

CHAPTER 158**(SB 64)**

AN ACT relating to the Kentucky Department of Fish and Wildlife Resources.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

Each year when the Auditor of Public Accounts conducts the statewide single audit of the Commonwealth of Kentucky, the Auditor of Public Accounts shall with respect to the Department of Fish and Wildlife Resources:

- (1) *Examine the separate revenue streams of each account within the game and fish fund to ensure compliance with the prohibition against commingling of funds;*
- (2) *Disaggregate and report the revenue and expenditures, by type, within the program income fund of the fish and game fund;*
- (3) *Identify internal controls, weaknesses, operating inefficiencies, and make recommendations for improvements; and*
- (4) *Submit a written report to the Interim Joint Committee on Natural Resources and Environment in conjunction with the release of the statewide single audit of the Commonwealth of Kentucky.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *Except as provided in this section, no person shall knowingly take game with a firearm during bow season.*
- (2) *This section shall not apply to a person who:*
 - (a) *Uses a firearm permitted by law to take game permitted by law to be taken during bow season; or*
 - (b) *Kills, attempts to kill, wounds, or attempts to wound an animal in self-defense, in defense of another person, or in defense of property, or as provided in Section 3 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *Any person who is not prohibited by state or federal law from possessing a firearm may carry a firearm and ammunition for that firearm for purposes of self-defense and defense of others while hunting, fishing, trapping, or engaging in any other activity not constituting a crime under KRS Chapter 218A or Chapters 500 to 534, and may do so on any public lands under the control of the department and on any private land under the control of the department, unless the owner of the private land has posted notice that concealed deadly weapons are not allowed in a building where they may be prohibited pursuant to KRS 237.110 or 237.115.*
- (2) (a) *A person may use a firearm, if he or she is not prohibited by state or federal law from possessing a firearm, or may use any other deadly weapon, at any time and during any season to:*
 1. *Kill or attempt to kill an animal, whether protected or unprotected, in self-defense or defense of another person; or*
 2. *Kill or attempt to kill an injured animal for humane purposes.*
- (b) *An arrest shall not be made, except upon a warrant issued by a judge of a court of competent jurisdiction, and a citation shall not be issued by a peace officer if an animal is killed under circumstances described in paragraph (a) of this subsection.*
- (c) *A citation may be issued by a peace officer who witnesses the killing of an animal in violation of a statute or federal regulation under circumstances different from those described in paragraph (a) of this subsection.*
- (d) *An arrest warrant or a summons may be issued by a judge of a court of competent jurisdiction, upon application of the appropriate county attorney, if the court believes that there is sufficient cause to doubt the claim that the animal was killed under circumstances described in paragraph (a) of this subsection.*

- (3) *In cases where an animal is killed and there is a claim that the animal was killed under circumstances described in paragraph (a) of subsection (2) of this section, the department shall provide forensic evidence or other competent evidence as to how the animal was killed and the circumstances surrounding the event.*
- (4) *The department shall not promulgate administrative regulations restricting any right provided by this section or the spirit thereof.*
- (5) *This section shall not apply to the killing, wounding, or other prohibited act relating to specific wildlife which are protected by the federal Endangered Species Act, 16 U.S.C. secs. 1531 to 1544; federal Migratory Bird Treaty Act, 16 U.S.C. secs. 703 to 712; or federal Bald and Golden Eagle Protection Act, 16 U.S.C. secs. 668 to 668d.*
- (6) *The principles contained in KRS Chapter 503 relating to the use of force and deadly force against human beings shall apply to acts where wildlife is involved.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *As used in this section unless the context otherwise requires:*
 - (a) *"Commission" has the same meaning as in KRS 150.010;*
 - (b) *"Commission-managed lands" means those lands owned by the commission, those lands owned by the Commonwealth over which the commission holds management authority, or those privately owned lands that are leased or managed by the commission; and*
 - (c) *"Hunting" means the lawful pursuit, trapping, shooting, capture, collection, or killing of wildlife or the lawful attempt to do the same.*
- (2) *Commission-managed lands shall be open to access and use for hunting except as limited by the commission for reasons of fish or wildlife management, or as otherwise limited by a statute outside KRS Chapter 150 or 235.*
- (3) *The commission, in exercising its authority under the Constitution of the Commonwealth of Kentucky and statutes, shall exercise its authority consistent with subsection (2) of this section, in a manner that supports, promotes, and enhances hunting opportunities to the extent authorized by law.*
- (4) *Commission land management decisions and actions, including decisions made by private owners to close land managed by the commission, shall not result in any net loss of habitat land acreage available for hunting opportunities on commission-managed lands that exists on the effective date of this Act. The commission shall expeditiously find replacement acreage for hunting to compensate for closures of any existing hunting land. Replacement lands shall, to the greatest extent possible, be located within the same wildlife district and shall be consistent with the hunting discipline that the commission allowed on the closed land.*
- (5) *Any state agency that owns or manages lands shall assist and coordinate and cooperate with the commission to allow hunting on these lands if the lands are determined by the commission and that agency to be suitable for hunting. To ensure no net loss of land acreage available for hunting, state agencies shall cooperate with the commission to open new, additional hunting lands to replace lost hunting acreage. Lands officially designated as units within the state park system may be considered for replacement hunting lands and may be open for hunting when necessary as a wildlife control or management tool as determined by the Department of Parks.*
- (6) *By October 1 of each year, the commissioner shall submit to the Legislative Research Commission and the Interim Joint Committee on Natural Resources and Environment a written report describing:*
 - (a) *The acreage managed by the commission that was closed to hunting during the previous fiscal year and the reasons for the closures; and*
 - (b) *The acreage managed by the commission that was opened to hunting to compensate for closures of existing land pursuant to subsection (4) of this section.*
- (7) *By October 1 of each year, any state agency that owns or manages lands shall submit a written report to the commission, the Legislative Research Commission, and the Interim Joint Committee on Natural Resources and Environment describing:*
 - (a) *A list of properties that were open for hunting during the previous fiscal year;*

- (b) *A list of properties that were not open for hunting during the previous fiscal year; and*
- (c) 1. *The acreage for each property and the county where each property is located, including lands on which a right-of-way exists which make the lands unsuitable for hunting, and an explanation of why the right-of-way makes the land unsuitable for hunting; and*
2. *Parcels under fifty (50) acres. No agency shall subdivide land it owns or manages into parcels under fifty (50) acres in an attempt to avoid compliance with the provisions of this section.*

(8) *The first report under this section shall be due no later than October 1, 2010.*

➔Section 5. KRS 150.022 is amended to read as follows:

- (1) The Department of Fish and Wildlife Resources Commission shall consist of nine (9) members, one (1) from each wildlife district, as set out by the commissioner with the approval of the commission, and not more than five (5) of the same political party.
- (2) The Governor shall appoint the members of the commission *subject to confirmation by the Senate*. Each of the members shall be appointed for a term of four (4) years *and may be reappointed only once. No person who has been convicted of a felony offense, in Kentucky or under the law of any other state, or any other law of the United States shall be eligible to serve on the commission.*
- (3) Vacancies through the expiration of terms of the members of the commission shall be filled by appointment by the Governor from a list of five (5) names from each wildlife district, recommended and submitted by the sportsmen of each respective district. When the term of a member expires, the commissioner shall call a meeting of the sportsmen in that district not later than thirty (30) days prior to the expiration of the member's term. Notice of the meeting shall be given by publication pursuant to KRS Chapter 424. At the meeting, the sportsmen in attendance shall select and submit to the Governor a list of five (5) residents and citizens of the district who are well informed on the subject of wildlife conservation and restoration. Each sportsman may vote for one (1) candidate only, and the list submitted to the Governor shall be made up of the names of the five (5) candidates receiving the five (5) highest vote totals. The Governor shall appoint a successor to the member whose term is about to expire within sixty (60) days following the submission to him of the list referred to in this subsection, and in no event later than August 13.
- (4) Upon appointment to the commission of the Department of Fish and Wildlife Resources, each commissioner shall execute a bond of one thousand dollars (\$1,000) in favor of the Department of Fish and Wildlife Resources, the premium on this bond to be paid out of department funds.
- (5) In the event of vacancies other than by expiration, the Governor shall fill the vacancy for the unexpired part of the term from the names remaining on the list previously submitted for the district from which the vacancy arose.
- (6) Each member of the commission shall take the constitutional oath of office.
- (7) The Governor ~~shall~~^{may} remove any member of the commission for *cause under subsection (2) of this section and may remove any member of the commission for* inefficiency, neglect of duty, or misconduct in office; but shall first deliver to the member a copy of all charges in writing and afford to him an opportunity of being publicly heard in person or by counsel in defense of the charges, upon not less than ten (10) days' notice. If a member shall be removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and his findings thereon, together with a complete record of the proceedings.
- (8) Each member of the commission shall be entitled to reimbursement for actual and necessary traveling and other expenses incurred by him in the discharge of his official duties and to be paid from the game and fish fund.
- (9) A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power vested in the commission.
- (10) The department shall have its principal office in Franklin County, and is authorized to purchase all supplies, equipment, and printed forms and to issue any notices and publications as the commissioner may deem necessary to carry out the provisions of this chapter.
- (11) The word "sportsman" as used in this section shall mean a resident hunter or fisherman who has been licensed~~ed~~ ~~or a resident who has registered a motorboat,~~ in Kentucky for each of the past two (2) consecutive years.

➔Section 6. KRS 150.150 is amended to read as follows:

- (1) Except as provided in this chapter, all moneys derived from the sale of licenses or from any other source connected with the administration of this chapter shall be promptly paid over to the State Treasurer, who shall deposit such moneys in a special fund, known as the game and fish fund, ***except that the moneys shall be entered under separate restricted fund accounts, not commingled, and maintained according to generally accepted accounting principles. Moneys derived from the sale of licenses issued under this chapter shall be under separate restricted fund account from any other proceeds derived from this chapter or from proceeds obtained under any other chapter.*** The game and fish fund shall be used to carry out the purposes of this chapter and any law or regulation for the protection of wildlife and for no other purpose.
- (2) All funds received under KRS 150.110 and 150.520 shall be used by the department for the purpose of enforcing those sections and for the protection and propagation of mussel beds. Any surplus remaining in the fund at the close of each calendar year shall be turned into the general fund of the department.
- (3) In addition to the funds derived pursuant to KRS 186.050(15), the department shall, beginning August 1, 2006, and each fiscal year thereafter, set aside not less than twenty-five thousand dollars (\$25,000) from the game and fish fund for the purpose of promoting hunger relief through specific wildlife management and conservation efforts. The department shall provide for a separate accounting of these funds and shall, by October 1, 2007, and annually thereafter, report on the expenditures made pursuant to this subsection to the Governor and the Legislative Research Commission.
- (4) ***The department shall prescribe a method to allow any applicant for a license required under KRS 150.175 to make, at the time of application, a voluntary contribution in the amount of two dollars (\$2) for the Becoming an Outdoors-Woman Program or other hunter and angler recruitment and retention program. The voluntary contribution shall be deposited into a separate, restricted account within the game and fish fund. The Becoming an Outdoors-Woman Program shall encourage women in developing skills for outdoor recreational activities including but not limited to hunting and angling. The voluntary contribution shall be automatically added to the cost of the license at the time of sale.***

➔Section 7. KRS 150.061 is amended to read as follows:

- (1) The commission shall appoint a commissioner of the Department of Fish and Wildlife Resources, who shall be a person with knowledge of and experience in the requirements for the protection, conservation and restoration of the wildlife resources of the state. The commissioner shall serve for ***a defined employment contract term not to exceed four (4) years and shall be subject to:***
 - (a) ***Annual review by the commission in closed, executive session;***
 - (b) ***Removal by the commission for the same cause and in the same manner in which the Governor may remove a member of the commission; and***
 - (c) ***Reappointment by [an indefinite term, subject to removal by the commission for the same cause and in the same manner in which the Governor may remove a member of] the commission.***
- (2) The commissioner shall receive such compensation as the commission may determine, and shall be reimbursed for all actual and necessary travel and other expenses incurred by him in the performance of his official duties.
- (3) Before entering upon the duties of his office, the commissioner shall take and subscribe to the constitutional oath of office, and shall, in addition thereto, swear or affirm that he holds no other public office, nor any position upon or under any political committee or party. Upon appointment by the commission, the commissioner shall execute a bond of five thousand dollars (\$5,000) in favor of the Department of Fish and Wildlife Resources, the premium on said bond to be paid out of department funds.
- (4) The commissioner shall have general supervision and control of all activities, functions, appointments, and employees of the Department of Fish and Wildlife Resources. He shall enforce all provisions of the laws of the state relating to wild animals, birds, fish and amphibians, and shall exercise all powers necessarily incident thereto not specifically conferred on the commission. The commissioner shall make an annual report of all receipts and disbursements and file same with the Secretary of State of the Commonwealth of Kentucky.
- (5) If federal or other grant funds become available to pay their salaries, the commissioner may appoint and employ other persons that he may deem necessary or desirable to accomplish the purposes of this chapter. The commissioner shall determine the compensation, duties, and terms of employment of these employees, ***and grant funded, time-limited positions shall be approved by the commission as needed.*** Employees whose

salaries are funded through federal or other grant funds shall not be counted in any tally of permanent employees made for employee cap or budgetary purposes.

➔Section 8. KRS 235.330 is amended to read as follows:

~~{(1)—}~~All moneys collected under the provisions of KRS 235.080, 235.130, and 235.220, except that specified for distribution to the county clerks or Transportation Cabinet, shall be paid into the State Treasury in the manner prescribed by law and credited to a special fund known as the fish and game fund ***under separate restricted fund account not commingled with funds received under KRS Chapter 150 and maintained according to generally accepted accounting principles.***

~~{(2)—}~~Appropriations for the operation of the Division of Law Enforcement may also be made from the general expenditure fund.

➔Section 9. KRS 150.725 is amended to read as follows:

As used in KRS 150.725 to 150.735:

- (1) "Permit" means a permit to hold captive cervids;
- (2) "Applicant" means a person or entity who has applied to the department for a permit to hold captive cervids;
- (3) "Application" means an application to obtain a permit to hold captive cervids;~~{and}~~
- (4) "Hold" means to confine to a facility regulated under KRS 150.725 to 150.735;
- (5) ***"Import" means to knowingly bring a captive cervid into the state for the purpose of that captive cervid remaining in the state or being slaughtered in the state. "Import" shall not include transporting a captive cervid into the state for the purpose of transporting that captive cervid through the state to a location out of the state. A captive cervid specified in this subsection shall be deemed to be in transit; and***
- (6) ***"In transit" means to transport a captive cervid through this Commonwealth by a direct route and in a continuous manner from a location out of state to another location out of state.***

➔Section 10. KRS 150.740 is amended to read as follows:

- (1) There shall be a ban on the importation of live members of the animal family Cervidae into the Commonwealth that have not been subject to a program of surveillance and identification for cervid chronic wasting disease (CWD) that meets or exceeds:
 - (a) The requirements of the Kentucky Cervid CWD Surveillance and Identification (CCWDSI) Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and
 - (b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.
- (2) The Kentucky Department of Agriculture shall be responsible for authorizing importation of the members of the animal family Cervidae into the Commonwealth that have been subject to a program of surveillance and identification for cervid CWD that meets or exceeds:
 - (a) The requirements of the Kentucky CCWDSI Program set forth in this section and in administrative regulations promulgated by the Kentucky Department of Agriculture; and
 - (b) Any other health requirements as regulated by the Kentucky Department of Agriculture or the United States Department of Agriculture for cervids.
- (3) Members of the animal family Cervidae shall not be eligible for importation into the Commonwealth unless the program of surveillance and identification for cervid CWD to which they have been subject:
 - (a) Has been certified by the exporting state's state veterinarian or agency having jurisdiction over that state's surveillance and identification program;
 - (b) Has been approved by the Kentucky state veterinarian as meeting or exceeding the standards imposed under the Kentucky CCWDSI Program; and
 - (c) Meets, at minimum, the following requirements:

1. The program shall require cervid owners to obtain identification and laboratory diagnosis from brain tissue as directed by the exporting state's state veterinarian or agency with jurisdiction for cervids twelve (12) months of age or greater that:
 - a. Display clinical signs of CWD;
 - b. Die, including deaths by slaughter or by hunting, including hunting on hunting preserves; or
 - c. Are ill or injured regardless of whether the illness or injury results in death; and
 2. The program shall require cervid owners to obtain cervids from herds that have been monitored for at least five (5) years and that have complied with the standards contained in the Kentucky CCWDSI Program.
- (4) Cervids originating from a state that has reported a confirmed case of CWD in wild or captive cervids shall not be imported into Kentucky until The United States Department of Agriculture approves:
 - (a) Regulations that allow importation from those states; and
 - (b) A live test for CWD that is available for live testing of cervids.
 - (5) Importation of members of the animal family Cervidae into the Commonwealth shall be consistent with this section and with administrative regulations promulgated by the Kentucky Department of Agriculture in cooperation with the Kentucky Department of Fish and Wildlife Resources.
 - (6) A person shall be guilty of a Class D felony upon conviction for violating this section. Upon conviction of a second violation of this section and in addition to all other penalties, a person shall be permanently ineligible for renewal of a captive cervid permit. On or before November 1 of each year, the Department of Fish and Wildlife Resources and the Department of Agriculture, Office of the State Veterinarian, respectively shall issue reports to the Interim Joint Committee on Agriculture and Natural Resources on the status of chronic wasting disease, and the reports may include the status of other animal or wildlife diseases in Kentucky and the United States. The reports shall be used for the purpose of determining the need for modifications to the statutory ban on the importation of cervids into the Commonwealth.
 - (7) The Department of Fish and Wildlife Resources shall have the authority to immediately, and without compensation to the owner, seize captive cervids that have been imported into the Commonwealth contrary to this section. The individual whose cervids were seized may request an administrative hearing pursuant to KRS Chapter 13B within thirty (30) days of the department's seizure and may appeal the final decision to Franklin Circuit Court in accordance with KRS Chapter 13B. Pending the final outcome of all appeals, the seized cervids may be disposed of by the department without compensation to the owner.
 - (8) The department shall have the authority to immediately, and without compensation to the owner, seize and destroy captive cervids that are in the process of being imported into the Commonwealth contrary to this section.
 - (9) *A captive cervid originating from outside the Commonwealth of Kentucky which is in transit, as defined in Section 9 of this Act and which is being transported through the Commonwealth to another state or nation of destination shall meet the entry requirements of the state or nation of destination.*
 - (10) *A person intending to transport a captive cervid through Kentucky shall, prior to the captive cervid entering Kentucky, obtain a transportation permit from the Office of the State Veterinarian. This permit shall specify that:*
 - (a) *A captive cervid being transported through Kentucky shall not remain in Kentucky for more than twenty-four (24) hours from the time of entry and, if this requirement cannot be met once the animal is in Kentucky, the Office of the State Veterinarian shall be contacted to secure a variance to the permit;*
 - (b) *A captive cervid being transported through Kentucky shall not leave the transport vehicle while in Kentucky; and*
 - (c) *The person transporting the captive cervid through Kentucky shall follow the routes specified in the transport permit, if this requirement cannot be met once the animal is in Kentucky, the Office of the State Veterinarian shall be contacted to secure a variance to the permit.*

➔Section 11. KRS 150.990 is amended to read as follows:

- (1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any administrative regulation promulgated by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.
- (2)
 - (a) Any person who fails to appear pursuant to a citation or summons issued by a conservation officer or peace officer of this Commonwealth for violation of this chapter or any administrative regulation promulgated thereunder shall forfeit his or her license or, if that person is license-exempt, shall forfeit the privilege to perform the acts authorized by the license. The individual shall not be permitted to purchase another license or exercise the privileges granted by a license until the citation or summons is resolved. The court shall notify the department whenever a person has failed to appear pursuant to a citation or summons for a violation of this chapter or any administrative regulation promulgated thereunder.
 - (b) Any person who violates any of the provisions of this chapter or any administrative regulations promulgated by the commission thereunder may, in addition to the penalties provided in subsections (3), (4), (5), (6), (7), and (8) of this section, forfeit his license or, if that person is license-exempt, may forfeit the privilege to perform the acts authorized by the license and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any administrative regulation which has been or may be promulgated by the commission under any provisions of this chapter shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the administrative regulation is promulgated.
- (3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.445, 150.450, 150.470, 150.603, 150.235(1), 150.330(2), or 150.470, or any of the provisions of this chapter or any administrative regulation promulgated by the commission for which no definite fine or imprisonment is fixed shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500).
- (4) Any person who violates any of the provisions of KRS 150.290, 150.300, 150.340, 150.360, 150.362(1), 150.485, 150.600, 150.630, 150.660, the provisions of KRS 150.195(5) to (8), or KRS 150.660(3) shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700. Damages assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk.
- (5) Any person who violates any of the provisions of KRS 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).
- (6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, 150.330(1), 150.235(2), (3), or (4), or 150.363 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
- (7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount not to exceed the replacement value of the fish and wildlife which has been killed or destroyed. Costs assessed for the restoration of wildlife under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the costs be paid through the circuit clerk.
- (8) Any person who violates the provisions of KRS 150.180, 150.520, 150.525, or administrative regulations issued thereunder shall for the first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000); and shall for a second offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500); and for any subsequent offense, be fined two thousand dollars (\$2,000).
- (9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6)

months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of this subsection shall be in addition to the penalties for violation of subsection (8).

- (10) Any person who violates any of the provisions of KRS 150.4111, 150.640, or KRS 150.450(2) or (3) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
- (11) Any person who violates any of the provisions of KRS 150.390 or KRS 150.092(4) shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year, or both. In addition to the penalties prescribed above, he *or she* shall forfeit his license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of KRS 150.092(4) shall be liable to the landowner or occupant for reasonable compensation for damages. Wildlife replacement costs assessed under this subsection shall be ordered to be paid directly to the department. The court shall not direct that the damages be paid through the circuit clerk. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or occupant. The court shall not direct that the damages be paid through the circuit clerk. Any person who possesses, takes, or molests a wild elk in violation of KRS 150.390 or administrative regulations ~~promulgated~~^{adopted} under authority of that section shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for up to six (6) months, or both. In addition to these penalties, the person shall pay to the department an amount not to exceed the greater of the replacement cost of the wild elk or double any monetary gain realized from the illegal activity and shall forfeit his or her license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years.
- (12) Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.
- (13) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 235, or the administrative regulations issued thereunder shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.
- (14) A person shall be guilty of a Class B misdemeanor upon the first conviction for a violation of KRS 150.710. A subsequent conviction shall be a Class A misdemeanor.
- (15) Any person who violates the provisions of KRS 150.092 or the administrative regulations promulgated thereunder for which no other penalty is specified elsewhere in this section shall for the first offense be fined not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300); for the second offense, be fined not less than three hundred dollars (\$300) nor more than one thousand dollars (\$1,000); and for subsequent offenses, shall forfeit the license or, if license-exempt, the privilege to perform the acts authorized by the license, for one (1) year and shall be fined not less than one thousand dollars (\$1,000) or be imprisoned in the county jail for up to one (1) year, or both. In addition to the penalties prescribed in this subsection, the violator shall be liable to the landowner or tenant for the replacement cost of any property which was damaged or destroyed by his actions. Damages assessed under this subsection shall be ordered to be paid directly to the landowner or the tenant. The court shall not direct that the damages be paid through the circuit clerk.
- (16) (a) *Any person who knowingly violates Section 2 of this Act shall for a first offense be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned in the county jail for not more than six (6) months, or both.*
- (b) *Any person who knowingly violates Section 2 of this Act shall for a second or subsequent offense be fined not less than five hundred dollars (\$500) nor more than one thousand five hundred dollars (\$1,500) or be imprisoned in the county jail for not more than six (6) months, or both.*
- (c) *In addition to the penalties specified in paragraphs (a), (b), and (d) of this subsection, a person knowingly violating Section 2 of this Act shall forfeit his or her hunting license or, if license-exempt, the privilege to perform the acts authorized by the license for a period of not less than one (1) nor more than three (3) years.*
- (d) *In addition to the penalties specified in paragraphs (a), (b), and (c) of this subsection any person knowingly violating Section 2 of this Act shall be liable to the department in an amount not to exceed the greater of the replacement value of any wildlife killed or wounded in violation of Section 2 of this Act or double the amount of the monetary gain from the knowing violating of Section 2 of this Act.*

- (e) *Wildlife replacement costs or other costs specified in paragraph (d) of this subsection shall be ordered paid directly to the department. The court shall not direct that the replacement costs be paid through the circuit clerk.*

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

- (1) *Not less than sixty (60) days nor more than ninety (90) days prior to the submission of a proposed administrative regulation, proposed amendment to an administrative regulation, or proposed repeal of an administrative regulation to the Administrative Regulation Review Subcommittee which affects property owners or occupants of property adjacent to any lake or other real property owned or controlled by the department, the department shall:*
- (a) *Hold a public hearing at a time and location most convenient to the public at a location within ten (10) miles of the boundary of the lake so that the public can make comments about the proposed administrative regulation, proposed amendment to an administrative regulation, or proposed repeal of an administrative regulation. Copies of the proposed administrative regulation, proposed amendment to an administrative regulation, or proposed repeal of an administrative regulation shall be distributed to members of the public attending the meeting without cost;*
- (b) *Advertise the hearing in accordance with KRS Chapter 424;*
- (c) *Electronically record the hearing and the comments made at the hearing; and*
- (d) *Within thirty (30) days of the close of the hearing, file a statement of consideration with the Administrative Regulation Review Subcommittee summarizing the comments made at the hearing and the department's response thereto containing the information required by KRS 13A.010.*
- (2) *The Administrative Regulation Review Subcommittee shall find deficient any proposed administrative regulation, proposed amendment to an administrative regulation, or proposed repeal of an administrative regulation covered by this section which does not comply with the provisions of this section.*

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate administrative regulations regarding:

- (1) *Specific permitted and prohibited uses of department-owned property and activities on department-owned property;*
- (2) *For a violation of an administrative regulation promulgated under subsection (1), (4), or (5) of this section relating to prohibited uses of department-owned property and prohibited activities thereon, offenses and penalties which do not authorize imprisonment, and for which the offense and the penalty are not established by statute;*
- (3) *The issuance of licenses or permits for the use of and conduct of activities on department-owned property, including but not limited to docks on department-owned lakes;*
- (4) *The revocation or suspension, following a hearing pursuant to KRS Chapter 13B, of a license or permit issued pursuant to this section; and*
- (5) *Specific permitted and prohibited uses of a department-owned or controlled buffer zone on land adjacent to a department-owned lake, including sanctions which do not authorize imprisonment for violation of the administrative regulations where a statute does not provide an offense and does not provide a penalty.*

Signed by Governor April 13, 2010.