

CHAPTER 141

(HB 264)

AN ACT relating to governmental authority.

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

SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

- (1) *No person shall tamper with any livestock.*
- (2) *No person shall sabotage any livestock exhibited at an exhibition.*
- (3) *This section shall not apply to:*
 - (a) *Any action taken or activity performed or administered by a licensed veterinarian or in accordance with instructions of a licensed veterinarian if the action or activity was undertaken for accepted medical purposes during the course of a valid veterinarian-client-patient relationship; or*
 - (b) *Generally accepted grooming, commercial, or medical practices that are not prohibited by any provision of the Kentucky Revised Statutes or any administrative regulation promulgated thereunder.*
- (4) *As used in this section:*
 - (a) *"Tamper" means any of the following:*
 1. *Treatment of livestock in such a manner that food derived from the livestock would be considered adulterated as defined in KRS 217.025;*
 2. *The injection, use, or administration of any drug that is prohibited under any federal law or law of this state, or any drug that is used in any manner that is not authorized under any federal law or law of this state. Whenever the commissioner of the United States Food and Drug Administration or the secretary of the United States Department of Agriculture, pursuant to the federal Food, Drug, and Cosmetic Act, as amended, or federal Virus-Serum-Toxin Act, as amended, approves, disapproves, or modifies the conditions of the approved use of a drug, the approval, disapproval, or modification shall automatically be effective for the purposes of this section unless the Kentucky Department of Agriculture adopts an administrative regulation to alter, for the purposes of the section, the action taken by the commissioner or secretary. The Kentucky Department of Agriculture may adopt an administrative regulation if the department considers it to be necessary or appropriate for the protection of food safety or the health, safety, or welfare of livestock or to prevent the use of a drug for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, or condition of livestock. No administrative regulation shall authorize the use of any drug the use of which is prohibited by, or authorize the use of any drug in a manner not authorized by, the commissioner or secretary under either of those acts;*
 3. *The injection or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation,*

configuration, condition, or age of the livestock or making the livestock appear more sound than it actually is;

4. *The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance;*
5. *The use or administration of any drug or feed additive affecting the central nervous system of the livestock;*
6. *The use or administration of diuretics for cosmetic purposes; and*
7. *The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation or configuration of, or to conceal the age of, the livestock.*

(b) *"Sabotage" means intentionally tampering with any livestock belonging to or owned by another person that has been registered, entered into, or exhibited in any exhibition, or raised with the apparent intent of being entered into an exhibition.*

- (5) *Where a person violates both the provisions of this section and a section of KRS Chapter 512, the person may be prosecuted under the provisions of KRS Chapter 512.*

Section 2. 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, **or subsection (1) of Section 1 of this Act**, 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 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).

- (9) *Any person who violates subsection (2) of Section 1 of this Act shall be disqualified from exhibiting at an exhibition for a first offense, and shall be disqualified for up to five (5) years for a second or subsequent offense.*

Section 3. KRS 512.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.
- (2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.
- (3) ***"Property" includes cattle.***

Section 4. KRS 13A.312 is amended to read as follows:

- (1) If authority over a subject matter is transferred to another administrative body ***or if the name of an administrative body is changed*** by statute or by executive order during the interim between regular sessions of the General Assembly, the ***administrative regulations of that administrative body in effect on the effective date of the statutory change or the executive order shall remain in effect as they exist until the administrative body that has been granted authority over the subject matter amends or repeals the administrative regulations pursuant to KRS Chapter 13A.***
- (2) ***Pursuant to the statutory change or executive order, the regulations compiler shall alter the administrative regulations referenced in subsection (1) of this section to:***
 - (a) ***Change the name of the administrative body pursuant to the provisions of the statute or executive order; and***
 - (b) ***Make any other technical changes necessary to carry out the provisions of the statute or executive order.***
- (3) ***The administrative body that has been granted statutory authority over the subject matter shall provide to the regulations compiler in writing:***
 - (a) ***A listing of the administrative regulations that require any changes; and***
 - (b) ***The specific names, terms, or other information to be changed with those changes properly referenced.***
- (4) ***The administrative body that has been granted statutory authority over the subject matter shall submit new forms to replace forms previously incorporated by reference in an administrative regulation if the only changes on the form are the name and mailing address of the administrative body. If there are additional changes to a form incorporated by reference, the administrative body shall promulgate an amendment to the existing administrative regulation and make the changes to the material incorporated by reference in accordance with KRS 13A.2255.***
- (5) ***If an administrative body is abolished by statute or executive order, and the authority over its subject matter is not transferred to another administrative body, the Governor, or the secretary of the cabinet to which the administrative body was attached, shall promulgate an administrative regulation to repeal the existing administrative regulations that were promulgated by the abolished administrative body. The repeal shall be accomplished as provided by KRS 13A.310.***

- ~~(a) From which authority has been transferred shall repeal the existing administrative regulations governing the subject matter;~~
- ~~(b) That has been granted authority over the subject matter shall promulgate administrative regulations governing the subject matter;~~
- ~~(2) Agencies promulgating administrative regulations to comply with paragraphs (a) and (b) of subsection (1) of this section shall file the repeal and the new administrative regulation at the same time.~~
- ~~(3) Administrative regulations repealed under the provisions of this subsection shall be repealed as provided by KRS 13A.310(3)].~~

Approved April 22, 2004