

CHAPTER 110**(SB 136)**

AN ACT relating to civil liability for the theft of motor fuel.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context clearly requires otherwise:

- (1) *"Motor fuel" has the same meaning as in KRS 363.900;*
- (2) *"Retailer" means any person, firm, or corporation who sells or offers for sale motor fuel from a retail facility;*
- (3) *"Retail facility" has the same meaning as in KRS 363.900; and*
- (4) *"Vehicle" means a "motor vehicle" as defined by KRS 138.210 or a "motorboat" as defined by KRS 235.010.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *The owner of a vehicle that receives motor fuel from a retail facility without making proper payment is liable to the retailer for the price of the motor fuel received, in addition to a service charge of thirty dollars (\$30). This service charge may be imposed when notice is mailed under subsection (3) of this section, if the notice of the service charge was conspicuously displayed on the premises from which the motor fuel was received. The notice shall include a statement that civil penalties will be imposed if payment is not received within thirty (30) days. Only one (1) service charge may be imposed under this section for each incident.*
- (2) *If the price of the motor fuel received and the service charge are not paid within thirty (30) days after the retailer has mailed the notice under subsection (3) of this section, the owner is liable to the retailer for:*
 - (a) *The price of the motor fuel received;*
 - (b) *The service charge as provided in subsection (1) of this section; and*
 - (c) *A civil penalty in the amount of the greater of:*
 1. *The price of the motor fuel received; or*
 2. *One hundred dollars (\$100).*
- (3) *Notice of nonpayment that includes a copy of Sections 1 to 4 of this Act and a description of its penalties shall be sent by the retailer to the owner by certified mail, to the address indicated by records obtained under Section 4 of this Act. The notice shall include a signed statement by the retailer or the employee of the retailer who reported the act, surveillance video photographs or other photographic evidence, the date and time of the occurrence, and the license plate number of the vehicle.*
- (4) *If within the thirty (30) day period referred to in subsection (2) of this section the owner sends written notice to the retailer disputing the retailer's claim that the owner received motor fuel from the retailer without making proper payment, the retailer may collect the price of the motor fuel in accordance with Section 3 of this Act. Upon receipt of this notice from the owner, the retailer shall cease all collection efforts.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

Civil liability under Section 2 of this Act does not preclude civil liability under KRS 411.095, criminal liability under KRS 514.030, or liability under any other applicable law.

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

- (1) *The Transportation Cabinet shall promulgate administrative regulations to implement a system by which a retailer or association of retailers may obtain the name and mailing address of any owner who has been identified as committing an offense under Section 2 of this Act. The cabinet may enter into an agreement with a retailer or association of retailers to establish a set fee or other negotiated terms for the release of owner records.*

- (2) *Any information released by the cabinet under this section shall be consistent with its authority under KRS 187.310 and shall be in compliance with 18 U.S.C. secs. 2721 et seq. The cabinet may integrate any system established under Sections 1 to 4 of this Act with its existing programs for the release of information pursuant to KRS Chapter 187.*

Signed by Governor April 14, 2008.