

CHAPTER 150**(HB 524)**

AN ACT to relating to the Kentucky Revised Statutes.

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

Section 1. KRS 154.45-090 is amended to read as follows:

- (1) A new business, or an existing business certified on the basis of employee expansion, shall be eligible to receive the tax advantages provided for in this section if the qualified business maintains the percentage of targeted workforce employees required by KRS 154.45-010(8)~~(7)~~ for the entire time it is certified as a qualified business in the Enterprise Zone Program.
- (2) Building materials used in remodeling, rehabilitation, or new construction within an enterprise zone shall be exempt from sales and use taxes provided for in KRS Chapter 139.
- (3) New and used equipment and machinery purchased and used by a qualified business within an enterprise zone shall be exempt from sales and use taxes provided for in KRS Chapter 139. Equipment and machinery may be moved in and out of an enterprise zone for business purposes only. In addition, it may not become a permanent fixture at another location and may be only temporarily located elsewhere for maintenance, mechanical failure, or emergency short term replacement.
- (4) Commercial vehicles as defined in KRS 186.050, purchased and used by a qualified business solely for business purposes, shall be exempt from the motor vehicle usage tax imposed by KRS 138.460.
- (5) Motor vehicles not considered commercial vehicles pursuant to KRS 186.050, purchased and used by a qualified business solely for business purposes, shall be exempt from the motor vehicle usage tax limited to the first twenty thousand dollars (\$20,000) of the "retail price" of the vehicle as defined in KRS 138.450.
- (6) Motor vehicles or motor trucks purchased by a qualified business for the purpose of being leased to a customer for a period greater than ninety (90) days shall not be exempt from the motor vehicle usage taxes provided for in KRS 138.460.
- (7) A qualified business shall be allowed a credit against the tax levied pursuant to KRS 141.040 equal to ten percent (10%) of wages paid to each employee who has been unemployed for at least ninety (90) days or who has received public assistance benefits, based on need and intended to alleviate poverty, for at least ninety (90) days prior to employment with the qualified business, up to fifteen hundred dollars (\$1,500) per employee. Any unused credit may be carried forward for up to five (5) years.
- (8) A local government may, by an act of the local legislative body, levy an ad valorem tax rate of one-tenth of one cent (\$.001) upon each one hundred dollars (\$100) of value on qualified property within an enterprise zone regardless of the rates provided for in KRS Chapter 132.

Section 2. KRS 164A.370 is amended to read as follows:

The property of the trust and its income from operations shall be exempt from all taxation by the Commonwealth of Kentucky or any of its political subdivisions. Investment income earned on contributions paid by any participant and used for higher education costs defined in KRS 164A.305(6)~~(7)~~ or refunded under KRS 164A.350(8)~~(7)~~(a) or 164A.350(8)~~(7)~~(b) shall not be

subject to Kentucky income tax by either a participant or any beneficiary of a participation agreement, the purposes for which the investment income was accrued being deemed and declared to be entirely public in nature. Earnings that are not used for higher education costs as defined in KRS 164A.305(6)~~[(7)]~~ and are refunded shall be subject to Kentucky income tax, except for earnings refunded pursuant to KRS 164A.350(8)~~[(7)]~~(a) and 164A.350(8)~~[(7)]~~(b).

Section 3. KRS 278.216 is amended to read as follows:

- (1) Except for a utility as defined under KRS 278.010(9) that has been granted a certificate of public convenience and necessity prior to April 15, 2002, no utility shall begin the construction of a facility for the generation of electricity capable of generating in aggregate more than ten megawatts (10MW) without having first obtained a site compatibility certificate from the commission.
- (2) An application for a site compatibility certificate shall include the submission of a site assessment report as prescribed in KRS 278.708(3) and (4), except that a utility which proposes to construct a facility on a site that already contains facilities capable of generating ten megawatts (10MW) or more of electricity shall not be required to comply with setback requirements established pursuant to KRS 278.704(3). A utility may submit and the *commission*~~[board]~~ may accept documentation of compliance with the National Environmental Policy Act (NEPA) rather than a site assessment report.
- (3) The commission may deny an application filed pursuant to, and in compliance with, this section. The commission may require reasonable mitigation of impacts disclosed in the site assessment report including planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust, but the commission shall, in no event, order relocation of the facility.
- (4) The commission may also grant a deviation from any applicable setback requirements on a finding that the proposed facility is designed and located to meet the goals of this section and KRS 224.10-280, 278.010, 278.212, 278.214, 278.218, and 278.700 to 278.716 at a distance closer than those provided by the applicable setback requirements.
- (5) Nothing contained in this section shall be construed to limit a utility's exemption provided under KRS 100.324.
- (6) Unless specifically stated otherwise, for the purposes of this section, "utility" has the same meaning as in KRS 278.010(3)(a) or (9).

Section 4. KRS 304.17B-001 is amended to read as follows:

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

- (1) "Administrator" is defined in KRS 304.9-051(1);
- (2) "Agent" is defined in KRS 304.9-020;
- (3) "Assessment process" means the process of assessing and allocating guaranteed acceptance program losses or Kentucky Access funding as provided for in KRS 304.17B-021;
- (4) "Authority" means the Kentucky Health Care Improvement Authority;
- (5) "Case management" means a process for identifying an enrollee with specific health care needs and interacting with the enrollee and their respective health care providers in order to facilitate the development and implementation of a plan that efficiently uses health care resources to achieve optimum health outcome;

- (6) "Commissioner" is defined in KRS 304.1-050(1);
- (7) "Department" is defined in KRS 304.1-050(2);
- (8) "Earned premium" means the portion of premium paid by an insured that has been allocated to the insurer's loss experience, expenses, and profit year to date;
- (9) "Enrollee" means a person who is enrolled in a health benefit plan offered under Kentucky Access;
- (10) "Eligible individual" is defined in KRS 304.17A-005(7);
- (11) "Guaranteed acceptance program" or "GAP" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;
- (12) "Guaranteed acceptance program participating insurer" means an insurer that offered health benefit plans through December 31, 2000, in the individual market to guaranteed acceptance program qualified individuals;
- (13) "Health benefit plan" is defined in KRS 304.17A-005(17);
- (14) "High-cost condition" means acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency, cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington's chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open-heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, Wilson's disease, chronic renal failure, malignant neoplasm of the trachea, malignant neoplasm of the bronchus, malignant neoplasm of the lung, malignant neoplasm of the colon, short gestation period for a newborn child, and low birth weight of a newborn child;
- (15) "Incurred losses" means for Kentucky Access the excess of claims paid over premiums received;
- (16) "Insurer" is defined in KRS 304.17A-005(23){(22)};
- (17) "Kentucky Access" means the program established in accordance with KRS 304.17B-001 to 304.17B-031;
- (18) "Kentucky Access Fund" means the fund established in KRS 304.17B-021;
- (19) "Kentucky Health Care Improvement Authority" means the board established to administer the program initiatives listed in KRS 304.17B-003(5);
- (20) "Kentucky Health Care Improvement Fund" means the fund established for receipt of the Kentucky tobacco master settlement moneys for program initiatives listed in KRS 304.17B-003(5);
- (21) "MARS" means the Management Administrative Reporting System administered by the Commonwealth;
- (22) "Medicaid" means coverage in accordance with Title XIX of the Social Security Act, 42 U.S.C. secs. 1396 et seq., as amended;
- (23) "Medicare" means coverage under both Parts A and B of Title XVIII of the Social Security Act, 42 U.S.C. secs. 1395 et seq., as amended;

- (24) "Pre-existing condition exclusion" is defined in KRS 304.17A-220(3);
- (25) "Standard health benefit plan" means a health benefit plan that meets the requirements of KRS 304.17A-250;
- (26) "Stop-loss carrier" means any person providing stop-loss health insurance coverage;
- (27) "Supporting insurer" means all insurers, stop-loss carriers, and self-insured employer-controlled or bona fide associations; and
- (28) "Utilization management" is defined in KRS 304.17A-500(12).

Section 5. KRS 311.657 is repealed and reenacted as a new section of KRS Chapter 311A to be numbered 311A.027 and to read as follows:

- (1) No public agency, tax district, or other publicly funded emergency medical service first response provider or licensed ambulance service shall have a residence requirement for an employee of or volunteer for the organization.
- (2) The provisions of subsection (1) of this section shall not preclude an employer or agency specified in subsection (1) of this section from having a requirement for response to a specified location within a specified time limit for an employee or volunteer who is off duty but who is on call to respond for work.

Section 6. KRS 533.010 is amended to read as follows:

- (1) Any person who has been convicted of a crime and who has not been sentenced to death may be sentenced to probation, probation with an alternative sentencing plan, or conditional discharge as provided in this chapter.
- (2) Before imposition of a sentence of imprisonment, the court shall consider probation, probation with an alternative sentencing plan, or conditional discharge. Unless the defendant is a violent felon as defined in KRS 439.3401 or a statute prohibits probation, shock probation, or conditional discharge, after due consideration of the nature and circumstances of the crime and the history, character, and condition of the defendant, probation or conditional discharge shall be granted, unless the court is of the opinion that imprisonment is necessary for protection of the public because:
 - (a) There is substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;
 - (b) The defendant is in need of correctional treatment that can be provided most effectively by his commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (3) In the event the court determines that probation is not appropriate after due consideration of the nature and circumstances of the crime, and the history, character, and condition of the defendant, probation with an alternative sentencing plan shall be granted unless the court is of the opinion that imprisonment is necessary for the protection of the public because:
 - (a) There is a likelihood that during a period of probation with an alternative sentencing plan or conditional discharge the defendant will commit a Class D or Class C felony or a substantial risk that the defendant will commit a Class B or Class A felony;

- (b) The defendant is in need of correctional treatment that can be provided most effectively by commitment to a correctional institution; or
 - (c) A disposition under this chapter will unduly depreciate the seriousness of the defendant's crime.
- (4) The court shall not determine that there is a likelihood that the defendant will commit a Class C or Class D felony based upon the fact that:
- (a) The defendant has never been convicted of, pled guilty to, or entered an Alford plea to a felony offense;
 - (b) If convicted of, having pled guilty to, or entered an Alford plea to a felony offense, the defendant successfully completed probation more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period; or
 - (c) The defendant has been released from incarceration for the commission of a felony offense more than ten (10) years immediately prior to the date of the commission of the felony for which the defendant is now being sentenced and has had no intervening convictions, pleas of guilty, or Alford pleas to any criminal offense during that period.
- (5) In making a determination under subsection (4) of this section, the court may determine that the greater weight of the evidence indicates that there is a likelihood that the defendant will commit a Class C or Class D felony.
- (6) Upon initial sentencing of a defendant or upon modification or revocation of probation, when the court deems it in the best interest of the public and the defendant, the court may order probation with the defendant to serve one (1) of the following alternative sentences:
- (a) To a halfway house for no more than twelve (12) months;
 - (b) To home incarceration with or without work release for no more than twelve (12) months;
 - (c) To jail for a period not to exceed twelve (12) months with or without work release, community service and other programs as required by the court;
 - (d) To a residential treatment program for the abuse of alcohol or controlled substances; or
 - (e) To any other specified counseling program, rehabilitation or treatment program, or facility.
- (7) If during the term of the alternative sentence the defendant fails to adhere to and complete the conditions of the alternative sentence, the court may modify the terms of the alternative sentence or may modify or revoke probation and alternative sentence and commit the defendant to an institution.
- (8) In addition to those conditions that the court may impose, the conditions of alternative sentence shall include the following and, if the court determines that the defendant cannot comply with them, then they shall not be made available:
- (a) A defendant sentenced to a halfway house shall:

1. Be working or pursuing his or her education or be enrolled in a full-time treatment program;
 2. Pay restitution during the term of probation; and
 3. Have no contact with the victim of the defendant's crime;
- (b) A defendant sentenced to home incarceration shall:
1. Be employed by another person or self-employed at the time of sentencing to home incarceration and continue the employment throughout the period of home incarceration, unless the court determines that there is a compelling reason to allow home incarceration while the defendant is unemployed;
 2. Pay restitution during the term of home incarceration;
 3. Enter a treatment program, if appropriate;
 4. Pay all or some portion of the cost of home incarceration as determined by the court;
 5. Comply with other conditions as specified; and
 6. Have no contact with the victim of the defendant's crime;
- (c) A defendant sentenced to jail with community service shall:
1. Pay restitution during all or some part of the defendant's term of probation; and
 2. Have no contact with the victim of the defendant's crime; or
- (d) A defendant sentenced to a residential treatment program for drug and alcohol abuse shall:
1. Undergo mandatory drug screening during term of probation;
 2. Be subject to active, supervised probation for a term of five (5) years;
 3. Undergo aftercare as required by the treatment program;
 4. Pay restitution during the term of probation; and
 5. Have no contact with the victim of the defendant's crime.
- (9) When the court deems it in the best interest of the defendant and the public, the court may order the person to work at community service related projects under the terms and conditions specified in KRS 533.070. Work at community service related projects shall be considered as a form of conditional discharge.
- (10) Probation with alternative sentence shall not be available as set out in KRS 532.045 and 533.060, except as provided in KRS 533.030(6){(5)}.
- (11) The court may utilize a community corrections program authorized or funded under KRS Chapter 196 to provide services to any person released under this section.
- (12) When the court deems it in the best interest of the defendant and the public, the court may order the defendant to placement for probation monitoring by a private agency. The private agency shall report to the court on the defendant's compliance with his terms of probation or conditional discharge. The defendant shall be responsible for any reasonable charges which the private agency charges.

- (13) The jailer in each county incarcerating Class D felons may deny work release privileges to any defendant for violating standards of discipline or other jail regulations. The jailer shall report the action taken and the details of the violation on which the action was based to the court of jurisdiction within five (5) days of the violation.
- (14) The Department of Corrections shall, by administrative regulation, develop written criteria for work release privileges granted under this section.
- (15) Reimbursement of incarceration costs shall be paid directly to the jailer in the amount specified by written order of the court. Incarceration costs owed to the Department of Corrections shall be paid through the circuit clerk.
- (16) The court shall enter into the record written findings of fact and conclusions of law when considering implementation of any sentence under this section.

Section 7. KRS 353.500 is amended to read as follows:

It is hereby declared to be the public policy of this Commonwealth to foster conservation of all mineral resources, to encourage exploration for such resources, to protect correlative rights of land and mineral owners, to prohibit waste and unnecessary surface loss and damage and to encourage the maximum recovery of oil and gas from all deposits thereof now known and which may hereafter be discovered; and to promote safety in the operation thereof. To that end, KRS 353.500 to 353.720 is enacted and shall be liberally construed to give effect to such public policy.

The General Assembly finds that governmental responsibility for regulating all aspects of oil and gas exploration, production, development, gathering, and transmission rests with state government. The department shall promulgate regulations relating thereto and take all actions necessary to assure efficient oil and gas operations and to protect the property, health, and safety of the citizens of the Commonwealth in a manner consistent with KRS Chapter 353, and to the exclusion of all other nonstate governmental entities except as provided in KRS Chapter 100. The department shall promulgate regulations relating to gathering lines within six (6) months of the effective date of this act. Nothing in this section shall be construed as limiting the rights of local governmental units to regulate the use of streets, highways, and rights-of-way. The department shall report quarterly to the Legislative Research Commission beginning July 1, 2003 through December 31, 2004. The report shall detail progress made in carrying out this section, and the efficacy of the regulatory programs implemented.

Section 8. KRS 353.520 is amended to read as follows:

- (1) KRS 353.500 to 353.720 shall apply to all lands located in the Commonwealth, however owned, including any lands owned or administered by any government or any agency or political subdivision thereof, over which the Commonwealth has jurisdiction under its police power.
- (2) The waste of oil and gas is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil and gas industry and includes:
 - (a) The locating, drilling, equipping, operating or producing of any oil or gas well, or wells drilled, deepened, or reopened in a manner that causes, or tends to cause, a reduction in the quantity of oil or gas ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or regulation promulgated or issued under KRS 353.500 to 353.720;

- (b) Permitting the migration of oil, gas or water from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable oil or gas, or both;
 - (c) The drowning with water of any stratum or part thereof capable of producing oil or gas in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;
 - (d) The unreasonable damage to underground, fresh or mineral water supply, workable coal seams, or other mineral deposits in the operations for the discovery, development, production or handling of oil and gas;
 - (e) The unnecessary or excessive~~[-surface]~~ loss *of oil and gas by spillage or venting* or destruction of oil or gas or their constituents; and
 - (f) The drilling of more wells than are reasonably required to recover efficiently the maximum amount of oil and gas from a pool.
- (3) The production of oil or gas from any well in any pool unless a permit has been issued as required by KRS 353.500 to 353.720, or in violation of the spacing provisions of KRS 353.500 to 353.720, is prohibited; except that this subsection shall not prohibit the continuation of production of oil or gas from a well producing oil or gas on June 16, 1960.

Section 9. KRS 353.560 is amended to read as follows:

- (1) Without limiting its general authority, the department shall regulate:
- (a)~~[(1)]~~ The drilling and plugging of all wells;
 - (b)~~[(2)]~~ The spacing or locating of wells; *and*
 - (c)~~[(3)]~~ The use of vacuum.~~[-; and]~~
- (2)~~[(4)]~~ *The department shall* make recommendations to the *U.S. Environmental Protection Agency and the Natural Resources and Environmental Protection Cabinet*~~[-water pollution control commission]~~ as to disposal of salt water and oil field wastes.

Section 10. KRS 353.580 is amended to read as follows:

- (1) Each permit issued under KRS 353.500 to 353.720 shall expire one (1) year after the date issued, unless the drilling, deepening, or reopening of a well is commenced pursuant thereto prior to the expiration of the one (1) year period. However, the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant notifies the department in writing of the applicant's request for an extension, *notifies the owner, record coal lessee or mine licensee originally entitled to receive a copy of the plat under KRS 353.050*, submits an affidavit stating that the information in the original permit application is still correct, and submits a fee for the extension in an amount equal to the permit fee required by KRS 353.590. With respect to permits issued prior to July 15, 2002, no extension shall be granted for any permit in cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, unless the requested extension is agreed to in writing by the surface owner.
- (2) *The extension of the permit term pursuant to subsection (1) of this section shall not create a right to object to the well location under KRS 353.060 nor to mediation under KRS 353.5901.*

- (3) All permits issued by the department under any previous statute shall continue in force as written, only if the drilling of the well has been commenced pursuant thereto on or before sixty (60) days after June 16, 1960.

Section 11. KRS 353.590 is amended to read as follows:

- (1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.
- (2) Each application shall be accompanied by a specified fee as follows:
- (a) The fee shall be three hundred dollars (\$300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.
 - (b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars (\$50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.
 - (c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended).
- (3) All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.
- (4) Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor licensed in accordance with the provisions of KRS Chapter 322.
- (5) When any person submits to the Department of Mines and Minerals an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five hundred dollars (\$500) for a well to be drilled to a depth of five hundred (500) feet or less; one thousand dollars (\$1,000) for a well to be drilled to a depth between five hundred and one (501) feet and one thousand (1,000) feet; one thousand five hundred dollars (\$1,500) for a well to be drilled to a depth between one thousand and one (1,001) feet and one thousand five hundred (1,500) feet; two thousand dollars (\$2,000) for a well to be drilled to a depth between one thousand five hundred and one (1,501) feet and two thousand (2,000) feet; two thousand five hundred dollars (\$2,500)

for a well to be drilled to a depth between two thousand and one (2,001) feet and two thousand five hundred (2,500) feet; three thousand dollars (\$3,000) for a well to be drilled to a depth between two thousand five hundred and one (2,501) feet and three thousand (3,000) feet; three thousand five hundred dollars (\$3,500) for a well to be drilled to a depth between three thousand and one (3,001) feet and three thousand five hundred (3,500) feet; four thousand dollars (\$4,000) for a well to be drilled to a depth between three thousand five hundred and one (3,501) feet and four thousand (4,000) feet; and five thousand dollars (\$5,000) for a well to be drilled to a depth of more than four thousand (4,000) feet. The bonds shall be made in favor of the Department of Mines and Minerals, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified. An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized except pursuant to administrative regulations promulgated by the department. The commission may establish a bond in a sum greater than five thousand dollars (\$5,000) for any well to be drilled to a depth of more than four thousand (4,000) feet if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established above. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of ten thousand dollars (\$10,000), covering all wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds. ***Individuals acquiring a single well for domestic use may post a combination bond which shall consist of a cash bond in the amount of one thousand dollars (\$1,000) plus a lien on the property to cover future plugging costs. Only one (1) combination bond may be posted by each individual,*** ~~and a property bond may be executed by an operator who owns all of the surface and mineral rights of a tract proposed for drilling].~~ A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars (\$5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars (\$5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection (9) of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund. The bond amounts shall be applicable only to permits issued upon and after July 13, 1990. All bonds posted for permits issued prior to July 13, 1990, shall remain in full force and effect for the duration of the permits.

- (6) A successor to the well operator shall post bond, pay a twenty-five dollar (\$25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.
- (7) If the requirements of subsection (5) of this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit. The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall be forfeited to the department.
- (8) A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director.
- (9) All sums received under subsection (5) of this section or through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.
- (10) Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of the hole confidential until the information is allowed to be released by the person obtaining the permit.
- (11) For the purpose of this chapter, "water supply well" shall not include:
 - (a) Any well for a potable water supply for domestic use or for livestock; or
 - (b) Any water well used primarily for cooling purposes in an industrial process.

Section 12. KRS 353.610 is amended to read as follows:

- (1) Except as provided in KRS 353.500 to 353.720, no permits shall be issued for the drilling, deepening, or reopening of any shallow well for the production of oil, unless the proposed location of the well shall be at least three hundred thirty (330) feet from the nearest *mineral* boundary of the premises upon which the well is to be drilled, deepened or reopened; and, the proposed location must be at least six hundred sixty (660) feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce oil from the same pool.

- (2) Except as provided in KRS 353.500 to 353.720, no permit shall be issued for the drilling, deepening or reopening of any shallow well for the production of gas unless the proposed location of the well shall be at least five hundred (500) feet from the nearest *mineral* boundary of the premises upon which such well is to be drilled, deepened or reopened; and, the proposed location must be at least one thousand (1,000) feet from the nearest gas producing well. This subsection shall not be construed to regulate the distance between wells which do not produce gas from the same pool.
- (3) This section shall not apply:
 - (a) To wells drilled, deepened, or reopened for the injection of water, gas or other fluids into an oil or gas producing formation.
 - (b) To any well drilled, deepened or reopened in a pool or portion thereof, which is included in a secondary recovery program commenced or proposed, if the location or proposed location of the well conforms to a geometric pattern already established on all premises which will be offset and affected by the well.
 - (c) To wells drilled or deepened as water supply wells and geological or structure test holes; or
 - (d) To premises within the limits of any incorporated city, town or village which has enacted or enacts hereafter an ordinance regulating the location or spacing of wells for the production of oil and gas at distances of not less than the distances prescribed in this section.
 - (e) To wells for the production of oil to be drilled, deepened, or reopened and completed at a depth of less than two thousand (2,000) feet where there are no workable beds of coal at lesser depths and the formation from which the oil is expected to be extracted is not appreciably affected by factors, as determined by the commissioner, other than natural drainage. The location of wells for the production of oil coming within this exception shall be at least two hundred (200) feet from the nearest boundary of the premises upon which the well is to be drilled, deepened or reopened; and the proposed location must be at least four hundred (400) feet from the nearest oil producing well. This subsection shall not be construed to regulate the distance between wells which do not produce from the same pool.

Section 13. KRS 353.620 is amended to read as follows:

- (1) Notwithstanding KRS 353.610, if an application is submitted for a permit to drill, deepen, or reopen a well closer to a boundary or to another well than prescribed in KRS 353.610 and the application is accompanied by the written consent of all owners of oil and gas interests in *the adjacent*~~any~~ premises *directly affected by the prescribed boundary distances in Section 12 of this Act*, which will be offset by the proposed well, the department shall issue a permit for the well.
- (2) Notwithstanding KRS 353.610, the department may issue a permit for a well to be drilled, deepened, or reopened closer to a boundary or another well than prescribed in KRS 353.610, if the director, after notice and hearing, finds that topographical or other conditions are such as to make compliance with the requirements of KRS 353.610 unduly burdensome or in conflict with reasonably prudent methods and practices for the production of oil or gas.

- (3) Notwithstanding KRS 353.610, the department shall issue a permit for a well to be drilled, deepened, or reopened closer to a boundary than prescribed in KRS 353.610 if a pooling order has been issued pursuant to KRS 353.630.
- (4) If a permit is issued to drill, deepen, or reopen a well under subsection (1) or (2) of this section at a location closer to a well or boundary than prescribed in KRS 353.610, the department shall permit a like variance from the requirements of KRS 353.610 on all premises offset and adversely affected by the well.

Section 14. KRS 353.630 is amended to read as follows:

- (1) Whenever any separate tract of land is so situated because of size or other condition that it does not contain a location at which a well for oil or gas may be drilled, deepened, or reopened by reason of the spacing provisions of KRS 353.610, the department shall order, after notice and a hearing, the pooling of all oil and gas interests in the separate tract or in a portion thereof with all like interests in a contiguous tract or tracts, or portions thereof, as are necessary to afford the pooled tracts one (1) location for the drilling, deepening, or reopening of a well for the production of oil or gas in compliance with the spacing requirements of KRS 353.500 to 353.720. The department shall require the development and operation of all pooled acreage as a single leasehold estate in accordance with regulations and rules promulgated under KRS 353.500 to 353.720.
- (2) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of separate tracts or interests in order to comply with the spacing requirements of KRS 353.610, and the operator has secured the written consent or agreement from the owners of at least fifty-one percent (51%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage as established by the spacing requirements of KRS 353.610. ***For purposes of this section, any unknown or nonlocatable owners shall be deemed to have consented or agreed to the pooling, provided that the operator has complied with the publication requirements of KRS 353.640(1) with respect to the unknown or nonlocatable owners.*** The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of the pooled acreage as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (3) Whenever an operator proposes to drill, deepen, or reopen a well at a location that would require the pooling of interests or tracts in order to comply with the spacing requirements of KRS 353.610, and the operator owns or controls the right to develop the oil and gas underlying one hundred percent (100%) of the interests in each tract, or portions thereof, included in the proposed pooled acreage, the department shall, where it finds that the requirements of this subsection have been met, order, after notice and a hearing, the pooling of all oil and gas interests in all tracts, or portions thereof, that are included within the proposed pooled acreage established by the spacing requirements of KRS 353.610. The department shall issue a permit to drill, deepen, or reopen the well and require the development and operation of all pooled tracts as a single leasehold estate in accordance with administrative regulations promulgated under KRS 353.500 to 353.720.
- (4) No pooling as permitted by this section shall be ordered except:

- (a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in KRS 353.610; and
 - (b) When a lessee or owner of an oil or gas interest in the tract shall request the pooling.
- (5) No pooling as permitted by this section shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or reopened:
- (a) Unless the pooling was requested prior to the commencement of the drilling, deepening, or reopening of the well by a lessee or owner of an oil and gas interest in a contiguous tract pursuant to subsection (1), (2), or (3) of this section; and
 - (b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, or reopening of the well, is accompanied by a bond or other security satisfactory to and in an amount set by the director for the payment of such owner's share of the cost of drilling, deepening, or reopening the well.
- (6) Production from any well which is ordered pooled pursuant to KRS 353.500 to 353.720 shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

Section 15. KRS 353.660 is amended to read as follows:

- (1) Any person to whom a permit is issued pursuant to KRS 353.500 to 353.720 shall file, within ninety (90) days after termination of operations conducted under the permit, with the department for transmittal to the Kentucky Geological Survey on forms to be furnished by the department the following information relating to the well:
 - (a) A copy of the driller's log certified to be true and accurate;
 - (b) The depth and thickness of all water zones encountered and logged;
 - (c) The depth of all showings of oil or gas;
 - (d) The depth and thickness of all coal seams encountered; and
 - (e) A true copy of all electrical surveys and similar logs and surveys taken. ***If the person to whom the permit is issued obtains a copy of the electrical survey or similar log or survey in electronic form, the operator shall submit the electrical survey or similar log in electronic form if requested by the department.***
- (2) Upon request by the department, any person to whom a permit is issued shall save for the Kentucky Geological Survey samples of all cuttings from the well drilled or deepened pursuant to the permit for a period of ninety (90) days after completion thereof.
- (3) Upon request by any person furnishing information under this section, the information shall be kept confidential, for a period of one (1) year after the information is furnished by such person.
- (4) This section shall not apply to wells drilled or deepened as geological or structure test holes.

Section 16. (1) Notwithstanding KRS 7.123 to the contrary, any private investigating firm that has had its headquarters in the Commonwealth of Kentucky for at least two (2) years prior to July 15, 2002, shall receive a license issued under KRS Chapter 329A automatically upon filing the appropriate application and paying the appropriate fee to the board by October 1, 2003.

(2) Notwithstanding KRS 7.123 to the contrary, any person actively engaged in full-time or part-time investigatory work in this state as a private investigator or as an investigator for a law enforcement agency for a continuous period of at least two (2) years prior to July 15, 2002, shall receive a license as a private investigator issued under KRS Chapter 329A upon:

- (a) Filing an application with the board prior to October 1, 2003, including supporting documentation;
- (b) Paying the licensure fee; and
- (c) Passing the examination administered by the board in accordance with KRS 329A.025 unless the board, in its discretion and on a case by case basis, waives the examination requirement.

Section 17. The following KRS section is repealed:

311.655 Ambulance providers to maintain supply of epinephrine and disposable needles --
Protocols for use.

Approved March 20, 2003