", insert comma.

After "agent shall", insert "not".

**Page 1**

**Section 1(3)**

**Line 19**

After "Practice driving", insert "shall be".

Delete "is".

**Page 2**

**Section 3**

**Line 7**

After "3.", insert "A".

Delete "No".

**Line 8**

After "license", insert comma.

Delete "nor".

After "department,", insert "or".

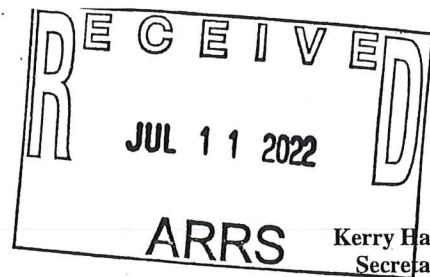
Delete "nor".

After "member of", insert "the person's or employee's".

Delete "his".

**Line 9**

After "shall", insert "not".



Andy Beshear  
Governor

**KENTUCKY STATE POLICE**

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Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

REVISED:  
7/7/2022 12:46 PM  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**502 KAR 10:035. Commercial driver's license skill testing.**

**Page 1**

**AGENCY NAME**

**Line 2**

After "Department of", insert "Kentucky".

**Page 1**

**NECESSITY, FUNCTION, & CONFORMITY**

After "281A.160", insert the following:

requires the Department of Kentucky State Police to promulgate administrative regulations to implement the provisions of the statute, which allows

Delete "authorizes".

**Page 1**

**Section 1**

After "accompanied by", insert ": (1)".

Capitalize "a".

After "instructor's license", insert semicolon.

Delete comma.

After "and", insert "(2)".

Capitalize "proof".

**Page 1**

**Section 2**

After "person", insert comma.

After "Department of", insert "Kentucky".

**Page 2**

**Section 3(2)**

After "Examiner's Manual", insert period.

**Page 2**

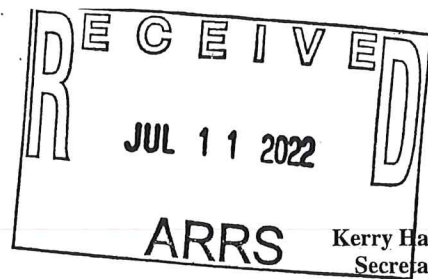
**Section 3(3)**

After "immediately", insert the following:

submit passing results to  
Delete "call".

After "Branch", insert the following:  
by email to KSPCDL-Scores@ky.gov





Andy Beshear  
Governor

**KENTUCKY STATE POLICE**

919 Versailles Road  
Frankfort, Kentucky 40601  
[www.kentuckystatepolice.org](http://www.kentuckystatepolice.org)

Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

**Suggested Amendment  
Justice and Public Safety Cabinet  
Department of Kentucky State Police**

**(AMENDED AFTER COMMENTS version)**

**502 KAR 10:040. Training school facilities.**

**Page 2**

**Section 1(2)**

**Line 4**

After "business of", insert ": (a)".  
Capitalize "giving".  
After "for hire", insert semicolon.  
Delete comma.  
After "and", insert "(b)".  
Delete "the business of".  
Capitalize "preparing".

**Page 2**

**Section 1(3)**

**Line 12**

After "a type", insert "that".  
Delete "which".

**Page 2**

**Section 1(4)**

**Line 16**

After "dwelling house.", insert "This requirement".  
Delete the following:  
    The residence requirement of this rule  
After "apply to", delete the following:  
    compel the discontinuance of

**Line 17**

After "school", insert "that".  
Delete "which".

**Page 2**

**Section 1(5)**

**Line 20**

After "records", insert comma.

**Page 4**

**Section 4**

**Line 17**

After "Information.", insert "(1)".

**Page 4**

**Section 4(1)**

**Line 20**

Before "Change", insert "(a)".

Delete "(1)".

**Page 4**

**Section 4(2)**

**Line 21**

Before "Change", insert "(b)".

Delete "(2)".

**Page 4**

**Section 4(3)**

**Line 22**

Before "Change", insert "(c)".

Delete "(3)".

**Page 4**

**Section 4(4)**

**Line 23**

Before "Addition", insert "(d)".

Delete "(4)".

**Page 5**

**Section 4(5)**

**Line 1**

Before "Closure", insert "(e)".

Delete "(5)".

**Page 5**

**Section 4(6)**

**Line 3**

Before "Renewal", insert "f".  
Delete "(6)".

**Page 5**

**Section 4(7)**

**Line 4**

Before "Transfer", insert "g".  
Delete "(7)".

**Page 5**

**Section 4(8)**

**Line 5**

Before "Change", insert "h".  
Delete "(8)".

**Page 5**

**Section 4(9)**

**Line 6**

Before "Termination", insert "i".  
Delete "(9)".

**Page 5**

**Section 4(10)**

**Line 7**

Before "Addition", insert "j".  
Delete "(10)".

**Page 5**

**Section 4(11)**

**Line 8**

Before "Change", insert "k".  
Delete "(11)".  
After "liability insurance.", insert "2".

**Page 6**

**Section 6(3)**

**Line 11**

After "ventilation,", insert "and".

**Page 6**

**Section 6(4)(b)**

**Line 15**

After "(b)", delete "Adequate".  
Capitalize "blackboards".

**Page 6**

**Section 6(4)(c)**

**Line 16**

After "(c)", delete "Adequate".  
Capitalize "charts".

**Page 7**

**Section 7(1)**

**Line 13**

After "shall", insert ": (a)".  
Capitalize "include".

**Line 14**

After "steering", insert the following:  
    ; and (b) Take place  
After "training vehicle", insert "that".  
Delete "which".

**Line 15**

After "meets the", delete "regulatory".  
After "requirements", insert "of this administrative regulation".  
Delete "set forth herein".

**Page 8**

**Section 9**

**Line 7**

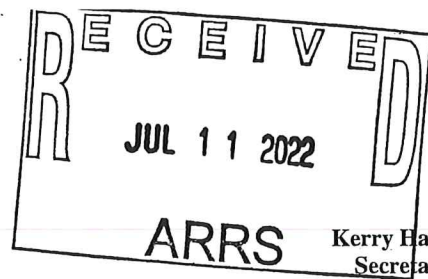
After "school office", insert comma.  
Delete "or".

**Line 8**

After "or any", insert "school".  
After "equipment", delete "thereof".

**Line 9**

After "approved", insert the following:  
    , if the school office, branch office, or equipment complies with the  
    requirements of this administrative regulation



Andy Beshear  
Governor

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Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
**502 KAR 10:050** Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

**Suggested Amendment  
Justice and Public Safety Cabinet  
Department of Kentucky State Police**

**502 KAR 10:050. Contracts and agreements.**

**Page 1**

**AGENCY NAME**

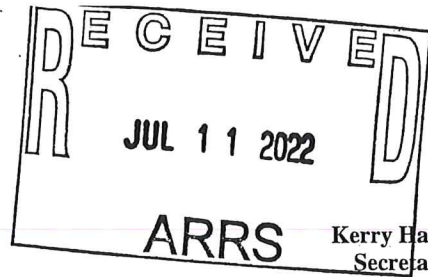
**Line 2**

Insert the following:

Department of Kentucky State Police

Delete the following:

Kentucky Law Enforcement Council



Andy Beshear  
Governor

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502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
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Sincerely,

  
Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs



REVISED:  
7/7/2022 12:56 PM  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**502 KAR 10:060. School advertising.**

**Page 1**

**AGENCY NAME**

**Line 2**

After "Department of", insert "Kentucky".

**Page 1**

**Section 1**

**Line 12**

After "Section 1.", insert "A".

Delete "No".

After "shall", insert "not".

**Page 1**

**Section 2**

**Line 14**

After "name,", insert "and".

Delete "nor shall".

After the second occurrence of "school", insert "shall not".

**Line 16**

After "Commonwealth of Kentucky.", insert "A".

Delete "No".

**Lines 16-17**

After "reference shall", insert "not".

**Page 2**

**Section 3**

**Line 1**

After "shall not", insert ":(1)".

Capitalize "make".

**Line 2**

After "advertising", insert ":(2)".

Delete "and it shall not".

Capitalize "use".

**Line 3**

After "school", insert "; or (3)".

Delete ", nor shall it".

Capitalize "advertise".

**Page 2**

**Section 4**

**Line 7**

After "services", insert "that".

Delete "which".

**Page 2**

**Section 5**

**Line 9**

After "claim", insert "or".

Delete "nor".

**Lines 9-10**

After "guarantee", insert ": (1)".

Capitalize "employment".

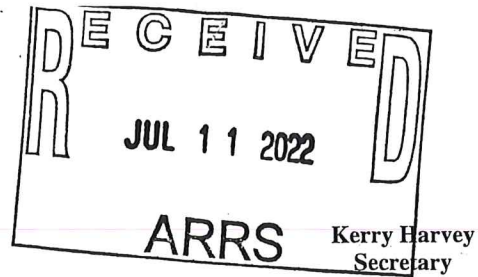
**Line 10**

After "instruction", insert semicolon.

After "or", insert "(2)".

Delete "guarantee".

Capitalize "the".



Andy Beshear  
Governor

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Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

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Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

REVISED:  
7/7/2022 12:47 PM  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**(AMENDED AFTER COMMENTS version)**

**502 KAR 10:070. Training vehicle, annual inspection.**

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 7**

After "requires the", insert the following:

Department of Kentucky State Police

Delete "department".

**Page 1**

**Section 2**

**Line 21**

After "by the department", insert comma.

**Page 2**

**Section 4**

**Line 18**

After "rear of", insert "the".

Delete "such".

**Page 3**

**Section 5(2)(a)**

**Line 1**

After "operation", insert semicolon.

Delete comma.

**Page 3**

**Section 5(2)(b)**

**Line 2**

After "mechanic", insert semicolon.

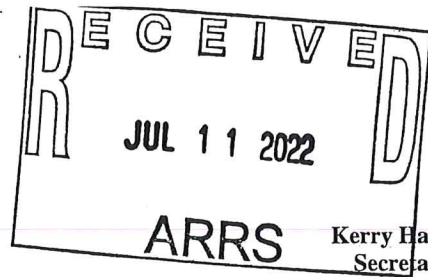
Delete comma.

**Page 3**

**Section 5(2)(c)**

**Line 3**

After "Section", insert "3.".



Andy Beshear  
Governor

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Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
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502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

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Sincerely,

  
Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

REVISED:  
7/7/2022 12:42 PM  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**502 KAR 10:080. License suspension, revocation, denial.**

**Page 1**

**AGENCY NAME**

**Line 2**

Insert "Department of Kentucky State Police".  
Delete "Kentucky Law Enforcement Council".

**Page 1**

**RELATES TO**

**Line 5**

After "KRS", insert "332.202, 332.210,".

**Page 1**

**STATUTORY AUTHORITY**

**Line 6**

After "15A.160,", delete "165A.475,".

**Page 1**

**NECESSITY, FUNCTION, & CONFORMITY**

**Line 7**

After "15A.160", insert the following:  
authorizes the secretary of the Justice and Public Safety Cabinet to promulgate administrative regulations for the administration of all laws and functions which are vested in the cabinet, except for laws and functions vested in the Department for Public Advocacy. KRS

Delete "and".

After "332.216", insert the following:  
requires the Department of Kentucky State Police to promulgate  
Delete "authorize the department to adopt".

**Line 10**

After "KRS Chapter", delete "165A and".

**Line 11**

After "regarding", delete "license".

After "revocations", insert comma.

**Line 12**

After "denials", insert the following:

of licenses for driver training schools and driver training instructors

**Page 1**

**Section 1**

**Line 13**

After "332.216,", insert the following:

and in accordance with KRS 332.210,

**Line 15**

After "issue", insert comma.

**Page 1**

**Section 1(1)**

**Line 16**

After "Chapter", delete "165A and".

**Line 17**

After "332 or", insert "502 KAR Chapter 10".

Delete the following:

any rule or administrative regulation adopted thereunder

**Page 2**

**Section 1(3)**

**Line 2**

After "KRS", insert the following:

Chapter 332 that

Delete "165A.475 which".

**Page 2**

**Section 1(5)**

**Line 6**

After "KRS", delete "165A or".

**Line 7**

After "by the commissioner", insert comma.



**Page 2**

**Section 1(6)**

**Line 10**

After "equipment", insert "that".

Delete "which".

**Page 2**

**Section 1(9)**

**Line 15**

After "partner", insert comma.

Delete "or other".

**Line 16**

After "training school", insert comma.

After "of the school", insert "has".

Delete "shall have".

**Page 2**

**Section 1(10)**

**Line 21**

After "in accordance with", insert "502 KAR Chapter 10".

Delete "these administrative regulations".

**Page 3**

**Section 2**

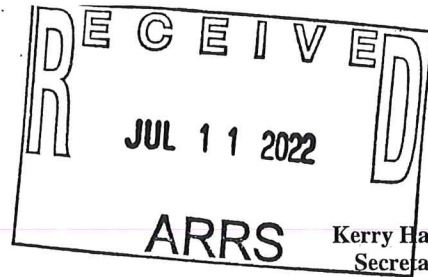
**Line 4**

After "2.", insert the following:

The license of a driver training instructor shall be revoked if the instructor is convicted of:

- (1) Driving a motor vehicle while under the influence;
- (2) Leaving the scene of an accident;
- (3) Reckless homicide;
- (4) Two (2) moving hazardous violations within a two (2) year period; or
- (5) Driving when addicted to, or under the influence of, narcotic drugs.

Delete the remainder of Section 2 in its entirety.



Andy Beshear  
Governor

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Col. Phillip Burnett, Jr.  
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July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
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502 KAR 10:070 Training vehicle, annual inspection  
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**502 KAR 10:090** Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

  
Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

REVISED:  
7/7/2022 12:59 PM  
**SUGGESTED SUBSTITUTE**  
**JUSTICE AND PUBLIC SAFETY CABINET**  
**Department of Kentucky State Police**  
**(Amendment)**

**502 KAR 10:090. Procedure for denial, suspension, nonrenewal or revocation hearings.**

RELATES TO: KRS 165A.460 [332.030]

STATUTORY AUTHORITY: KRS 15A.160, 332.216 [332.100]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 332.216 authorize the department to establish [332.100 provide that the Secretary of the Justice Cabinet in cooperation with the Commissioner, Department of State Police, may adopt such] administrative regulations necessary to carry out the provisions of KRS Chapter 332. This administrative regulation outlines the administrative adjudication procedures of the department [cabinet] in license denial, suspension, nonrenewal and revocation hearings.

Section 1. ~~[Scope and]~~ Definitions. (1) **"Commissioner" is defined by KRS 332.015(2).**

**(2) "Contested case" means an adjudicatory proceeding before the department in which the legal rights, duties, or privileges of any person are required by law to be determined after an opportunity for a hearing, without regard to whether the proceeding is instituted by the department, or by some other person.**

**(3) "Department" is defined by KRS 332.015(1).**

**(4) "Party" means any person or agency named or admitted as a party to any proceedings conducted pursuant to 502 KAR Chapter 10 and includes only persons who have a real interest in the matter before the commissioner of the department.**

**(5) "Person" means any individual, sole proprietorship, partnership, corporation, association, or public or private organization of any character.**

**(6) "Order" means the whole, or any part, of a final disposition of an adjudication.**

~~**[These administrative regulations govern the procedure for the department][Justice Cabinet][in all proceedings under this chapter in which the legal rights, duties or privileges of any person licensed by the department][cabinet][is required by statutes or by these rules to be determined after an opportunity for a hearing. These rules shall be construed to secure a fair and impartial determination of every proceeding.**~~

~~**—(2) For purposes of administrative adjudicatory procedure unless the context otherwise requires:**~~

~~—(a) "Party" means any person or agency named or admitted as a party to any proceedings conducted pursuant to these administrative regulations and shall include only persons who have a real interest in the matter before the commissioner of the department [secretary].~~

~~—(b) "Person" means any individual, sole proprietorship, partnership, corporation, association or public or private organization of any character.~~

~~—(c) "Order" means the whole or any part of a final disposition of an adjudication.~~

~~—(d) "Contested case" means an adjudicatory proceeding before the department [secretary] in which the legal rights, duties, or privileges of any person are required by law to be determined after an opportunity for a hearing, without regard to whether the proceeding is instituted by the department, [cabinet] or by some other person.~~

~~—(e) ["Cabinet" means the Justice Cabinet.~~

~~—(f) "Secretary" means the Secretary of the Justice Cabinet.]~~

~~[(f)][(g)] ["Department" means the Department of State Police.~~

~~—(g) [(h)] ["Commissioner" means the Commissioner of the Department of State Police.]~~

Section 2. Complaints and Investigations. (1) Complaints. (a) A complaint may be made by any person against the holder of a license by the filing of written charges with the commissioner [secretary]. The written complaint shall contain: 1. The name and address of any person making charges, as well as the name and address of the person or persons against whom charges are being made; and 2. A clear and concise statement of the facts giving rise to the complaint.

(b) Any complaint or charge filed with the department [secretary] shall be forwarded to the licensee involved and the licensee shall be given thirty (30) days to resolve the problem or make a full satisfactory reply [thereto]. Any defamatory matter in a formal written complaint shall be excised~~[exercised]~~ by the commissioner [secretary] prior to the complaint being forwarded to the licensee.

(2) Investigations. Upon the receipt of a complaint and following the expiration of the thirty (30) days provided for in subsection (1) of this section, the commissioner [secretary] may cause an investigation to be made [by the Department of State Police or by any agent or representative appointed by the secretary]. Upon the completion of any investigation, the person or persons making the~~[such]~~ investigation shall submit a full written report to the person designated by the commissioner [secretary] to prosecute the matter in an adjudicatory proceeding.

Section 3. Commencement of Adjudicatory Proceedings. Upon the request of the prosecutor or after the expiration of the thirty (30) day period referred to in Section 2(1)

of this administrative regulation ~~if[where]~~ an investigation is not made, the ~~commissioner~~ [secretary] may begin formal adjudicatory proceedings in accordance with the following procedure:

(1) If it is determined that the facts alleged in the complaint ~~or[and/or]~~ investigative report may constitute grounds for the suspension, probation, or revocation of a license, a hearing shall be scheduled before the ~~commissioner~~ [secretary], or his ~~or her~~ designated hearing officer, on those allegations. ~~If[In any case in which]~~ an application for license or renewal of license has been denied, a hearing shall only be scheduled upon receipt by the ~~commissioner~~ [secretary] of a written request submitted by or on behalf of the person whose application for license was denied or not renewed. Any required hearing shall be held within three (3) months, or as soon ~~[thereafter]~~ as practicable, after the receipt by the ~~commissioner~~ [secretary] of a written request for a hearing. In any contested case, whether it be instituted by the ~~department~~ [cabinet] or by some other person, all the parties to the proceeding shall be given reasonable notice and an opportunity to be heard.

(2) Notice. The notice provided for shall be issued in the name of the ~~department~~ [cabinet] by the ~~commissioner~~ [secretary] or designated hearing officer and shall state:

(a) The time, date, place, and nature of the hearing;

(b) The legal authority and jurisdiction under which the hearing is to be held;

(c) The alleged statutory or regulatory violations; and

(d) A short and plain statement of the complaint or charges which are being ~~proffered~~ **preferred** and the remedy ~~that[which]~~ is being sought. The notice shall be personally served or mailed to the last known address of the party or parties not less than twenty (20) days before the date of the hearing, **in accordance with KRS 13B.050**.

(3) Appearance and service. In any contested case, the parties to the proceeding shall have the right to: **(a) 1.** Appear personally at the hearing, and by counsel; **2. [, and shall have the right to]** Cross-examine witnesses appearing against them; and **3. [to]** Produce witnesses on their ~~[own]~~ behalf. **(b)** When a party has appeared by an attorney, or otherwise designated an attorney as his representative, all communications, notices, orders, or other correspondence shall be served on **this[such]** attorney. **[;]** Service on the attorney shall be considered as service on the party, and the hearing officer shall be notified of any change in **the[such]** attorney.

(4) The ~~commissioner~~ [secretary] or his ~~or her~~ designated hearing officer shall preside over the hearing proceedings. **[;]** If the ~~commissioner~~ [secretary] presides, he ~~or she~~ may have assistance of counsel to rule on evidentiary matters.

(5) Authority to administer oaths. In hearings before the ~~commissioner~~ [secretary] or hearing officer, any oath or affirmation required may be administered by any person authorized to administer oaths by the laws of the Commonwealth of Kentucky.

(6) Presentation of evidence. The evidence against the licensee or other person concerning the pending complaint or charge shall be presented by the designated

prosecutor. Additionally, any witness or other evidence may be questioned or introduced by the presiding officer.

Section 4. Conduct of Hearings; Witnesses; Burden of Proof; Evidence. **The hearing shall be conducted in accordance with the requirements of KRS 13B.080.** (1) The presiding officer may hear testimony of any person present at the hearing who has information to offer **[bearing]** on the subject matter of **the[such]** hearings. The presiding officer may ask any witness questions as may be required for a full and true disclosure of the facts. The presiding officer shall have only one (1) witness **[before him]** at **a[any one (1)]** time, and other witnesses may be excluded from the hearing room while any one (1) witness is being questioned.

(2) The hearing in a contested case involving a suspension, probation, or revocation of a license shall proceed in the following order, unless the presiding officer, for special reasons otherwise directs:

(a) The party filing the complaint or **proffering[preferring]** the charges, or the persons appointed or designated to present the evidence against the licensee, shall briefly state the substance of the charges and the evidence by which he or she expects to sustain them.

(b) The party against whom a complaint has been filed or charges otherwise **proffered[preferred]** may briefly state the substance of his or her defense and the evidence which he or she expects to offer in support of it.

(c) The party filing the complaint or otherwise **proffering[preferring]** the charges, or the designated prosecutor, shall have the burden of proof in the whole action **and[; therefore, he or she shall]** produce his or her evidence first. **[;]** The party against whom a complaint has been filed or charges **proffered[preferred]** may then produce his or her evidence. The presiding officer, however, may regulate the order of proof in any proceeding to expedite the hearing and to enable the presiding officer to obtain a clear view of the whole evidence.

(d) The parties shall then be confined to rebuttal evidence, unless the presiding officer, in **accordance with KRS 13B.080[his or her discretion]**, permits them to offer additional evidence in chief.

(e) The parties may then submit the matter to the presiding officer for consideration, or present arguments on the issues involved. In the arguments, the party filing the complaint or otherwise **proffering[preferring]** the charges, or the designated prosecutor, shall have the conclusion, and the party against whom the complaint was filed or charges otherwise **proffered[preferred]** shall have the opening.

(3) In a hearing requested in writing by a person whose application for a license has been denied or not renewed, the burden of proof and order of proceedings delineated in subsection (2) of this section shall be reversed.

(4) In any contested case, the presiding officer shall, as far as practical, adhere to the following rules of evidence:

(a) Any evidence which would be admissible under the statutes of the Commonwealth of Kentucky, and under the rules of evidence followed by circuit courts of the Commonwealth of Kentucky, shall be admitted in hearings before the presiding officer, **except that[-however,]** the presiding officer may admit evidence that would be inadmissible in the courts if the evidence is of the type commonly relied upon by a reasonable, prudent person [men] in the conduct of his or her [their] affairs.

(b) Every party shall have the right to present **[-such]** oral or documentary evidence, exhibits, and rebuttal evidence and conduct **[-such]** cross-examination **that[as]** may be required for a full and true disclosure of the facts. Documentary evidence may be introduced in the form of copies or receipts if the original is not readily available **if[provided that]** upon request, the parties or the presiding officer shall be given an opportunity to compare the copy with the original.

(c) **If [When]** a hearing will be expedited and the interests of the parties will not be substantially prejudiced **[thereby]**, all or part of the evidence may be received in written form by affidavit or prepared statement. Prepared statements shall not be read or made a part of the record until the party against whom the statement is offered has been given a reasonable time for review and objection.

(d) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded and the presiding officer shall give effect to the rule of privilege recognized by the laws of the Commonwealth of Kentucky.

(e) The presiding officer may take notice of judicially cognizable facts.

(f) Objections to evidentiary offers may be made and shall be noted in the record.

(5) The parties to any hearing may agree to waive any one (1) or more of the procedural steps **that[which]** would otherwise precede the reaching of a final decision by the commissioner [secretary], but **this[such]** waiver shall not be binding on the commissioner [secretary].

Section 5. Deliberations; Records; Final Order. (1) Deliberations. During any hearing and after the case has been submitted to the commissioner [secretary] or hearing officer for decision, deliberations shall be governed by the following principles:

(a) Ex parte investigations. **[Neither-]** The commissioner, [secretary] **[nor any]** hearing officer, or any other person who shall make findings of fact and conclusions of law in a contested case shall **not**, once a hearing has commenced, consult with any person or party in connection with any issue of fact or law, except upon notice and opportunity for all parties to participate. **[-provided, however, that]** The commissioner [secretary] or hearing officer may have the aid and advice of one (1) or more personal assistants, including the assistance of counsel.

(b) Separation of functions. ~~An~~**[No]** officer, employee, or agent of the department ~~[cabinet]~~ who is engaged in the performance of investigative or prosecuting functions in a contested case shall not, in that or a factually related case, participate or advise in the decision except as a witness or counsel in the public hearing.

(c) Examination of evidence. The commissioner ~~[secretary]~~ or hearing officer shall personally consider the whole record, or ~~[such]~~ portions **of the record**~~[thereof]~~ as may be cited by the parties before a decision is reached.

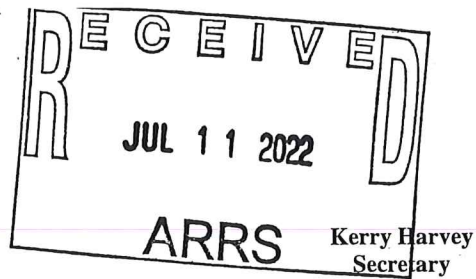
(d) The presiding officer ~~[at his or her discretion]~~ may recess a hearing for the taking of additional discovery and evidence as required.

(2) Record. The record shall include all pleadings, motions, exhibits, documentary and testimonial evidence received or considered, a statement of matters officially noticed, and questions and offers of proof and rulings~~[- therein]~~. If ~~[Should]~~ any party requests ~~[desire]~~ a written transcript of the proceedings, the party shall be required to ~~[it shall be necessary that they]~~ pay for the ~~[said]~~ transcript.

(3) Recommended order. ~~If~~**[In the event]** the commissioner ~~[secretary]~~ designates a hearing officer as presiding officer of a hearing in a contested case, the hearing officer shall, as soon as practical after the conclusion of the hearing, but **at a minimum, no**~~[in no event]~~ later than thirty (30) days **after the hearing**~~[thereafter]~~, prepare findings of fact, conclusions of law, and a recommended order and **provide a copy to**~~[cause copies of same to be served on]~~ all parties. The parties shall have ten (10) days following entry of the recommended order to file objections and comments~~[thereto]~~ with the commissioner~~[secretary]~~. The commissioner **shall consider**~~[secretary]~~~~[- after considering]~~ the record and **the** hearing officer's report consisting of a synopsis of procedural matters, findings of fact, conclusions of law,~~[and]~~ the recommended order, and~~[also]~~ any objections or comments filed by the parties **before rendering**~~[- shall render]~~ a final order.

(4) Final order. The final decision in any case in which a hearing is required or requested shall be in writing and shall be made a part of the official ~~[office]~~ record. It shall include a concise and explicit statement of the findings of fact and conclusions of law, separately stated, and shall be signed by the commissioner~~[secretary]~~. One (1) copy of the order shall **[forthwith]** be served on each party to the proceeding. Motions to correct clerical errors may be filed within ten (10) days after entry of the final order. Any **subsequent** modifying order~~[subsequent thereto]~~ shall be served on all parties.





Andy Beshear  
Governor

**KENTUCKY STATE POLICE**

919 Versailles Road  
Frankfort, Kentucky 40601  
[www.kentuckystatepolice.org](http://www.kentuckystatepolice.org)

Col. Phillip Burnett, Jr.  
Commissioner

July 11, 2022

Emily Caudill  
Legislative Research Commission  
029, Capitol Annex  
702 Capital Avenue  
Frankfort KY 40601

Re: 502 KAR 10:010 Definitions  
502 KAR 10:020 Department facilities; facility inspection; conflict of interest  
502 KAR 10:035 Commercial driver's license skill testing  
502 KAR 10:040 Training school facilities  
502 KAR 10:050 Contracts and agreements  
502 KAR 10:060 School advertising  
502 KAR 10:070 Training vehicle, annual inspection  
502 KAR 10:080 License suspension, revocation, denial  
502 KAR 10:090 Procedure for denial, suspension, nonrenewal or revocation hearings  
502 KAR 10:110 Third-party CDL skills test examiner standards

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110, the Justice and Public Safety Cabinet, Department of Kentucky State Police proposes the attached suggested amendments to 502 KAR 10:010, 502 KAR, 10:020, 502 KAR 10:035, 502 KAR 10:040, 502 KAR 10:050, 502 KAR 10:060, 502 KAR 10:070, 502 KAR 10:080, 502 KAR 10:090, and 502 KAR 10:110.

Sincerely,

Angela Parker  
Staff Assistant

enclosures

cc: Brenn Combs

REVISED:  
7/7/2022 1:00 PM  
**Suggested Amendment**  
**Justice and Public Safety Cabinet**  
**Department of Kentucky State Police**

**502 KAR 10:110. Third-party CDL skills test examiner standards.**

**Page 1**

**AGENCY NAME**

**Line 2**

After "Department of", insert "Kentucky".

**Page 1**

**Section 1(4)**

**Line 15**

After "means", insert ": (a)".

Capitalize "the".

After "current and ", delete ", if any,".

After "former spouse", insert ", if any,".

**Line 16**

After "examiner", insert ": (b)".

Delete ", or".

Capitalize "a".

After "them", insert semicolon.

Delete comma.

After "or", insert "(c)".

Capitalize "the".

**Page 2**

**Section 1(8)**

**Line 3**

After "education employees", insert "who are".

**Page 2**

**Section 2**

**Line 9**

After "retention", insert ". The individual".

**Page 3**

**Section 2(8)**

**Line 8**

After "revoked", insert period.

Delete the remainder of subsection (8) in its entirety.

**Page 5**

**Section 4(5)**

**Line 2**

After "years", delete "check rides".

**Page 6**

**Section 5(3)(b)**

**Line 14**

After "if KSP", delete ", in its sole discretion,".

**Page 7**

**Section 7(5)**

**Line 9**

After "test examiner.", insert the following:

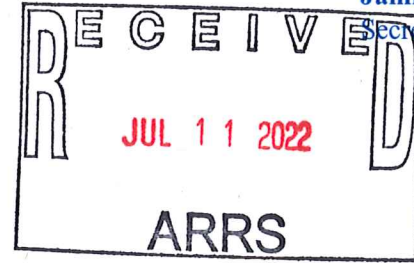


## EDUCATION AND LABOR CABINET

**Andy Beshear**  
Governor

**Office of General Counsel**  
**Workforce Development**  
**Legal Division**  
500 Mero Street, 3<sup>rd</sup> Floor  
Frankfort, Kentucky 40601  
(502) 564-3070

**Jamie Link**  
Secretary



July 11, 2022

Senator Stephen West and Representative David Hale  
c/o Emily Caudill, Regulations Compiler  
Legislative Research Commission  
029, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff involving 787 KAR 2:040, the Department of Workforce Investment proposes the attached Subcommittee Substitute to 787 KAR 2:040.

Thank you.

Oran S. McFarlan, III  
Deputy General Counsel  
Kentucky Education and Labor Cabinet  
500 Mero Street, 3<sup>rd</sup> Floor  
Frankfort, KY 40601

**TEAM**  
**KENTUCKY**

## SUGGESTED SUBSTITUTE

Final Version: 7/11/2022 11:50 AM

### EDUCATION AND WORKFORCE DEVELOPMENT CABINET Department of Workforce Investment

#### **787 KAR 2:040. Local workforce development area governance.**

RELATES TO: KRS ~~151B.017(4)~~~~[151B.020(6)]~~, 29 U.S.C. 3101 et seq.

STATUTORY AUTHORITY: KRS ~~151B.017(4)~~~~[151B.020(6)]~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~151B.017(4)~~~~[151B.020(6)]~~ requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This administrative regulation establishes the membership criteria and operating guidelines for local workforce development boards, requires interlocal and partnership agreements for local workforce development areas, establishes the process for the identification of regions and designation of local workforce development areas, establishes the guidelines for the hiring of staff by local workforce development boards, ~~[and]~~ requires a written agreement for entities that perform multiple functions in a local workforce development area under the Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq., and addresses dissemination and implementation of policies and guidance issued by the Kentucky Workforce Innovation Board. ~~[In addition to the minimum federal requirements set forth in 29 U.S.C. 3122,]~~ This administrative regulation ~~establishes~~provides further guidance and clarification, in addition to the minimum federal requirements established in 29 U.S.C. 3122, necessary for effective local implementation activities.

Section 1. **Definition. "Workforce Innovation and Opportunity Act" or "WIOA" means 29 U.S.C. 3101 et seq.**

**Section 2.** Local Workforce Development Board Membership Criteria and Operating Guidelines. Each chief local elected official in a local workforce development area shall appoint members to the local workforce development board and each local workforce development board shall operate in compliance with the Workforce Innovation and Opportunity Act (WIOA).

Section **3.[2.]** Interlocal Agreement. Each local elected official of a unit of general local government within a local workforce development area shall jointly execute a written interlocal agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act.

Section **4.[3.]** Partnership Agreement. Each chief local elected official, representing the local elected officials in a local workforce development area, and each designated chair, representing the local workforce development board, shall jointly execute a written partnership agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act.

Section **5.[4.]** Identification of Regions and Designation of Local Workforce Development Areas. The process and procedures for the identification of regions and the designation of local workforce development areas within the Commonwealth of Kentucky shall be in compliance with WIOA.

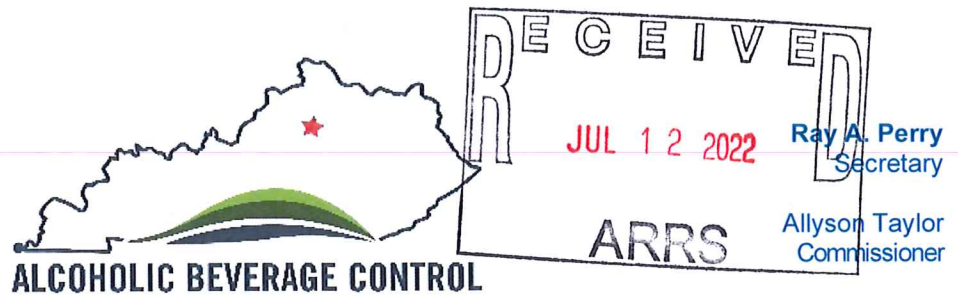
Section **6.[5.]** Hiring of Staff for Local Workforce Development Boards. Local workforce development boards may hire a director and other staff in accordance with WIOA.

Section **7.[6.]** Entities Performing Multiple Functions in A Local Workforce Development Area. Entities that have been selected or otherwise designated to perform more than one (1) function in a local workforce development area shall develop a written agreement that, at a minimum, complies with WIOA.

Section **8.[7.]** Dissemination and Implementation of Policies and Guidance issued by the Kentucky Workforce Innovation Board. The local workforce development boards shall implement and disseminate policies, guidance, and manuals issued by the Kentucky Workforce Innovation Board, in coordination with the Governor and the Department of Workforce Investment, pursuant to the Workforce Innovation and Opportunity Act and accompanying Code of Federal Regulations.

CONTACT PERSON: Honor Barker, Deputy Commissioner, Department of Workforce Investment, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone (502) 782-3746, email honor.barker@ky.gov.

Andy Beshear  
Governor



July 12, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 804 KAR 001:102 "General advertising practices."  
804 KAR 011:041 "Growlers."

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 804 KAR 001:102 and 804 KAR 011:041, the Alcoholic Beverage Control Board proposes the attached amendments to 804 KAR 001:102 and 804 KAR 011:041.

Sincerely,

A handwritten signature in blue ink, which appears to read "Joshua Newton".

Joshua Newton, General Counsel  
Department of Alcoholic Beverage Control  
Mayo-Underwood Building  
500 Mero St, 2 NE 33  
Frankfort, Kentucky 40601

Department of Alcoholic Beverage Control | Mayo-Underwood Building | 500 Mero Street, 2NE33 |  
Frankfort, Kentucky 40601 Telephone: (502) 564-4850 | Fax: (502) 564-1442

TEAM  
KENTUCKY

7/6/22

**SUGGESTED SUBSTITUTE**

**PUBLIC PROTECTION CABINET  
Department of Alcoholic Beverage Control**

**804 KAR 1:102. General advertising practices.**

RELATES TO: KRS 244.130, 244.500, 244.590

STATUTORY AUTHORITY: KRS 241.060(1), 244.130

NECESSITY, FUNCTION, AND CONFORMITY: KRS 244.130 authorizes the ~~[Department of]~~ Alcoholic Beverage Control Board to regulate the advertising of alcoholic beverages. This administrative regulation establishes standards for advertising in a manner consistent with modern marketing practices.

Section 1. Definition. "Social media" means all forms of electronic communication through which users create online communities to share information, ideas, personal messages, and other content.

Section 2.

- (1) A licensee may use outdoor advertising.
- (2) If outdoor advertising is used by a manufacturer, producer, brewer, winery, distributor, or wholesaler, it shall not:
  - (a) Include a retail licensee's name or business designation (DBA); or
  - (b) Refer to a retail licensee in any other way.

Section 3. A licensee may advertise in material directed to the home or business of a consumer if the advertising material is in conformity with KRS 244.130 and this administrative regulation.

Section 4.

- (1) Except as provided by subsections (2) and (3) of this section, advertising novelties may be used.
- (2) A licensee shall not require the purchase or consumption of an alcoholic beverage as a condition for the sale, gift, or reduction in price of an advertising novelty.
- (3) Except as provided by KRS 244.590(2)(a), a malt beverage distributor shall not sell, give away, or furnish advertising novelties, in any manner to a retail licensee.

Section 5. A licensee may advertise by means of radio and television.

Section 6. A licensee may advertise by means of the Internet and social media.

Section 7.

- (1) A licensee may sponsor or cosponsor athletic leagues, tournaments, contests, and charitable events if the consumption or purchase of alcoholic beverages is not a requirement for participation.
- (2) A licensee sponsoring or cosponsoring an event described in subsection (1) of this section upon a retail licensed premises shall not require the retail licensee to purchase, sell, or distribute the products of the sponsoring licensee as a condition for participation in or in connection with the event.

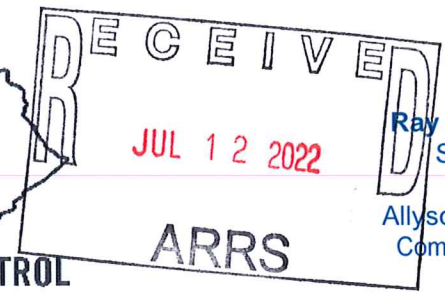
Section 8. A licensee shall not use the terms "free", "complimentary", or any other terms, that[which] imply or suggest giveaways in the advertising of alcoholic beverages.

Section 9. A licensee shall not advertise a product, service, or activity if the licensee is prohibited by statute or administrative regulation from selling, providing, or conducting it.

Section 10. This administrative regulation shall not be interpreted to relate to direct shipping in accordance with KRS 241.060(1).



Andy Beshear  
Governor



Ray A. Perry  
Secretary

Allyson Taylor  
Commissioner

July 12, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 804 KAR 001:102 "General advertising practices."  
804 KAR 011:041 "Growlers."

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 804 KAR 001:102 and 804 KAR 011:041, the Alcoholic Beverage Control Board proposes the attached amendments to 804 KAR 001:102 and 804 KAR 011:041.

Sincerely,

Joshua Newton, General Counsel  
Department of Alcoholic Beverage Control  
Mayo-Underwood Building  
500 Mero St, 2 NE 33  
Frankfort, Kentucky 40601

Department of Alcoholic Beverage Control | Mayo-Underwood Building | 500 Mero Street, 2NE33 |  
Frankfort, Kentucky 40601 Telephone: (502) 564-4850 | Fax: (502) 564-1442

TEAM  
KENTUCKY

7/6/22

**SUGGESTED SUBSTITUTE**

**PUBLIC PROTECTION CABINET  
Department of Alcoholic Beverage Control**

**804 KAR 11:041. Growlers.**

RELATES TO: KRS 241.060, 27 C.F.R. 16.20-16.22

STATUTORY AUTHORITY: KRS 241.060(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 241.060(1) authorizes the Alcoholic Beverage Control Board to regulate the sale of alcoholic beverages. This administrative regulation allows a licensee that holds a retail malt beverage license to sell growlers.

Section 1. Definition. "Growler" means a refillable, resealable vessel no larger than two (2) liters with a flip-top or screw-on lid into which a malt beverage is prefilled, filled, or refilled for off-premises consumption. "Growler" shall not mean a vessel of similar size or capacity that is primarily used for the storage of other non-alcoholic liquids.

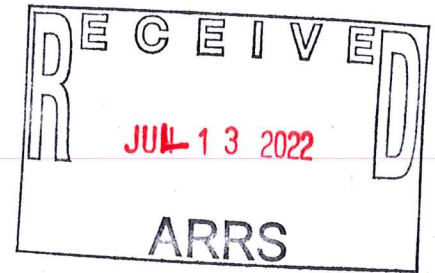
Section 2. The holder of a license permitting malt beverage package sales for off-premises consumption may sell filled growlers at retail for off-premises consumption if:

- (1) The growler is cleaned and sanitized by the licensee or its employee prior to being filled as prescribed in Section 3 of this administrative regulation;
- (2) The growler is filled and securely resealed by the licensee or an employee at least eighteen (18) years old before being removed from the premises;
- (3) The growler has a label affixed to it, legibly stating:
  - (a) The brand name of the product;
  - (b) The name and address of the brewer or bottler;
  - (c) The class of product (beer, ale, porter, lager, bock, stout, or other brewed or fermented beverage);
  - (d) The name and address of the licensee that filled or refilled the growler;
  - (e) The following statement, "This product may be unfiltered and unpasteurized. Keep refrigerated at all times."; and
  - (f) The alcoholic beverage health warning statement as required by the Federal Alcohol Administration Act, 27 C.F.R. 16.20 through 16.22; and
- (4) The label is affixed to the vessel by:
  - (a) Neck hanger;
  - (b) Adhesive;
  - (c) String; or
  - (d) Other means.

Section 3. Cleaning, Sanitizing, Filling, and Sealing.

- (1) Filling and refilling growlers shall only occur at the request of a customer.
- (2) Except as provided by subsection (3) of this section, prior to refilling a growler, the growler and its cap shall be cleaned and sanitized by the licensee or its employee by:
  - (a) Manual washing in a ~~[-]three~~ (3) compartment sink. The licensee or its employee shall:
    1. Prior to starting, clean sinks and work area to remove any chemicals, oils, or grease from other cleaning activities;
    2. Empty residual liquid from the growler to drain, but not into the cleaning water;
    3. Clean the growler and cap using detergent and water exceeding 110 degrees Fahrenheit, a temperature compliant with Kentucky Department for Public Health standards in 902 KAR 45:005, or the temperature specified on the detergent manufacturer's label instruction. Detergent shall not be fat- or oil-based;
    4. Remove any residues on the interior and exterior of the growler and cap;

5. Rinse the growler and cap in the middle compartment with water. Rinsing may be from the spigot with a spray arm, from a spigot, or from the tub as long as the water for rinsing is[shall] not~~[be]~~ stagnant and is[shall-be] continually refreshed;
  6. Sanitize the growler and cap in the third compartment. Chemical sanitizer shall be used in accordance with the EPA-registered label use instructions and shall meet the minimum water temperature requirements of the chemical; and
  7. Provide and make readily accessible for use a test kit or other device that accurately measures the concentration of MG/L of chemical sanitizing solutions~~[shall be provided and be readily accessible for use]~~; or
- (b) Mechanical washing and sanitizing machine.
1. Mechanical washing and sanitizing machines shall be provided with an easily accessible and readable data plate affixed to the machine by the manufacturer and shall be used according to the machine's design and operation specifications;
  2. Mechanical washing and sanitizing machines shall be equipped with chemical or hot water sanitization;
  3. Concentration of the sanitizing solution or the water temperature shall be accurately determined by using a test kit or other device; and
  4. The machine shall be regularly serviced based upon the manufacturer's or installer's guidelines.
- (3) Notwithstanding subsection (2) of this section, a growler may be filled or refilled without cleaning and sanitizing the growler by:
- (a) Filling or refilling a growler with a tube as referenced in subsection (4) of this section;
1. Food grade sanitizer shall be used in accordance with the EPA-registered label use instructions;
  2. A container of liquid food grade sanitizer shall be maintained for malt beverage taps that will be used for filling and refilling growlers;
  3. Each container shall contain tubes that will be used only for filling and refilling growlers;
  4. The growler shall be/is] inspected visually for contamination;
  5. The growler shall be/is] filled or refilled with a tube as prescribed in subsection (5) of this section; and
  6. A different tube from the container shall be used for each fill or refill of a growler; or
- (b) Filling a growler with a contamination-free process. The growler shall be:
1. Inspected visually for contamination; and
  2. Compliant with the Kentucky Food Code, incorporated by reference in 902 KAR 45:005.
- (4) Growlers shall be filled or refilled from the bottom of the growler to the top with a tube that is attached to the malt beverage faucet and extends to the bottom of the growler or with a commercial filling machine.
- (5) When not in use, tubes to fill or refill growlers shall be immersed and stored in a container with liquid food grade sanitizer.
- (6) A growler shall be closed with a flip-top or screw-on lid or cap and sealed in a manner designed to prevent consumption without conspicuous and evident tampering.



**Andy Beshear**  
Governor

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
P.O. Box 517  
Frankfort, Kentucky 40602-0517  
1-800-595-6053  
<http://insurance.ky.gov>

**Ray A. Perry**  
Secretary

**Sharon P. Clark**  
Commissioner

July 13, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **806 KAR 9:380**, Limited Lines Self-Service Storage Space Insurance Requirements.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 9:380, the Department of Insurance proposes the attached amendment to 806 KAR 9:380.

Sincerely,

*Abigail Gall*

Abigail Gall, Executive Advisor  
Department of Insurance  
500 Mero Street  
Frankfort, KY 40601

## SUGGESTED SUBSTITUTE

### 806 KAR 9:380. Limited Lines Self-Service Storage Space Insurance Requirements.

RELATES TO: KRS 304.4-010, 304.9-030, 304.9-105, 304.9-130, 304.9-150, 304.9-230, 304.9-260, 304.9-270, 304.9-495, 304.9-497

STATUTORY AUTHORITY: KRS 304.2-110, **304.9-080**, 304.9-496

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 authorizes the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. **KRS 304.9-080 requires a self-service storage space insurance producer to be licensed and requires the commissioner to prescribe and furnish all forms required under KRS Chapter 304.9 as to licenses and appointments.** KRS 304.9-496 ~~requires~~**[authorizes]** the commissioner to **prescribe a register form for a limited lines of self-service storage space insurance producer for the purpose of maintaining a list of each facility that offers this insurance on the producer's behalf**~~issue an agent's license with the limited line of authority for self-service storage space insurance producer and requires the commissioner to promulgate administrative regulations to establish the requirements. KRS 304.9-496 also authorizes the commissioner to issue licenses to act as a self-service storage space insurance producer and requires the commissioner to prescribe an application form for a business entity seeking to act as a limited lines self-service storage space insurance producer~~**]**. This administrative regulation establishes the information to be included in the application for a limited lines self-service insurance storage space producer,**[and]** the recordkeeping requirements for a self-service storage facility and their employees who offer and disseminate self-service storage space insurance, **and the register form.**

#### Section 1. Definitions.

- (1) "Limited lines self-service storage space insurance producer" is defined by KRS 304.9-495(1).
- (2) "Self-service storage facility" is defined by KRS 304.9-495(6).
- (3) "Self-service storage space insurance" is defined by KRS 304.9-495(7).

Section 2. License Application. **(1)** To apply for a limited lines self-service storage space insurance **producer** license, an applicant shall submit:

**(a)[(1)]** The appropriate completed form:

**1.[(a)]** For individuals, Form 8301, incorporated by reference in 806 KAR 9:025; **or**

**2. [(b)]** For Business Entities, Form 8301-BE, incorporated by reference in 806 KAR 9:025; **[and]**

**(b)[(c)]** A register, signed by the licensed limited lines self-service storage space insurance **producer[produce]** applicant, as prescribed on the Self-Service Storage Space Location Form, **and in accordance with KRS 304.9-496(1)(b); and**

**(c) Payment of fees in accordance with 806 KAR 4:010[that shall include:**

- 1. All facility locations proposed to offer and disseminate self-service storage space insurance by the limited lines self-service storage space insurance producer applicant;**
- 2. Federal Employment Identification Number; and**

**~~3. Contact information for each self-service storage facility proposed to offer and disseminate self-service storage space insurance, including contact information for any facility operators].~~**

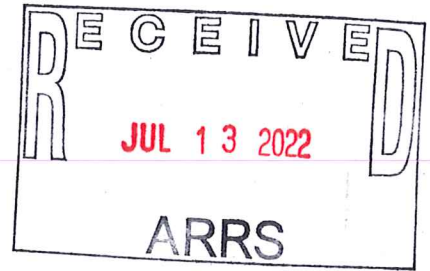
(2) The register provided on the Self-Service Storage Space Location Form shall be made available to the department upon request.

Section 3. Limited Lines Self-Service Storage Space Insurance Producer Responsibilities. **A[The]** licensed limited lines self-service storage space insurance producer shall:

- (1) Be responsible for the acts of the self-service storage facility operator that occur within the scope of their operation of a self-service storage facility;
- (2) Provide a program for instructional training to the employees of the self-service storage facility operator;
- (3) Be responsible for the insurance activities of the self-service storage facility, its operators, unlicensed employees, and representatives;
- (4) Report all material changes and additions to the department within thirty (30) days; and
- (5) Before transacting any business at any location, ensure that the self-service storage facility and its operators provide the appropriate consumer protection disclosures as prescribed in KRS 304.9-497 to all prospective consumers in writing.

Section 4. Material Incorporated by Reference.

- (1) The Self-Service Storage Space Location Form, 2/2022 is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 pm. This material is also available on the Department's Web site at <https://insurance.ky.gov/ppc/CHAPTER.aspx>.



**Andy Beshear**  
Governor

**PUBLIC PROTECTION CABINET**  
**Department of Insurance**  
P.O. Box 517  
Frankfort, Kentucky 40602-0517  
1-800-595-6053  
<http://insurance.ky.gov>

**Ray A. Perry**  
Secretary

**Sharon P. Clark**  
Commissioner

July 13, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **806 KAR 9:390**, Portable Electronics Retailer License.

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 806 KAR 9:390, the Department of Insurance proposes the attached amendment to 806 KAR 9:390.

Sincerely,

*Abigail Gall*

Abigail Gall, Executive Advisor  
Department of Insurance  
500 Mero Street  
Frankfort, KY 40601

**Suggested Amendment  
Public Protection Cabinet  
Department of Insurance  
Licensing Division**

**806 KAR 9:390. Portable Electronics Retailer License.**

**Page 1**

**TITLE**

**Line 5**

After "Portable", insert "Electronics".  
Delete "Electronic".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 11**

After "portable", insert "electronics".  
Delete "electronic".

**Line 14**

After "portable", insert "electronics".  
Delete "electronic".

**Line 15**

After "portable", insert "electronics".  
Delete "electronic".

**Page 2**

**Section 2**

**Line 4**

After "portable", insert "electronics".  
Delete "electronic".

**Page 2**

**Section 2(2)**

**Line 9**

After "portable", insert "electronics".  
Delete "electronic".

**Page 2**

**Section 2(2)(a)**

**Line 11**



After "portable", insert "electronics".  
Delete "electronic".

**Page 2**

**Section 2(2)(b)**

**Line 13**

After "portable", insert "electronics".  
Delete "electronic".

**Page 2**

**Section 2(2)(c)**

**Line 14**

After "portable", insert "electronics".  
Delete "electronic".  
After "for any", delete "such".

**Page 2**

**Section 3(1)(a)**

**Line 19**

After "portable", insert "electronics".  
Delete "electronic".

**Page 3**

**Section 4(1)**

**Line 6**

After "portable", insert "electronics".  
Delete "electronic".

**Page 3**

**Section 5(1)(a)**

**Line 11**

***[The Regs Compiler corrected the numbering in this section]***

After "Form PEI," insert "7/2022".  
Delete "2/2022".

---

**MATERIAL INCORPORATED BY REFERENCE**

**Business Entities Application, Form PEI**  
**Edition Date**

**Pages 1-4**

**Top left on each page**

After " (rev ", insert "7/2022".

Delete "2/2022)".

**Page 3**

**"Background Information"**

**Question 27, sub-question 9.**

Delete sub-question 9. in its entirety.

Check appropriate box for license requested:

- ☐ Resident License  
☐ Non-Resident License

Identify Home State:

Identify Home State License #:



**COMMONWEALTH OF KENTUCKY  
DEPARTMENT OF INSURANCE**

P. O. Box 517

Frankfort, Kentucky 40602-0517

email: DOI.LicensingMail@ky.gov

<https://insurance.ky.gov>

502-564-6004

(PLEASE PRINT OR TYPE)

**BUSINESS ENTITY INSURANCE LICENSE APPLICATION  
PORTABLE ELECTRONICS INSURANCE RETAILER**

**For Office Use Only**

Amt. Rec'd \_\_\_\_\_

Date Rec'd \_\_\_\_\_

Tracking No. \_\_\_\_\_

Cashier: \_\_\_\_\_

Amt. Rec'd \_\_\_\_\_

Date Rec'd \_\_\_\_\_

Tracking No. \_\_\_\_\_

Cashier: \_\_\_\_\_

**Demographic Information**

1 Business Entity Name		2 Incorporation/Formation Date (MM/DD/YY)		3 FEIN	
4 If assigned, National Producer Number (NPN)		5 State of Domicile		6 Country of Domicile	
7 List any other assumed, fictitious, alias or trade names under which you are doing business or intend to do business.					
8 Address of Home Office		9 City		10 State	
				11 ZIP or Foreign Country	
12 Business Address (Physical Street)		13 City		14 State	
				15 ZIP or Foreign Country	
16 Phone Number (include extension) ( ) -		17 Fax Number ( ) -		18 Business E-Mail Address	
				19 Business Website Address	
20 Mailing Address		21 P.O. Box		22 City	
				23 State	
				24 ZIP or Foreign Country	

**Responsible Supervising Entity**

25 Identify a Responsible Supervising Entity responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

Name \_\_\_\_\_ Tax ID# \_\_\_\_\_ NAIC/NPN \_\_\_\_\_

Business Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Phone Number ( ) \_\_\_\_\_ E-Mail Address \_\_\_\_\_

**Owners, Partners, Officers and Directors**

26 If the vendor will derive more than 50 percent of its revenue from the sale of Portable Electronics Insurance, identify all owners with 10 percent (%) interest or voting interest, partners, officers and directors of the business entity, or members or managers of a limited liability company.

Name _____	Owner: Yes _____ No _____
Title _____	% of Ownership Interest _____
Name _____	Owner: Yes _____ No _____
Title _____	% of Ownership Interest _____
Name _____	Owner: Yes _____ No _____
Title _____	% of Ownership Interest _____

If the vendor will derive fifty percent or less of its revenue from the sale of Portable Electronics Insurance, identify the employee or officer who has been designated as the person responsible for the vendor complying with Kentucky Revised Statute 304.9-780 through 304.9-784.

Name \_\_\_\_\_ SSN \_\_\_\_\_

Resident Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP Code \_\_\_\_\_

Phone Number ( ) \_\_\_\_\_ E-Mail Address \_\_\_\_\_

**Form PEI (rev 7/2022)**  
**Business Entity Insurance License Application**  
**Portable Electronics Insurance Retailer**

**Background Information (continued)**

7. Does the business entity understand they must adhere to all requirements set forth in Kentucky Revised Statute 304.9-780 through 304.9-784? Yes ☐ No ☐
8. Does the business entity understand they must provide training to all employees/endorsees who will be selling portable electronics insurance? Yes ☐ No ☐

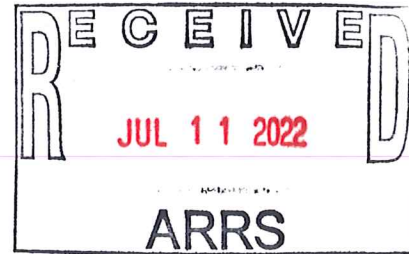
**Locations**

28 Provide the total number of locations in Kentucky: \_\_\_\_\_

**Applicant's Certification and Attestation**

- 29
- On behalf of the business entity or limited liability company, the undersigned owner, partner, officer or director of the business entity, or member or manager of a limited liability company, hereby certifies, under penalty of perjury, that:
1. All of the information submitted in this application and attachments is true and complete and I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license or registration revocation and may subject me and the business entity or limited liability company to civil or criminal penalties.
  2. Unless provided otherwise by law or regulation of the jurisdiction, the business entity or limited liability company hereby designates the Commissioner, Director or Superintendent of Insurance, or an appropriate representative in each jurisdiction for which this application is made to be its agent for service of process regarding all insurance matters in the respective jurisdiction and agree that service upon the Commissioner, Director or Superintendent of Insurance, or other appropriate party of that jurisdiction is of the same legal force and validity as personal service upon the business entity.
  3. The business entity or limited liability company grants permission to the Commissioner, Director or Superintendent of Insurance, or other appropriate party in each jurisdiction for which this application is made to verify any information supplied with any federal, state or local government agency, current or former employer or insurance company.
  4. Every owner, partner, officer or director of the business entity, or member or manager of a limited liability company, either a) does not have a current child-support obligation, or b) has a child-support obligation and is currently in compliance with that obligation.
  5. I authorize the jurisdictions to which this application is made to give any information they may have concerning me, as permitted by law, to any federal, state or municipal agency, or any other organization and I release the jurisdictions and any person acting on their behalf from any and all liability of whatever nature by reason of furnishing such information.
  6. I acknowledge that I understand and comply with the insurance laws and regulations of the jurisdictions to which I am applying for licensure/registration.
  7. For Non-Resident License Applications, I certify that I am licensed and in good standing in my home state/resident state for Portable Electronics Insurance or if my home state does not license Portable Electronics Insurance, I understand that I am applying for this license under the licensure requirements of a resident Portable Electronics applicant.
  8. I hereby certify that upon request, I will furnish the jurisdiction(s) to which I am applying, certified copies of any documents attached to this application or requested by the jurisdiction(s).

Applicant's Initials \_\_\_\_\_



**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

**Andy Beshear**  
Governor

275 East Main Street, 4W-C  
Frankfort, KY 40621  
[www.chfs.ky.gov](http://www.chfs.ky.gov)

**Eric C. Friedlander**  
Secretary

July 11, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **900 KAR 5:020E**. State Health Plan for facilities and services. (Amended After Comments)

Dear Co-Chairs West and Hale:

After continued discussions with stakeholders of the issues raised by 900 KAR 5:020E (AAC), the Cabinet for Health and Family Services proposes the attached agency amendment to 900 KAR 5:020E (AAC).

Sincerely,

Lucie Estill  
Executive Staff Advisor  
Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES

**Agency Amendment  
Cabinet for Health and Family Services  
Office of Inspector General**

**900 KAR 5:020E. State Health Plan for facilities and services. (Amended After Comments)**

**Material Incorporated by Reference**

Page 2

I. Acute Care

A. Acute Care Hospital

Review Criteria 2.

After "6,", insert "and".

Delete "and 8,".

Page 3

I. Acute Care

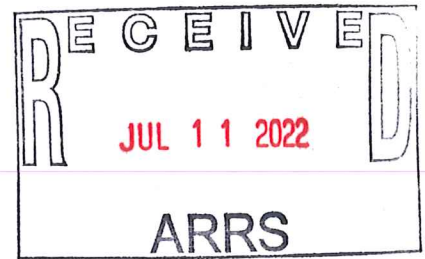
A. Acute Care Hospital

Review Criteria 2.e.ii.

After "on the", delete "two (2)".

After "recent", insert "annual update".

Delete "updates".



**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

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July 11, 2022

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Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **900 KAR 5:020**. State Health Plan for facilities and services. (Amended After Comments)

Dear Co-Chairs West and Hale:

After continued discussions with stakeholders of the issues raised by 900 KAR 5:020 (AAC), the Cabinet for Health and Family Services proposes the attached agency amendment to 900 KAR 5:020 (AAC).

Sincerely,

Lucie Estill  
Executive Staff Advisor  
Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES

**Agency Amendment**  
**Cabinet for Health and Family Services**  
**Office of Inspector General**

**900 KAR 5:020. State Health Plan for facilities and services. (Amended After Comments)**

**Material Incorporated by Reference**

Page 2

I. Acute Care

A. Acute Care Hospital

Review Criteria 2.

After "6.", insert "and".

Delete "and 8.".

Page 3

I. Acute Care

A. Acute Care Hospital

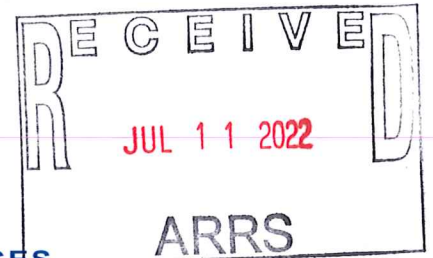
Review Criteria 2.e.ii.

After "on the", delete "two (2)".

After "recent", insert "annual update".

Delete "updates".





**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

**Andy Beshear**  
Governor

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Frankfort, KY 40621  
[www.chfs.ky.gov](http://www.chfs.ky.gov)

**Eric C. Friedlander**  
Secretary

July 11, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **900 KAR 6:075E**. Certificate of need nonsubstantive review. (Amended After

Comments)

Dear Co-Chairs West and Hale:

After continued discussions with stakeholders of the issues raised by 900 KAR 6:075E (AAC), the Cabinet for Health and Family Services proposes the attached agency amendment to 900 KAR 6:075E (AAC).

Sincerely,

*Krista Quarles*

Krista Quarles  
Policy Specialist  
Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES

**Agency Amendment**  
**Cabinet for Health and Family Services**  
**Office of Inspector General**

**900 KAR 6:075E. Certificate of need nonsubstantive review. (Amended After Comments)**

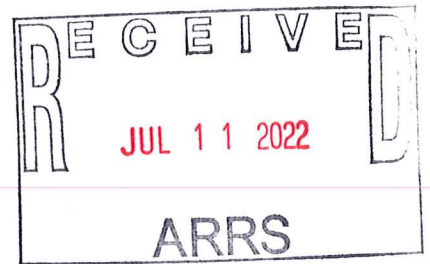
**Page 5**

**Section 2(3)(f)3.ii.**

**Line 4**

After "the", delete "two (2)".

After "recent", insert "annual update".  
Delete "updates".



**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

**Andy Beshear**  
Governor

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Frankfort, KY 40621  
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**Eric C. Friedlander**  
Secretary

July 11, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: **900 KAR 6:075**. Certificate of need nonsubstantive review. (Amended After Comments)

Dear Co-Chairs West and Hale:

After continued discussions with stakeholders of the issues raised by 900 KAR 6:075 (AAC), the Cabinet for Health and Family Services proposes the attached agency amendment to 900 KAR 6:075 (AAC).

Sincerely,

*Krista Quarles*

Krista Quarles  
Policy Specialist  
Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES

**Agency Amendment  
Cabinet for Health and Family Services  
Office of Inspector General**

**900 KAR 6:075. Certificate of need nonsubstantive review. (Amended After Comments)**

**Page 5**

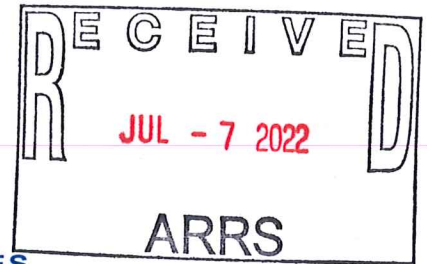
**Section 2(3)(f)3.ii.**

**Line 9**

After "the", delete "two (2)".

After "recent", insert "annual update".

Delete "updates".



**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

**Andy Beshear**  
Governor

275 East Main Street, 4W-C  
Frankfort, KY 40621  
[www.chfs.ky.gov](http://www.chfs.ky.gov)

**Eric C. Friedlander**  
Secretary

July 7, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort KY 40601

Re: 900 KAR 14:010, Emergency-Amended After Comments (E-AAC)

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 900 KAR 14:010E-AAC, the Cabinet for Health and Family Services proposes the attached amendments to 900 KAR 14:010E-AAC.

Sincerely,

Lucie Estill  
Executive Staff Advisor  
Office of Legislative and Regulatory Affairs

Attachments



KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES

Final, 6-15-2022

**AGENCY AMENDMENT**

**CABINET FOR HEALTH AND FAMILY SERVICES  
Office of Inspector General  
(Emergency Amended After Comments)**

**900 KAR 14:010E. Essential personal care visitor programs; visitation guidelines.**

**Page 1**

**STATUTORY AUTHORITY**

**Line 6**

After "AUTHORITY:", insert "KRS 216.505".

Delete the following:

2022 Ky. Acts ch. 10, sec. 1

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY**

**Line 7**

After "CONFORMITY:", insert "KRS 216.505".

Delete the following:

2022 Ky. Acts ch. 10, sec. 1

**Line 12**

After "is limited or prohibited.", insert the following:

This administrative regulation establishes guidelines for implementation of essential personal care visitor programs.

**Page 2**

**Section 1(2)(c)**

**Line 4**

After "defined by", insert "KRS 216.505(1)(c)".

Delete the following:

2022 Ky. Acts ch. 10, sec. 1

**Page 2**

**Section 1(4)(b)**

**Line 13**

After "defined by", insert "KRS 216.505(1)(c)".

Delete the following:

2022 Ky. Acts ch. 10, sec. 1

**Page 2**

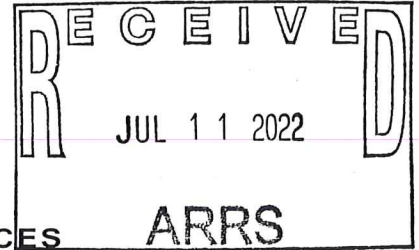
**Section 2(1)(c)**

**Line 20**

After "in accordance with", insert "KRS 216.505(3)(h)".

Delete the following:

2022 Ky. Acts ch. 10, sec. 1



**CABINET FOR HEALTH AND FAMILY SERVICES**  
**Office of the Secretary**

**Andy Beshear**  
Governor

275 East Main Street, 4W-C  
Frankfort, KY 40621  
[www.chfs.ky.gov](http://www.chfs.ky.gov)

**Eric C. Friedlander**  
Secretary

July 7, 2022

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill  
Administrative Regulation Review Subcommittee  
Legislative Research Commission 029  
Capitol Annex  
Frankfort KY 40601

Re: **908 KAR 3:010**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 908 KAR 3:010, the Cabinet for Health and Family Services proposes the attached amendments to 908 KAR 3:010.

Sincerely,

Krista Quarles  
Policy Specialist  
Office of Legislative and Regulatory Affairs

Attachments



**KENTUCKY CABINET FOR  
HEALTH AND FAMILY SERVICES**

REVISED:  
6/1/2022 12:15 PM

SUGGESTED SUBSTITUTE

CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Behavioral Health, Developmental and Intellectual Disabilities  
Division of Program Integrity  
(Amendment)

908 KAR 3:010. Patient's rights.

RELATES TO: KRS Chapters 202A, 202B

STATUTORY AUTHORITY: KRS 194.050, 202A.191, ~~[202A.196,]~~ 202B.060, EO 2004-726, SB 100  
2022 Regular Session

NECESSITY, FUNCTION, AND CONFORMITY: ~~[EO 2004-726, effective July 9, 2004, created the Cabinet for Health and Family Services and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet.]~~ KRS 202A.191 and 202B.060 require ~~[Chapters 202A and 202B, relating to the hospitalization of an individual with mental illness, developmental or intellectual disabilities, direct that]~~ the Secretary for the Cabinet for Health and Family Services to promulgate ~~[shall adopt rules and]~~ administrative regulations that ~~[which]~~ insure proper administration and enforcement of KRS Chapter 202A and KRS Chapter 202B. ~~[these chapters. The function of]~~ This administrative regulation establishes requirements relating to ~~[is to describe]~~ the rights of an individual patient with mental illness, developmental or intellectual disabilities ~~[patients]~~ and requirements relating to ~~[to establish rules for]~~ the use of seclusion, restraint, and treatment under emergency situations concerning ~~[in the treatment of]~~ these patients.

**\*\* NOTE TO REGULATIONS COMPILER:**

**Please place the definitions in alphabetical order.**

Section 1. Definitions. ~~[For purposes of this administrative regulation, the following definitions shall apply:]~~

- (1) "Individual treatment plan" means a written document that ~~[which]~~ is a part of each patient's medical record and that contains information, such as ~~[which must contain, but is not limited to]:~~
  - (a) A statement of the diagnosis of the patient;
  - (b) The short and long-range objectives of care and treatment;
  - (c) The methods of treatment to be employed; and
  - (d) The names of persons responsible for preparing and implementing the plan.



(2) "Substantive changes" means those changes ***that[which]*** reflect distinct changes in goals of treatment, methods to be employed, and the names of persons primarily responsible for overall review or implementation of the individual treatment plan, ***except for***:

(a) Changes in the amount, frequency of administration, or specific type of medication, ***[shall not be considered substantive changes]*** unless the changes involve introduction of new classes of medication, including antipsychotic or anticonvulsant drugs; ***and***

(b) Changes in the frequency, duration, place, or supervision of daily activities, ***[shall not be considered substantive changes]*** unless the changes exclude participation in the activities previously identified in the treatment plan or initiation of new activities ***that[which]*** could not be reasonably anticipated on the basis of short and long-term treatment goals.

(3) "Emergency situation" means the presence of a situation in which a patient's behavior in the present environment ***[is such that it]*** presents an immediate and substantial danger, or threat of immediate or substantial danger, to that person or to others, ***such as[:]***

(a) ***[Behavior included in this definition extends to]*** Verbal threats or abuse toward other patients ***that[which]*** creates a substantial risk that other patients may react in a manner ***that[which]*** poses an immediate substantial danger, or threat of immediate substantial danger, to themselves or others, or ***that interferes[which will interfere]*** in a substantial manner with the realistic opportunity of other patients to improve their own level of functioning through care and treatments in a hospital or residential treatment center; ***and***

(b) Substantial deviation from an individual treatment plan ***that has been[which is]*** formulated with the mutual consent of the staff and the patient or ***[which is]*** approved pursuant to a court hearing, or the overt or repetitious violation of rules and procedures of the hospital or residential treatment center by the patient ***that[which]*** presents an immediate and substantial danger to that person or to others ***if[may also be considered as an emergency situation, provided]*** the patient has previously been fully informed as to the content of the patient's individual treatment plan and as to the rules and procedures which may be applicable to the patient's behavior.

(4) "Restraint" means the application of any physical device, the application of physical body pressure by another ***[in such a way as]*** to control or limit physical activity, or the intravenous, intramuscular, or subcutaneous administration of any pharmacologic or chemical agent to an individual with mental illness, developmental or intellectual disabilities resident with the sole or primary purpose of controlling or limiting the physical activities of the patient or resident.

(5) "Seclusion" means the confinement of [a]an individual with mental illness, developmental or intellectual disabilities patient alone in a locked room.

(6) "Authorized representative" means the patient's attorney, guardian of a disabled adult, parent or guardian of a juvenile, or an individual authorized in writing by the patient to act in the patient's behalf.

Section 2. Right to be Adequately Informed. Each patient shall be ***[adequately]*** informed as to the patient's individual treatment plan.

- (1) A written individual treatment plan shall be prepared and entered into the medical record of each patient. The treatment plan shall be subject to periodic review and shall be modified **if there are**~~[in the event of]~~ substantive changes.~~[;]~~
- (2) Each patient and the patient's authorized representative shall have access to a written copy of the patient's individual treatment plan.~~[;]~~
- (3) Upon written request, each patient and the patient's authorized representative shall also be provided access to the patient's entire medical record. ~~If~~~~[In the event that]~~ full access to the medical record is refused, the patient shall be given a response in writing documenting the reasons for **the**~~[such]~~ refusal.~~[;]~~
- (4) **If there are**~~[In the case of]~~ minors or other persons who appear incapable of reading or understanding a written treatment plan, a summary of pertinent features of the treatment plan may be presented orally, and the responses of parents, guardians, or other members of the immediate family shall be entered into the medical record, if these persons can be located.

Section 3. Right to Assist in Treatment Plan. Each patient shall have the right to assist in the planning of the treatment program.

- (1) Each patient shall be informed of the contents of the patient's individual treatment plan, and the verbal, written, or behavioral responses to this information shall be entered in the medical records. If possible, the responses of a patient to the patient's treatment plan shall be used to review and modify its contents, **such as**~~[including, but not limited to,]~~ the objectives and methods of treatment to be employed.~~[;]~~
- (2) **If there are**~~[In the cases of]~~ minors and other patients who appear incapable of reading or understanding their treatment plans, the responses of parents, guardians, or other members of the immediate family shall be entered into the medical records if these persons can be located.

Section 4. Right to Refuse Treatment.

- (1) Patients may, under certain conditions, refuse treatment offered to them by the hospital. The refusal shall be clearly documented in the medical records.
  - (a) All patients, whether admitted voluntarily, or committed on an involuntary basis as the result of a hearing held pursuant to KRS Chapter 202A or 202B, **shall** have the right to refuse treatment. A patient who refuses treatment **shall not**~~[may]~~ be forcibly treated **unless the treatment is**~~[only]~~ pursuant to a court order after a de novo review as set forth in KRS 202A.196.
  - (b) If no court findings exist to support the implementation of a specific treatment plan **that**~~[which]~~ is unacceptable to the patient, the treatment may be implemented or continued only in an emergency situation documented in the medical records of the patient. The hospital or residential treatment center shall seek to develop an alternative plan of treatment acceptable to both the hospital or residential treatment center and the patient or secure a court order sanctioning forced treatment. If the hospital or residential treatment center and a voluntarily admitted patient cannot agree on an acceptable alternative plan of treatment, the hospital or residential treatment center may discharge the patient or pursue other remedies under law as may be necessary. If the hospital or residential treatment center prior to

obtaining a judicial order for forced treatment determines that an emergency exists and that the patient presents an immediate and substantial danger or threat of immediate and substantial danger to self or others, the hospital or residential treatment center may intervene in the least intrusive manner possible while simultaneously seeking a de novo review.

(2) Refusal to participate in the treatment plan shall be clearly documented in the medical record and shall be honored unless an emergency situation exists or the activity has been reviewed and approved in a court hearing.

(3) In the absence of an emergency situation, the patient shall not be subjected to loss of any other privileges which the patient has at the time of refusal unless **these[such]** privileges are clearly documented in the individual treatment plan as being contingent upon participation in that area where participation has been refused.

(4) If the emergency situation persists for a period of more than seventy-two (72) hours, the treatment team shall evaluate the treatment plan and make changes necessary to meet the needs of the patient. If the patient refuses the revised treatment program, emergency treatment may continue as long as the emergency continues to be documented in the patient's record and the treatment review committee shall be informed and shall proceed according to law.

#### Section 5. Right to Personal Effects.

(1) Each patient shall have the right to maintain, keep, and use personal effects, items, or money except in the following instances:

- (a) Retention of the item would be contrary to the patient's individual treatment plan;
- (b) Retention of the item poses a threat of subjecting the patient or others to substantial physical harm;
- (c) Retention of the item would subject it to a substantial risk of loss, theft, or destruction by the patient or other persons;
- (d) Retention of the item would substantially impair the opportunity of the patient or other patients to benefit from care and treatment in the hospital; or
- (e) Retention of the item is contrary to rules and administrative regulations of the hospital **that[which]** are reasonably related to the health and safety of the patient or other patients, except that the rules and administrative regulations shall be waived **if[when]** possession of the item is a part of the patient's individual written treatment plan.

(2) After written notice to a discharged patient, hospitals and residential treatment centers may dispose of all unclaimed personal items 180 days after discharge. Any proceeds from the sale of the items shall be used for the benefit of persons residing at the hospital or residential treatment center.

#### Section 6. Right to Receive Visitors.

(1) All patients shall have the right to meet with friends and relatives. This right shall not be waived except in the following instances:

- (a) Exercise of the right would be inconsistent with the written provisions of the individual treatment plan; **or**
- (b) An emergency situation exists.

- (2) Each hospital or residential treatment center shall establish, and post conspicuously, rules governing visitors and visiting hours.
- (3) All patients shall also have the right to refuse to meet with friends or relatives except that the right may be waived if the meetings are prescribed in the patient's individual treatment plan.
- (4) Patients shall have the right to meet their authorized representative during nonvisitation hours, if suitable arrangements are made in advance with the hospital or residential treatment centers.
- (5) All patients shall have the right to name an essential personal care visitor as defined and established in 900 KAR 14:010.

Section 7. Right to Receive Compensation for Work Done. Each patient shall have the right to receive payment for work performed on behalf of the hospital.

- (1) All patients shall be provided compensation as designated by **the Fair Labor Standards Act, 201 U.S.C. 201-219,**~~[appropriate federal and state statutes and regulations]~~ for work performed at a hospital or residential treatment center where the work is of consequential economic benefit to the hospital or residential treatment center, any person, agency, or organization outside the hospital or the Commonwealth of Kentucky.
- (2) The patient shall have the absolute right to refuse to perform any work, except activities of immediate and direct benefit to the patient and the patient's personal comfort.

Section 8. Right to De Novo Review. Involuntarily committed patients **shall not[may]** be **treated with[provided]** electroshock therapy or psychosurgery **unless the treatment is[only]** pursuant to a court order after a de novo review as set forth in KRS 202A.196.

Section 9. Use of Seclusion and Restraint. The use of seclusion and other mechanical restraints in hospitals or residential treatment facilities shall be limited and shall be carried out only with **the[appropriate]** precautions **in this section.**

- (1) Seclusion and other mechanical restraints used for the sole or principal purpose of controlling behavior **that[which]** is the result of mental illness shall be instituted only **if[when]** part of an individual treatment plan or in an emergency situation.
- (2) If use of seclusion or restraints is warranted under this section, the following rules shall apply:
  - (a) The medical records shall document the conditions **that[which]** prevail at the time of the use of these treatments and shall include the order of a licensed physician prescribing or justifying the treatment;
  - (b) Mentally ill persons placed in seclusion or subjected to the use of mechanical restraints, other than to prevent or treat self-inflicted injury or to treat a concomitant medical or surgical disorder, shall be individually observed.**[and]** The need for continuing restraints or seclusion **shall be** determined by a hospital or residential treatment facility employee at least every fifteen (15) minutes. In addition, the patient shall be seen daily by a physician, and the reasons for continued use of this treatment procedure shall be documented in the medical records;  
**and**

(c) The patients shall be permitted access to toilet facilities at least every two (2) hours and to bathing facilities every forty-eight (48) hours;

(3) ~~An[No]~~ Order by a licensed physician for seclusion or use of mechanical restraints shall **not** be effective longer than twenty-four (24) hours after the treatment is implemented, and **shall[must]** be renewed if the treatment continues to be necessary, except ~~if[where]~~ the treatment is prescribed to prevent or treat self-inflicted injury or a concomitant medical or surgical disorder ~~and if[; provided that]~~ any renewal order ~~states[shall state]~~ the necessity for the continued treatment.

(4) ~~[In no circumstances shall]~~ Restraints or seclusion **shall not** be used, **under any circumstances,** principally or solely for the treatment of mental illness, **except:**

**(a)** As part of the documented individual treatment plan; or

**(b)** In response to a documented emergency, unless the treatment has received a review and approval by the court.