

CHAPTER 106**(HB 398)**

AN ACT relating to agriculture.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *The Kentucky Equine Health and Welfare Council is hereby established and shall be attached to the Kentucky Department of Agriculture for administrative purposes only. The council shall:*
- (a) *Assist, advise, and consult with the commission created by Section 7 of this Act on equine health and welfare issues;*
 - (b) *Act to maintain the health, welfare, and safety of equines in the Commonwealth; and*
 - (c) *Carry out the duties assigned to the council in Section 2 of this Act.*
- (2) *The council shall be composed of thirteen (13) voting members and two (2) nonvoting ex officio members as follows:*
- (a) *The Commissioner of Agriculture or his or her designee;*
 - (b) *The state veterinarian or his or her designee;*
 - (c) *One (1) representative of the University of Kentucky College of Agriculture Equine Initiative to be designated by the dean of the University of Kentucky College of Agriculture;*
 - (d) *One (1) representative of the University of Louisville Equine Industry Program to be designated by the dean of the College of Business;*
 - (e) *One (1) representative of equine education programs chosen by Morehead State University, Murray State University, or Western Kentucky University on a rotating basis at the pleasure of the university to serve a one (1) year term;*
 - (f) *The executive director of the University of Kentucky Livestock Disease Diagnostic Center, or his or her designee, or the executive director of the Murray State University Breathitt Veterinary Center, or his or her designee, who shall serve one (1) year terms on a rotating basis;*
 - (g) *One (1) representative of the Kentucky Farm Bureau Federation with an interest in equine issues;*
 - (h) *One (1) veterinarian representing the Kentucky Equine Health and Welfare Alliance Inc.;*
 - (i) *One (1) member representing the Kentucky Veterinary Medical Association;*
 - (j) *One (1) member to be appointed by the Governor from a list of three (3) nominees submitted by the Kentucky Horse Council;*
 - (k) *One (1) member representing organized horse rescue entities to be selected by the Governor from a listing of those who apply for membership on the council;*
 - (l) *Two (2) members at large who live in diverse regions of the state to be appointed by the Governor. Each member at large shall primarily represent one (1) of the following:*
 - 1. *Equine breeders and owners; and*
 - 2. *Agricultural interests;*
 - (m) *The chair of the Senate Standing Committee on Agriculture, who shall serve as a nonvoting ex officio member; and*
 - (n) *The chair of the House Standing Committee on Agriculture and Small Business, who shall serve as a nonvoting ex officio member.*
- (3) *Initial terms of members serving under subsection (2)(c), (d), and (g) to (l) of this section shall be staggered by the Governor. Thereafter, terms shall be for four (4) years or until their successors are duly appointed and qualified. Vacancies on the council shall be filled for the remainder of the unexpired term in the same manner as the original appointment.*

- (4) *Consideration shall be given to racial and gender equity in the appointment of council members.*
- (5) *The council shall elect one (1) of its members to serve as chair for a term of two (2) years.*
- (6) *The council shall meet quarterly or upon the call of the chair. The first meeting of the council shall occur at the beginning of the quarter following appointments to the council.*
- (7) *A quorum of the council shall consist of seven (7) voting members. A majority of the voting members present may act upon matters before the council.*
- (8) *Members of the council shall serve without compensation.*
- (9) *Nothing in Sections 1 to 3 of this Act shall be construed to infringe upon the regulatory authority of:*
 - (a) *The Kentucky Horse Racing Authority to inspect, investigate, and supervise horses and other participants in horse racing and breeders incentive funds as provided by KRS Chapter 230, administrative regulations promulgated under by KRS Chapter 230, or any other law applicable to the regulation of horse racing in the Commonwealth;*
 - (b) *The Kentucky Board of Veterinary Examiners to license and certify veterinarians as provided by KRS Chapter 321, administrative regulations promulgated under KRS Chapter 321, or any other law applicable to the regulation of veterinarians in the Commonwealth; or*
 - (c) *The Kentucky Livestock Care Standards Commission to make recommendations to the Board of Agriculture to establish, maintain, or revise standards governing the care and well-being of on-farm livestock and poultry, or any other authority of the commission authorized under this Act.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

In addition to the duties relating to equine health and welfare matters set forth in subsection (1) of Section 1 of this Act, the duties and functions of the council include but are not limited to:

- (1) *Undertaking research, conducting public hearings, and collecting data to determine the prevalent equine health and welfare issues;*
- (2) *Striving to develop regional centers of care for unwanted, abused, neglected, or confiscated equines. The development of the centers may be undertaken in cooperation with state and local governments, private entities, universities, or other groups;*
- (3) *Creating a system of voluntary certification of equine rescue and retirement operations that includes, at a minimum, industry-accepted standards of care for equines;*
- (4) *Researching and offering suggestions to the commission for statutory changes affecting equine health, welfare, abuse, and neglect issues;*
- (5) *Assisting veterinarians and others in maintaining the health and welfare of equines by identifying and referring to the appropriate authorities critical areas of need; and*
- (6) *Submitting a written report annually to the Governor, the Department of Agriculture, and the Legislative Research Commission regarding its administrative, financial, and programmatic activities.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *The equine health and welfare fund is created in the State Treasury as a trust and agency account to be administered by the council for the purposes provided in this section.*
- (2) *Notwithstanding KRS 45.229, any moneys accruing to this fund in any fiscal year, including state appropriations, gifts, grants, federal funds, interest, and any other funds both public and private, shall not lapse but shall be carried forward to the next fiscal year.*
- (3) *Any interest earnings of the fund shall become a part of the fund and shall not lapse.*
- (4) *Moneys received in the fund shall be used for carrying out the provisions of Sections 1 to 3 of this Act.*

➔Section 4. KRS 257.010 is amended to read as follows:

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

- (1) "Abandon" means to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner or his agent;

- (2) "Board" means the Board of Agriculture;
- (3) **"Commission" means the Kentucky Livestock Care Standards Commission;**
- (4) "Commissioner" means the Commissioner of Agriculture;
- (5)~~(4)~~ "Communicable disease" means a disease that can be directly or indirectly transmitted from one (1) animal to another;
- (6)~~(5)~~ "Compost" means the humus-like product of the process of composting domestic livestock, poultry, or fish, which may be used as a soil conditioner or enhancer;
- (7)~~(6)~~ "Composting" means the biological decomposition of organic matter;
- (8) **"Council" means the Kentucky Equine Health and Welfare Council;**
- (9)~~(7)~~ "Department" means the Department of Agriculture;
- (10)~~(8)~~ "Fish" means the bodies and parts of bodies of all animal aquatic life being raised, or kept for sale to a wholesaler or retailer, or for direct sale to the public;
- (11)~~(9)~~ "Livestock" means:
- (a) Cattle, sheep, swine, goats, horses, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, equine, or camelid species; and
 - (b) Deer, elk, and any other animal of the cervid species ~~;~~
 ——— whose regulatory requirements are under KRS Chapters 150 and 246, and are privately owned and raised in a confined area for breeding stock, food, fiber, and other products;
- (12)~~(10)~~ "National animal identification system" means a national program intended to identify animals and track them as they come into contact with or commingle with animals other than herdmates from their premises of origin;
- (13)~~(11)~~ "National Poultry Improvement Plan" shall have the same meaning as set out in the United States Code of Federal Regulations, 9 C.F.R. Part 145, and the auxiliary provisions in 9 C.F.R. Part 147;
- (14)~~(12)~~ "Owner" means any person owning or leasing from another, or having in charge any domestic animal;
- (15)~~(13)~~ "Poultry" means chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth;
- (16)~~(14)~~ "Premises" means any portion of land, or any structure erected on land; and
- (17)~~(15)~~ "Reportable disease" means an animal disease that shall be reported to state or federal animal health officials when suspected or diagnosed.

➔Section 5. KRS 257.020 is amended to read as follows:

The board shall:

- (1) Enforce the provisions of this chapter;
- (2) Adopt and enforce ~~such~~ measures as it deems necessary to protect and promote the livestock, poultry, fish, and animal industries. **Measures falling within the scope of Section 9 of this Act shall be adopted and enforced in conformity with that section;**
- (3) Prevent, control, and eradicate any communicable disease of livestock, poultry, and fish;
- (4) Investigate the prevalence of communicable diseases in livestock, poultry, and fish upon receipt of reports of ~~those~~ ~~such~~ diseases;
- (5) Issue ~~such~~ information as it deems necessary for public distribution;
- (6) Give information and instruction to farmers and breeders and feeders of livestock, poultry, and fish in the nature, cause, prevention, and control of communicable diseases; and
- (7) Regulate the importation, sale, use, and distribution of products or material used in the diagnosis, treatment, or prevention of animal diseases.

➔Section 6. KRS 257.030 is amended to read as follows:

The board may:

- (1) Cooperate with universities and other entities in conducting the necessary scientific investigations relating to the cause, nature, prevention, and treatment of communicable diseases of livestock, poultry, and fish;
- (2) Establish, maintain, and enforce ~~any[such]~~ quarantine and other measures as it deems necessary in controlling the movement of livestock, poultry, and fish into, through, or within the state;
- (3) Order and enforce the cleaning and disinfection of premises and all articles and materials by which communicable diseases may be transmitted, and the destruction of diseased and exposed animals and all ~~such~~ property and materials, as may be necessary in the eradication of disease;
- (4) Adopt, issue, and enforce *administrative* regulations necessary for the proper administration and enforcement of the provisions of this chapter, and for the accomplishment of the purposes intended to be accomplished by this chapter. *Administrative regulations falling within the scope of Section 9 of this Act shall be adopted, issued, and enforced in conformity with that section;* and
- (5) Employ necessary scientific, field, stenographic, and clerical assistants and fix their salaries.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

The Kentucky Livestock Care Standards Commission is hereby created to make recommendations to the board to establish, maintain, or revise standards governing the care and well-being of on-farm livestock and poultry. The commission shall be attached to the Department of Agriculture for administrative purposes and shall consist of sixteen (16) members as follows:

- (1) *The State Veterinarian, who shall be a nonvoting member;*
- (2) *The co-chairs of the Interim Joint Committee on Agriculture, who shall be nonvoting, ex officio members; and*
- (3) *Thirteen (13) voting members as follows:*
 - (a) *The commissioner or the commissioner's designee, who shall serve as chair;*
 - (b) *The dean of the University of Kentucky College of Agriculture or the dean's designee;*
 - (c) *The chair of the Animal Control Advisory Board or the chair's designee;*
 - (d) *The Director of the University of Kentucky Livestock Disease Diagnostic Center or the Director of the Murray State University Breathitt Veterinary Center. Each director shall serve one (1) year terms on a rotating basis;*
 - (e) *Four (4) members appointed by the Governor as follows:*
 1. *One (1) person selected from a list of three (3) submitted by the Kentucky Farm Bureau;*
 2. *One (1) person selected from a list of three (3) submitted by the Kentucky County Judge/Executive Association;*
 3. *One (1) veterinarian selected from a list of three (3) submitted by the Kentucky Veterinary Medical Association. The veterinarian's practice shall include working on one (1) or more of the species named in paragraph (f) of this subsection; and*
 4. *One (1) citizen at large with an interest in food safety; and*
 - (f) *Five (5) members actively engaged in farming and appointed by the Governor with assistance by the department. The department shall contact commodity organizations named in this paragraph, collect a list of potential representatives from the organizations, and deliver the list to the Governor. The Governor shall appoint:*
 1. *One (1) active producer from the list submitted by Kentucky commodity organizations representing bovine species;*
 2. *One (1) active producer from the list submitted by Kentucky commodity organizations representing ovine and caprine species;*

3. *One (1) active producer from the list submitted by Kentucky commodity organizations representing porcine species;*
4. *One (1) active producer from the list submitted by Kentucky commodity organizations representing equine species; and*
5. *One (1) active producer from the list submitted by Kentucky commodity organizations representing poultry species.*

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *Initial terms of appointed members shall be staggered by the Governor. Thereafter, terms shall be for four (4) years or until their successors are duly appointed and qualified. Vacancies on the commission shall be filled for the remainder of the unexpired term in the same manner as the original appointment.*
- (2) *The commission shall meet at the call of the chair or a majority of the voting members.*
- (3) *The Governor shall name the appointed members of the commission by August 1, 2010.*
- (4) *No members of the commission shall be a lobbyist as defined by KRS 11A.010.*
- (5) *No appointed member of the commission shall concurrently serve on the board.*
- (6) *A majority of the voting members shall:*
 - (a) *Constitute a quorum for conducting business; and*
 - (b) *Be required in order for the commission to take any action.*

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 257 IS CREATED TO READ AS FOLLOWS:

- (1) *The commission shall make recommendations to the board to establish, maintain, or revise standards governing the care and well-being of on-farm livestock and poultry. The board shall approve or reject recommendations within ninety (90) days of receiving recommendations. If approved, the board shall promulgate administrative regulations establishing the standards within thirty (30) days of approval. If rejected, the board shall notify the commission in writing within thirty (30) days of the rejection, and shall list the reasons for the rejection. The board shall not establish, maintain, or revise on-farm livestock and poultry care standards without a recommendation by the commission.*
- (2) *Before recommending on-farm livestock and poultry care standards to the board, the commission may consult with agricultural representatives from Kentucky State University, Western Kentucky University, Eastern Kentucky University, Morehead State University, and Murray State University.*
- (3) *When developing recommendations for on-farm livestock and poultry care standards to the board, the commission shall consider factors that include but are not limited to:*
 - (a) *Animal well-being and agricultural best management practices;*
 - (b) *Herd health; and*
 - (c) *Safe, affordable, healthy food supplies for consumers.*
- (4) *Nothing in this section shall be construed to abrogate the regulatory authority of:*
 - (a) *The Kentucky Horse Racing Authority to inspect, investigate, and supervise horses and other participants in horse racing as provided by KRS Chapter 230 and the administrative regulations promulgated under KRS Chapter 230, or any other law applicable to the regulation of horse racing in the Commonwealth;*
 - (b) *The Kentucky Board of Veterinary Examiners to license and certify veterinarians as provided by KRS Chapter 321 and the administrative regulations promulgated under KRS Chapter 321, or any other law applicable to the regulation of veterinarians in the Commonwealth; or*
 - (c) *The Board of Agriculture to prevent, control, or eradicate any communicable disease of on-farm livestock or poultry as provided by this chapter and the administrative regulations promulgated under this chapter, or any other law applicable to the prevention, control, or eradication of communicable diseases of on-farm livestock or poultry.*

- (5) (a) *A city, town, county, urban-county, charter county, consolidated local government, unified local government, or other political subdivision of the Commonwealth shall not adopt any ordinance, resolution, rule, or regulation regarding on-farm livestock or poultry care that is more stringent than the administrative regulations promulgated by the board under subsection (1) of this section. Local legislation in violation of this subsection is void and unenforceable.*
- (b) *Nothing in this subsection shall be construed to preempt any local ordinance or regulation affecting planning and zoning adopted in accordance with KRS Chapter 100.*
- (c) *The provisions of paragraph (a) of this subsection shall not affect ordinances, resolutions, rules, or regulations adopted before the effective date of this Act.*

➔Section 10. KRS 257.990 is amended to read as follows:

- (1) (a) *Except as provided by paragraph (b) of this subsection, any person who violates any administrative regulation promulgated by the board under the provisions of this chapter, for the violation of which no other penalty is provided in this section, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or be imprisoned not more than thirty (30) days, or both.*
- (b) *This subsection shall not apply to administrative regulations promulgated under Section 9 of this Act.*
- (2) Any person who violates KRS 257.040 shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000).
- (3) Any person who violates KRS 257.050 shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.
- (4) Any person who violates subsection (1) of KRS 257.060 shall be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) for the first offense; for each subsequent offense he shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand dollars (\$2,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.
- (5) Any person who violates subsection (2) of KRS 257.060 shall be fined not more than one thousand dollars (\$1,000).
- (6) Any person who violates any of the provisions of KRS 257.080 or 257.180 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (7) Any person who violates any of the provisions of KRS 257.160 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for the first offense. For each subsequent offense, he shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or be imprisoned not more than thirty (30) days, or both.
- (8) Any person who violates any ruling of the board or who hinders any agent of the board in carrying out the duties assigned to him, or any officer who refuses to enforce the provisions of this chapter when called upon by the board to do so, or any other person who in any way attempts to hinder or obstruct the board in carrying out the provisions of this chapter shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500) for each offense.
- (9) Any person who violates any provision of KRS 257.330 to 257.350 or the regulations made thereunder for carrying out their provisions, or who fails or refuses to comply with or intends to deceive, or who answers or represents falsely in response to any requirement of KRS 257.330 to 257.350, or who willfully interferes with the Office of State Veterinarian or their employees or agents, in the carrying out of their duties provided in KRS 257.330 to 257.350, shall be guilty of a misdemeanor. Any person who shall violate any of the provisions of KRS 257.330 to 257.350 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not to exceed five hundred dollars (\$500).

- (10) Any person, firm, or corporation who shall violate any provision of KRS 257.370 to 257.460 or any rule or regulation made under authority thereof shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in any sum not to exceed five hundred dollars (\$500) for each offense.
- (11) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an officer under KRS 257.490 or who willfully refuses to obey his lawful orders shall be fined not more than one thousand dollars (\$1,000), or imprisoned in the county jail not more than thirty (30) days, or both.

Signed by Governor April 12, 2010.