

**CHAPTER 75****(HB 411)**

AN ACT relating to the Kentucky State Police.

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

➔SECTION 1. KRS CHAPTER 16A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS;

*As used in Sections 1 to 10 of this Act, unless the context requires otherwise:*

- (1) *"Cabinet" means the Justice and Public Safety Cabinet;*
- (2) *"Secretary" means the secretary of the Cabinet;*
- (3) *"Commissioner" means the commissioner of the Department of Kentucky State Police;*
- (4) *"Officer" means any individual appointed to one (1) of the positions established by Section 2 of this Act who has the powers of a peace officer;*
- (5) *"Department" means the Department of Kentucky State Police; and*
- (6) *"Continuous service" for participation in and eligibility for the promotional process for each rank of commercial vehicle enforcement officer means:*
  - (a) *For sergeant, service as a commissioned officer that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, or termination;*
  - (b) *For lieutenant, service in grade as a sergeant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with Section 7 of this Act;*
  - (c) *For captain, service in grade as lieutenant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with Section 7 of this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *The following positions shall be created within the Department of Kentucky State Police:*
  - (a) *Commercial vehicle enforcement officers;*
  - (b) *Arson investigator officers;*
  - (c) *Hazardous devices investigator officers; and*
  - (d) *Facilities security officers.*
- (2) *These positions shall be appointed pursuant to Section 3 of this Act and shall be utilized by the commissioner to enforce the laws of the Commonwealth and to comply with federal and state mandates.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *The following officers shall be appointed by the commissioner:*
  - (a) *Commercial vehicle enforcement officers;*
  - (b) *Arson investigator officers; and*
  - (c) *Hazardous devices investigator officers.*
- (2) *Facilities security officers shall be appointed by the secretary as a special law enforcement officer under KRS 61.902.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

*The powers and duties of officers in the positions established by Section 2 of this Act shall be as follows:*

- (1) *Commercial vehicle enforcement officers shall enforce:*

- (a) *Commercial vehicle licensure, operator, traffic, and criminal violations;*
  - (b) *Motor vehicle operator, traffic, and criminal law violations on a highway; and*
  - (c) *All the laws and administrative regulations of the Commonwealth at the direction of the commissioner.*
- (2) *Arson investigator officers shall enforce:*
- (a) *All criminal laws pertaining to arson; and*
  - (b) *All the laws and administrative regulations of the Commonwealth at the direction of the commissioner.*
- (3) *Hazardous devices investigator officers shall enforce:*
- (a) *All criminal laws pertaining to hazardous devices; and*
  - (b) *All the laws and administrative regulations of the Commonwealth at the direction of the commissioner.*
- (4) *Facilities security officers shall have the jurisdiction and duties established pursuant to KRS 61.900 to 61.930.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *At the time of appointment by the department or the secretary, officers shall meet the minimum requirements established by this subsection.*
- (a) *Commercial vehicle enforcement officers shall:*
    - 1. *Meet at least one (1) of the following education or experience requirements:*
      - a. *Have completed at least fifty-four (54) semester hours with a college or university;*
      - b. *Possess at least two (2) years experience as a commercial vehicle inspector under the North American Standard Requirements;*
      - c. *Possess at least two (2) years experience as a full-time sworn law-enforcement officer; or*
      - d. *Possess at least two (2) years experience in military duty;*
    - 2. *Be of good moral character and capable of successfully meeting the physical fitness standards established by the commissioner; and*
    - 3. *Meet the minimum qualifications for becoming a certified peace officer as provided by KRS 15.382.*
  - (b) *Arson investigator officers shall:*
    - 1. *Possess at least one (1) year of law enforcement, police, criminal, fire, or arson investigation experience; and*
    - 2. *Meet the minimum qualifications for becoming a certified peace officer as provided by KRS 15.382.*
  - (c) *Hazardous devices investigator officers shall:*
    - 1. *Possess at least five (5) years of experience involving explosives or hazardous devices used in the areas of law enforcement, the military, or fire fighting; and*
    - 2. *Meet the minimum qualifications for becoming a certified peace officer as provided by KRS 15.382.*
  - (d) *Facilities security officers shall be commissioned as special law enforcement officers under KRS 61.900 to 61.930.*
- (2) *Upon completion of a probationary period of one (1) year:*

- (a) *Commercial vehicle enforcement officers, arson investigator officers, and hazardous devices investigator officers shall have successfully completed the Peace Officer Professional Standards (POPS) certification process through the Kentucky State Police Academy or through the Department of Criminal Justice Training; and*
- (b) *Commercial vehicle enforcement officers shall successfully complete and pass a certified course in General Hazardous Materials and North American Standard Driver/Vehicle Inspection.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *Commercial vehicle enforcement officers shall be promoted according to the terms and conditions established by this subsection.*
  - (a) *Promotions to commercial vehicle enforcement sergeant within the department shall be on the following terms and conditions:*
    - 1. *In order to be eligible for the promotion, the applicant shall have served as a commissioned commercial vehicle enforcement officer for at least six (6) years;*
    - 2. *Promotions made by the department for this position shall be based upon the applicant's cumulative score computed from twenty-five percent (25%) on personnel performance evaluation, thirty percent (30%) on job simulation examination, and forty-five percent (45%) on a written examination;*
    - 3. *A promotional list shall be established and shall remain valid for one (1) year. The promotional list shall consist of the numerical scores and rankings of each applicant as provided by subparagraph 2. of this paragraph. Promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. If two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;*
    - 4. *The written examination for the applicant's cumulative score shall be prepared and administered by an individual designated by the commissioner. Materials and textbooks for the examination shall be selected by the commissioner and his or her staff. At least three (3) months prior to the examination date, the commissioner shall inform all applicants of the exact material and textbooks from which test questions will be taken. The written examination shall be administered to all applicants at the same time and the applicant shall receive his or her numerical score immediately upon completion of the written examination. An applicant's numerical score shall remain valid for a period of two (2) years following the date of the examination unless the source material used as the basis for the test changes by more than thirty percent (30%);*
    - 5. *The job simulation examination shall be evaluated by boards designated by the commissioner that shall consist of:*
      - a. *The commissioner or his or her designee. The designee shall have a rank no lower than commercial vehicle enforcement captain;*
      - b. *An officer from another police agency of the rank equal to the position for which the applicant is competing;*
      - c. *An instructor from an accredited law enforcement education program;*
      - d. *A personnel director from private industry; and*
      - e. *A commercial vehicle enforcement officer of the rank equal to the position for which the applicant is competing;*
    - 6. *The designated job simulation examination boards shall perform all evaluations under guidelines developed and approved by the commissioner; and*
    - 7. *Personnel performance evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.*

- (b) *Promotions from commercial vehicle enforcement sergeant to commercial vehicle enforcement lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant shall have completed at least one (1) year of continuous service in grade as sergeant.*
  - (c) *Promotions from commercial vehicle enforcement lieutenant to commercial vehicle enforcement captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain shall have completed at least one (1) year of continuous service in grade as lieutenant.*
  - (d) *The department shall develop and administer only one (1) test for each of the ranks established by this subsection. All eligible applicants shall be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.*
  - (e) *Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year of continuous service from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period.*
  - (f) *Promotions to the rank of commercial vehicle enforcement major are temporary and shall not be subject to the provisions for selection and promotion as required by this subsection. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.*
  - (g) *The total number of supervisory officers of all classifications established by this subsection shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.*
  - (h) *No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by the promotional procedure established by this subsection.*
- (2) *Promotions from hazardous devices investigator officer to hazardous devices supervisor shall be on the following terms and conditions:*
- (a) *The applicant shall have at least seven (7) years of experience involving explosives or hazardous devices used in the areas of law enforcement, the military, or fire fighting;*
  - (b) *The applicant shall demonstrate proficiency on specialized explosive disposal equipment and disposal operations through a job simulation examination;*
  - (c) *When there are multiple applicants for a position, promotions shall be based upon a cumulative score computed from twenty-five percent (25%) on personnel performance evaluation, thirty percent (30%) on job simulation examination, and forty-five percent (45%) on a written examination. If an applicant is not employed by the department, job evaluations from past employers shall substitute for the personnel performance evaluation on a scale established by department's human resources branch;*
  - (d) *Personnel performance evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner; and*
  - (e) *The commissioner may appoint a hazardous devices supervisor from outside of the department if the applicant meets the minimum requirements for promotion from hazardous devices investigator to hazardous devices supervisor as provided by this subsection.*
- (3) *Facilities security officers shall be promoted according to the terms and conditions established by this subsection.*
- (a) *Promotions to facilities security sergeant within the department shall be on the following terms and conditions:*
    1. *The applicant shall have served as either a facilities security officer for at least two (2) years or possess at least two (2) years of other law enforcement or security services experience;*
    2. *The applicant shall complete and pass a written examination established by the department;*
    3. *When there are multiple applicants for a position, promotions shall be based upon a cumulative score computed from sixty percent (60%) on personnel performance evaluation*

*and forty percent (40%) on a written examination. If an applicant is not employed by the department, job evaluations from past employers shall substitute for the personnel performance evaluation on a scale established by the department's human resources branch; and*

4. *Personnel performance evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.*
- (b) *Promotions or appointments to facilities security lieutenant within the department shall be on the following terms and conditions:*
1. *The applicant shall have served as either a facilities security officer for at least three (3) years or possess at least three (3) years of other law enforcement or security services experience;*
  2. *The applicant shall have at least two (2) years previous supervisory experience in a law enforcement or security services position;*
  3. *The applicant shall complete and pass a written examination established by the department;*
  4. *When there are multiple applicants for a position, promotions shall be based upon a cumulative score computed from sixty percent (60%) on personnel performance evaluation and forty percent (40%) on a written examination. If an applicant is not employed by the department, job evaluations from past employers shall substitute for the personnel performance evaluation on a scale established by the department's human resources branch; and*
  5. *Personnel performance evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.*
- (4) *There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.*

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *With the exceptions specified in this section and Section 8 of this Act, no officer commissioned under this chapter shall be removed, suspended, or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law or of any administrative regulation promulgated by the commissioner. Any person may present charges in writing against any officer, which shall be filed with the Office of Internal Affairs, which shall be designated by the commissioner as the recipient of charges and shall be administratively responsible for the maintenance of good order within the department through the collection and investigation of charges and the retention of their dispositions. The charges shall be signed by the person filing the charges, and shall set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall present charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the Office of Internal Affairs shall deliver a copy thereof, personally, by certified mail, return receipt requested, to the officer offending. Within five (5) days after the receipt thereof, the officer may demand a public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.*
- (2) *If the charges are denied and the officer demands a hearing within the time specified by subsection (1) of this section, he shall make his demand known to the commissioner in writing. After a demand for hearing has been made by the officer, the commissioner within twenty (20) days from the date thereof shall arrange for a public hearing before a trial board to be constituted in the manner provided in this section. The officer defendant shall be given not less than twenty (20) days notice of the time, place, and hour of the hearing.*
- (3) *Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the department or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any Circuit Judge, upon application of the*

*trial board or the commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify in that court.*

- (4) *The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.*
- (5) *All charges against the officer defendant, together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.*
- (6) *In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.*
- (7) *The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty percent (20%) for not more than six (6) months, or by removing or dismissing from the service of the department any officer so found guilty.*
- (8) *For the purpose of hearing charges against any officer, as set forth in this section, there is created a trial board, which shall consist of the commissioner and a panel of ten (10) officers of the department appointed by the commissioner which shall be composed of six (6) commercial vehicle enforcement officers, two (2) facilities security officers, one (1) arson investigator officer, and one (1) hazardous devices investigator officer. The commissioner shall designate from the panel seven (7) members consisting of four (4) commercial vehicle enforcement officers, one (1) facilities security officer, one (1) arson investigator officer, and one (1) hazardous devices investigator officer, to hear charges against any officer in the manner and under the procedures established by this section. The commissioner may promulgate reasonable administrative regulations governing the procedure before the trial board that do not conflict with this section. The panel or trial board shall be a continuing body and the officers designated shall serve on the board or panel in addition to their other duties without any increase in compensation, except they may be reimbursed for meals, lodging, and traveling expenses incurred while in the performance of their official duties as members of the board or panel. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges, and another member substituted from the panel.*
- (9) *No officer is entitled to a hearing as provided in this section unless his suspension is for more than twenty (20) days, or his pay reduced more than ten percent (10%), except that if the officer receives more than twenty (20) days suspension or reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to a hearing as provided by this section.*
- (10) *Any officer appointed to the department under this section shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without cause, by the commissioner. The rights conferred upon an officer for a hearing, as provided in this section, shall not accrue until the officer has been employed by the department for a period of one (1) year or more.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

- (1) *Any officer of the department found guilty by the trial board of any charge as provided in Section 7 of this Act shall have the right, within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court, if the punishment is:*
  - (a) *A suspension of more than twenty (20) days;*
  - (b) *A pay reduction of more than ten percent (10%);*
  - (c) *A grade reduction if his classification so warrants; or*
  - (d) *Dismissal from the department.*

*The enforcement of the judgment of the trial board upon said charges shall not be suspended during the appeal.*

- (2) *To perfect the appeal within the specified time, an officer shall file a copy of the order, all the evidence heard, and a full transcribed record relative to the charges with the Franklin County Circuit Clerk. The officer shall first post a bond to secure the cost of the action in a lump sum amount to be approved by the circuit clerk, with corporate surety approved by the Office of Insurance as to solvency and responsibility and authority to transact business in this state, or the officer may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to the appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.*
- (3) *The appeal shall be scheduled for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.*
- (4) *No new or additional evidence shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party involved in the investigation of the charges or a member of the trial board. The court shall sit in appellate jurisdiction and shall not overturn the verdict of the trial board unless it finds:
 
  - (a) *The board acted without or in excess of its powers;*
  - (b) *The order appealed from was procured by fraud; or*
  - (c) *If questions of fact are at issue, whether any substantial evidence exists to support the order issued by the trial board. The court shall enter a judgment sustaining or setting aside the order of the trial board. The cost of the action shall follow the judgment of the court.**
- (5) *Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure. The appeal shall be docketed within sixty (60) days from the entry of judgment, unless the time is extended by the Franklin Circuit Court, but in no event beyond one hundred twenty (120) days from the entry of judgment.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

*Notwithstanding any other provision to the contrary, officers governed by Sections 1 to 10 of this Act shall participate in the following retirement systems:*

- (1) *Commercial vehicle enforcement officers, arson investigator officers, and hazardous devices investigator officers shall participate in the Kentucky Employees Retirement System under hazardous duty coverage; and*
- (2) *Facilities security officers shall participate in the Kentucky Employees Retirement System under nonhazardous coverage.*

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 16A IS CREATED TO READ AS FOLLOWS:

*For officers governed by Sections 1 to 10 of this Act, the following subjects shall be administered in the same manner as provided for state police officers governed by 16.010 to 16.185:*

- (1) *Prohibition against requesting or requiring victim of alleged sexual offense to submit to polygraph or other examination, as provided by KRS 16.062;*
- (2) *Organization of the department as provided by KRS 16.040(1);*
- (3) *Additional duties of the department, as provided by KRS 16.065;*
- (4) *Uniforms, equipment, and facilities, as provided by KRS 16.070;*
- (5) *Automobile liability insurance, as provided by KRS 16.075;*
- (6) *Bonds of employees, as provided by KRS 16.080;*
- (7) *Training school, as provided by KRS 16.090;*
- (8) *Officers required to take educational course on AIDS, as provided by KRS 16.095;*

- (9) *Travel expenses and per diem allowances, as provided by KRS 16.100;*
- (10) *Fees or rewards, as provided by KRS 16.110;*
- (11) *Disabled officer on hazardous duty may elect to be retained on payroll, as provided by KRS 16.165.*
- (12) *Election of benefits by disabled officer, as provided by KRS 16.167.*
- (13) *Political activity forbidden, as provided by KRS 16.170; and*
- (14) *Indemnification of State Police officer sued for act or omission in line of duty who suffers financial loss, as provided by KRS 16.185.*

➔Section 11. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
  - (a) Secretary of State.
  - (b) Board of Elections.
  - (c) Registry of Election Finance.
- 4. Department of Law.
  - (a) Attorney General.
- 5. Department of the Treasury.
  - (a) Treasurer.
- 6. Department of Agriculture.
  - (a) Commissioner of Agriculture.
  - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- 1. Justice and Public Safety Cabinet:
  - (a) Department of Kentucky State Police.
  - (b) Department of Criminal Justice Training.
  - (c) Department of Corrections.
  - (d) Department of Juvenile Justice.
  - (e) Office of the Secretary.
  - (f) Office of Drug Control Policy.
  - (g) Office of Legal Services.



- (h) Office of the Kentucky State Medical Examiner.
  - (i) Parole Board.
  - (j) Kentucky State Corrections Commission.
  - (k) Office of Legislative and Intergovernmental Services.
  - (l) Office of Management and Administrative Services.
  - (m) Office of Public Safety Training.
  - (n) Office of Investigations.
  - (o) ~~Department of Kentucky Vehicle Enforcement.~~
  - ~~(p)~~ Department for Public Advocacy.
2. Education Cabinet:
- (a) Office of the Secretary.
  - (b) Office of Legal Services.
    - 1. Client Assistance Program.
  - (c) Office of Communication.
  - (d) Office of Legislative and Intergovernmental Affairs.
  - (e) Office of Budget and Administration.
    - 1. Division of Human Resources.
    - 2. Division of Administrative Services.
    - 3. Division of Technology Services.
  - (f) Board of Directors for the Center for School Safety.
  - (g) Council on Postsecondary Education.
    - 1. Foundation for Adult Education.
  - (h) Department of Education.
    - 1. Kentucky Board of Education.
  - (i) Department for Libraries and Archives.
  - (j) Department of Workforce Investment.
    - 1. Office for the Blind.
    - 2. Office of Vocational Rehabilitation.
    - 3. Office of Career and Technical Education.
    - 4. Office of Employment and Training.
  - (k) Foundation for Workforce Development.
  - (l) Kentucky Office for the Blind State Rehabilitation Council.
  - (m) Kentucky Technical Education Personnel Board.
  - (n) Kentucky Workforce Investment Board.
  - (o) Statewide Council for Vocational Rehabilitation.
  - (p) Statewide Independent Living Council.
  - (q) Unemployment Insurance Commission.
  - (r) Education Professional Standards Board.

1. Division of Educator Preparation.
  2. Division of Certification.
  3. Division of Professional Learning and Assessment.
  4. Division of Legal Services.
  - (s) Kentucky Commission on the Deaf and Hard of Hearing.
  - (t) Kentucky Educational Television.
  - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Communications and Public Outreach.
    3. Office of Regulatory Affairs.
    4. Office of Legal Services.
    5. Office of Administrative and Information Services.
    6. Office of Administrative Hearings.
    7. Office of Inspector General.
    8. Mine Safety Review Commission.
    9. Workers' Compensation Board.
    10. Kentucky State Nature Preserves Commission.
    11. Kentucky Environmental Quality Commission.
    12. Kentucky Occupational Safety and Health Review Commission.
  - (b) Department for Environmental Protection.
    1. Office of the Commissioner.
    2. Division of Air Quality.
    3. Division of Water.
    4. Division of Environmental Services.
    5. Division of Waste Management.
    6. Division of Enforcement.
    7. Division of Compliance Assistance.
  - (c) Department for Natural Resources.
    1. Office of the Commissioner.
    2. Office of Technical and Administrative Support.
    3. Division of Mine Permits.
    4. Division of Mine Reclamation and Enforcement.
    5. Division of Abandoned Mine Lands.
    6. Division of Oil and Gas Conservation.
    7. Office of Mine Safety and Licensing.
    8. Division of Forestry.

9. Division of Conservation.
- (d) Department of Public Protection.
  1. Office of the Commissioner.
  2. Division of Administrative Services.
  3. Crime Victims Compensation Board.
  4. Board of Claims.
  5. Board of Tax Appeals.
  6. Kentucky Boxing and Wrestling Authority.
  7. Kentucky Horse Racing Authority.
  8. Kentucky Public Service Commission.
  9. Office of Alcoholic Beverage Control.
  10. Office of Charitable Gaming.
  11. Office of Financial Institutions.
  12. Office of Housing, Buildings and Construction.
  13. Office of Insurance.
- (e) Department of Labor.
  1. Office of the Commissioner.
  2. Office of Occupational Safety and Health.
  3. Office of Labor Management Relations and Mediation.
  4. Office of Workplace Standards.
  5. Office of Workers' Claims.
  6. Workers' Compensation Funding Commission.
  7. Kentucky Labor Management Advisory Council.
  8. Occupational Safety and Health Standards Board.
  9. Prevailing Wage Review Board.
  10. Kentucky Employees Insurance Association.
  11. Apprenticeship and Training Council.
  12. State Labor Relations Board.
  13. Workers' Compensation Advisory Council.
  14. Workers' Compensation Nominating Commission.
  15. Employers' Mutual Insurance Authority.
  16. Division of Administrative Services.
4. Transportation Cabinet:
  - (a) Department of Highways.
    1. Office of Program Planning and Management.
    2. Office of Project Development.
    3. Office of Construction and Operations.
    4. Office of Intermodal Programs.

5. Highway District Offices One through Twelve.
  - (b) Department of Vehicle Regulation.
  - (c) Department of Administrative Services.
  - (d) Department of Aviation.
  - (e) Department of Intergovernmental Programs.
    1. Office of Transportation Enhancement Programs.
    2. Office of Rural and Secondary Roads.
  - (f) Office of the Secretary.
    1. Office of Legislative and Intergovernmental Affairs.
    2. Office of Public Affairs.
    3. Office of Transportation Delivery.
    4. Office for Business and Occupational Development.
    5. Office of Budget and Fiscal Management.
    6. Office of Legal Services.
    7. Office of Inspector General.
    8. Office of the Transportation Operations Center.
    9. Office of Personnel Management.
5. Cabinet for Economic Development:
  - (a) Office of Administration and Support.
  - (b) Department for New Business Development.
  - (c) Department of Financial Incentives.
  - (d) Department for Existing Business Development.
  - (e) Tobacco Research Board.
  - (f) Kentucky Economic Development Finance Authority.
  - (g) Office of Research and Information Technology.
  - (h) Department of Commercialization and Innovation.
  - (i) Office of Legal Services.
  - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
  - (a) Department for Public Health.
  - (b) Department for Medicaid Services.
  - (c) Department for Mental Health and Mental Retardation Services.
  - (d) Kentucky Commission for Children with Special Health Care Needs.
  - (e) Office of Health Policy.
  - (f) Office of the Secretary.
  - (g) Office of Legal Services.
  - (h) Office of Inspector General.
  - (i) Office of Legislative and Public Affairs.

- (j) Department for Community Based Services.
  - (k) Department for Disability Determination Services.
  - (l) Office of the Ombudsman.
  - (m) Department for Human Support Services.
  - (n) Kentucky Commission on Community Volunteerism and Service.
  - (o) Office of Fiscal Services.
  - (p) Office of Human Resource Management.
  - (q) Office of Technology.
  - (r) Office of Contract Oversight.
  - (s) Governor's Office of Wellness and Physical Activity.
  - (t) Department for Aging and Independent Living.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
  - (b) Office of the Controller.
  - (c) Office of Administrative Services.
  - (d) Office of Public Information.
  - (e) Department for Facilities and Support Services.
  - (f) Department of Revenue.
  - (g) Commonwealth Office of Technology.
  - (h) State Property and Buildings Commission.
  - (i) Kentucky Savings Bond Authority.
  - (j) Office of Equal Employment Opportunity and Contract Compliance.
  - (k) Kentucky Employees Retirement Systems.
  - (l) Commonwealth Credit Union.
  - (m) State Investment Commission.
  - (n) Kentucky Housing Corporation.
  - (o) Kentucky Local Correctional Facilities Construction Authority.
  - (p) Kentucky Turnpike Authority.
  - (q) Historic Properties Advisory Commission.
  - (r) Kentucky Tobacco Settlement Trust Corporation.
  - (s) State Board for Proprietary Education.
  - (t) Kentucky Higher Education Assistance Authority.
  - (u) Kentucky River Authority.
  - (v) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
    - (1) Division of Tourism Services.
    - (2) Division of Marketing and Advertising.

- (3) Division of Parks Marketing.
- (b) Kentucky Department of Parks.
  - (1) Division of Information Technology.
  - (2) Division of Personnel and Payroll.
  - (3) Division of Financial Operations.
  - (4) Division of Facilities Management.
  - (5) Division of Facilities Maintenance.
  - (6) Division of Customer Services.
  - (7) Division of Recreation.
  - (8) Division of Golf Courses.
  - (9) Division of Food Services.
  - (10) Division of Rangers.
  - (11) Division of Eastern Parks.
  - (12) Division of Southern Parks.
  - (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
  - (1) Division of Law Enforcement.
  - (2) Division of Administrative Services.
  - (3) Division of Engineering.
  - (4) Division of Fisheries.
  - (5) Division of Information and Education.
  - (6) Division of Wildlife.
  - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
  - (1) Division of Support Services.
  - (2) Division of Buildings and Grounds.
  - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
  - (1) Division of Expositions and Admission.
  - (2) Division of Kentucky Fair and Exposition Center Operations.
  - (3) Division of Commonwealth Convention Center.
  - (4) Division of Public Relations and Media.
  - (5) Division of Administrative Services.
  - (6) Division of Personnel Management and Staff Development.
  - (7) Division of Sales.
  - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.

- (h) Office of Legal Affairs.
  - (i) Office of Intergovernmental Affairs.
  - (j) Office of Human Resources.
  - (k) Office of Public Affairs and Constituent Services.
  - (l) Office of Information Technology.
  - (m) Office of the Kentucky Sports Authority.
    - (1) Kentucky Sports Authority Board.
  - (n) Office of Creative Services.
  - (o) Office of Capital Plaza Operations.
  - (p) Office of Arts and Cultural Heritage.
  - (q) Kentucky African-American Heritage Commission.
  - (r) Kentucky Foundation for the Arts.
  - (s) Kentucky Humanities Council.
  - (t) Kentucky Heritage Council.
  - (u) Kentucky Arts Council.
  - (v) Kentucky Historical Society.
    - (1) Division of Museums.
    - (2) Division of Oral History and Educational Outreach.
    - (3) Division of Research and Publications.
    - (4) Division of Administration.
  - (w) Kentucky Center for the Arts.
    - (1) Division of Governor's School for the Arts.
  - (x) Kentucky Artisans Center at Berea.
  - (y) Martin Luther King Commission.
  - (z) Northern Kentucky Convention Center.
  - (aa) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
  - (b) Department for Personnel Administration.
  - (c) Office for Employee Relations.
  - (d) Kentucky Public Employees Deferred Compensation Authority.
  - (e) Office of Administrative Services.
  - (f) Office of Legal Services.
  - (g) Office of Government Training.
  - (h) Department for Employee Insurance.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
  - 2. Governor's Office for Local Development.

3. Kentucky Commission on Human Rights.
4. Kentucky Commission on Women.
5. Department of Veterans' Affairs.
6. Kentucky Commission on Military Affairs.
7. Office of Minority Empowerment.
8. Governor's Council on Wellness and Physical Activity.

➔Section 12. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
  - (a) Department of Corrections;
  - (b) Department of Criminal Justice Training, which shall have the following divisions:
    1. Training Operations Division;
    2. Administrative Division; and
    3. Training Support Division;
  - (c) Department of Juvenile Justice, which shall have the following divisions:
    1. Division of Medical Services;
    2. Division of Western Region;
    3. Division of Central Region;
    4. Division of Eastern Region;
    5. Division of Southeastern Region;
    6. Division of Northern Region;
    7. Division of Administrative Services;
    8. Division of Program Services;
    9. Division of Placement Services;
    10. Professional Development Division;
    11. Mental Health Services Division; and
    12. Community Services Division;
  - ~~(d) Department of Kentucky Vehicle Enforcement, headed by a commissioner appointed pursuant to KRS 12.040, which shall perform functions required by KRS Chapter 281 and other state and federal laws and administrative regulations relating to commercial vehicles and vehicles for hire and which shall perform such other functions as may be assigned by the secretary. The Department of Kentucky Vehicle Enforcement shall have the following divisions:~~
    - ~~1. Division of Field Operations East;~~
    - ~~2. Division of Field Operations West;~~
    - ~~3. Division of Special Operations; and~~
    - ~~4. Division of Administrative Services;~~
  - ~~(e)~~ Department of Kentucky State Police, which shall have the following divisions:
    1. Administrative Division;
    2. Operations Division;~~and~~
    3. Technical Services Division; *and*



**4. Commercial Vehicle Enforcement Division; and**

~~(e)~~ Department for Public Advocacy, which shall have the following divisions:

1. Protection and Advocacy Division;
2. Division of Law Operations;
3. Division of Trial Services; and
4. Division of Post-Trial Services.

- (2) Each department, except for the Department for Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department for Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department for Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department for Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
  - (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
  - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and 12.210 to provide legal representation and services for the cabinet. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;
  - (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in KRS 15A.030. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
  - (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director appointed pursuant to KRS 12.050 shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office;
  - (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants, including but not

limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;

- (g) Office of Public Safety Training, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center for the cabinet. The Department of Criminal Justice Training shall provide all administrative and logistical support for this office. The executive director shall be responsible to and report to the secretary for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center, and management, scheduling, maintenance, and daily operations of the Public Safety Training Center. The executive director, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office; and
- (h) Office of Investigations, which shall be headed by an executive director appointed pursuant to KRS 12.050 who shall be responsible for investigating all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office. The Office of Investigations may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department for Public Advocacy only when such investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department for Public Advocacy. Notwithstanding the provisions of this paragraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The Office of Investigations shall conduct no other investigations.

➔Section 13. KRS 15A.075 is amended to read as follows:

- (1) The Criminal Justice Council is hereby created within the Justice and Public Safety Cabinet.
- (2) The membership of the council shall consist of:
  - (a) The secretary of the Justice and Public Safety Cabinet, who shall serve as the chair;
  - (b) The Attorney General or his or her designee;
  - (c) The chair of the Judiciary Committee of the House of Representatives or his or her designee;
  - (d) The chair of the Judiciary Committee of the Senate or his or her designee;
  - (e) The executive director of the Administrative Office of the Courts or his or her designee;
  - (f) The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;
  - (g) The deputy secretary of the Justice and Public Safety Cabinet, who shall serve as the deputy chair;
  - (h) The commissioner of the Department of Kentucky State Police or his or her designee;
  - (i) The commissioner of the Department of Criminal Justice Training or his or her designee;
  - (j) The commissioner of the Department of Corrections or his or her designee;
  - (k) The commissioner of the Department of Juvenile Justice or his or her designee;

- (l) ~~The commissioner of the Department of Kentucky Vehicle Enforcement or his or her designee;~~  
~~(m)~~ A representative of the County Attorneys Association;  
~~(n)~~ ~~(o)~~ The Public Advocate of Kentucky or his or her designee; and  
~~(p)~~ ~~(q)~~ A representative of the Commonwealth's Attorneys Association.
- (3) The council shall undertake such research and other activities as may be authorized or directed by:
- (a) The secretary of the Justice and Public Safety Cabinet; or  
(b) The General Assembly.
- (4) Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The council shall meet on the call of its chair.
- (5) A simple majority of the members of the council shall constitute a quorum for the conduct of business at a meeting.
- (6) The council is authorized to establish committees and appoint additional persons who may not be members of the council, as necessary to effectuate its purposes.
- (7) The council's administrative functions shall be performed by the executive director of the Office of Legislative and Intergovernmental Services, appointed by the secretary of the Justice and Public Safety Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

➔Section 14. KRS 18A.005 is amended to read as follows:

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

- (1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- (3) "Board" means the Personnel Board created by KRS 18A.045;
- (4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;
- (5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;
- (6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;
- (8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;

- (11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;
- (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- (13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;
- (14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;
- (15) "Federally funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal grant or grants. An employee appointed to a federally funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall not exceed the life of the federal grant that funds the position. A federally funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095(14)~~(15)(a)~~ and 18A.140. A federally funded time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095(14)~~(15)(a)~~ and 18A.140;
- (16) "Federally funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;
- (17) "Full-time employee" means an employee in a full-time position;
- (18) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:
  - (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and
  - (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;
- (19) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence;
- (20) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;
- (21) "Interim position" means a position established to address a one-time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;
- (22) "Part-time employee" means an employee in a part-time position;
- (23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
- (24) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employees;
- (25) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;

- (26) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;
- (27) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
- (28) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;
- (29) "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;
- (30) "Reemployment" shall mean the rehiring of an employee with status who has been laid off;
- (31) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- (32) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;
- (33) "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;
- (34) "Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095 (12)(13);
- (35) "Seniority" means the total number of months of state service;
- (36) "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service; and
- (37) "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

➔Section 15. KRS 18A.095 is amended to read as follows:

- (1)~~(a)~~ ~~The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 15A.370.~~
- ~~(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 15A.371 and 15A.372.~~
- ~~(2)~~ A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (2)~~(3)~~ Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:
- (a) The specific reasons for dismissal including:
1. The statutory or regulatory violation;
  2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and
  4. The name of the parties involved; and
- (b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- ~~(3)~~~~(4)~~ The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss and shall contain written instructions explaining:
- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
  - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- ~~(4)~~~~(5)~~ No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- ~~(5)~~~~(6)~~ Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.
- ~~(6)~~~~(7)~~ No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:
- (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
  - (b) Notify the employee in writing of the decision.
- ~~(7)~~~~(8)~~ If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:
- (a) The effective date of his dismissal or other penalization;
  - (b) The specific reason for this action, including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the dismissal or other penalization is based;
    3. The date, time, and place of the action or activity; and
    4. The name of the parties involved; and
  - (c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.
- ~~(8)~~~~(9)~~ A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:
- (a) The demotion, suspension, or other penalization;
  - (b) The effective date of the demotion, suspension, or other penalization;
  - (c) The specific reason for the action including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the demotion, suspension, or other penalization is based;
    3. The date, time, and place of the action or activity; and
    4. The name of the parties involved; and
  - (d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

- ~~(9)~~~~(10)~~ Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.
- ~~(10)~~~~(11)~~ (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
1. The reallocation; and
  2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification.
- (b) He shall be provided with a form prescribed by the secretary on which to request reconsideration.
- (c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.
- ~~(11)~~~~(12)~~ Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.
- ~~(12)~~~~(13)~~ Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- ~~(13)~~~~(14)~~ When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.
- ~~(14)~~~~(15)~~ (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board.
- (b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board.
- (c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly.
- (d) An appeal to the board by applicants or eligibles under subsections ~~(10)~~~~(11)~~ and ~~(12)~~~~(13)~~ of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.
- ~~(15)~~~~(16)~~ An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).
- ~~(16)~~~~(17)~~ (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms.
- (b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an

employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney.

- (c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal.
- (d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.
- ~~(17)(18)~~ All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.
- ~~(18)(19)~~ (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100.
- (b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.
- ~~(19)(20)~~ Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
  - (a) Employ class action procedures; or
  - (b) Conduct test representative cases.
- ~~(20)(21)~~ Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- ~~(21)(22)~~ An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.
- ~~(22)(23)~~ (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action.
- (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.



- ~~(23)~~~~(24)~~ If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.
- ~~(24)~~~~(25)~~ When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.
- ~~(25)~~~~(26)~~ After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.
- ~~(26)~~~~(27)~~ If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.
- ~~(27)~~~~(28)~~ For the purposes of subsections (2), (3), (4), (5), (6), *and* (7)~~, and (8)~~ of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.
- ~~(28)~~~~(29)~~ Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

➔Section 16. KRS 281.600 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall exercise all administrative functions of the state in relation to motor transportation as defined in this chapter, and shall apply, as far as practicable, the administrative and judicial interpretations of the Federal Motor Carrier Act. It shall have the right to regulate motor carriers as provided in this chapter and, to that end, may establish reasonable requirements with respect to continuous and adequate service of transportation, systems of accounts, records and reports, preservation of records, and safety of operation and equipment. It may issue subpoenas, subpoenas duces tecum and orders of personal attendance of witnesses, and production of pertinent records for any proceeding before it, and permit the taking of depositions, all in accord with the Rules of Civil Procedure, and it shall have the power to promulgate administrative regulations as it may deem necessary to carry out the provisions of this chapter. The department shall have the authority to promulgate regulations regarding safety requirements for motor vehicles and the method of operation, including the adoption of any of the federal motor carrier safety regulations and any motor vehicle operating contrary to safety regulations shall be in violation of this section.
- (2) The provisions established by the Federal Highway Administration in Title 49, Part 393 of the United States Code of Federal Regulations shall not apply to:
  - (a) A motor vehicle or its towed unit having a fertilizer spreader attachment permanently mounted thereon, having a gross weight not to exceed thirty-six thousand (36,000) pounds, and used only for the transportation of bulk fertilizer; or
  - (b) A farm-wagon-type tank trailer of not more than two thousand (2,000) gallon capacity used during liquid fertilizer season as a field storage tank supplying fertilizer to a field applicator, and moved on a public highway for the purpose of bringing fertilizer from a local source of supply to a farm or field, or from one (1) farm or field to another, provided that the vehicle is being operated solely in intrastate transportation.
- (3) ***The Department of Kentucky State Police shall exercise all administrative functions of the state pertaining to the motor carrier safety management audit program. This program shall be administered according to the provisions of the Federal Motor Carriers Safety Act and the federal regulations promulgated under that Act.***

➔Section 17. KRS 281.755 is amended to read as follows:

- (1) The Department of Kentucky State Police ~~and the Department of Kentucky Vehicle Enforcement~~ may at any time or place make an inspection of any motor vehicle operating under the provisions of this chapter. They may

enter into and upon any such motor vehicle for the purpose of ascertaining whether or not any provision of this chapter or any order or rule or regulation of the department relating to such motor vehicles has been violated. Willful refusal to stop any such motor vehicle, when ordered to do so by any representative of the Department of Kentucky State Police ~~or the Department of Kentucky Vehicle Enforcement~~, or to permit the representative to enter into or upon the motor vehicle for the purpose of inspection, shall be sufficient ground for the revocation or suspension of the certificate or permit of the motor carrier.

- (2) In the event that a peace officer orders a commercial motor vehicle to be taken to a storage or impoundment facility as a result of a violation which requires the vehicle to be moved, the driver of the commercial motor vehicle shall be granted the ability to drive the commercial motor vehicle to the storage or impoundment facility. If the driver elects to drive to the storage or impoundment facility, a peace officer shall escort the vehicle to the facility. This subsection shall not apply if the commercial motor vehicle is required to be impounded as a result of a violation of KRS 281A.210, an out-of-service order as defined in KRS 281A.010(26), or a serious traffic violation as defined in KRS 281A.010(29).

➔Section 18. KRS 281.880 is amended to read as follows:

- (1) (a) The Department of *Kentucky State Police*~~Vehicle Regulation in the Transportation Cabinet~~ shall establish a motor carrier safety management audit program applicable to private or for-hire, intrastate or interstate motor carriers.
- (b) The Department of *Kentucky State Police*~~Vehicle Enforcement~~ may perform safety inspections on vehicles operated by a motor carrier on public highways and may enter onto property owned, leased, controlled, or operated by a motor carrier to inspect any of its vehicles or inspect or copy records relating to vehicle safety, maintenance, or financial responsibility.
- (2) The *Department of Kentucky State Police*~~department~~ may issue motor carrier safety ratings to any private or for-hire motor carrier which is based in Kentucky, has a terminal in Kentucky, or operates consistently in Kentucky. The safety rating scale and factors determining a carrier's safety rating shall be established by administrative regulation and shall be compatible with the scale and factors established by the Federal Highway Administration in Title 49 of the United States Code of Federal Regulations, Part 385, relating to safety ratings, in effect as of July 13, 1990, or as amended after that date.
- (3) The *Department of Kentucky State Police*~~department~~ may determine the safety fitness of a motor carrier and may require the maintenance of or upgrade to a satisfactory safety rating.

➔Section 19. KRS 281.883 is amended to read as follows:

The *Department of Kentucky State Police*~~department~~ shall by administrative regulation establish a system of administrative penalties for safety violations. These penalties shall be compatible with those set forth in United States Code Title 49, Section 521(b) as amended and any federal regulations adopted pursuant thereto. The *Department of Kentucky State Police*~~department~~ shall by administrative regulation provide an administrative process for appealing a citation of a safety violation or the penalty imposed because of the violation.

➔Section 20. KRS 281A.090 is amended to read as follows:

- (1) Except when driving under a commercial driver's instruction permit and accompanied by the holder of commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle on the highways of this state unless the person holds a valid commercial driver's license with applicable endorsements valid for the vehicle he or she is driving.
- (2) No person shall drive a commercial motor vehicle on the highways of this state while his or her driving privilege for a commercial or noncommercial motor vehicle is suspended, revoked, or canceled, or while he or she is subject to a disqualification, or in violation of an out-of-service order.
- (3) The licensee shall have in his or her immediate possession at all times when operating a motor vehicle his or her commercial driver's license, and shall display the license upon demand to a circuit clerk, a license examiner, a peace officer, a State Police officer, or an inspector or officer of the Department of Vehicle Regulation ~~or the Department of Kentucky Vehicle Enforcement~~. It shall be a defense to a violator of this subsection if the person so charged produces in court a commercial driver's license, issued to him or her before his or her arrest or violation and which was valid at that time.

➔Section 21. KRS 431.105 is amended to read as follows:

Notwithstanding any other statutory provisions to the contrary, all fines and forfeitures recovered in any court as a result of a conviction for the violation of any of the provisions of KRS 189.221, 189.222(1), or 189.270, which violation occurred on a state-maintained highway and arrest was made by any peace officer other than a member of the Department of Kentucky State Police, ~~Department of Kentucky Vehicle Enforcement,~~ Department of Highways, or Department of Vehicle Regulation, shall inure to the benefit of the state, shall be paid to the State Treasurer for the use and benefit of the Department of Highways, and no part shall be returned to the local governmental units from which they were sent. These fines and forfeitures shall be paid into the State Treasury by the court collecting same and within thirty (30) days after imposition and collection.

➔Section 22. The following KRS sections are repealed:

15A.370 Department of Kentucky Vehicle Enforcement -- Employees may be commissioned as peace officers -- Enforcement powers -- Divisions in department.

15A.371 Charges against commissioned employees -- Procedure -- Hearing.

15A.372 Trial board for hearings on charges against commissioned employees -- Right to hearing -- Appeals.

➔Section 23. The General assembly hereby confirms Executive Order 2008-707, dated July 14, 2008, to the extent it is not otherwise confirmed or superceded by this Act.

**Signed by the Governor March 24, 2009.**