

CHAPTER 136**(SB 14)**

AN ACT relating to regulating emissions from mobile sources of air pollutants.

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

Section 1. KRS 77.115 is amended to read as follows:

- (1) The air pollution control board is hereby declared to be the governing body of an air pollution control district, and shall manage and control all the affairs and property of such district, and shall exercise all the powers of such district not otherwise delegated by this chapter. In a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall assume all of the duties and responsibilities of the hearing board appointed under KRS 77.105, and the hearing board shall be abolished.
- (2) Notwithstanding any provision of this chapter to the contrary, in a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall have regulatory authority for the district, and the city or county, as appropriate, shall exercise funding and administrative control of the district.
- (3) ***If an air pollution control board finds the need for and requires the implementation of a vehicle exhaust testing program, the program shall prohibit emissions of, regulate, or control only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765.***

Section 2. KRS 77.170 is amended to read as follows:

- (1) ***Except for subsection (3) of this section,*** the General Assembly does not, by the provisions of this chapter, intend to occupy the field. ***Except for subsection (3) of this section,*** the provisions of this chapter do not prohibit the enactment or enforcement of any local ordinance stricter than the provisions of KRS 77.150 to 77.180 and stricter than the rules and regulations adopted pursuant to KRS 77.180 to 77.240, which local ordinance prohibits, regulates, or controls air pollution.
- (2) ***Except for subsection (3) of this section,*** the provisions of this chapter do not supersede any such local ordinance. If it should be held that the provisions of this chapter supersede the provisions of any local ordinance, such suspension shall not bar the prosecution or punishment of any violation of such ordinance which violation was committed when such ordinance, was in full force and effect.
- (3) ***Local ordinances prohibiting, regulating, or controlling emissions from mobile sources of air pollutants shall prohibit emissions of, regulate, or control only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765.***

Section 3. KRS 224.20-130 is amended to read as follows:

- (1) Each county which pursuant to the provisions of KRS Chapter 77 has established or will establish a local air pollution control program, shall submit a synopsis of said program together with such standards and procedures as are enacted by regulations to the cabinet for approval within a period of ninety (90) days from the enactment hereof, or a period of ninety (90) days of the establishment of said local program.

- (2) If, after review by the cabinet, and a public hearing held in the county activating a district, the cabinet determines that the air pollution control district has adopted standards and procedures and has the necessary staff to implement the program in a manner consistent with the objectives of this chapter, concurrent jurisdiction may be granted the air pollution control district for the administration and enforcement of the aforesaid statutes. ***Except for the limit on authority established by subsection (1) of Section 3 of this Act***, the air pollution control district shall adopt no regulation or standard less stringent than a regulation or standard adopted by the cabinet, and shall submit prepared regulations and standards to the cabinet for prior concurrence. Periodic reports shall be made to the cabinet and to the commission as shall be provided for by regulation. If the cabinet shall determine, after hearing with notice, that a district program is not being administered in accordance with the statutes and regulations of the cabinet or the district, the grant of authority may be suspended, revoked, or modified by order of the cabinet. ***The enactment or enforcement of a regulation by an air pollution control district that finds the need for and requires the implementation of a vehicle exhaust testing program, if the program is not limited to prohibiting the emissions of, regulating, or controlling only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20710 to 224.20-765, shall cause an automatic revocation of an existing grant of authority or an automatic denial of a requested grant of authority.***
 - (3) This provision shall in no way diminish the authority of the cabinet to administer and enforce the provisions of this chapter.
 - (4) The cabinet shall be empowered to enforce any and all regulations or standards in any district when concurrent jurisdiction is granted.
 - (5) When enforcement actions are taken by the district, the local Commonwealth's, county, and city prosecuting attorneys, instead of the Attorney General shall prosecute such actions.
- Approved March 17, 2000**

