

CHAPTER 88**(HB 470)**

AN ACT relating to farm operations and declaring an emergency.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) The Department of Agriculture in cooperation with the Department of Fish and Wildlife shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm raised cervids maintained for the production of meat and other products. The Department of Fish and Wildlife in cooperation with the Department of Agriculture shall promulgate administrative regulations pertaining to the importation and holding of cervids.*
- (2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife for all costs incurred in the investigation, response, and eradication of that disease.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

- (1) The Department of Agriculture in cooperation with the Department of Fish and Wildlife shall promulgate administrative regulations pertaining to health requirements, eradication of diseases, and identification of privately owned and farm raised cervids maintained for the production of meat and other products. The Department of Fish and Wildlife in cooperation with the Department of Agriculture shall promulgate administrative regulations pertaining to the importation and holding of cervids.*
- (2) If any person imports a diseased animal into the Commonwealth in violation of the statutes and administrative regulations, then that person shall be responsible to the Department of Agriculture and the Department of Fish and Wildlife for all costs incurred in the investigation, response, and eradication of that disease.*

Section 3. KRS 246.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the state Board of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Department" means the Department of Agriculture;
- (4) ~~"Owner" means any individual, firm, partnership, corporation, organization, association, or any combination thereof who owns a business for the purpose of applying paint to structures of any nature by means of spray equipment of any kind;~~
- (5) "Structure" means a building erected as a shelter for human beings, animals or agricultural products, equipment, or supplies;
- (5) ~~(6)~~ "Agriculture" means the business of raising or producing:
 - (a) Crops, the products of which are used for food, feed, fiber, energy, or pharmaceuticals;

- (b) Horticulture products;
- (c) Tobacco;
- (d) Aquaculture products;
- (e) Livestock, poultry, and ratite birds and eggs;
- (f) Milk and milk products;
- (g) Eggs and egg products;
- (h) Bees and bee products; and
- (i) Timber;

~~(6)~~~~(7)~~ "Horticulture" means the business of raising fruits, nuts, vegetables, flowers, ornamental plants, shrubs, trees, herbs, and the starts or transplants needed to produce these items;

~~(7)~~~~(8)~~ "Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions;

~~(8)~~~~(9)~~ "Livestock" means cattle, sheep, swine, goats, horses, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, or equine species, ***deer and elk, whose regulatory requirements are under KRS Chapters 150 and 246, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products;*** and

~~(9)~~~~(10)~~ "Poultry" means chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit.

Section 4. KRS 246.040 is amended to read as follows:

- (1) The Commissioner shall be the head of the department. He shall keep his office at the seat of government and devote his entire time to the duties of his office.
- (2) The Commissioner may employ necessary ***personnel to assist in carrying out his duties***~~[clerical help]~~.

Section 5. KRS 246.070 is amended to read as follows:

- (1) The Commissioner shall promote and encourage, as far as practicable, the organization of agricultural ***organizations and associations***~~[and horticultural societies and other associations and ascertain the agricultural, horticultural, mechanical, commercial and educational condition of every county]~~. He shall ascertain in detail the quality and quantity of land under cultivation; the kinds, amounts and value of the annual field crops; the annual production of orchards, gardens, ***and dairies***~~[and mines; the quantity and value of domestic manufactures];~~ the kinds, value, and increase of livestock;~~[the annual products of mechanical industry and skill;]~~ the character and wages of labor employed in~~[mines, factories and]~~ the cultivation of the soil; ***and*** the value of ***agricultural*** exports and imports~~[; the number of miles and names of railroads, navigable streams and post offices in each county; how and by whom public roads are operated and kept in repair; the name, location and population of cities and villages; the number and value of school houses and churches; the names, capital and purposes of charitable institutions, and such other vital, social, physical and political statistics as he may deem proper and expedient]~~.
- (2) The Commissioner may, if he thinks it will promote the objects of the department, expend such sums as are available in {:

- (a) ~~the payment of premiums that he offers to encourage the agricultural industry of the state;~~
- (b) ~~The distribution of seeds that the United States government desires to introduce into this state;~~
- (c) ~~The purchase, importation and exchange of any seeds that he deems of value to the agricultural interests of the state; and~~
- (d) ~~The analyzation of soils in different parts of the state in the interest of agriculture].~~

Section 6. KRS 246.080 is amended to read as follows:

All officers of the state and counties shall furnish the Commissioner with such information within their power as he may require in regard to the matters connected with the department. ***The Commissioner***~~[He]~~ shall also put himself in communication with the different agricultural ***associations and organizations***~~[, horticultural and labor societies, manufacturing and mining companies]~~ and such other organizations or persons in or out of the state, as he may deem proper, in order to secure information.

Section 7. KRS 246.130 is amended to read as follows:

The board shall meet in Frankfort at least once every two (2) months, or at any other place it may determine, to consider the general agricultural, horticultural, ***and*** forestry~~[, and industrial]~~ interests of the state, and to take the necessary steps for carrying out the purpose of the board. The Commissioner may, and at the request of six (6) of its voting members shall, call its meetings and the board may adjourn any meeting to a time and place as may be determined. Six (6) voting members shall constitute a quorum. Six (6) members may call the board together for the transaction of business if the Commissioner, upon their request, refuses to do so.

Section 8. KRS 246.160 is amended to read as follows:

The board shall act as an advisory board to the Commissioner~~[, and shall aid him in the distribution of seed, in the collection of information concerning crops and in the promulgation of industrial information generally].~~

Section 9. KRS 246.210 is amended to read as follows:

- (1) The department or its agents ***or employees*** shall have free access within reasonable hours to any farm, orchard, garden, elevator, warehouse, building, cellar, freight or express office or car, freight yard, vehicle, vessel, boat, container, or any other place which, for probable cause, it may be necessary or desirable for the agents to enter in order to enforce a quarantine against the European corn borer (*Pyrausta nubilalis*).
- (2) The ***department or any of its agents or employees***~~[board or any of its members or representatives]~~ may after reasonable notice enter any premises for the purpose of inspecting or testing livestock to determine the existence of, or to combat in any way, communicable diseases. The owner of the livestock to be tested or inspected shall, after reasonable notice, confine and present the livestock to the ***agents or employees of the department***~~[representatives of the board]~~. When the ***department or any of its agents or employees***~~[board or any of its representatives]~~ determines through inspection or testing that any livestock is infected with a communicable disease, they may enter any premises after reasonable notice and remove the diseased livestock, and have the livestock destroyed or slaughtered and the owner indemnified as provided in KRS 257.120 to 257.150. When necessary the ***department or any of its agents or employees***~~[board or any of its members or representatives]~~

~~representatives} may call upon peace officers for assistance. [The officers shall render assistance when ordered to do so by the board or any of its members, representatives, agents, or employees.]~~

- (3) ~~[A sealer of agricultural warehouses appointed under KRS 251.120 may at all times enter upon any premises to inspect grain in storage or the granary, crib, bin, or other receptacle in which it has been stored.]~~
- (4) The state entomologist or his authorized agent shall, upon previous application, have free access within reasonable hours to any premises or containers for purposes of trapping, inspecting for, investigating, or treating the premises for the control of Japanese beetles (*Popillia japonica*). ~~[In the capacity of state inspector of apiaries, He may, personally or by deputy, at his discretion, visit private premises during reasonable business hours and inspect any apiary to ascertain the existence of, or to treat or destroy any disease in the egg, larval, pupal, or adult stages among bees or brood.]~~
- (4)(5) The director of the agricultural experiment station and his agents shall have free access at all reasonable hours to any premises, vehicle, elevator, or steamship company, in the discharge of his duties under KRS 250.081.

Section 10. KRS 246.220 is amended to read as follows:

- (1) No person shall in any way hinder, refuse or defeat entrance or inspection by an agent **or employee** of the department who is performing the duties of his office for the purpose of combating the European corn borer under subsection (1) of KRS 246.210.
- (2) No person shall interfere in any way with the **department or any of its agents or employees** ~~[board or any of its members or representatives]~~ in the inspection of premises and livestock, or in the testing of livestock on any premises when the object of the inspection or testing is to determine the existence of or to combat in any way, communicable disease in livestock. No person shall interfere in any way with the **department or any of its agents or employees** ~~[board or any of its members or representatives]~~ in the removal from any premises of livestock found to be infected with a communicable disease.
- (3) No person shall hinder the efforts of the state entomologist or his agents in combating Japanese beetles under KRS 246.210.
- (4) No person shall hinder the entomologist in the performance of any of his duties ~~[as state inspector of apiaries]~~.
- (5) No person shall interfere in any way with inspectors or assistants while they are discharging their duties under KRS 250.021 to 250.111.
- (6) No person shall hinder, prevent, or attempt to prevent any person from discharging his duties under KRS 250.491 to 250.631.
- (7) No person shall in any way impersonate, hinder, or obstruct the department or its inspectors in the performance of their official duties under KRS 248.280 to 248.440 or 261.220.

Section 11. KRS 246.990 is amended to read as follows:

- (1) Any person who violates subsection (2) of KRS 246.210 or subsection (2) of KRS 246.220 shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for the first offense; he shall be fined not less than five hundred dollars (\$500) nor more than

one thousand dollars (\$1,000) and be confined in the county jail for not less than sixty (60) days nor more than one hundred and twenty (120) days, for each subsequent offense.

- (2) Any person who violates subsection (3) of KRS 246.220 shall be fined not less than five dollars (\$5) nor more than one hundred dollars (\$100) or be imprisoned for not more than ten (10) days, or both. Each day's hindering or refusal of access shall constitute a separate offense.
- (3) Any person who violates subsection (4) of KRS 246.220 shall be fined not less than two dollars (\$2) nor more than fifty dollars (\$50).
- (4) Any person who violates subsection (5) of KRS 246.220 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100).
- (5) Any person who violates subsection (6) of KRS 246.220 shall be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50).
- (6) Any person who violates subsection (7) of KRS 246.220 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not more than three (3) months, or both.
- (7) Any owner or operator of a dairy plant who shall fail to comply with the provisions of KRS 246.240 or any part thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than one hundred dollars (\$100).
- ~~(8) Any person violating any of the provisions of KRS 246.510 to 246.590 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), and imprisoned not more than one (1) year, or both. Each violation shall be deemed a separate offense.~~
- (9) Any person who violates any administrative regulation promulgated by the department under the provisions of KRS 246.660 shall have a civil fine imposed of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

Section 12. KRS 257.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Board of Agriculture;
- (2) "Commissioner" means the Commissioner of Agriculture;
- (3) "Communicable disease" includes hog cholera, brucellosis, leptospirosis, anthrax, black leg, catarrhal influenza of cattle, contagious pleuro-pneumonia, foot and mouth disease or aphthous fever, glanders, hemorrhagic septicemia, maladie du coit or dourine, mange of cattle, necrobacillosis and foot rot in sheep, hydrophobia, rinderpest, scabies in cattle, Texas tick or southern cattle fever, tuberculosis, equine viral arteritis, or any other disease proclaimed by the board to be of a transmissible character;
- (4) "Compost" means the humus-like product of the process of composting domestic livestock, poultry, or fish, which may be used as a soil conditioner or enhancer;
- (5) "Composting" means the biological decomposition of organic matter which inhibits pathogens;
- (6) "Experiment station" means the agricultural experiment station;

- (7) "Fish" means the bodies and parts of bodies of all animal aquatic life being raised, or kept for sale to a wholesaler or retailer, or for direct sale to the public;
- (8) "Livestock" means cattle, sheep, swine, *deer and elk, whose regulatory requirements are under KRS Chapters 150 and 246, that are privately owned and raised in a confined area for breeding stock, food, fiber, and other products*, goats, horses, or any other animals of the bovine, ovine, porcine, caprine, or equine species;
- (9) "Owner" means any person owning or leasing from another, or having in charge any domestic animal;
- (10) "Poultry" means all chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit; and
- (11) "Premises" means any portion of land, or any structure erected on land, and any vehicle or vessel used in the transportation of passengers, goods or animals.

Section 13. The following KRS sections are repealed:

- 246.050 Department may engage in field demonstration and educational work.
- 246.090 Commissioner to issue monthly reports -- Publication.
- 246.100 Annual report on state, to induce immigration.
- 246.110 Report to General Assembly.
- 246.170 Board to report to General Assembly.
- 246.510 License required.
- 246.520 Rules and regulations.
- 246.530 Power of departmental agents.
- 246.540 Grounds for suspension or revocation of licenses.
- 246.550 Hearing.
- 246.560 Notice of revocation, suspension, or refusal to issue license -- Appeal -- Bond.
- 246.570 Change in ownership -- Duty of new owner.
- 246.580 Exceptions to license requirement.
- 246.590 Disposition of fees.

Section 14. Whereas the incidence of chronic wasting disease (CWD) is increasing and eight (8) states currently have cervid populations affected by the disease; and whereas agencies in the Commonwealth charged with the duty of protecting the health of the livestock and wildlife in the Commonwealth must coordinate with each other and with agencies from other states for the importation of cervids, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Approved March 28, 2002