

## CHAPTER 26

## (HB 383)

AN ACT relating to water well drillers.

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

Section 1. KRS 223.991 is amended to read as follows:

- (1) Any person, firm or corporation (municipal or private) who violates any provisions of KRS 223.160 to 223.220 or the rules and regulations adopted thereunder shall be liable to a civil penalty not to exceed the sum of one thousand dollars (\$1,000) for said violation and an additional civil penalty not to exceed one thousand dollars (\$1,000) for each day of operation in violation of KRS 223.160 to 223.220 or of the rules and regulations adopted thereunder. In addition, the person, firm or corporation may be enjoined in the manner set forth in KRS Chapter 224 from continuing such violations.
- (2) Any person who fails to comply with the certification provisions of KRS 223.425 shall be liable for a civil penalty ~~[not to exceed the sum]~~ of **not less than two thousand five hundred dollars (\$2,500) and not more than five thousand dollars (\$5,000) per occurrence**, ~~[one thousand dollars (\$1,000) for each day during which such violation continues,]~~ and in addition may be concurrently enjoined from any such violations as hereinafter provided.
- (3) Any person certified under the provisions of KRS 223.425, who violates KRS 223.405 to 223.460 or fails to perform any duties imposed by these sections, or who violates any determination, rule, regulation or order or determination of the secretary promulgated pursuant thereto may be subject to proceedings for certificate suspension or revocation, or nonrenewal of a certificate.
- (4) It shall be the duty of the cabinet to institute an action for the recovery of the penalties herein provided for, and to bring an action for an injunction against any person violating or threatening to violate the certification provisions of KRS 223.425 or violating or threatening to violate any order or determination of the cabinet promulgated pursuant thereto.
- (5) Any person found guilty of violating the certification provisions of KRS 223.425 or the rules and regulations adopted thereunder shall be guilty of a misdemeanor and may be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation or imprisoned not more than thirty (30) days or both. Each day the violation continues shall be considered a separate violation.
- (6) Civil and criminal penalties shall not be deemed mutually exclusive.
- (7) All enforcement proceedings shall be conducted pursuant to KRS Chapter 224, and all certificate revocation and enforcement actions shall be subject to the administrative and judicial procedures contained in KRS Chapter 224.

Section 2. KRS 223.415 is amended to read as follows:

- (1) The board shall be appointed by the Governor upon the advice of the secretary after soliciting recommendations of interested parties. All members of the board shall be residents of the Commonwealth. The board shall be composed of the following:
  - (a) A driller who is an active member of both the National Water Well Association and the Kentucky Water Well Association and whose business is actively involved in drilling water wells. This member shall serve for an initial term of three (3) years;
  - (b) A member who is a representative of the cabinet who shall serve as the executive secretary and treasurer of the board and shall be responsible for maintaining records, to serve for an initial term of three (3) years;
  - (c) A member who is a hydrogeologist or hydrologist from the Kentucky Geological Survey to serve for an initial term of two (2) years;
  - (d) Three (3) members who are water well drillers **and who are presently in the business of drilling wells**, each representing a different geographic region within the Commonwealth, to serve for an initial term of two (2) years; ~~[; provided that of the drillers selected, two (2) must be certified to install wells using the cable tool drilling method and presently in the business of drilling wells using this method, and one~~

~~(1) must be certified in the use of rotary method and presently in the business of drilling wells using this method}; and~~

- (e) A member from the public at large, who shall not be in any way connected with a water well business, to serve for an initial term of two (2) years.
- (2) Upon the expiration of the respective terms, each successor shall be appointed in the same manner as the predecessor for a term of three (3) years.
- (3) At the first meeting of the board held in each calendar year, the board shall elect a chairperson who shall serve for one (1) year. A majority of members shall decide upon rules of procedure.
- (4) The board shall hold as many meetings a year as are necessary to effectuate the purpose of KRS 223.405 to 223.460, but the board must hold at least quarterly meetings. Notice of a meeting shall be sent to each member at least ten (10) days prior to the meeting. Five (5) members shall constitute a quorum. Rules of procedure adopted by the board may provide for such additional meetings as are necessary.
- (5) The members of the board shall serve without compensation but may be reimbursed for all actual and necessary expenses incurred while discharging their official duties.

**Approved March 17, 2006.**