

CHAPTER 474

(HB 465)

AN ACT relating to boating.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

- (1) All persons under twelve (12) years of age in an open boat or on an open deck of a vessel being used for recreational purposes on the waters of this state shall wear a personal flotation device approved by the United States Coast Guard while the vessel is underway. Any personal flotation devices required by this section shall be in good and serviceable condition, appropriately sized, and properly worn by the person. It shall be unlawful for any person to operate a vessel in violation of this subsection.***
- (2) No boat or watercraft owner or operator shall permit a child under the age of twelve (12) years to violate subsection (1) of this section.***
- (3) The provisions of this section shall not apply to a child who is a passenger on a commercial vessel licensed by the United States Coast Guard for the transportation of passengers for hire or to a toll ferry operating pursuant to a certificate of convenience and necessity or a perpetual and irrevocable franchise operating pursuant to KRS 280.010 to 280.110.***
- (4) A charge under subsection (1) or (2) of this section shall be dismissed if the defendant provides to the county attorney or the court proof that the person who was alleged to be under twelve (12) years of age was actually twelve (12) years of age or older. If the information is provided to the county attorney and the county attorney deems the proof sufficient, the county attorney shall seek dismissal of the charge and the defendant shall not be required to appear in court. If the information is presented in court and the court deems the proof sufficient, the court shall dismiss the charge. In either case, court costs shall not be assessed.***

Section 2. KRS 235.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of this chapter or administrative regulations adopted under this chapter shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200). After July 15, 2000, any person who violates KRS 235.230 shall be fined not less than fifteen dollars (\$15) nor more than one hundred dollars (\$100) and each day the violation continues may constitute a separate offense.**
- (2) Any person who violates KRS 235.240 shall not be subject to the penalties of KRS Chapter 189A but shall be guilty of a separate offense and subject to a fine of one hundred dollars (\$100) to two hundred fifty dollars (\$250) for the first offense, a fine of two hundred fifty dollars (\$250) to five hundred dollars (\$500) for the second offense, and a fine of five hundred dollars (\$500) to one thousand dollars (\$1,000) or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense. Refusal to submit to a breath alcohol analysis or similar test in violation of KRS 235.240(3) shall be deemed an offense.**
- (3) A person may, in addition or in lieu of the penalties specified in subsection (1) or (5) of this section and in addition to the penalties of subsection (2) of this section, be required to take a**

safe-boating course approved by the department or offered by the United States Coast Guard, Coast Guard Auxiliary, or U.S. Power Squadron and to present the court a certificate documenting successful completion of the course.

- (4) After July 15, 2000, any person who violates KRS 235.420 or 235.430 shall be fined not less than fifteen dollars (\$15) nor more than one hundred dollars (\$100). A person who violates KRS 235.420 or 235.430 shall be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) for the second offense, and not less than three hundred dollars (\$300) nor more than five hundred dollars (\$500) for the third or any subsequent offense.
- (5) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200).
- (6) Any person who makes a false statement regarding a marine boat toilet on the application for registration or renewal registration for a motorboat shall be fined one hundred dollars (\$100). This penalty shall be separate from any other penalty that may be applicable for violation of this chapter.
- (7) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with any officer in the discharge of his duties, other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters, shall be guilty of a Class A misdemeanor.
- (8) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.
- (9) *Any person who violates Section 1 of this Act shall be fined fifty dollars (\$50). Approved April 21, 2000*