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# 2015 Regular Session

## Volume I
## Chapters 1 - 127

## CHAPTER 1

**( HB 298 )**

AN ACT authorizing bonds for a postsecondary education capital project, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. There is hereby appropriated to the University of Kentucky from the General Fund $5,459,000 in fiscal year 2015-2016 for debt service to support General Fund Bonds as set forth in this section. There is hereby authorized and appropriated $132,500,000 in Bond Funds in fiscal year 2014-2015 and $132,500,000 in Restricted Funds in fiscal year 2014-2015 for construction of a Research Building at the University of Kentucky.

➔Section 2. It is the intent of the 2015 General Assembly that the University of Kentucky shall not base any decision to proceed with the capital project authorized and appropriated in Section 1 of this Act on an expectation of receiving any General Fund moneys for the operation and maintenance of that facility in future biennia.

➔Section 3. All authorizations and appropriations for the capital project in Section 1 of this Act shall expire on June 30, 2016, unless reauthorized, with the following exceptions: (a) A construction or purchase contract for the project shall have been awarded; or (b) Permanent financing or a short-term line of credit sufficient to cover the total authorized bonds shall have been obtained if the appropriated project completes an initial draw on the line of credit within the fiscal biennium immediately subsequent to the original bond authorization.

➔Section 4. Whereas it is imperative that the commencement of this capital project begin in fiscal year 2014-2015, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon it otherwise becoming law.

**Signed by Governor March 9, 2015.**

## CHAPTER 2

**( HB 152 )**

AN ACT relating to telecommunications.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

***(1) Notwithstanding any other provision of law, a telephone utility operating under a price regulation plan pursuant to KRS 278.543 may, at any time after the expiration of the applicable rate cap period set forth in that section, elect to operate under the modifications to that plan contained in this section. The election of this modification by the utility shall become effective upon the filing of a notice with the commission. The notice shall identify all exchanges served by the modifying utility which, as of January 1, 2015, contained fifteen thousand (15,000) or more housing units based on United States Census data current as of January 1, 2015.***

***(2) As used in this section:***

***(a) "Basic local exchange service" has the same meaning as in KRS 278.541;***

***(b) "Exchange" means a geographical area established by a telephone utility for the administration of telephone service. An exchange may embrace a city, town, or village and its environs or a portion thereof, and may consist of one (1) or more central offices together with the associated plant used in furnishing communication services in that area;***

***(c) "IP-enabled service," as used in the context of subsection (4)(c) of this section, means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol that enables an end user to send or receive voice communication, either separately or in conjunction with data communication, video communication, or both, in Internet protocol format, or any successor format; and***

***(d) "Modifying utility" means a utility that makes an election to adopt the modified price regulation plan set out in this section;***

***(e) "Voice service" means a retail service provided through any technology or service arrangement that includes the applicable functionalities described in 47 C.F.R. sec. 54.101(a).***

***(3) In exchanges with fifteen thousand (15,000) or more housing units as of January 1, 2015, based on United States Census data current as of January 1, 2015:***

***(a) The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of any retail service of the modifying utility; and***

***(b) The tariffs of a modifying utility which are in effect on the effective date of this Act shall remain binding until such tariffs are withdrawn by the utility.***

***(4) (a) The provisions of this subsection shall apply to all areas that are not described in subsection (3) of this section and in which the modifying utility is operating as an incumbent local exchange carrier, as defined in 47 U.S.C. sec. 251(h), as of the effective date of this Act.***

***(b) In response to a request for service at a location to which the modifying utility or any predecessor in interest has not installed landline facilities necessary to provide basic local exchange service, the modifying utility shall offer voice service either directly or through an affiliate. The modifying utility is not obligated to offer basic local exchange service at the location. The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of the voice service.***

***(c) 1. In response to all other requests for service, the modifying utility may offer the requesting customer an IP-enabled service or a wireless service either directly or through an affiliate.***

***2. If the requesting customer does not order an IP-enabled service or a wireless service, the modifying utility, upon request by the customer, shall provide basic local exchange service at that location. The commission retains the jurisdiction to enforce this obligation.***

***3. If the requesting customer orders an IP-enabled service or a wireless service, the modifying utility shall notify the customer in writing that:***

***a. It is providing service using an IP-enabled service or a wireless service provided by the modifying utility or an affiliate; and***

***b. The customer has sixty (60) days from service initiation to notify the modifying utility in writing that the customer no longer wants the service.***

***4. If the customer gives written notice within sixty (60) days that the service is no longer wanted, the modifying utility, upon request by the customer, shall provide basic local exchange service at that location. The commission retains the jurisdiction to enforce this obligation.***

***5. If the customer does not give written notice that the service is no longer wanted within sixty (60) days, the modifying utility shall offer voice service, either directly or through an affiliate, at the requested location. The modifying utility shall not be obligated to offer basic local exchange service at that location. The commission shall not impose any requirements or otherwise regulate the terms, conditions, rates, or availability of the voice service.***

***(5) Nothing in this section:***

***(a) Shall affect the obligations of a modifying utility under federal law including, without limitation, any obligation to maintain existing voice service in compliance with rules and orders of the Federal Communications Commission; or***

***(b) Diminishes or expands the commission's jurisdiction over wholesale rights, duties, and obligations of carriers or over complaints regarding anti-competitive practices under federal and state law, including subsequent rules and orders of the Federal Communications Commission that address carrier-to-carrier issues in and applicable to this state. Unless otherwise directed by federal law or regulation, carrier-to-carrier complaints within the commission's jurisdiction shall be resolved by final commission order within one hundred eighty (180) days of the filing of the complaint.***

➔Section 2. KRS 278.54611 is amended to read as follows:

(1) The provision of commercial mobile radio services shall be market-based and not subject to Public Service Commission regulation. Notwithstanding any other provision of law to the contrary, except as provided in subsections (2) to (5) of this section, the commission shall not impose any requirement upon a commercial mobile radio services provider with respect to the following:

(a) The availability of facilities or equipment used to provide commercial mobile radio services; or

(b) The rates, terms, and conditions for, or entry into, the provision of commercial mobile radio service.

(2) The provisions of this section do not limit or modify the commission's authority to arbitrate and enforce interconnection agreements.

(3) The commission ***may*** ~~[shall retain jurisdiction to]~~ assist in the resolution of consumer complaints.

(4) ~~[The commission may develop standards that are generally applicable to companies that are designated and operate as eligible telecommunications carriers, pursuant to 47 U.S.C. sec. 214(e), or as carriers of last resort. ]~~The commission may exercise its authority to ensure that ***companies that are designated and operate as eligible telecommunications carriers under 47 U.S.C. sec. 214(e)*** ~~[these carriers]~~, including commercial mobile radio service providers that receive eligible telecommunications carrier status, comply with ***the Federal Communication Commission's rules in 47 C.F.R. pt. 54, which govern eligible telecommunications carriers, to the extent consistent with federal and state law*** ~~[those standards]~~.

(5) The commission shall retain jurisdiction over cellular towers pursuant to KRS 278.665.

➔Section 3. KRS 278.5462 is amended to read as follows:

(1) The provision of broadband services shall be market-based and not subject to state administrative regulation. Notwithstanding any other provision of law to the contrary except as provided in subsections (3) and (4) of this section, no agency of the state shall impose or implement any requirement upon a broadband service provider with respect to the following:

(a) The availability of facilities or equipment used to provide broadband services; or

(b) The rates, terms or conditions for, or entry into, the provision of broadband service.

(2) Any requirement imposed upon broadband service in existence as of July 15, 2004, is hereby voided upon enactment of KRS 278.546 to 278.5462. The provisions of this section do not limit or modify the duties of a local exchange carrier or an affiliate of a local exchange carrier to provide unbundled access to network elements or the commission's authority to arbitrate and enforce interconnection agreements, including provisions related to remote terminals and central office facilities, to the extent required under 47 U.S.C. secs. 251 and 252, and any regulations issued by the Federal Communications Commission at rates determined in accordance with the standards established by the Federal Communications Commission pursuant to 47 C.F.R. secs. 51.503 to 51.513, inclusive of any successor regulations. Nothing contained in KRS 278.546 to 278.5462 shall be construed to preclude the application of access or other lawful rates and charges to broadband providers. Nothing contained in KRS 278.546 to 278.5462 shall preclude, with respect to broadband services, access for those service providers that use or make use of the publicly switched network.

(3) The commission ***may assist in the resolution of*** ~~[shall have jurisdiction to investigate and resolve]~~ consumer service complaints.

(4) No telephone utility shall refuse to provide wholesale digital subscriber line service to competing local exchange carriers on the same terms and conditions, filed in tariff with the Federal Communications Commission, that it provides to Internet service providers.

**Signed by Governor March 12, 2015.**

## CHAPTER 3

**( SB 77 )**

AN ACT relating to a medical order for scope of treatment.

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

➔Section 1. KRS 311.621 is amended to read as follows:

As used in KRS 311.621 to 311.643:

(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.

(2) "Advance directive" means a living will directive made in accordance with KRS 311.621 to 311.643, a living will or designation of health care surrogate executed prior to July 15, 1994, and any other document that provides directions relative to health care to be provided to the person executing the document.

(3) "Artificially-provided nutrition and hydration" means sustenance or fluids that are artificially or technologically administered.

(4) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(5) "Decisional capacity" means the ability to make and communicate a health care decision.

(6) "Directive" means a living will directive in writing voluntarily made by an adult in accordance with the provisions of KRS 311.621 to 311.643.

(7) "Grantor" means an adult who has executed an advance directive in accordance with KRS 311.621 to 311.643.

(8) "Health care decision" means consenting to, or withdrawing consent for, any medical procedure, treatment, or intervention.

(9) "Health care facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care, and licensed pursuant to KRS Chapter 216B.

(10) "Health care provider" means any health care facility or provider of health services, including but not limited to, those licensed, certified, or regulated under the provisions of KRS Chapters 211, 216, 311, 312, 313, or 314.

(11) "Life-prolonging treatment" means any medical procedure, treatment, or intervention which:

(a) Utilizes mechanical or other artificial means to sustain, prolong, restore, or supplant a spontaneous vital function; and

(b) When administered to a patient would serve only to prolong the dying process. "Life-prolonging treatment" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain.

(12) ***"Medical order for scope of treatment" means an actionable medical order signed by a patient, a patient's legal surrogate, or a responsible party, and the patient's physician directing the use of life-sustaining treatment for the patient. A medical order for scope of treatment, if completed, shall implement or apply a health power of attorney or a living will directive if one exists.***

***(13)*** "Permanently unconscious" means a condition which, to a reasonable degree of medical probability, as determined solely by the patient's attending physician and one (1) other physician on clinical examination, is characterized by an absence of cerebral cortical functions indicative of consciousness or behavioral interaction with the environment.

***(14)*** ~~[(13)]~~ "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.

***(15)*** ~~[(14)]~~ "Responsible party" means an adult who has authority under KRS 311.631 to make a health care decision for a patient who has not executed a living will directive.

***(16)*** ~~[(15)]~~ "Surrogate" means an adult who has been designated to make health care decisions in accordance with KRS 311.621 to 311.643.

***(17)*** ~~[(16)]~~ "Terminal condition" means a condition caused by injury, disease, or illness which, to a reasonable degree of medical probability, as determined solely by the patient's attending physician and one (1) other physician, is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process.

➔SECTION 2. A NEW SECTION OF KRS 311.621 TO 311.643 IS CREATED TO READ AS FOLLOWS:

***(1) An adult with decisional capacity, an adult's legal surrogate, or a responsible party may complete a medical order for scope of treatment directing medical interventions. The form shall have the title "MOST, Medical***

***Orders for Scope of Treatment," and an introductory section containing the patient's name and date of birth, the effective date of the form including the statement "Form must be reviewed at least annually," and the statements, "HIPAA permits disclosure of MOST to other health care professionals as necessary" and "This document is based on this person's medical condition and wishes. Any section not completed indicates a preference for full treatment for that section." The form shall be in substantially the following order and format and shall have the following contents:***

***(a) Section A of the form shall direct cardiopulmonary resuscitation when a person has no pulse and is not breathing by selection of one (1) of the following:***

***1. "Attempt Resuscitation (CPR)"; or***

***2. "Do Not Attempt Resuscitation"; and***

***Include the statement "When not in cardiopulmonary arrest, follow orders in B, C, and D.";***

***(b) Section B of the form shall direct the scope of treatment when a person has a pulse or is breathing by selection of one (1) of the following:***

***1. Full scope of treatment, including the use of intubation, advanced airway interventions, mechanical ventilation, defibrillation or cardioversion as indicated, medical treatment, intravenous fluids, and comfort measures. This option shall include the statement, "Transfer to a hospital if indicated. Includes intensive care. Treatment Plan: Full treatment including life support measures.";***

***2. Limited additional intervention, including the use of medical treatment, oral and intravenous medications, intravenous fluids, cardiac monitoring as indicated, noninvasive bi-level positive airway pressure, a bag valve mask, and comfort measures. This option excludes the use of intubation or mechanical ventilation. This option shall include the statement, "Transfer to a hospital if indicated. Avoid intensive care. Treatment Plan: Provide basic medical treatments."; or***

***3. Comfort measures, including keeping the patient clean, warm, and dry; use of medication by any route; positioning, wound care, and other measures to relieve pain and suffering; and the use of oxygen, suction, and manual treatment of airway obstruction as needed for comfort. This option shall include the statement, "Do not transfer to a hospital unless comfort needs cannot be met in the patient's current location (e.g. hip fracture).".***

***These options shall be followed by a space for other instructions;***

***(c) Section C of the form shall direct the use of oral and intravenous antibiotics by selection of one (1) of the following:***

***1. Antibiotics if indicated for the purpose of maintaining life;***

***2. Determine use or limitation of antibiotics when infection occurs;***

***3. Use of antibiotics to relieve pain and discomfort; or***

***4. No antibiotics, use other measures to relieve symptoms.***

***This option shall include a space for other instructions;***

***(d) Section D of the form shall have the heading, "Medically Administered Fluids and Nutrition: The provision of nutrition and fluids, even if medically administered, is a basic human right and authorization to deny or withdraw shall be limited to the patient, the surrogate in accordance with KRS 311.629, or the responsible party in accordance with KRS 311.631." and shall:***

***1. Direct the administration of fluids if physically possible as determined by the patient's physician in accordance with reasonable medical judgment and in consultation with the patient, surrogate, or responsible party by selecting one (1) of the following:***

***a. Long-term intravenous fluids if indicated;***

***b. Intravenous fluids for a defined trial period. This option shall be followed by "Goal:....."; or***

***c. No intravenous fluids, provide other measures to ensure comfort; and***

*2. Direct the administration of nutrition if physically possible as determined by the patient's physician in accordance with reasonable medical judgment and in consultation with the patient, surrogate, or responsible party by selecting one (1) of the following:*

*a. Long-term feeding tube if indicated;*

*b. Feeding tube for a defined trial period. This option shall be followed by "Goal:....."; or*

*c. No feeding tube. This option shall be followed by a space for special instructions;*

*(e) Section E of the form shall have the heading, "Patient Preferences as a Basis for this MOST Form," shall include the language, "Basis for order must be documented in medical record," and shall:*

*1. Provide direction to indicate whether or not the patient has an advance medical directive such as a health care power of attorney or living will and, if so, a place for the printed name, position, and signature of the individual certifying that the MOST is in accordance with the advance directive; and*

*2. Indicate whether oral or written directions were given and, if so, by which one (1) or more of the following:*

*a. Patient;*

*b. Parent or guardian if patient is a minor;*

*c. Surrogate appointed by the patient's advance directive;*

*d. The judicially appointed guardian of the patient, if the guardian has been appointed and if medical decisions are within the scope of the guardianship;*

*e. The attorney-in-fact named in a durable power of attorney, if the durable power of attorney specifically includes authority for health care decisions;*

*f. The spouse of the patient;*

*g. An adult child of the patient, or if the patient has more than one (1) child, the majority of the adult children who are reasonably available for consultation;*

*h. The parents of the patient; and*

*i. The nearest living relative of the patient, or if more than one (1) relative of the same relation is reasonably available for consultation, a majority of the nearest living relatives;*

*(f) A signature portion of the form shall include spaces for the printed name, signature, and date of signing for:*

*1. The patient's physician;*

*2. The patient, parent of minor, guardian, health care agent, surrogate, spouse, or other responsible party, with a description of the relationship to the patient, and contact information, unless based solely on advance directive; and*

*3. The health care professional preparing the form, with contact information;*

*(g) A section of the form shall be titled "Information for patient, surrogate, or responsible party named on this form" with the following language, "The MOST form is always voluntary and is usually for persons with advanced illness. MOST records your wishes for medical treatment in your current state of health. The provision of nutrition and fluids, even if medically administered, is a basic human right and authorization to deny or withdraw shall be limited to the patient, the surrogate in accordance with KRS 311.629, or the responsible party in accordance with KRS 311.631. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. An advance directive, such as the Kentucky Health Care Power of Attorney, is recommended for all capable adults, regardless of their health status. An advance directive allows you to document in detail your future health care instructions or name a surrogate to speak for you if you are unable*

***to speak for yourself, or both. If there are conflicting directions between an enforceable living will and a MOST form, the provisions of the living will shall prevail.";***

***(h) A section of the form shall be titled, "Directions for Completing and Implementing Form" with these four (4) subdivisions:***

***1. The first subdivision shall be titled, "Completing MOST" and shall have the following language:***

***"MOST must be reviewed, prepared, and signed by the patient's physician in personal communication with the patient, the patient's surrogate, or responsible party.***

***MOST must be reviewed and contain the original signature of the patient's physician to be valid. Be sure to document the basis in the progress notes of the medical record. Mode of communication (e.g., in person, by telephone, etc.) should also be documented.***

***The signature of the patient, surrogate, or a responsible party is required; however, if the patient's surrogate or a responsible party is not reasonably available to sign the original form, a copy of the completed form with the signature of the patient's surrogate or a responsible party must be signed by the patient's physician and placed in the medical record.***

***Use of original form is required. Be sure to send the original form with the patient.***

***There is no requirement that a patient have a MOST.";***

***2. The second subdivision shall be titled, "Implementing MOST" and shall have the following language: "If a health care provider or facility cannot comply with the orders due to policy or personal ethics, the provider or facility must arrange for transfer of the patient to another provider or facility.";***

***3. The third subdivision shall be titled, "Reviewing MOST" and shall have the following language:***

***"This MOST must be reviewed at least annually or earlier if:***

***The patient is admitted and/or discharged from a health care facility;***

***There is a substantial change in the patient's health status; or***

***The patient's treatment preferences change.***

***If MOST is revised or becomes invalid draw a line through sections A-E and write "VOID" in large letters."; and***

***4. The fourth subdivision shall be titled, "Revocation of MOST" and shall have the following language: "This MOST may be revoked by the patient, the surrogate, or the responsible party."; and***

***(i) A section of the form shall be titled, "Review of MOST" and shall have the following columns and a number of rows as determined by the Kentucky Board of Medical Licensure:***

***1. "Review Date";***

***2. "Reviewer and Location of Review";***

***3. "MD/DO Signature (Required)";***

***4. "Signature of Patient, Surrogate, or Responsible Party (Required)"; and***

***5. "Outcome of Review, describing the outcome in each row by selecting one (1) of the following:***

***a. No Change;***

***b. FORM VOIDED, new form completed; or***

***c. FORM VOIDED, no new form".***

***(2) The Kentucky Board of Medical Licensure shall promulgate administrative regulations in accordance with KRS Chapter 13A to develop the format for a standardized medical order for scope of treatment form to be approved by the board, including spacing, size, borders, fill and location of boxes, type of fonts used and their size, and placement of boxes on the front or back of the form so as to fit on a single sheet. The board***

***may not alter the wording or order of wording provided in subsection (1) of this section, except to add identifying data such as form number and date of promulgation or revision and instructions for completing, reviewing, and revoking the election of the form. The board shall consult with appropriate professional organizations to develop the format for the medical order for scope of treatment form including:***

***(a) The Kentucky Association of Hospice and Palliative Care;***

***(b) The Kentucky Board of Emergency Medical Services;***

***(c) The Kentucky Hospital Association;***

***(d) The Kentucky Association of Health Care Facilities;***

***(e) LeadingAge Kentucky;***

***(f) The Kentucky Right to Life Association; and***

***(g) Other groups interested in end-of-life care.***

***(3) The medical order for scope of treatment form developed under subsection (2) of this section shall include but not be limited to:***

***(a) An advisory that completing the medical order for scope of treatment form is voluntary and not required for treatment;***

***(b) Identification of the person who discussed and agreed to the options for medical intervention that are selected;***

***(c) All necessary information necessary to comply with subsection (1) of this section;***

***(d) The effective date of the form;***

***(e) The expiration or review date of the form, which shall be no more than one (1) calendar year from the effective date of the form;***

***(f) Indication of whether the patient has a living will directive or health care power of attorney, a copy of which shall be attached to the form if available;***

***(g) An advisory that the medical order for scope of treatment may be revoked by the patient, the surrogate, or a responsible party at any time; and***

***(h) A statement written in boldface type directly above the signature line for the patient that states, "You are not required to sign this form to receive treatment."***

***(4) A physician shall document the medical basis for completing a medical order for scope of treatment in the patient's medical record.***

***(5) The patient, the surrogate, or a responsible party shall sign the medical order for scope of treatment form; however, if it is not practicable for the patient's surrogate or a responsible party to sign the original form, the surrogate or a responsible party shall sign a copy of the completed form and return it to the health care provider completing the form. The copy of the form with the signature of the surrogate or a responsible party, whether in electronic or paper form, shall be signed by the physician and shall be placed in the patient's medical record. When the signature of the surrogate or a responsible party is on a separate copy of the form, the original form shall indicate in the appropriate signature field that the signature is attached.***

➔Section 3. KRS 311.623 is amended to read as follows:

(1) An adult with decisional capacity may make a written living will directive that does any or all of the following:

(a) Directs the withholding or withdrawal of life-prolonging treatment; or

(b) Directs the withholding or withdrawal of artificially provided nutrition or hydration; or

(c) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise; or

(d) Directs the giving of all or any part of the adult's body upon death for any purpose specified in KRS 311.1929.

(2) Except as provided in KRS 311.633, a living will directive made pursuant to this section ***or a medical order for scope of treatment made pursuant to Section 2 of this Act*** shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

(3) For purposes of KRS 311.621 to 311.643, notification to any emergency medical responder as defined by KRS Chapter 211 or any paramedic as defined by KRS Chapter 311, of a person's authentic wish not to be resuscitated shall be recognized only if on a standard form or identification approved by the Kentucky Board of Medical Licensure, in consultation with the Cabinet for Health and Family Services***, or a standard medical order for scope of treatment form approved by the Kentucky Board of Medical Licensure pursuant to Section 2 of this Act***.

➔Section 4. KRS 311.633 is amended to read as follows:

(1) It shall be the responsibility of the grantor or the responsible party of the grantor to provide for notification to the grantor's attending physician and health care facility where the grantor is a patient that an advance directive ***or a medical order for scope of treatment*** has been made. If the grantor is comatose, incompetent, or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of an advance directive ***or a medical order for scope of treatment***. An attending physician who is notified shall promptly make the living will directive or a copy of the advance directive ***or a medical order for scope of treatment*** a part of the grantor's medical records.

(2) An attending physician or health care facility which refuses to comply with the advance directive ***or a medical order for scope of treatment made pursuant to Section 2 of this Act*** of a patient or decision made by a surrogate or responsible party shall immediately inform the patient or the patient's responsible party and the family or guardian of the patient of the refusal. No physician or health care facility which refuses to comply with the advance directive ***or medical order for scope of treatment*** of a qualified patient or decision made by a responsible party shall impede the transfer of the patient to another physician or health care facility which will comply with the advance directive ***or medical order for scope of treatment***. If the patient, the family, or the guardian of the patient has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance medically necessary for the continued care of the patient, to the receiving physician and health care facility.

(3) No physician, nurse, staff member, or employee of a public or private hospital, or employee of a public or private health care facility, who shall state in writing to the hospital or health care facility his objection to complying with the advance directive of a patient**,**~~[ or]~~ a health care decision of a responsible party under KRS 311.621 to 311.643***, or a medical order for scope of treatment under Section 2 of this Act***, on moral, religious, or professional grounds, shall be required to, or held liable for refusal to, comply with the advance directive**,**~~[ or]~~ health care decision***, or medical order for scope of treatment*** as long as the physician, nurse, staff member, or employee complies with the requirements of subsection (2) of this section regarding patient notification and patient transfer.

(4) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse, staff member, or employee who refuses to comply with the advance directive of a patient**,**~~[ or]~~ a health care decision by a responsible party under KRS 311.621 to 311.643***, or a medical order for scope of treatment***, as long as the physician, nurse, staff member, or employee complies with the provisions of subsection (2) of this section regarding notification and transfer.

➔Section 5. KRS 311.637 is amended to read as follows:

(1) The withholding or withdrawal of life-prolonging treatment or artificially-provided nutrition and hydration from a grantor in accordance with the provisions of KRS 311.621 to 311.643 shall not, for any purpose, constitute a suicide. The making of an advance directive under KRS 311.621 to 311.629***, a medical order for scope of treatment under Section 2 of this Act,*** or a health care decision by a responsible party under KRS 311.621 to 311.643 shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be considered to modify the terms of an existing policy of life insurance. Notwithstanding any term of the policy to the contrary, no policy of life insurance shall be legally impaired or invalidated in any manner by a health care decision made by a surrogate or responsible party or by the withholding or withdrawal from an insured patient any medical procedure or intervention which would serve only to prolong artificially the dying process.

(2) No person, corporation, or governmental agency shall require or induce any person to execute a living will directive ***or a medical order for scope of treatment under Section 2 of this Act,*** or to make a health care

decision as a responsible party under KRS 311.621 to 311.643**,** as a condition for a contract or for the provision of any service, medical treatment, or benefit.

(3) Nothing in KRS 311.621 to 311.643 shall be construed to impose any liability on a surrogate or responsible party for any expenses of the grantor for which the surrogate or responsible party would not otherwise have been liable.

(4) KRS 311.621 to 311.643 shall not create a presumption concerning the intention of an adult who has revoked or has not executed an advance directive ***or a medical order for scope of treatment under Section 2 of this Act,*** with respect to the use, withholding, or withdrawal of life-prolonging treatment if a terminal condition exists.

(5) KRS 311.621 to 311.643 shall not affect the common law or statutory right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any common law or statutory right that an adult has to effect the withholding or withdrawing of medical care.

(6) KRS 311.621 to 311.643 shall not preclude or restrict the right of persons to make advance directives outside the provisions of KRS 311.621 to 311.643; and KRS 311.621 to 311.643 shall not restrict or preclude medical personnel, physicians, nurses, or health care facilities from following other written advance directives consistent with accepted medical practice.

**Signed by Governor March 12, 2015.**

## CHAPTER 4

**( HB 134 )**

AN ACT relating to pari-mutuel wagering and declaring an emergency.

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

➔Section 1. KRS 138.510 is amended to read as follows:

(1) (a) Except as provided in paragraph (d) of this subsection ***and subsection (3) of this section***, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the commission as follows:

1. For each track with a daily average live handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track during the fiscal year; and

2. For each track with a daily average live handle under one million two hundred thousand dollars ($1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.

(b) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting pari-mutuel wagering on historical horse races under the jurisdiction of the commission at a rate of one and one-half percent (1.5%) of all money wagered on historical horse races at the track during the fiscal year.

(c) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection and deposited as follows:

1. An amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400;

2. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for harness racing shall be deposited in the Kentucky standardbred development fund established in KRS 230.770;

3. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for quarter horse, Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, Appaloosa, and Arabian development fund established by KRS 230.445;

4. An amount equal to two-tenths of one percent (0.2%) of all money wagered on live races and historical horse races at the track shall be deposited in the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed six hundred fifty thousand dollars ($650,000);

5. a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars ($320,000).

b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities.

c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.

d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and

6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3), except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars ($320,000).

(d) The excise tax imposed by paragraph (a) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.

(e) The excise tax imposed by paragraph (a) of this subsection, and the distributions provided for in paragraph (c) of this subsection, shall apply to money wagered on historical horse races beginning September 1, 2011, through March 31, 2014, and historical horse races shall be considered live racing for purposes of determining the daily average live handle. Beginning April 1, 2014, the tax imposed by paragraph (b) of this subsection shall apply to money wagered on historical horse races.

(2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is imposed on:

1. All tracks conducting telephone account wagering;

2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the commission; and

3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(b) The tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.

(c) A noncontiguous track facility approved by the commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.

(d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:

1. An amount equal to two percent (2%) of the amount wagered shall be deposited as follows:

a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;

b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race meeting or the interstate wagering is conducted on a harness race meeting; or

c. In the Kentucky quarter horse, Appaloosa, and Arabian development fund established by KRS 230.445, if the host track is conducting a quarter horse, Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, Appaloosa, or Arabian horse race meeting;

2. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;

3. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(c)5. of this section; and

4. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).

(3) ***(a) The provisions of this subsection shall apply retroactively to January 1, 2015, and shall expire on December 31, 2017.***

***(b) If a host track in this state is the location for the conduct of a two (2) day international horse racing event that distributes in excess of a total of twenty million dollars ($20,000,000) in purses and awards:***

***1. The excise tax imposed by subsection (1)(a) of this section shall not apply to money wagered at the track on live races conducted at the track during the two (2) day international horse racing event; and***

***2. Amounts wagered at the track on live races conducted at the track during the two (2) day international horse racing event shall not be included in calculating the daily average live handle for purposes of subsection (1) of this section.***

***(4)*** The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.

➔Section 2. Whereas it is vital to have the correct tax program in place in advance of any international horse racing events that may occur in Kentucky in 2015 and beyond, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 17, 2015.**

## CHAPTER 5

**( SB 28 )**

AN ACT relating to the placement of illegal gambling devices in business establishments and declaring an emergency.

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

➔Section 1. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" -- A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any

other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) (a) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. A contest or game in which eligibility to participate is determined by chance and the ultimate winner is determined by skill shall not be considered to be gambling.

(b) Gambling shall not mean charitable gaming which is licensed and regulated under the provisions of KRS Chapter 238.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;~~[ or]~~

***(b) Any mechanical or electronic device permanently located in a business establishment, including a private club, that is offered or made available to a person to play or participate in a simulated gambling program in return for direct or indirect consideration, including but not limited to consideration paid for Internet access or computer time, or a sweepstakes entry, which when operated may deliver as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or***

***(c)***~~[(b)]~~ Any other machine or any mechanical or other device, including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

***(d)***~~[(c)]~~ But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

***2. Devices dispensing or selling combination or French Pools on historical races at licensed, regular racetracks as lawfully authorized by the Kentucky Horse Racing Commission.***

***3.***~~[2.]~~ Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

***4.***~~[3.]~~ Devices used in the conduct of charitable gaming.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The ultimate winner is to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct, or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" -- A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

***(9) "Simulated gambling program" means any method intended to be used by a person playing, participating, or interacting with an electronic device that may, through the application of an element of chance, either deliver money or property or an entitlement to receive money or property.***

***(10)*** ~~[(9)]~~ "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

***(11)*** ~~[(10)]~~ "Charitable gaming" means games of chance conducted by charitable organizations licensed and regulated under the provisions of KRS Chapter 238.

➔Section 2. No provision of this Act shall be construed as a recognition or finding concerning whether the operation of wagering on historical horse races constitutes a pari-mutuel form of wagering or concerning the legality of wagering on historical horse races, the devices upon which wagering on historical horse races is conducted, or the gaming system.

➔Section 3. Whereas it is important to protect the citizens of Kentucky from illegal gambling activity, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 19, 2015.**

## CHAPTER 6

**( SB 75 )**

AN ACT related to newborn screening for krabbe disease.

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

➔Section 1. KRS 214.155 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall operate a newborn screening program for heritable and congenital disorders that includes but is not limited to procedures for conducting initial newborn screening tests on infants twenty-eight (28) days or less of age and definitive diagnostic evaluations provided by a state

university-based specialty clinic for infants whose initial screening tests resulted in a positive test. The secretary of the cabinet shall, by administrative regulation promulgated pursuant to KRS Chapter 13A:

(a) Prescribe the times and manner of obtaining a specimen and transferring a specimen for testing;

(b) Prescribe the manner of procedures, testing specimens, and recording and reporting the results of newborn screening tests; and

(c) Establish and collect fees to support the newborn screening program.

(2) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care tests for heritable disorders, including but not limited to phenylketonuria (PKU), sickle cell disease, congenital hypothyroidism, galactosemia, medium-chain acyl-CoA dehydrogenase deficiency (MCAD), very long-chain acyl-CoA deficiency (VLCAD), short-chain acyl-CoA dehydrogenase deficiency (SCAD), maple syrup urine disease (MSUD), congenital adrenal hyperplasia (CAH), biotinidase disorder, and cystic fibrosis (CF), 3-methylcrotonyl-CoA carboxylase deficiency (3MCC), 3-OH 3-CH3 glutaric aciduria (HMG), argininosuccinic acidemia (ASA), beta-ketothiolase deficiency (BKT), carnitine uptake defect (CUD), citrullinemia (CIT), glutaric acidemia type I (GA I), Hb S/beta-thalassemia (Hb S/Th), Hb S/C disease (Hb S/C), homocystinuria (HCY), isovaleric acidemia (IVA), long-chain L-3-OH acyl-CoA dehydrogenase deficiency (LCAD), methylmalonic acidemia (Cbl A,B), methylmalonic acidemia mutase deficiency (MUT), multiple carboxylase deficiency (MCD), propionic acidemia (PA), trifunctional protein deficiency (TFP), ~~[and ]~~tyrosinemia type I (TYR I)***, and krabbe disease***. The listing of tests for heritable disorders to be performed shall include all conditions consistent with the recommendations of the American College of Medical Genetics.

(3) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.046 shall register the birth of a child and cause to have administered to every such infant or child in its or his care a screening for critical congenital heart disease (CCHD) prior to discharge unless CCHD has been ruled out or diagnosed with prior echocardiogram or prenatal diagnosis of CCHD.

(4) Each health care provider of newborn care shall provide an infant's parent or guardian with information about the newborn screening tests required under subsections (2) and (3) of this section. The institution or health care provider shall arrange for appropriate and timely follow-ups to the newborn screening tests, including but not limited to additional diagnoses, evaluation, and treatment when indicated.

(5) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of his or her child on that ground.

(6) The cabinet shall make available the names and addresses of health care providers, including but not limited to physicians, nurses, and nutritionists, who may provide postpartum home visits to any family whose infant or child has tested positive for a newborn screening test.

(7) A parent or guardian shall be provided information by the institution or health care provider of newborn care about the availability and costs of screening tests not specified in subsections (2) and (3) of this section. The parent or guardian shall be responsible for costs relating to additional screening tests performed under this subsection, and these costs shall not be included in the fees established for the cabinet's newborn screening program under subsection (1) of this section. All positive results of additional screening of these tests shall be reported to the cabinet by the institution or health care provider.

(8) (a) For the purposes of this subsection, a qualified laboratory means a clinical laboratory not operated by the cabinet that is accredited pursuant to 42 U.S.C. sec. 263a, licensed to perform newborn screening testing in any state, and reports its screening results using normal pediatric reference ranges.

(b) The cabinet shall enter into agreements with public or private qualified laboratories to perform newborn screening tests if the laboratory operated by the cabinet is unable to screen for a condition specified in subsection (2) of this section.

(c) The cabinet may enter into agreements with public or private qualified laboratories to perform testing for conditions not specified in subsection (2) of this section. Any agreement entered into under this paragraph shall not preclude an institution or health care provider from conducting newborn screening tests for conditions not specified in subsections (2) and (3) of this section by utilizing other public or private qualified laboratories.

(9) The secretary for health and family services or his or her designee shall apply for any federal funds or grants available through the Public Health Service Act and may solicit and accept private funds to expand, improve, or evaluate programs to provide screening, counseling, testing, or specialty services for newborns or children at risk for heritable disorders.

(10) This section shall be cited as the James William Lazzaro and Madison Leigh Heflin Newborn Screening Act.

➔Section 2. Section 1 of this Act may be cited as the Anna Claire Taylor Law.

**Signed by Governor March 19, 2015.**

## CHAPTER 7

**( SB 119 )**

AN ACT relating to schools and declaring an emergency.

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

➔Section 1. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include assisting with needs assessments, analyzing school data, planning and evaluation assistance, organizing districtwide programs requested by school councils or groups of teachers, or other coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451, including reducing the achievement gaps as determined by an equity analysis of the disaggregated student performance data from the state assessment program developed under KRS 158.6453; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs shall be made available to teachers based on their needs which shall include but not be limited to the following areas:

(a) Strategies to reduce the achievement gaps among various groups of students and to provide continuous progress;

(b) Curriculum content and methods of instruction for each content area, including differentiated

instruction;

(c) School-based decision making;

(d) Assessment literacy;

(e) Integration of performance-based student assessment into daily classroom instruction;

(f) Nongraded primary programs;

(g) Research-based instructional practices;

(h) Instructional uses of technology;

(i) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(j) Instruction in reading, including phonics, phonemic awareness, comprehension, fluency, and vocabulary;

(k) Educational leadership; and

(l) Strategies to incorporate character education throughout the curriculum.

(4) The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts and school councils with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in subject matter academies, teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, school councils and districts shall give priority to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. The district may use up to one (1) day to provide district-wide training and training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development shall be used to support professional development initiatives that are consistent with local school improvement and professional development plans and teachers' individual growth plans. The funds may be used throughout the year for all staff, including classified and certified staff and parents on school councils or committees. A portion of the funds allocated to each school council under KRS 160.345 may be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.

(6) (a) By August 1, 2010, the Kentucky Cabinet for Health and Family Services shall post on its Web page suicide prevention awareness information, to include recognizing the warning signs of a suicide crisis. The Web page shall include information related to suicide prevention training opportunities offered by the cabinet or an agency recognized by the cabinet as a training provider.

(b) By September 1, 2010, and September 1 of each year thereafter, every public middle and high school administrator shall disseminate suicide prevention awareness information to all middle and high school students. The information may be obtained from the Cabinet for Health and Family Services or from a commercially developed suicide prevention training program.

(7) ***(a) The Kentucky Department of Education shall develop and maintain a list of approved comprehensive evidence-informed trainings on child abuse and neglect prevention, recognition, and reporting that encompass child physical, sexual, and emotional abuse and neglect.***

***(b) The trainings shall be Web-based or in-person and cover, at a minimum, the following topics:***

***1. Recognizing child physical, sexual, and emotional abuse and neglect;***

***2. Reporting suspected child abuse and neglect in Kentucky as required by KRS 620.030 and the appropriate documentation;***

***3. Responding to the child; and***

***4. Understanding the response of child protective services.***

***(c) The trainings shall include a questionnaire or other basic assessment tool upon completion to document basic knowledge of training components.***

***(d) Each local school board shall adopt one (1) or more trainings from the list approved by the Department of Education to be implemented by schools.***

***(e) All current school administrators, certified personnel, office staff, instructional assistants, and coaches and extra curricular sponsors who are employed by the school district shall complete the implemented training or trainings by January 31, 2017, and then every two (2) years after.***

***(f) All school administrators, certified personnel, office staff, instructional assistants, and coaches and extra curricular sponsors who are employed by the school district hired after January 31, 2017, shall complete the implemented training or trainings within ninety (90) days of being hired and then every two (2) years after.***

***(8)*** The Department of Education shall establish an electronic consumer bulletin board that posts information regarding professional development providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.

***(9)*** ~~[(8)]~~ The Department of Education shall provide training to address the characteristics and instructional needs of students at risk of school failure and most likely to drop out of school. The training shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with these students. The training for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Identify at-risk students early in elementary schools as well as at-risk and potential dropouts in the middle and high schools;

(b) Plan specific instructional strategies to teach at-risk students;

(c) Improve the academic achievement of students at risk of school failure by providing individualized and extra instructional support to increase expectations for targeted students;

(d) Involve parents as partners in ways to help their children and to improve their children's academic progress; and

(e) Significantly reduce the dropout rate of all students.

***(10)*** ~~[(9)]~~ The department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

***(11)*** ~~[(10)]~~ The department shall annually provide to the oversight council established in KRS 15A.063, the information received from local schools pursuant to KRS 158.449.

➔Section 2. (1) Notwithstanding any other statute or administrative regulation to the contrary, for the 2014-2015 school year, students shall receive a minimum of 1,062 instructional hours, less the amount of instructional time waived as provided in this section and any waiver provided in accordance with KRS 158.070(3)(f) and 702 KAR 7:140.

(2) A school district may reach 1,062 instructional hours by adding time to the day. A day shall not exceed seven hours of instructional time, unless the district submitted and received approval from the commissioner of education for an innovative alternative calendar. A school district shall not schedule any instructional days on Saturdays. A local board of education may submit a plan to the Department of Education demonstrating how 1,062 instructional hours will be completed, and the plan shall be approved.

(3) If a school district desires to complete 1,062 instructional hours by June 5, 2015, but is unable to under its current school calendar, the district shall request assistance from the commissioner of education by May 1, 2015, to determine a plan for maximizing instructional time to complete 1,062 instructional hours by June 5, 2015. If, after providing planning assistance to the school district, the commissioner of education determines the school district has maximized instructional time but cannot complete 1,062 hours by June 5, 2015, the commissioner shall waive the remaining instructional hours required.

(4) A school district may schedule graduation ceremonies before the final instructional day.

(5) Notwithstanding any other statute or administrative regulation to the contrary, for the 2014-2015 school year, school district certified and classified personnel shall complete all contract days by participating in instructional activities or professional development or by being assigned additional work responsibilities.

(6) Notwithstanding any other statute or administrative regulation to the contrary, for the 2014-2015 school year, a district may be open on the day of a primary election if no school in the district is used as a polling place.

(7) The Kentucky Department of Education shall make a report to the Interim Joint Committee on Education by October 15, 2015, on how school districts completed the 1,062 instructional hours.

➔Section 3. Whereas the provisions of Section 2 of this Act apply to the 2014-2015 school year and school districts need to implement the provisions before the 2014-2015 school year ends, an emergency is declared to exist and Section 2 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 19, 2015.**

## CHAPTER 8

**( SB 78 )**

AN ACT relating to the towing and storage of vehicles.

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

➔Section 1. KRS 376.268 is amended to read as follows:

As used in KRS 376.270 and 376.275***:*** ~~[,]~~

***(1) "Contents" means personal items located in a motor vehicle, but does not include manufacturer-installed or after-market accessories permanently affixed to the motor vehicle;***

***(2)*** "Motor vehicle" ***includes*** ~~[shall include]~~ vessels used or designed for navigation of or operation on waterways, rivers, lakes, and streams, as well as those used or designed for operation on the public highways***; and***

***(3) "Reasonable charges" means those charges which are usual and customary, not discriminatory, and which are typical charges for services provided by similar towing or storage companies with similar equipment and facilities operating in the region or comparable-size city or county from which the vehicle was towed or stored***.

➔Section 2. KRS 376.275 is amended to read as follows:

(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the

motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. The notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges ***for towing, recovery, storage, transporting, and other applicable charges*** due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) ***(a)*** Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle ***and its contents, except as set forth in subsection (4) of this section***, for the reasonable or agreed charges for~~[ storing or]~~ towing***, recovery, storage, transporting, and other applicable charges due on*** the vehicle, as long as it remains in his possession.

***(b) Prior to payment of fees and release of a vehicle, a towing or storage company shall not refuse the right of physical inspection of the towed vehicle by the owner or an insurance company representative. Release of the vehicle shall occur to the owner or insurance company representative upon payment and consent of the release from the owner or the owner's authorized representative. Each additional service shall be set forth individually as a single line item in the bill with an explanation and the exact charge for the service.***

***(c)*** If after a period of forty-five (45) days**,** the reasonable or agreed charges for~~[ storing or]~~ towing***, recovery, storage, transporting, and other applicable charges due on*** a motor vehicle ***and its contents*** have not been paid, the motor vehicle ***and its contents, except as set forth in subsection (4) of this section,*** may be sold to pay the charges after the owner has been notified by certified mail ten (10) days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, transporting, and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting, and storage charges by the owner or responsible casualty insurer of the vehicle. ***A***~~[This]~~ lien ***on a vehicle under this subsection*** shall be subject to prior recorded liens.

***(d) A lien holder having a prior recorded lien listed on the title issued by the Commonwealth of Kentucky shall be notified by certified mail within the first fifteen (15) days of impoundment. The letter shall include the make, model, license number, vehicle identification number, owner's name and last known address, and tentative date of sale for the vehicle. If the above-referenced certified letter is not sent within the fifteen (15) days by the towing and storage company, then only fifteen (15) days of storage may be charged. The lien holder has the right to take possession of the motor vehicle after showing proof of lien still enforced, and paying the reasonable or agreed towing and storage charges on the motor vehicle. Nothing in this section shall allow the transfer of a vehicle subject to a lien, except as provided in KRS 186A.190.***

(4) ***Subsection (3) of this section shall not apply to the following contents of a motor vehicle, which shall be released to the vehicle owner or the owner's designated agent upon request, if the request is made within forty-five (45) days of the date the vehicle was towed:***

***(a) Prescription medication in its proper container;***

***(b) Personal medical supplies and equipment or records;***

***(c) Educational materials, including but not limited to calculators, books, papers, and school supplies;***

***(d) Documents, files, electronic devices, or equipment which may be able to store personal information or information relating to a person's employment or business;***

***(e) Firearms and ammunition. Notwithstanding the provisions of subsection (5) of this section, firearms and ammunition which are not claimed by the owner of the vehicle within forty-five (45) days of the***

***date the vehicle was towed shall be transferred to the Department of State Police for disposition as provided by KRS 16.220;***

***(f) Cargo in the possession of persons engaged in transportation in interstate commerce as registered under KRS 186.020;***

***(g) Cargo in the possession of an integrated intermodal small package carrier as defined by KRS 281.605(12);***

***(h) Child restraint systems or child booster seats; and***

***(i) Checks, checkbooks, debit or credit cards, money orders, stocks, or bonds.***

***(5) Except as provided for in subsection (4)(e) of this section, any contents exempted under subsection (4) of this section that are not claimed by the owner of the vehicle within forty-five (45) days of the date the vehicle was towed may be sold or otherwise legally disposed of by the storage or towing company.***

***(6) The storage or towing company shall not be responsible for contents in a vehicle's trunk or other locked compartment to which the storage or towing company is without access, unless the towing company intentionally opens the area without the owner's consent.***

***(7)*** The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.

**Signed by Governor March 19, 2015.**

## CHAPTER 9

**( SB 10 )**

AN ACT relating to strokes.

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

➔Section 1. KRS 216B.0425 is amended to read as follows:

(1) Except as otherwise provided, for purposes of this section:

(a) "Acute care hospital" means a licensed facility providing inpatient and outpatient medical or surgical services to an individual that seeks care and treatment, regardless of the individual's ability to pay for services, on an immediate and emergent basis through an established emergency department and a continuous treatment basis on its premises for more than twenty-four (24) hours; and

(b) "Primary stroke center certification***, " "acute stroke ready hospital certification," and "comprehensive stroke center certification" mean***~~[ means]~~ certification for acute care hospitals issued by the Joint Commission***, the American Heart Association,***~~[ on Accreditation of Healthcare Organizations (JCAHO)]~~ or another cabinet-approved nationally recognized organization that provides disease-specific certification for stroke care, that:

1. Complies with census-based national standards and safety goals;

2. Effectively uses evidence-based clinical practice guidelines to manage and optimize care; and

3. Uses an organized approach to measure performance.

(2) The secretary of the Cabinet for Health and Family Services shall designate as a primary stroke center any acute care hospital which has received ***an acute stroke ready hospital certification, a comprehensive stroke center certification, or*** a primary stroke center certification.

(3) The secretary shall suspend or revoke an acute care hospital's designation as ***an acute stroke ready hospital, a comprehensive stroke center, or*** a primary stroke center if certification is withdrawn by ***the Joint Commission, the American Heart Association,***~~[JCAHO]~~ or another cabinet-approved certifying organization.

***(4) (a) The cabinet shall maintain a list of certified acute stroke ready hospitals, comprehensive stroke centers, and primary stroke centers and post the list on its Web site. The cabinet shall provide the list***

***and periodic updates to the Kentucky Board of Emergency Medical Services.***

***(b) The Kentucky Board of Emergency Medical Services shall share the list with each local emergency medical services provider at least annually, and as new centers and hospitals are designated and certified.***

➔Section 2. KRS 311A.180 is amended to read as follows:

(1) Each emergency medical services medical director for an ambulance service, or other emergency medical services provider, shall submit***:***

***(a)*** His or her protocols, ***including the pre-hospital care protocols related to the assessment, treatment, and transport of stroke patients;***

***(b)*** ***His or her*** standing orders***;*** ~~[,]~~ and

***(c)*** Similar medical control documents to the board for approval prior to placing the document in use.

(2) The medical advisor for the board shall review each document submitted to ascertain if it is in accordance with accepted standards of medical care and in accordance with the provisions of this chapter and administrative regulations promulgated thereunder. If the protocol, standing order, or other medical control document clearly violates the accepted standards of medical care, this chapter, or an administrative regulation, the medical advisor shall notify the emergency medical services medical director of the exact violation and recommend a correction thereof.

(3) Following review of protocol, standing order, and medical control documents and giving the emergency medical services medical director who submitted the documents an opportunity to review the medical advisor's comments, the medical advisor shall submit the documents together with his or her comments to the board for approval or disapproval.

(4) The board shall approve, disapprove, or approve with modifications protocol, standing order, and medical control documents submitted by the emergency medical services medical director at its next regular or special meeting following the submission of the documents.

(5) If a protocol, standing order, or other medical control document is disapproved by the board, the emergency medical services medical director who submitted it may appeal the decision to the Franklin Circuit Court. If the decision of the board is appealed to the Franklin Circuit Court, the board shall bear the burden of proving that the protocol, standing order, or other medical control document violates the accepted standards of medical care, or an administrative regulation.

(6) The board shall, by administrative regulation, specify a schedule for submission and prompt review and decision making with regard to protocols, standing orders, and medical control documents submitted to the board.

➔Section 3. KRS 216.2929 is amended to read as follows:

(1) (a) The Cabinet for Health and Family Services shall make available on its Web site information on charges for health-care services at least annually in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.

(b) Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by all charges, and shall be risk-adjusted according to recommendations of the Health Services Data Advisory Committee.

(c) The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given thirty (30) days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data.

(d) The cabinet shall only provide linkages to organizations that publicly report comparative-charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk-adjusted, and meets the requirements of paragraph (c) of this subsection.

(2) (a) The cabinet shall make information available on its Web site at least annually describing quality and

outcome measures in understandable language with sufficient explanations to allow consumers to draw meaningful comparisons between every hospital and ambulatory facility in the Commonwealth and other provider groups as relevant data becomes available.

(b) 1. The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the Centers for Medicare and Medicaid Services; or

2. The cabinet shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:

a. The Centers for Medicare and Medicaid Services;

b. The Agency for Healthcare Research and Quality;

c. The Joint Commission~~[ on the Accreditation of Health Care Organizations]~~; and

d. Other organizations that publicly report relevant outcome data for Kentucky providers as determined by the Health Services Data Advisory Committee.

(c) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that are based upon current scientific evidence or relevant national professional consensus and have definitions and calculation methods openly available to the general public at no charge.

(3) Any report the cabinet disseminates or refers the public to shall:

(a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;

(b) Meet the requirements of subsection (1)(c) of this section;

(c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and

(d) Explain any limitations of the data and how the data should be used by consumers.

(4) The cabinet shall at least annually, on or before October 1, submit a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.

(5) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on matters pertaining to comparative health-care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health-care costs, and any recommendations regarding its data collection and dissemination activities.

(6) The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared to the population at large. The report shall contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

(7) The reports required under subsections (4), (5), and (6) of this section shall be submitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor.

➔Section 4. KRS 216B.185 is amended to read as follows:

(1) The Office of the Inspector General shall accept accreditation by the Joint Commission~~[ on Accreditation of Healthcare Organizations]~~ or another nationally recognized accrediting organization with comparable standards and survey processes, that has been approved by the United States Centers on Medicare and Medicaid Services, as evidence that a hospital demonstrates compliance with all licensure requirements under this chapter. An annual on-site licensing inspection of a hospital shall not be conducted if the Office of the Inspector General receives from the hospital:

(a) A copy of the accreditation report within thirty (30) days of the initial accreditation and all subsequent reports; or

(b) Documentation from a hospital that holds full accreditation from an approved accrediting organization on or before July 15, 2002.

(2) Nothing in this section shall prevent the Office of the Inspector General from making licensing validation inspections and investigations as it deems necessary related to any complaints. The cabinet shall promulgate the necessary administrative regulations to implement the licensing validation process. Any administrative regulations shall reflect the validation procedures for accredited hospitals participating in the Medicare program.

(3) A hospital shall pay any licensing fees required by the cabinet in order to maintain a license.

(4) A new hospital shall not be exempt from the on-site inspection until meeting the requirements of subsection (1) of this section and administrative regulations promulgated under KRS 216B.040, 216B.042, and 216B.105 for acute, critical access, psychiatric, and rehabilitation facility requirements.

(5) Before beginning construction for the erection of a new building, the alteration of an existing building, or a change in facilities for a hospital, the hospital shall submit plans to the Office of Inspector General for approval.

(6) To the extent possible, the cabinet shall consider all national standards when promulgating administrative regulations for hospital licensure.

➔Section 5. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all Level I psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed Level I psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

(a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;

(b) Department for Community Based Services;

(c) Local school districts;

(d) At least one (1) psychiatric hospital; and

(e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) Notwithstanding provisions for granting of a nonsubstantive review of a certificate of need application under KRS 216B.095, the cabinet shall review and approve the nonsubstantive review of an application seeking to increase the number of beds as permitted by KRS 216B.450 if the application is submitted by an eight (8) bed or sixteen (16) bed Level I psychiatric residential treatment facility licensed and operating or holding an approved certificate of need on July 13, 2004. The cabinet shall base its approval of expanded beds upon the Level I psychiatric residential treatment facility's ability to meet standards designed by the cabinet to provide stability of care. The standards shall be promulgated by the cabinet in an administrative regulation in accordance with KRS Chapter 13A. An application under this subsection shall not be subject to any moratorium relating to certificate of need.

(3) All Level I psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(4) All Level I psychiatric residential treatment facilities shall be certified by the Joint Commission~~[ on Accreditation of Healthcare Organizations]~~, ~~[or ]~~the Council on Accreditation of Services for Families and Children, or any other accrediting body with comparable standards that is recognized by the state.

(5) A Level I psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital. More than one (1) freestanding Level I psychiatric residential treatment facility may be located on the same campus that is not in or on the grounds of a psychiatric hospital.

(6) The total number of Level I psychiatric residential treatment facility beds shall not exceed three hundred and fifteen (315) beds statewide.

(7) (a) The Cabinet for Health and Family Services shall investigate the need for specialty foster care and post-treatment services for persons discharged from Level I and Level II psychiatric residential treatment facilities.

(b) The cabinet shall report to the Governor and the Legislative Research Commission by August 1, 2011, detailing information on specialty foster care and post-treatment services for persons

discharged from Level I and Level II psychiatric residential treatment facilities.

➔Section 6. KRS 216B.457 is amended to read as follows:

(1) A certificate of need shall be required for all Level II psychiatric residential treatment facilities. The need criteria for the establishment of Level II psychiatric residential treatment facilities shall be in the state health plan.

(2) An application for a certificate of need for Level II psychiatric residential treatment facilities shall not exceed fifty (50) beds. Level II facility beds may be located in a separate part of a psychiatric hospital, a separate part of an acute care hospital, or a Level I psychiatric residential treatment facility if the Level II beds are located on a separate floor, in a separate wing, or in a separate building. A Level II facility shall not refuse to admit a patient who meets the medical necessity criteria and facility criteria for Level II facility services. Nothing in this section and KRS 216B.450 and 216B.455 shall be interpreted to prevent a psychiatric residential treatment facility from operating both a Level I psychiatric residential treatment facility and a Level II psychiatric residential treatment facility.

(3) The application for a Level II psychiatric residential treatment facility certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed Level II psychiatric residential treatment facility and each of the following agencies, organizations, or entities located in the service area of the proposed facility:

   (a) Regional interagency council for children with emotional disability or severe emotional disability created under KRS 200.509;

   (b) Community board for mental health or individuals with an intellectual disability established under KRS 210.380;

   (c) Department for Community Based Services;

   (d) Local school districts;

   (e) At least one (1) psychiatric hospital; and

   (f) Any other agency, organization, or entity deemed appropriate by the cabinet.

(4) The application for a certificate of need shall include:

   (a) The specific number of beds proposed for each age group and the specific, specialized program to be offered;

   (b) An inventory of current services in the proposed service area; and

   (c) Clear admission and discharge criteria, including age, sex, and other limitations.

(5) All Level II psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(6) All Level II psychiatric residential treatment facilities shall be certified by the Joint Commission~~[ on Accreditation of Healthcare Organizations]~~, ~~[or ]~~the Council on Accreditation of Services for Families and Children, or any other accrediting body with comparable standards that are recognized by the Centers for Medicare and Medicaid Services.

(7) A Level II psychiatric residential treatment facility shall be under the clinical supervision of a qualified mental health professional with training or experience in mental health treatment of children and youth.

(8) Treatment services shall be provided by qualified mental health professionals or qualified mental health personnel. Individual staff who will provide educational programs shall meet the employment standards outlined by the Kentucky Board of Education and the Education Professional Standards Board.

(9) A Level II psychiatric residential treatment facility shall meet the following requirements with regard to professional staff:

   (a) A licensed psychiatrist, who is board-eligible or board-certified as a child or adult psychiatrist, shall be employed or contracted to meet the treatment needs of the residents and the functions that shall be performed by a psychiatrist;

   (b) If a Level II psychiatric residential treatment facility has residents ages twelve (12) and under, the licensed psychiatrist shall be a board-eligible or board-certified child psychiatrist; and

(c) The licensed psychiatrist shall be present in the facility to provide professional services to the facility's residents at least weekly.

(10) A Level II psychiatric residential treatment facility shall:

(a) Prepare a written staffing plan that is tailored to meet the needs of the specific population of children and youth that will be admitted to the facility based on the facility's admission criteria. The written staffing plan shall include but not be limited to the following:

1. Specification of the direct care per-patient staffing ratio that the facility shall adhere to during waking hours and during sleeping hours;

2. Delineation of the number of direct care staff per patient, including the types of staff and the mix and qualifications of qualified mental health professionals and qualified mental health personnel, that shall provide direct care and will comprise the facility's per-patient staffing ratio;

3. Specification of appropriate qualifications for individuals included in the per-patient staffing ratio by job description, education, training, and experience;

4. Provision for ensuring compliance with its written staffing plan, and specification of the circumstances under which the facility may deviate from the per-patient staffing ratio due to patient emergencies, changes in patient acuity, or changes in patient census; and

5. Provision for submission of the written staffing plan to the cabinet for approval as part of the facility's application for initial licensure.

No initial license to operate as a Level II psychiatric residential treatment facility shall be granted until the cabinet has approved the facility's written staffing plan. Once a facility is licensed, it shall comply with its approved written staffing plan and, if the facility desires to change its approved per-patient staffing ratio, it shall submit a revised plan and have the plan approved by the cabinet prior to implementation of the change;

(b) Require full-time professional and direct care staff to meet the continuing education requirements of their profession or be provided with forty (40) hours per year of in-service training; and

(c) Develop and implement a training plan for all staff that includes but is not limited to the following:

1. Behavior-management procedures and techniques;

2. Physical-management procedures and techniques;

3. First aid;

4. Cardiopulmonary resuscitation;

5. Infection-control procedures;

6. Child and adolescent growth and development;

7. Training specific to the specialized nature of the facility;

8. Emergency and safety procedures; and

9. Detection and reporting of child abuse and neglect.

(11) A Level II psychiatric residential treatment facility shall require a criminal records check to be completed on all employees and volunteers. The employment or volunteer services of an individual shall be governed by KRS 17.165, with regard to a criminal records check. A new criminal records check shall be completed at least every two (2) years on each employee or volunteer.

(12) (a) Any employee or volunteer who has committed or is charged with the commission of a violent offense as specified in KRS 439.3401, a sex crime specified in KRS 17.500, or a criminal offense against a victim who is a minor as specified in KRS 17.500 shall be immediately removed from contact with a child within the residential treatment center until the employee or volunteer is cleared of the charge.

(b) An employee or volunteer under indictment, legally charged with felonious conduct, or subject to a cabinet investigation shall be immediately removed from contact with a child.

(c) The employee or volunteer shall not be allowed to work with the child until a prevention plan has been written and approved by the cabinet, the person is cleared of the charge, or a cabinet investigation

reveals an unsubstantiated finding, if the charge resulted from an allegation of child abuse, neglect, or exploitation.

(d) Each employee or volunteer shall submit to a check of the central registry. An individual listed on the central registry shall not be a volunteer at or be employed by a Level II psychiatric residential treatment facility.

(e) Any employee or volunteer removed from contact with a child pursuant to this subsection may, at the discretion of the employer, be terminated, reassigned to a position involving no contact with a child, or placed on administrative leave with pay during the pendency of the investigation or proceeding.

(13) An initial treatment plan of care shall be developed and implemented for each resident, and the plan of care shall be based on initial history and ongoing assessment of the resident's needs and strengths, with an emphasis on active treatment, transition planning, and after-care services, and shall be completed within seventy-two (72) hours of admission.

(14) A comprehensive treatment plan of care shall be developed and implemented for each resident, and the plan of care shall be based on initial history and ongoing assessment of the resident's needs and strengths, with an emphasis on active treatment, transition planning, and after-care services, and shall be completed within ten (10) calendar days of admission.

(15) A review of the treatment plan of care shall occur at least every thirty (30) days following the first ten (10) days of treatment and shall include the following documentation:

(a) Dated signatures of appropriate staff, parent, guardian, legal custodian, or conservator;

(b) An assessment of progress toward each treatment goal and objective with revisions as indicated; and

(c) A statement of justification for the level of services needed, including suitability for treatment in a less-restrictive environment and continued services.

(16) A Level II psychiatric residential treatment facility shall provide or arrange for the provision of qualified dental, medical, nursing, and pharmaceutical care for residents. The resident's parent, guardian, legal custodian, or conservator may choose a professional for nonemergency services.

(17) A Level II psychiatric residential treatment facility shall ensure that opportunities are provided for recreational activities that are appropriate and adapted to the needs, interests, and ages of the residents.

(18) A Level II psychiatric residential treatment facility shall assist residents in the independent exercise of health, hygiene, and grooming practices.

(19) A Level II psychiatric residential treatment facility shall assist each resident in securing an adequate allowance of personally owned, individualized, clean, and seasonal clothes that are the correct size.

(20) A Level II psychiatric residential treatment facility shall assist, educate, and encourage each resident in the use of dental, physical, or prosthetic appliances or devices and visual or hearing aids.

(21) The cabinet shall promulgate administrative regulations that include but are not limited to the following:

(a) Establishing requirements for tuberculosis skin testing for staff of a Level II psychiatric residential treatment facility;

(b) Ensuring that accurate, timely, and complete resident assessments are conducted for each resident of a Level II psychiatric residential treatment facility;

(c) Ensuring that accurate, timely, and complete documentation of the implementation of a resident's treatment plan of care occurs for each resident of a Level II psychiatric residential treatment facility;

(d) Ensuring that an accurate, timely, and complete individual record is maintained for each resident of a Level II psychiatric residential treatment facility;

(e) Ensuring that an accurate, timely, and complete physical examination is conducted for each resident of a Level II psychiatric residential treatment facility;

(f) Ensuring accurate, timely, and complete access to emergency services is available for each resident of a Level II psychiatric residential treatment facility; and

(g) Ensuring that there is accurate, timely, and complete administration of medications for each resident of a Level II psychiatric residential treatment facility.

(22) The cabinet shall, within ninety (90) days of July 15, 2010, promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and KRS 216B.450 and 216B.455. When promulgating the administrative regulations, the cabinet shall not consider only staffing ratios when evaluating the written staffing plan of an applicant, but shall consider the applicant's overall ability to provide for the needs of patients.

(23) The cabinet shall report, no later than August 1 of each year, to the Interim Joint Committee on Health and Welfare regarding the implementation of this section and KRS 216B.450 and 216B.455. The report shall include but not be limited to information relating to resident outcomes, such as lengths of stay in the facility, locations residents were discharged to, and whether residents were readmitted to a Level II psychiatric residential treatment facility within a twelve (12) month period.

➔Section 7. KRS 304.17A-600 is amended to read as follows:

As used in KRS 304.17A-600 to 304.17A-633:

(1) (a) "Adverse determination" means a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are:

1. Not medically necessary, as determined by the insurer, or its designee or experimental or investigational, as determined by the insurer, or its designee; and

2. Benefit coverage is therefore denied, reduced, or terminated.

(b) "Adverse determination" does not mean a determination by an insurer or its designee that the health care services furnished or proposed to be furnished to a covered person are specifically limited or excluded in the covered person's health benefit plan;

(2) "Authorized person" means a parent, guardian, or other person authorized to act on behalf of a covered person with respect to health care decisions;

(3) "Concurrent review" means utilization review conducted during a covered person's course of treatment or hospital stay;

(4) "Covered person" means a person covered under a health benefit plan;

(5) "External review" means a review that is conducted by an independent review entity which meets specified criteria as established in KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(6) "Health benefit plan" means the document evidencing and setting forth the terms and conditions of coverage of any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network policy or certificate; a self-insured policy or certificate or a policy or certificate provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; or limited health service benefit plans; and for purposes of KRS 304.17A-600 to 304.17A-633 includes short-term coverage policies;

(7) "Independent review entity" means an individual or organization certified by the department to perform external reviews under KRS 304.17A-623, 304.17A-625, and 304.17A-627;

(8) "Insurer" means any of the following entities authorized to issue health benefit plans as defined in subsection (6) of this section: an insurance company, health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association; nonprofit hospital, medical-surgical, or health service corporation; or any other entity authorized to transact health insurance business in Kentucky;

(9) "Internal appeals process" means a formal process, as set forth in KRS 304.17A-617, established and maintained by the insurer, its designee, or agent whereby the covered person, an authorized person, or a provider may contest an adverse determination rendered by the insurer, its designee, or private review agent;

(10) "Nationally recognized accreditation organization" means a private nonprofit entity that sets national utilization review and internal appeal standards and conducts review of insurers, agents, or independent review entities for the purpose of accreditation or certification. Nationally recognized accreditation organizations shall include the National Committee for Quality Assurance (NCQA), the American Accreditation Health Care Commission (URAC), the Joint Commission~~[ on Accreditation of Healthcare Organizations (JCAHO)]~~, or any other organization identified by the department;

(11) "Private review agent" or "agent" means a person or entity performing utilization review that is either affiliated with, under contract with, or acting on behalf of any insurer or other person providing or administering health benefits to citizens of this Commonwealth. "Private review agent" or "agent" does not include an independent review entity which performs external review of adverse determinations;

(12) "Prospective review" means utilization review that is conducted prior to a hospital admission or a course of treatment;

(13) "Provider" shall have the same meaning as set forth in KRS 304.17A-005;

(14) "Qualified personnel" means licensed physician, registered nurse, licensed practical nurse, medical records technician, or other licensed medical personnel who through training and experience shall render consistent decisions based on the review criteria;

(15) "Registration" means an authorization issued by the department to an insurer or a private review agent to conduct utilization review;

(16) "Retrospective review" means utilization review that is conducted after health care services have been provided to a covered person. "Retrospective review" does not include the review of a claim that is limited to an evaluation of reimbursement levels, or adjudication of payment;

(17) (a) "Urgent care" means health care or treatment with respect to which the application of the time periods for making nonurgent determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function; or

2. In the opinion of a physician with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the care or treatment that is the subject of the utilization review; and

(b) "Urgent care" shall include all requests for hospitalization and outpatient surgery;

(18) "Utilization review" means a review of the medical necessity and appropriateness of hospital resources and medical services given or proposed to be given to a covered person for purposes of determining the availability of payment. Areas of review include concurrent, prospective, and retrospective review; and

(19) "Utilization review plan" means a description of the procedures governing utilization review activities performed by an insurer or a private review agent.

➔Section 8. KRS 304.18-130 is amended to read as follows:

(1) Except as otherwise expressly provided herein, no contract providing major medical or outpatient care benefits, issued pursuant to Subtitles 18, 32, and 38 of KRS Chapter 304, shall be sold or offered for sale in the Commonwealth of Kentucky unless such contract offers the master policyholder the option to purchase in new contracts the minimum benefits for treatment of alcoholism as specified in KRS 304.18-140.

(2) Coverage for treatment shall be divided into three (3) distinct phases:

(a) Emergency detoxification treatment;

(b) Residential treatment; and

(c) Outpatient treatment.

Such contracts shall contain a stipulation that no payment shall be made by the carrier to the provider except upon completion of the phase of program of treatment by the patient, under the guidance and direction of a physician licensed to practice in the Commonwealth or a professional, designated by such physician, who is a

recognized staff member of a treatment facility licensed by the department or accredited by the Joint Commission~~[ on the Accreditation of Hospitals]~~.

(3) Disability and accident income benefits and basic health care contracts that do not provide major medical or outpatient care are excluded from KRS 304.18-130 to 304.18-180.

➔Section 9. KRS 304.18-140 is amended to read as follows:

Group contracts providing major medical or outpatient care benefits issued pursuant to KRS 304.18-130 for treatment of alcoholism shall require:

(1) That the patient be under the supervision of a physician licensed to practice in the Commonwealth or a professional designated by such physician, and who is a recognized staff member of a treatment facility licensed by the department or accredited by the Joint Commission~~[ on the Accreditation of Hospitals]~~;

(2) That the patient receive appropriate emergency detoxification treatment, residential treatment and outpatient treatment at facilities licensed by the department or accredited by the Joint Commission~~[ on the Accreditation of Hospitals]~~, for alcoholism treatment; and

(3) That the following minimum benefits per patient be provided:

(a) Emergency detoxification - 3 days, $40 per day

(b) Residential treatment - 10 days, $50 per day

(c) Outpatient treatment - 10 visits, $10 per visit.

➔Section 10. KRS 304.18-160 is amended to read as follows:

Treatment for alcoholism in acute care hospitals licensed by the Commonwealth or accredited by the Joint Commission~~[ on Accreditation of Hospitals]~~ shall be treated by all health care carriers as any other disease entity covered by their contracts.

**Signed by Governor March 19, 2015.**

## CHAPTER 10

**( SB 61 )**

AN ACT relating to removing barriers to colorectal cancer screening.

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

➔Section 1. KRS 304.17A-257 is amended to read as follows:

(1) A health benefit plan issued or renewed on or after ***the effective date of this Act***~~[January 1, 2009]~~, shall provide coverage for all colorectal cancer examinations and laboratory tests specified in current American Cancer Society guidelines for ***complete*** colorectal cancer screening of asymptomatic individuals as follows:

(a) Coverage or benefits shall be provided for all colorectal screening examinations and tests that are administered at a frequency identified in the most recent version of the American Cancer Society guidelines for ***complete*** colorectal cancer screening; and

(b) The covered individual shall be:

1. Fifty (50) years of age or older; or

2. Less than fifty (50) years of age and at high risk for colorectal cancer according to current colorectal cancer screening guidelines of the American Cancer Society.

(2) Coverage under this section shall not be subject to a~~[ separate]~~ deductible or~~[ separate]~~ coinsurance ***for services received from participating providers***~~[ but may be subject to the same deductible or coinsurance established for other laboratory testing]~~ under the health benefit plan.

➔Section 2. This Act takes effect January 1, 2016.

**Signed by Governor March 19, 2015.**

## CHAPTER 11

**( SCR 108 )**

A CONCURRENT RESOLUTION designating February 28, 2015, as Rare Disease Day in Kentucky.

WHEREAS, there are over 6,800 rare diseases afflicting nearly 30 million people in the United States and thousands of Kentuckians; and

WHEREAS, children with rare genetic diseases account for more than half of the population affected by rare diseases in the United States; and

WHEREAS, many rare diseases are serious, life-threatening, and lack an effective treatment; and

WHEREAS, rare diseases and conditions include epidermolysis bullosa, progeria, sickle cell anemia, Tay-Sachs, cystic fibrosis, many childhood cancers, and fibrodysplasia ossificans progressive; and

WHEREAS, people with rare diseases experience challenges that include difficulty in obtaining an accurate diagnosis, limited treatment options, and difficulty finding physicians or treatment centers with expertise in their diseases; and

WHEREAS, great strides have been made in research and treatment for rare diseases as a result of the federal Orphan Drug Act and amendments made to that Act; and

WHEREAS, both the United States Food and Drug Administration and the National Institutes of Health have established special offices to advocate for rare disease research and treatments; and

WHEREAS, the National Organization for Rare Disorders, an organization established in 1983 to provide services to, and advocate on behalf of, patients with rare diseases, was a primary force behind the enactment of the Orphan Drug Act and remains a critical public voice for people with rare diseases; and

WHEREAS, the National Organization for Rare Disorders sponsors Rare Disease Day in the United States to increase public awareness of rare diseases; and

WHEREAS, Rare Disease Day has become a global event occurring annually on the last day of February; and

WHEREAS, this body joins millions around the world in observing Rare Disease Day and recognizes the 2014 world focus on continuing to find ways to work together to provide the different kinds of care that people living with a rare disease need;

NOW, THEREFORE,

***Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:***

➔Section 1. The Senate and the House of Representatives designate February 28, 2015, as Rare Disease Day across the Commonwealth of Kentucky.

**Signed by Governor March 19, 2015.**

## CHAPTER 12

**( HB 241 )**

AN ACT relating to the Court of Justice.

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

➔Section 1. KRS 21A.110 is amended to read as follows:

Any retired justice or judge assigned to active judicial service pursuant to Section 110(5)(b) of the Constitution shall

be compensated for his ***or her*** service as follows:

(1) The salary for each day which the justice or judge serves shall be ***as set by the Supreme Court pursuant to KRS 48.195 and in accordance with its rules, not to exceed 1/260***~~[the difference, if any, between 1/250 of annual retirement benefits and 1/250]~~ of the annual salary ***for a Circuit Judge regardless of*** ~~[for]~~ the judicial office in which he ***or she*** performs the judicial duties.~~[ However, no special judge shall receive compensation that is less than one hundred fifty dollars ($150) per day. This section shall not be construed to require a reduction in retirement benefits if the applicable salary would be less than the retirement benefits.]~~

(2) Necessary expenses incidental to the performance of the duties of such assignment shall be paid out of the State Treasury upon approval by the Chief Justice or his designee.

**Signed by Governor March 19, 2015.**

## CHAPTER 13

**( HB 312 )**

AN ACT relating to stray equines and cattle.

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

➔Section 1. KRS 259.120 is amended to read as follows:

Stray equines and stray cattle shall be taken up and posted in the following manner:

(1) ***(a)*** ***Documentation of*** stray equines shall be taken before a ***county judge/executive***~~[justice of the peace]~~ of the district, who shall administer to the taker-up an oath, in substance, that the equine was taken up by him as a stray and that he has not defaced or altered the marks***,*** ~~[or ]~~brands***, or other identifiers, including but not limited to microchips or freeze brands,*** of the equine.

***(b)*** ***Documentation of*** stray cattle shall be taken before a ***county judge/executive***~~[justice of the peace]~~ of the district, who shall administer to the taker-up an oath, in substance that the cattle were taken by him as strays on his premises within the preceding ten (10) days and that he has not defaced or altered the marks or brands of the cattle.

***(c)*** ***Duties of the county judge/executive pertaining to stray equines shall be to:***

***1.*** ***Contract with a licensed veterinarian, who shall document the stray equine's breed, color, sex, marks, brands, scars, and other distinguishing features, perform a microchip scan, and identify the existence of lip tattoos, freeze brands, or microchips;***

***2.*** ***Record the veterinarian's findings, the name and residence of the taker-up, and the location of the stray equine in a book to be kept by him for that purpose;***

***3.*** ***Maintain documentation in electronic and paper format; and***

***4.*** ***Send a copy of the documentation of the stray equine to the Office of the State Veterinarian, who shall post notification on the Office of the State Veterinarian's Web site. The Office of the State Veterinarian shall post one (1) photograph of the stray equine's front view, including its head and feet, and one (1) photograph of the stray equine's side view from muzzle to tail.***~~[ The justice shall then value the stray equine or cattle himself and take a correct description of the flesh marks, age and brands of the same, all of which, together with the name and residence of the taker-up, he shall record in a book to be kept by him for that purpose. He shall ]~~

***(2)*** ***The county judge/executive shall*** give to the taker-up a copy of the ***documentation for the*** record and ***immediately*** deliver to the county clerk a certified copy of the same record~~[ within thirty (30) days]~~.

***(3)***~~[(2)]~~ The clerk shall immediately record the stray certificate of the ***county judge/executive as provided by the taker-up***~~[justice]~~ in a book to be kept by him for that purpose.~~[ His fee for this service shall be seventy-five cents ($0.75) to be paid by the taker-up.]~~

***(4)***~~[(3)]~~ The taker-up shall ***immediately post***~~[cause to be posted]~~ a copy of the ***county judge/executive's***~~[justice's]~~ certificate in the sheriff's office with jurisdiction over the area where the stray

cattle or stray equine was taken up~~[ within one (1) month]~~ after he has posted the stray. ***Hold time for stray equines shall begin after all documentation has been properly filed and posted by the county judge/executive and taker-up.***

***(5)***~~[(4)]~~ ***(a) If ownership is found from identifiers of the stray equine such as lip tattoos, freeze brands, or microchips, efforts shall be made by the county/judge executive or his designee to ascertain the owner by investigatory due diligence in locating the owner and providing notice before holding time expires. The owner/claimants of the stray equine shall reimburse the county judge/executive for the cost of the veterinarian's assessment per the contracted agreement.***

***(b)*** The taker-up shall be paid by the owner of the stray, if and when he claims the stray or its value, ~~[the fee paid the clerk ]~~and the actual ***itemized*** costs incurred by the taker-up for keeping the stray equine or cattle. ***In the event that a dispute arises relating to ownership, adverse claimants, third-party claims or liens, value of the equine, or actual itemized expenses incurred, the parties may file an action in a court of competent jurisdiction of the county in which the stray equine was taken up. The filing of an action under this paragraph shall toll holding time as to vesting of ownership interests.***

***(c)*** The taker-up may have the stray equine ***sterilized only after the fifteen (15) day holding period has expired and ownership vested pursuant to Section 2 of this Act, and any pending court cases pertaining to the stray equine have been resolved***~~[gelded, in which case the owner shall also pay the taker-up for the actual cost incurred for the gelding]~~.

➔Section 2. KRS 259.130 is amended to read as follows:

The absolute ownership of a stray equine shall vest in the taker-up at the expiration of ***fifteen (15)***~~[ninety (90)]~~ days after the ***county judge/executive***~~[justice]~~ has received the evidence of the ***required documentation,***~~[valuation and]~~ administered the oath to the taker-up***, and the county judge/executive and taker-up have filed and posted the required documentation pursuant to Section 1 of this Act***. The absolute ownership of stray cattle shall vest in the taker-up after the expiration of twelve (12) months from the day on which the cattle have been posted.

➔Section 3. KRS 259.140 is amended to read as follows:

(1) If~~[ stray equines or]~~ cattle taken up under KRS 259.120 are sold for a profit before absolute ownership of the~~[ stray equines or]~~ stray cattle has vested in the taker-up as provided by KRS 259.130, then the taker-up shall pay to the owner upon demand and proof of ownership the amount received for the~~[ stray equine or]~~ stray cattle less the amount owed by the owner to the taker-up under KRS 259.120. The owner shall not be entitled to any payment from the taker-up under this section if demand for payment is made more than ***fifteen (15)***~~[ninety (90)]~~ days after the posting of the stray equine ***and vesting of ownership pursuant to Section 2 of this Act*** or more than twelve (12) months after the posting of the stray cattle under KRS 259.120.

(2) ***County judges/executive or participating state agency***~~[Justices of the peace]~~, county clerks, and all other local government employees acting in good faith in the discharge of the duties imposed by KRS 259.105, 259.110, 259.120, 259.130, and this section shall be immune from criminal and civil liability for any act related to the taking up and posting of stray equines or stray cattle.

**Signed by Governor March 19, 2015.**

## CHAPTER 14

**( HB 148 )**

AN ACT relating to auctioneers.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 330 IS CREATED TO READ AS FOLLOWS:

***(1) A licensed auctioneer shall not sell real estate at auction without a real estate broker's license.***

***(2) A licensed real estate broker shall not sell real estate at auction without an auctioneer's license.***

***(3) Notwithstanding the provisions set forth in KRS 426.522, an auctioneer and real estate broker may collaborate in conducting the sale of real estate at auction. When an auctioneer and real estate broker***

***collaborate in the conduct of a sale of real estate at auction, a real estate broker shall be paid for services rendered as a broker; and an auctioneer shall be paid for services rendered as an auctioneer.***

➔Section 2. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person who is not licensed as a real estate broker or sales associate to hold himself or herself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate.

(2) No person shall practice real estate brokerage with respect to real estate located in this state unless:

(a) The person holds a license to practice real estate brokerage under this chapter; or

(b) The person has complied with KRS 324.235 to 324.238.

(3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.

(4) No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may:

(a) Pay a referral fee to a broker licensed outside of Kentucky for referring a client to the Kentucky broker;~~[ or]~~

(b) Pay a commission or other compensation to a broker licensed outside of Kentucky in compliance with KRS 324.235 to 324.238***; or***

***(c) Pay a licensed auctioneer for services rendered in cases where an auctioneer and real estate broker collaborate in the conduct of a sale of real estate at auction***.

(5) Except as authorized in KRS 324.112(1) and 324.425, no sales associate shall supervise another licensed sales associate or manage a real estate brokerage office.

(6) The Kentucky Real Estate Commission may seek and obtain injunctive relief against any individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

➔Section 3. KRS 330.030 is amended to read as follows:

(1) It is unlawful for any person to advertise or act as an auctioneer or apprentice auctioneer within the Commonwealth, or advertise or act as an auctioneer or apprentice auctioneer of real or personal property located within the Commonwealth, without a license issued by the board.

(2) It is unlawful for any person to advertise or act as a limited livestock auctioneer within the Commonwealth without a license issued by the board.

(3) ***(a)*** It is unlawful for any person to advertise or act as an auction house operator within the Commonwealth without a license issued by the board.

***(b)***~~[(a)]~~ An auction house operator shall be a licensed auctioneer or apprentice auctioneer if he or she acts as an auctioneer or apprentice auctioneer. If licensed as an auctioneer, an auction house operator license shall not be required.

***(c)***~~[(b)]~~ If an auction house operator conducts and operates more than one (1) auction house, a license shall be issued for each location, and the initial and renewal fees shall be applicable.

***(d) This subsection applies to each co-owner or manager of an auction house who actively participates in the operation of the auction house, but who is not an auctioneer.***

➔Section 4. KRS 330.060 is amended to read as follows:

(1) ***(a)*** Every applicant for licensure shall be at least eighteen (18) years of age, show proof of a high school diploma or equivalent, and, within the preceding five (5) years, shall not have committed any act that constitutes grounds for license suspension or revocation under this chapter.

***(b)***~~[(a)]~~ The board may waive the high school diploma or equivalent requirement for an apprentice, licensed prior to 1985, applying for an auctioneer license.

***(c)***~~[(b)]~~ Any license issued pursuant to this chapter shall be granted only to a person found to be of good repute, trustworthy, and competent to transact the business for which the license was granted in a

manner requisite to safeguarding the interest of the public.

***(d)*** ~~[(c)]~~ Effective July 1, ***2015*** ~~[2010]~~, an applicant for an apprentice auctioneer license ***or auction house operator's license*** shall have successfully completed at least ***twelve (12)*** ~~[eighty (80)]~~ hours of approved classroom instruction***, consisting of the core course and six (6) additional hours as prescribed by the board,*** from a board-approved auction education provider.

***(e)*** ~~[(d)]~~ The board may waive the ***twelve (12)*** ~~[eighty (80)]~~ hours of approved classroom instruction requirement if the applicant demonstrates sufficient previous auction experience and competency by affidavit or other evidence as required by the board.

(2) The board is authorized to require information from every applicant to determine the applicant's honesty and truthfulness.

(3) ***(a)*** Every applicant shall successfully complete an examination, conducted by the board or its authorized representative. Every application for examination shall be submitted on board-prepared forms, and each applicant shall furnish pertinent background data as outlined on the forms.

***(b)*** ~~[(a)]~~ To defray the cost of administration of the examination, the board shall require each applicant to remit an examination fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

***(c)*** ~~[(b)]~~ Examination fees shall be nonrefundable.

***(d)*** ~~[(c)]~~ If the applicant is unable to attend the scheduled exam, the examination fee shall be deferred to the next scheduled administration of the examination.

***(e)*** ~~[(d)]~~ Upon successful completion of the examination, the applicant shall apply for initial licensure within forty-five (45) days of receiving notice of successfully completing the examination.

***(f)*** ~~[(e)]~~ The examination shall be of the scope and wording sufficient in the judgment of the board to establish the competency of the applicant to act as an auctioneer or other licensee regulated by the board.

(4) If a license has been revoked, suspended, or is allowed to expire without renewal, the board may require the applicant to pass the written examination or complete some form of board-approved auction education before a license may be issued.

(5) If a license has not been renewed within six (6) months of the expiration date, the board shall require a person to successfully complete the written examination before a license is issued.

(6) In addition, every nonresident applicant shall file an irrevocable consent that actions may be commenced against the applicant in any court of competent jurisdiction in the Commonwealth of Kentucky, by the service of any summons, process, or pleadings authorized by law on the authorized representative of the board. The consent shall stipulate and agree that the service of any summons, process, or pleadings on the authorized representative shall be taken and held in all courts to be as valid and binding as if actual service had been made upon the applicant in Kentucky. In case any summons, process, or pleadings are served upon the authorized representative of the board, it shall be by duplicate copies, one (1) of which shall be retained in the office of the board, and the other immediately forwarded by certified mail, return receipt requested, to the last known business address of the applicant against whom the summons, process, or pleadings are directed.

➔Section 5. KRS 330.070 is amended to read as follows:

(1) An apprentice auctioneer applying for an auctioneer license shall, subject to the provisions of KRS 330.060:

(a) Possess a current Kentucky apprentice auctioneer license;

(b) Serve an apprenticeship for a period of ***one (1) year*** ~~[ two (2) years]~~ as an apprentice auctioneer in Kentucky;~~[ and]~~

(c) Submit a statement to the board, signed by the principal auctioneer, verifying that the applicant has ***actively and materially*** participated in at least ten (10) auctions~~[ during the twenty-four (24) month period]~~ prior to application***; and***

***(d) Successfully complete at least eighty (80) hours of approved classroom instruction from a board-approved auction education provider. The board may waive the eighty (80) hours of approved classroom instruction requirement if the applicant demonstrates sufficient previous auction experience and competency by affidavit or other evidence as required by the board***.

(2) An apprentice auctioneer with an original license issued prior to June 30, 2010, ***or after July 1, 2015,*** shall be required to successfully complete the auctioneer examination.

(3) ~~[Effective July 1, 2010, an applicant for an apprentice auctioneer license shall be required to successfully complete the auctioneer examination prior to being issued an apprentice license. No further examination shall be required prior to applying for an auctioneer license.~~

~~(a) An apprentice auctioneer shall apply for an auctioneer license after completing the required two (2) year apprenticeship and within five (5) years of being issued an apprentice license.~~

~~(b) If a licensed apprentice auctioneer does not apply for an auctioneer license within five (5) years of receiving an apprentice license, the apprentice license shall not be renewed.~~

~~(c) This subsection shall not apply to an apprentice auctioneer licensed prior to June 30, 2010.~~

~~(4)]~~ If an applicant for an auctioneer license resides in a state which does not have a current reciprocity agreement with the board, the board may waive the eighty (80) hour education requirement or the apprenticeship requirement, or both, if the applicant demonstrates sufficient previous auction experience and competency by affidavit or by other evidence as required by the board.

***(4)***~~[(5)]~~ An applicant for an auctioneer license who has previously held an auctioneer license which has been revoked, suspended, or which has expired without renewal may request, and the board may grant, a waiver of the requirement of possession of a current apprentice license.

***(5)***~~[(6)]~~ Every application for a license issued by the board shall be submitted on forms prepared by the board. Each applicant shall furnish pertinent background data as outlined on those forms.

***(6)***~~[(7)]~~ The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish an initial license fee and annual renewal license fee, neither of which shall exceed one hundred fifty dollars ($150).

(a) All licenses shall expire on the thirtieth day of June.

(b) Each license shall be renewed on or before the expiration date.

(c) In addition to the renewal fee, a late fee shall be established by administrative regulations promulgated by the board on each license renewed within six (6) months after the expiration date.

(d) In the absence of any reason or condition which might warrant the refusal of renewing a license, and upon timely receipt of the renewal form and the annual fee, the board shall issue a license for the ensuing year.

***(7)***~~[(8)]~~ (a) The board may require as a condition precedent to the renewal of any license, that each licensee complete continuing education up to ten (10) hours per license year. The board may impose different continuing education requirements upon different classifications of licenses under this chapter. The continuing education requirements in this subsection shall not apply to those auctioneers licensed prior to January 1, 1980.

(b) A licensee who has not completed the required continuing education may, within the time period set forth in ***subsection***~~[subsections]~~ (6)~~[ and (7)]~~ of this section, remit a fee established by administrative regulations promulgated by the board with the applicable renewal fees, and the continuing education reporting requirement shall be deferred to the next annual renewal. If the licensee fails to meet the continuing education requirement for the next annual renewal, the licensee shall successfully complete the examination before renewal of his or her license.

(c) ***1.*** The board may require all licensees to complete a six (6) hour board-approved core course once every four (4) years, that includes the core subjects of Kentucky auction statutes and regulations, ethics, and any other subject matter deemed appropriate by the board.

***2. Effective July 1, 2016, each licensee with at least twenty-five (25) years of continuous licensure shall be exempt from the requirements of this paragraph.***

***(8)***~~[(9)]~~ The board shall prepare and deliver to each licensee a pocket license. The pocket license of the apprentice auctioneer shall contain the name and address of his or her principal auctioneer. The board shall also prepare and deliver a license to each auction house operator.

(a) Auction house operators shall display their licenses conspicuously and at all times in the auction house identified on the license.

(b) All licensees shall carry their pocket licenses***, or a digital facsimile thereof,*** when performing auctioneering tasks, to be shown upon request.

(c) A license or pocket license shall be replaced upon the request of the licensee and payment of a replacement fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

***(9)***~~[(10)]~~ When an apprentice auctioneer is discharged or voluntarily terminates employment with the auctioneer for any reason:

(a) It shall be the immediate duty of the principal auctioneer to deliver to the board a written release of the apprentice auctioneer; and

(b) The apprentice auctioneer shall affiliate with a principal auctioneer within thirty (30) days by submitting to the board an affiliation letter signed by the new principal auctioneer and a fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

An apprentice auctioneer shall not perform any of the acts regulated by this chapter until receiving a new license bearing a new principal auctioneer's name and address.

***(10)*** ***(a)***~~[(11)]~~ A licensee may place his or her license in escrow with the board if the licensee does not engage in any board-regulated auctioneering activity and continues to pay the annual renewal license fee.

***(b)***~~[(a)]~~ For each year the license is in escrow, a licensee shall be exempt from the contribution to the auctioneer's education, research, and recovery fund and the continuing education requirement.

***(c)***~~[(b)]~~ To reactivate a license in escrow, the licensee shall ***complete the core course***~~[ meet the current year's continuing education requirement]~~ and pay a reactivation fee and the annual renewal recovery fee, both of which shall be established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

***(11)***~~[(12)]~~ Notice in writing shall be given to the board by each licensee of any change of principal business location or residence address within ten (10) days of the change, and the board shall issue an updated license for the unexpired period. The board may fine, suspend, or revoke the license of a licensee who does not notify the board of a change of address within ten (10) days. Changing a business or a residence address on its records shall entitle the board to collect a fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

➔Section 6. KRS 330.110 is amended to read as follows:

The board may suspend for a period up to five (5) years or revoke the license of any licensee, or levy fines not to exceed two thousand dollars ($2,000)***, with a maximum fine of five thousand dollars ($5,000) per year arising from any single incident or complaint,*** against any licensee, or place any licensee on probation for a period of up to five (5) years, or require successful passage of any examination administered by the board, or require successful completion of any course of auction study or auction seminars designated by the board, or issue a formal reprimand, or order any combination of the above, for violation by any licensee of any of the provisions of this chapter, or for any of the following causes:

(1) Obtaining a license through false or fraudulent representation;

(2) Making any substantial misrepresentation;

(3) Pursuing a continued and flagrant course of misrepresentation or intentionally making false promises or disseminating misleading information through agents or advertising or otherwise;

(4) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in this chapter, from any person, except his or her principal auctioneer;

(5) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession, commingling funds of others with the licensee's own funds, or failing to keep the funds of others in an escrow or trustee account;

(6) Paying valuable consideration to any person for services performed in violation of this chapter, or procuring, permitting, aiding, or abetting any unlicensed person acting in violation of any of the provisions of this chapter;

(7) Entering a plea of guilty, an Alford plea, a plea of no contest to, or being convicted of, any felony, and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal;

(8) Violation of any provision of this chapter or any administrative regulation promulgated by the board;

(9) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by any licensee to each signatory of the written instrument;

(10) Any conduct of a licensee which demonstrates bad faith, dishonesty, incompetence, or untruthfulness;

(11) Any other conduct that constitutes improper, fraudulent, dishonest, or negligent dealings;

(12) Failure to enter into a binding written auction listing contract with the seller or with the seller's duly authorized agent prior to advertising, promoting, or offering any real or personal property by or at auction;

(13) Failure to provide a receipt to all persons consigning personal property with any licensee for auction;

(14) Failure to establish and maintain, for a minimum of five (5) years from final settlement, complete and correct written or electronic records and accounts of all auction transactions, including:

(a) Listing contracts, including the name and address of the seller;

(b) Written purchase contracts;

(c) Descriptive inventory and final bid amounts of all items or lots offered;

(d) Buyer registration records; and

(e) Settlement records, including all moneys received and disbursed and escrow account activity;~~[ or]~~

(15) Failure of any licensee to present any auction-related information, including but not limited to advertisements, listing contracts, purchase contracts, clerking records, buyer registration records, settlement records, escrow account information, license, or any other auction-related information, subsequent to a request by ***the board's executive director,*** a board compliance officer**,** or board counsel***; or***

***(16) Failure of a principal auctioneer to provide supervision to his or her apprentice auctioneers***.

➔Section 7. KRS 330.115 is amended to read as follows:

(1) All complaints against licensees shall be submitted to the board on forms furnished by the board. The complaint shall state facts which, if true, would present a prima facie case against the licensee.

(2) The board shall send the answer form and a copy of the complaint to the licensee by certified mail. The completed answer form shall be returned to the board within twenty (20)~~[ working]~~ days from the date of receipt. The board shall forward a copy of the answer to the complainant.

➔Section 8. KRS 330.192 is amended to read as follows:

(1) (a) There is hereby created and established in the State Treasury the auctioneer's education, research, and recovery fund.

(b) In addition to the license fees established in KRS 330.070, and KRS 330.095, the board may assess each licensee a renewal recovery fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A. Each initial applicant shall pay an initial recovery fee established by administrative regulations promulgated by the board in accordance with KRS Chapter 13A.

(2) The purposes of the auctioneer's education, research, and recovery fund shall be as follows:

(a) When a licensee has been duly found guilty of violating one (1) or more of the provisions of this chapter, or one (1) or more of the administrative regulations duly promulgated by the board, and upon the conclusion of a final order entered by the board or by the courts, if appealed, the board is authorized to pay to the aggrieved party an amount not to exceed fifty thousand dollars ($50,000) against any one (1) licensee, if the licensee has refused to pay the claim within twenty (20) days of entry of a final order and provided further that the amount or amounts of money in question are certain and liquidated.

(b) The board shall maintain a minimum of ***two hundred fifty thousand dollars ($250,000)***~~[five hundred thousand dollars ($500,000)]~~ for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the State Employees' Retirement System and the interest from said investments shall be deposited to the credit of the research and recovery fund, or, in the discretion of the board, to the agency fund account as set out in KRS 330.050(6). Sufficient liquidity, however, shall be maintained so that money is available to satisfy all claims which may be processed through the board by means of administrative hearing as outlined in this chapter.

(c) The board may use funds in excess of ***two hundred fifty thousand dollars ($250,000)*** ~~[five hundred thousand dollars ($500,000)]~~, whether from the auctioneer's education, research, and recovery fund fees or accrued interest thereon, for any of the following purposes:

1. To advance education and research in the auction field for the benefit of those seeking an auctioneer license, those licensed under the provisions of this chapter and to improve and make more efficient the auction industry;

2. To underwrite educational seminars, caravans, and other forms of educational projects for the general benefit of licensees;

3. To establish an auction chair or courses at Kentucky state institutions of higher learning for the purpose of making college or university level courses available to licensees and the general public;

4. To contract for a particular research project in the auction field for the Commonwealth of Kentucky;

5. To sponsor, contract for, and to underwrite all other educational and research projects that contribute to the advancement of the auction field in Kentucky;

6. To cooperate with associations of auctioneers and any other groups for the enlightenment and advancement of Kentucky licensees;

7. To increase the level of the auctioneer's education, research, and recovery fund above ***two hundred fifty thousand dollars ($250,000)*** ~~[five hundred thousand dollars ($500,000)]~~; and

8. To augment the regular trust and agency account of the board for purposes of addressing cash flow shortfalls, budget deficits, and for reimbursement of personnel, administrative, operational, and capital expenses incurred by the trust and agency account pursuant to the purposes of the education, research, and recovery fund as provided in this section, an amount not to exceed two hundred fifty thousand dollars ($250,000) annually.

(d) Within one hundred twenty (120) days after the end of each fiscal year, the board shall make public, through its Web site or other public media, a statement of income and expenses of the auctioneer's education, research, and recovery fund, the details of which are in accordance with state financial reporting requirements.

(3) (a) If a licensee is found guilty of one (1) or more provisions of this chapter or of violating one (1) or more of the administrative regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by the Circuit Court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or of the administrative regulations has occurred and a final order has been entered.

(b) If an order has been entered and the license rights of the licensee have been finally adjudicated, then the local Circuit Court shall determine the monetary damages due from the aforesaid violation or violations.

(c) When a final order has been entered by the Circuit Court, Court of Appeals, or Supreme Court, and upon certification to the board, the aggrieved party or parties shall be paid an amount not to exceed fifty thousand dollars ($50,000) by the board, and the license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until the licensee has reimbursed the auctioneer's education, research, and recovery fund for all amounts paid to the aggrieved party due to the violation of the licensee.

(d) When, upon the final order of the court, the board has paid from the auctioneer's education, research, and recovery fund any sum to the aggrieved party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall, to the extent of the payment, assign his right, title, and interest in the judgment to the board.

(e) All claims for monetary damages or relief from the auctioneer's education, research, and recovery fund shall be made in writing and submitted to the board within twelve (12) months of the act of the auctioneer giving rise to the loss. Failure to file a claim within the twelve (12) month period shall bar the claim. Additional evidence shall be submitted by the claimant if required by the board.

(f) Notwithstanding any other provisions of this chapter, no unreimbursed amount greater than fifty

thousand dollars ($50,000) shall be paid by the board on account of any one (1) licensee, no matter over how long a time, or for how many claims, and no matter what the number of claimants be or the size of such claims, individually or in the aggregate. Should the licensee reimburse the fund for all amounts paid, then future claims timely filed with the board concerning different matters may be received pursuant to this section.

(g) No claims shall be approved under this section for amounts which, in the aggregate, exceed the maximum payable on account of any one (1) licensee in effect at the time of the act or acts of the licensee giving rise to the claims, except to the extent of said maximum. Statutory increases in the maximum set out in this section do not apply retroactively.

(4) All categories of licensees under this chapter are covered under the provisions of this section for the benefit and protection of the public.

(5) This section is not intended to substitute for, circumvent, or duplicate other remedies existing at law or otherwise for claimants or potential claimants, but constitutes a last resort for aggrieved persons who would not, but for the provisions of this section, be able to recover their losses by any other means available. The board shall have full discretion to require that claimants exhaust all other remedies prior to proceeding under this section, including, but not limited to, the remedy of obtaining a judgment by all diligent and appropriate means.

**Signed by Governor March 19, 2015.**

## CHAPTER 15

**( HB 232 )**

AN ACT relating to the Craft Academy for Excellence in Science and Mathematics.

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

➔Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive:

(a) A diploma indicating graduation from high school; or

(b) An alternative high school diploma if the student has a disability and has completed a modified curriculum and an individualized course of study pursuant to requirements established by the Kentucky Board of Education in accordance with KRS 156.160.

(3) (a) The Gatton Academy of Mathematics and Science in Kentucky, located at Western Kentucky University, ***and the Craft Academy for Excellence in Science and Mathematics, located at Morehead State University,*** may award a diploma to any student who completes his or her high school program at the ***respective*** academy. If the academy issues a diploma, the board of regents of the ***host*** university shall provide to the commissioner of education a letter of assurance that the program of study completed by its students, in combination with previously earned secondary credits, meets the minimum high school graduation requirements established by the Kentucky Board of Education under KRS 156.160(1)(d).

(b) A local school district may award a joint diploma with the Gatton Academy of Mathematics and Science in Kentucky ***or the Craft Academy for Excellence in Science and Mathematics*** to any student

who was enrolled in a district high school and completed his or her high school program at the ***respective*** academy.

(c) The ***respective*** academy and the home school district shall ensure that student transcripts from each institution accurately reflect the dual credit coursework.

(4) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.

(5) (a) A local board of education shall award an authentic high school diploma to an honorably discharged veteran who did not complete high school prior to being inducted into the United States Armed Forces during:

1. World War II, as defined in KRS 40.010;

2. The Korean conflict, as defined in KRS 40.010; or

3. The Vietnam War. As used in this paragraph, "Vietnam War" means the period beginning August 5, 1964, and ending May 7, 1975. However, for a member of the United States Armed Forces serving in Vietnam prior to August 5, 1964, the period shall begin February 28, 1961.

(b) Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding the authentic diplomas referred to in paragraph (a) of this subsection.

(6) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

➔Section 2. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

(1) "Advanced placement" or "AP" means a college-level course that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area and is licensed by the College Board.

(2) "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.

(3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.

(4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study, including participating in the Gatton Academy of Mathematics and Science in Kentucky ***or the Craft Academy for Excellence in Science and Mathematics***.

(5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously, including participating in the Gatton Academy of Mathematics and Science in Kentucky ***or the Craft Academy for Excellence in Science and Mathematics***.

(6) "International Baccalaureate" or "IB" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.

➔Section 3. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or the ACT exam administered statewide under KRS 158.6453(11)(a)3., or an equivalent

score, as determined by the authority, on the SAT administered by the College Board, Inc.;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means the fall and spring consecutive academic terms within one (1) academic year;

(6) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(7) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the KEES curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year; or

3. In the Gatton Academy of Mathematics and Science in Kentucky ***or the Craft Academy for Excellence in Science and Mathematics*** while meeting the Kentucky educational excellence scholarship curriculum requirements;

(c) Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under paragraph (b) 2. of this subsection; and

(d) Is not a convicted felon;

(8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a KEES award;

(b) Has the required postsecondary GPA and credit hours required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(10) "Grade point average" or "GPA" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(11) "High school" means any Kentucky public high school, the Gatton Academy of Mathematics and Science in Kentucky, ***the Craft Academy for Excellence in Science and Mathematics,*** and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(12) "KEES" or "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(13) "KEES award" means:

(a) For an eligible high school student, the sum of the KEES base amount for each academic year of high

school plus any KEES supplemental amount, as adjusted pursuant to KRS 164.7881; and

(b) For a student eligible under KRS 164.7879(3)(d), the KEES supplemental amount as adjusted pursuant to KRS 164.7881;

(14) "KEES award maximum" means the sum of the KEES base amount earned in each academic year of high school plus any KEES supplemental amount earned;

(15) "KEES base amount" or "base amount" means the amount earned by an eligible high school student based on the student's GPA pursuant to KRS 164.7879;

(16) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (7)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;

(17) "KEES supplemental amount" means the amount earned by an eligible student based on the student's ACT score pursuant to KRS 164.7879;

(18) "KEES trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(19) "On track to graduate" means the number of cumulative credit hours earned as compared to the number of hours determined by the postsecondary education institution as necessary to complete a bachelor's degree by the end of eight (8) academic terms or ten (10) academic terms if a student is enrolled in an undergraduate program that requires five (5) years of study;

(20) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated;

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a General Educational Development (GED) diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs; and

(21) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours, or the equivalent for an institution that does not use credit hours.

➔Section 4. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, highest ACT score, family eligibility status for free or reduced-price lunch, and each AP or IB examination score. The Gatton Academy of Mathematics and Science in Kentucky ***and the Craft Academy for Excellence in Science and Mathematics*** shall report the data on its students to the authority. The list need not contain the ACT, AP, or IB if the authority receives the scores directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, highest ACT score, and qualifying AP or IB scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.

(2) The authority shall provide data access only to the Kentucky Longitudinal Data System and to those participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free

Application For Federal Student Aid.

(3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(d) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

(c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.

(4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).

(6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:

(a) In default on any loan under Title IV of the federal act; or

(b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or

(c) Liable for overpayment of any grant or loan under Title IV of the federal act; or

(d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

**Signed by Governor March 19, 2015.**

## CHAPTER 16

**( HB 234 )**

AN ACT relating to early childhood.

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

➔Section 1. KRS 199.8943 is amended to read as follows:

(1) ***As used in this section:***

***(a) "Federally funded time-limited employee" has the same meaning as in KRS 18A.005;***

***(b) "Primary school program" has the same meaning as in KRS 158.031(1); and***

***(c) "Public-funded" means a program which receives local, state, or federal funding.***

***(2)*** The Early Childhood Advisory Council shall, in consultation with ***early care and education providers***~~[child-care providers]~~, the Cabinet for Health and Family Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, ***Head Start agencies, and the Kentucky Department of Education,*** develop a~~[ voluntary]~~ quality-based graduated ***early care and education program***~~[child-care]~~ rating system for ***public-funded*** licensed child-~~[ ]~~care and certified family child-care homes***, public-funded preschool, and Head Start*** based on, but not limited to:

(a) ***Classroom and instructional quality***~~[Child-to-caregiver ratios]~~;

(b) ***Administrative and leadership practices***~~[Child-care staff training]~~;

(c) ***Staff qualifications and professional development***~~[Program curriculum]~~; and

(d) ***Family and community engagement***~~[Program regulatory compliance]~~.

***(3)***~~[(2)]~~ The Cabinet for Health and Family Services shall***,*** in consultation with the Early Childhood Advisory Council, promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

(a) The ~~[voluntary ]~~quality-based graduated ***early childhood***~~[child-care]~~ rating system for ***public-funded*** child-care and certified family child-care homes***, public-funded preschool, and Head Start*** developed under subsection ***(2)***~~[(1)]~~ of this section;

(b) Agency time frames of reviews for rating;

(c) An appellate process under KRS Chapter 13B; and

(d) The ability of providers to request reevaluation for rating.

***(4) The quality-based early childhood rating system shall not be used for enforcement of compliance or in any punitive manner.***

***(5) The Early Childhood Advisory Council, in consultation with the Kentucky Center for Education and Workforce Statistics, shall report by October 1 of each year to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on the implementation of the quality-based graduated early childhood rating system. The report shall include the following quantitative performance measures as data becomes available:***

***(a) Program participation in the rating system;***

***(b) Ratings of programs by program type;***

***(c) Changes in student school-readiness measures;***

***(d) Longitudinal student cohort performance data tracked through student completion of the primary school program; and***

***(e) Long-term viability recommendations for sustainability at the end of the Race to the Top-Early Learning Challenge Grant.***

***(6) By November 1, 2017, the Early Childhood Advisory Council and the Cabinet for Health and Family Services shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on recommendations and plans for sustaining program quality after the depletion of federal Race to the Top-Early Learning Challenge grant funds.***

***(7) Any federally funded time-limited employee personnel positions created as a result of the federal Race to the Top-Early Learning Challenge grant shall be eliminated upon depletion of the grant funds.***

➔Section 2. KRS 199.8941 is amended to read as follows:

(1) The Early Childhood Advisory Council shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under KRS 199.8943.

(2) The monetary incentive program shall be reviewed annually by the council for the purpose of determining future opportunities to provide incentives.

(3) Participation in the program of monetary incentives and in the quality rating system by ***public-funded*** child-care centers and certified family child-care homes is ***mandatory***~~[voluntary]~~.

(4) The Cabinet for Health and Family Services shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under KRS 164.518.

➔Section 3. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any child-care center without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for a child-care center, criteria for the denial of a license if criminal records indicate convictions that may impact the safety and security of children in care, and procedures for enforcement of penalties.

(3) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(4) No child-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(5) If, upon inspection or investigation, the inspector general finds that a child-care center licensed under this section has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the center containing:

(a) A statement of fact;

(b) A statement of how an administrative regulation, standard, or requirement of the cabinet was violated; and

(c) The timeframe, negotiated with the child-care center, within which a violation is to be corrected, except that a violation that poses an immediate threat to the health, safety, or welfare of children in the center shall be corrected in no event later than five (5) working days from the date of the statement of deficiency.

(6) The Cabinet for Health and Family Services, in consultation with the Office of the Inspector General, shall establish by administrative regulations promulgated in accordance with KRS Chapter 13A an informal dispute resolution process containing at least two (2) separate levels of review through which a child-care provider may dispute licensure deficiencies that have an adverse effect on the child-care provider's license.

(7) A child-care center shall have the right to appeal to the Cabinet for Health and Family Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general as the result of a violation contained in a statement of deficiency within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of a violation.

(8) In assessing the civil penalty to be levied against a child-care center for a violation contained in a statement of deficiency issued under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:

(a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;

(b) The number and type of previous violations of the child-care center;

(c) The reasonable diligence exercised by the child-care center and efforts to correct the violation; and

(d) The amount of assessment necessary to assure immediate and continued compliance.

(9) Upon a child-care center's failure to take action to correct a violation of the administrative regulations, standards, or requirements of the cabinet contained in a statement of deficiency, or at any time when the operation of a child-care center poses an immediate threat to the health, safety, or welfare of children in the

center, and the child-care center continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee shall take at least one (1) of the following actions against the center:

(a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;

(b) Institute injunctive proceedings in Circuit Court to terminate the operation of the center;

(c) Institute action to discontinue payment of child-care subsidies; or

(d) Suspend or revoke the license or impose other penalties provided by law.

(10) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of child-care center license of the operator. Identifying information regarding children and their families shall remain confidential.

(11) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the child-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the child-care center upon the parent's, custodian's, guardian's, or other interested person's request.

(12) All fees collected under the provisions of KRS 199.892 to 199.896 for license and certification applications shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(13) Any advertisement for child-care services shall include the address of where the service is being provided.

(14) All inspections of licensed and unlicensed child-care centers by the Cabinet for Health and Family Services shall be unannounced.

(15) All employees and owners of a child-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(16) All employees and owners of a child-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development. These hours shall include but are not limited to one and one-half (1.5) hours one (1) time every five (5) years of continuing education in the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. Training in recognizing pediatric abusive head trauma may be designed in collaboration with organizations and agencies that specialize in the prevention and recognition of pediatric head trauma approved by the secretary of the Cabinet for Health and Family Services The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.

(17) The Cabinet for Health and Family Services shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (15) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (15) of this section.

(18) Child-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

(19) ***Child-care centers that provide instructional and educational programs for preschool-aged children that operate for a maximum of twenty (20) hours per week and which a child attends for no more than fifteen (15) hours per week shall:***

***(a) Notify the cabinet in writing that the center is operating;***

***(b) Meet all child-care center licensure requirements and administrative regulations related to employee background checks;***

***(c) Meet all child-care center licensure requirements and administrative regulations related to tuberculosis screenings; and***

***(d) Be exempt from all other child-care center licensure requirements and administrative regulations.***

***(20) Child-care centers that provide instructional and educational programs for preschool-aged children that operate for a maximum of twenty (20) hours per week and which a child attends for no more than ten (10) hours per week shall be exempt from all child-care licensure requirements and administrative regulations.***

***(21)*** Directors and employees of child-care centers in a position that involves supervisory or disciplinary power over a minor, or direct contact with a minor, shall submit to a criminal record check in accordance with KRS 17.165. The application shall be denied if the applicant has been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child or has been convicted of a violent crime or sex crime as defined in KRS 17.165.

***(22)*** ~~[(20)]~~ A director or employee of a child-care center may be employed on a probationary status pending receipt of the criminal background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

➔Section 4. KRS 199.8996 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(a) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(b) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(c) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(d) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

(2) The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low-income families in need of child-care services to obtain child care with the Early Childhood Advisory Council and the Legislative Research Commission.

(3) The cabinet shall file an annual report on the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities with the Early Childhood Advisory Council and the Legislative Research Commission.

***(4) By November 1, 2017, the Cabinet for Health and Family Services and the Early Childhood Advisory Council shall report to the Interim Joint Committee on Education and the Interim Joint Committee on Health and Welfare on recommendations and plans for sustaining the quality-based graduated early care and education program after the depletion of federal Race to the Top-Early Learning Challenge grant funds.***

**Signed by Governor March 19, 2015.**

## CHAPTER 17

**( HB 348 )**

AN ACT relating to local government.

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

➔Section 1. KRS 65A.010 is amended to read as follows:

As used in this chapter:

(1) "County" means any county, consolidated local government, urban-county government, unified local government, or charter county;

(2) "DLG" means the Department for Local Government established by KRS 147A.002;

(3) "Establishing entity" means the city or county, or any combination of cities and counties, that established a special purpose governmental entity and that has not subsequently withdrawn its affiliation with the special purpose governmental entity by ordinance or other official action;

(4) "Federally regulated municipal utility" means a municipal utility governed by the provisions of KRS 96.550 to 96.901, that maintains a wholesale power contract with a federal agency that also serves as its regulatory authority;

(5) (a) "Fee" means any user charge, levy, assessment, fee, schedule of rates, or tax, other than an ad valorem tax, imposed by a special purpose governmental entity.

(b) "Fee" shall not include the following charges imposed by special purpose governmental entities that provide utility services:

1. Any fuel cost adjustment that is:

a. Made pursuant to an agreement with a power supplier;

b. Amended by the power supplier based on the variable cost of fuel; and

c. Passed through to the consumer by the utility pursuant to the agreement between the utility and the power supplier;

2. Any power or energy cost adjustment implemented pursuant to a duly adopted base rate that provides for the periodic adjustment of a component of the rate, including any fuel costs or transmission costs, in accordance with the formula or conditions set forth in the base rate; or

3. Any environmental control cost adjustments or surcharges implemented pursuant to a duly adopted base rate that provides for the periodic adjustment of a component of the rate in accordance with a formula or conditions set forth in the base rate;

(6) (a) "Private entity" means any entity whose sole source of public funds is from payments pursuant to a contract with a city, county, or special purpose governmental entity, including funds received as a grant or as a result of a competitively bid procurement process.

(b) "Private entity" does not include any entity:

1. Created***, wholly or in part,*** by a city, county, or combination of cities and counties to perform one (1) or more of the types of public services listed in subsection (9)(c) of this section; or

2. Governed by a board, council, commission, committee, authority, or corporation ***with any member or*** ~~[whose]~~ members ***who*** are appointed by the chief executive or governing body of a city, county, or combination of cities and counties***, or whose voting membership includes governmental officials who serve in an ex officio capacity***;

(7) "Public funds" means any funds derived from the levy of a tax, fee, assessment, or charge, or the issuance of bonds by the state or a city, county, or special purpose governmental entity;

(8) "Registry" means the online central registry and reporting portal established pursuant to KRS 65A.020; and

(9) (a) "Special purpose governmental entity" or "entity" means any agency, authority, or entity created or authorized by statute which:

1. Exercises less than statewide jurisdiction;

2. Exists for the purpose of providing one (1) or a limited number of services or functions;

3. Is governed by a board, council, commission, committee, authority, or corporation with policy-making authority that is separate from the state and the governing body of the city, county, or cities and counties in which it operates; and

4. a. Has the independent authority to generate public funds; or

b. May receive and expend public funds, grants, awards, or appropriations from the state,

from any agency, or authority of the state, from a city or county, or from any other special purpose governmental entity.

(b) "Special purpose governmental entity" shall include entities meeting the requirements established by paragraph (a) of this subsection, whether the entity is formed as a nonprofit corporation under KRS Chapter 273, pursuant to an interlocal cooperation agreement under KRS 65.210 to 65.300, or pursuant to any other provision of the Kentucky Revised Statutes.

(c) Examples of the types of public services that may be provided by special purpose governmental entities include but are not limited to the following:

1. Ambulance, emergency, and fire protection services;
2. Flood control, drainage, levee, water, water conservation, watershed, and soil conservation services;
3. Area planning, management, community improvement, and community development services;
4. Library services;
5. Public health, public mental health, and public hospital services;
6. Riverport and airport services;
7. Sanitation, sewer, waste management, and solid waste services;
8. Industrial and economic development;
9. Parks and recreation services;
10. Construction, maintenance, or operation of roads and bridges;
11. Mass transit services;
12. Pollution control;
13. Construction or provision of public housing ***except as set out in paragraph (d)8. of this subsection***;
14. Tourism and convention services; and
15. Agricultural extension services.

(d) "Special purpose governmental entity" shall not include:

1. Cities;
2. Counties;
3. School districts;
4. Private entities;
5. ***Chambers of commerce;***
***6.*** Any incorporated entity that:
   a. Provides utility services;
   b. Is member-owned; and
   c. Has a governing body whose voting members are all elected by the membership of the entity;~~[ or]~~

***7.***~~[6.]~~ Any entity whose budget***, finances,*** and financial information are ***fully*** integrated with and included as a part of the budget***, finances,*** and financial reporting of the city, county, or cities and counties in which it operates***; or***

***8. Federally regulated public housing authorities established pursuant to KRS Chapter 80 that receive no more than twenty percent (20%) of their total funding for any fiscal year from non-federal fees, not including rental income***.

➔Section 2. KRS 65A.020 is amended to read as follows:

(1) The DLG shall:

(a) On or before March 1, 2014, make the necessary reporting and certification forms, online reporting portal, and online central registry available for reporting by special purpose governmental entities. The portal and registry shall serve as a unified location for the reporting of and access to administrative and financial information by special purpose governmental entities; and

(b) On or before October 1, 2014, make available online public access to administrative and financial information reported by special purpose governmental entities.

(2) (a) For each fiscal period beginning on or after July 1, 2014, all special purpose governmental entities shall annually submit to the DLG the information required by this section. The information shall be submitted in accordance with this section, at the time, and in the form and format required by the DLG. The information submitted shall include at a minimum the following:

1. Administrative information:

a. The name, address, and, if applicable, the term and appointing authority for each board member of the governing body of the entity;

b. The fiscal year of the entity;

c. The Kentucky Revised Statute and, if applicable, the local government ordinance and interlocal agreement under which the entity was established; the date of establishment; the establishing entity; and the statute or statutes, local government ordinance, or interlocal agreement under which the entity operates, if different from the statute or statutes, ordinance, or agreement under which it was established;

d. The mailing address and telephone number and, if applicable, the Web site uniform resource locator (URL) of the entity;

e. The operational boundaries and service area of the entity and the services provided by the entity;

f. i. A listing of all the most significant taxes or fees imposed and collected by the entity, including the rates or amounts charged for the reporting period and the statutory or other source of authority for the levy of the tax or fee.

ii. As used in this subdivision, "most significant taxes or fees" means the five (5) taxes or fees levied by the entity that produce the most tax and fee revenue for the entity, provided that if the top five (5) revenue-producing taxes and fees do not produce at least eighty-five percent (85%) of all tax and fee revenues received by the entity, additional taxes and fees shall be listed until the taxes and fees listed produce at least eighty-five percent (85%) of all tax and fee revenues of the entity. If an entity levies fewer than five (5) taxes and fees, the entity shall list all taxes and fees levied;

g. The primary contact for the entity for purposes of communication from the DLG;

h. The code of ethics that applies to the entity, and whether the entity has adopted additional ethics provisions;

i. A listing of all federal, state, and local governmental entities that have oversight authority over the special purpose governmental entity or to which the special purpose governmental entity submits reports, data, or information; and

j. Any other related administrative information required by the DLG; and

2. Financial information:

a. i. The most recent adopted budget of the entity for the upcoming fiscal year;

ii. After the close of each fiscal year, a comparison of the budget to actual revenues and expenditures for each fiscal year, including any amendments made throughout the fiscal year to the budget originally submitted;

iii. Completed audits or attestation engagements as provided in KRS 65A.030; and

iv. Other financial oversight reports or information required by the DLG.

b. In lieu of the submissions required by subdivision a.i., ii., and iv. of this subparagraph:

i. A federally regulated municipal utility shall submit, after the close of each fiscal year, the monthly balance, revenue, and expense report required by the federal regulator, which constitutes year-end data; and

ii. A public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility shall submit after the close of each fiscal year a report that includes the same information, in the same format as is required for federally regulated municipal utilities under subpart i. of this subdivision.

(b) The provisions of KRS 65A.040 shall apply when a special purpose governmental entity fails to submit the information required by this section in a timely manner, or submits information that does not comply with the requirements and standards established by this section and the DLG. To facilitate the enforcement of these provisions, the DLG shall establish and maintain an online list of due dates for the filing of reports, audit certifications, and information for each special purpose governmental entity.

(c) The provisions of this subsection shall be in addition to, and shall not supplant or replace any reporting or filing requirements established by other provisions of the Kentucky Revised Statutes.

(3) (a) The DLG shall, by administrative regulation adopted pursuant to KRS Chapter 13A, develop standard forms, protocols, timeframes, and due dates for the submission of information by special purpose governmental entities. All information shall be submitted electronically; however, the DLG may allow submission by alternative means, with the understanding that the DLG shall be responsible for converting the information to a format that will make it accessible through the registry.

(b) In an effort to reduce duplicative submissions to different governmental entities and agencies, during the development of the forms, protocols, timeframes, and due dates, the DLG shall consult with other governmental entities and agencies that may use the information submitted by special purpose governmental entities, and may include the information those agencies and entities need to the extent possible.

(c) As an alternative to completing and submitting any standard form developed by the DLG for the reporting of financial information, federally regulated municipal utilities and public utilities established pursuant to KRS 96.740 that are not federally regulated municipal utilities may elect to satisfy the reporting requirements established by subsection (2)(a)2. of this section for the public power components of their operations by reporting the financial information related to their electric system accounts in accordance with the Federal Energy Regulatory Commission's Uniform System of Accounts.

(4) (a) Beginning October 1, 2014, all information submitted by special purpose governmental entities under this section shall be publicly available through the registry. The registry shall be updated at least monthly, but may be updated more frequently at the discretion of the DLG. The registry shall include a notation indicating the date of the most recent update.

(b) The registry shall be in a searchable format and shall, at a minimum, allow a search by county, by special purpose governmental entity name, and by type of entity.

(c) To the extent possible, the registry shall be linked to or accessed through the Web site established pursuant to KRS 42.032 to provide public access to expenditure records of the executive branch of state government.

(5) (a) To offset the costs incurred by the DLG in maintaining and administering the registry, the costs incurred in providing education for the governing bodies and employees of special purpose governmental entities as required by KRS 65A.060, and the costs incurred by the DLG and the Auditor of Public Accounts in responding to and acting upon noncompliant special purpose governmental entities under KRS 65A.040, excluding costs associated with conducting audits or special examinations, each special purpose governmental entity shall pay a registration fee to the DLG on an annual basis at the time of registration under this section.

(b) The initial annual fee shall be as follows:

1. For special purpose governmental entities with annual revenue from all sources of less than one hundred thousand dollars ($100,000), twenty-five dollars ($25);

2. For special purpose governmental entities with annual revenues from all sources of at least one

hundred thousand dollars ($100,000) but less than five hundred thousand dollars ($500,000), two hundred fifty dollars ($250); and

3. For special purpose governmental entities with annual revenues of five hundred thousand dollars ($500,000) or greater, five hundred dollars ($500).

(c) If the costs of administering and maintaining the registry, providing education, and enforcing compliance change over time, the fee and tiered structure established by paragraph (b) of this subsection may be adjusted one (1) time by the DLG through the promulgation of an administrative regulation under KRS Chapter 13A. The rate, if adjusted, shall be set at a level no greater than a level that is expected to generate sufficient revenue to offset the actual cost of maintaining and administering the registry, providing education for the governing bodies and employees of special purpose governmental entities, and enforcing compliance.

(d) The portion of the registration fee attributable to expenses incurred by the Auditor of Public Accounts for duties and services other than conducting audits or special examinations shall be collected by the DLG and transferred to the Auditor of Public Accounts on a quarterly basis. Prior to the transfer of funds, the Auditor of Public Accounts shall submit an invoice detailing the actual costs incurred, which shall be the amount transferred; however, the amount transferred to the Auditor of Public Accounts under the initial fee established by paragraph (b) of this section shall not exceed the annual amount agreed to between the DLG and the Auditor of Public Accounts.

***(e) 1. In determining the annual fee due from a special purpose governmental entity, the DLG may exclude revenues received by the special purpose governmental entity if:***

***a. The revenues constitute nonrecurring, nonoperating grants for the purpose of capital asset acquisition, capital construction, disaster recovery efforts, or other one (1) time purposes as determined by the DLG; and***

***b. The special purpose governmental entity requests, in writing to the DLG and for each fiscal year it receives the revenue in question, that the revenues in question not be included in determining its annual revenues.***

***2. Any receipts excluded under this paragraph shall still be reported as required under subsection (2)(a)2. of this section.***

(6) By October 1, 2014, and on or before each October 1 thereafter, the DLG shall file an annual report with the Legislative Research Commission detailing the compliance of special purpose governmental entities with the provisions of KRS 65A.010 to 65A.090. The Legislative Research Commission shall refer the report to the Interim Joint Committee on Local Government for review.

➔Section 3. KRS 65A.030 is amended to read as follows:

(1) For fiscal periods beginning on or after July 1, 2014, requirements relating to audits and financial statements of special purpose governmental entities are as follows:

(a) Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures of less than one hundred thousand dollars ($100,000) shall:

1. Annually prepare a financial statement; and

2. Once every four (4) years, contract for the application of an attestation engagement as determined by the DLG, as provided in subsection (2) of this section;

(b) Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures equal to or greater than one hundred thousand dollars ($100,000) but less than five hundred thousand dollars ($500,000) shall:

1. Annually prepare a financial statement; and

2. Once every four (4) years, contract for the provision of an independent audit as provided in subsection (2) of this section; and

(c) Every special purpose governmental entity with the higher of annual receipts from all sources or annual expenditures equal to or greater than five hundred thousand dollars ($500,000) shall:

1. Annually prepare a financial statement; and

2. Be audited annually as provided in subsection (2) of this section.

(2) (a) To provide for the performance of an audit or attestation engagement as provided in subsection (1)(a) to (c) of this section, the governing body of a special purpose governmental entity shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to conduct the audit or attestation engagement ***unless the provisions of subsection (3) of this section apply***.

(b) The audit or attestation engagement shall be completed no later than twelve (12) months following the close of the fiscal year subject to the audit or the attestation engagement.

(c) 1. The special purpose governmental entity shall submit for publication on the registry the audit or attestation engagement, in the form and format required by the DLG.

2. A federally regulated municipal utility may comply with the requirements of this section for the public power component of its operations by submitting an audit that conforms to the requirements imposed by the federal agency with which it maintains a wholesale power contract.

3. A public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility may comply with the requirements of this section for the public power component of its operations by submitting a copy of its annual audit performed under KRS 96.840.

(d) 1. The audit or attestation engagement shall conform to:

a. Generally accepted governmental auditing or attestation standards, which means those standards for audits or attestations of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States;

b. Generally accepted auditing or attestation standards, which means those standards for all audits or attestations promulgated by the American Institute of Certified Public Accountants; and

c. Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts.

2. Rather than meeting the standards established by subparagraph 1. of this paragraph, the audit submitted by a federally regulated municipal utility or a public utility established pursuant to KRS 96.740 that is not a federally regulated municipal utility with regard to the public power component of the utility's operations shall conform to KRS 96.840 and the financial standards of the Federal Energy Regulatory Commission's Uniform System of Accounts.

(e) Upon request, the Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit or attestation engagement.

(f) If a special purpose governmental entity is required by another provision of law to audit its funds more frequently or more stringently than is required by this section, the special purpose governmental entity shall comply with the provisions of that law, and shall comply with the requirements of paragraph (c) of this subsection.

(g) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, a unit of government furnishing funds directly to a special purpose governmental entity may require additional audits at the expense of the unit of government furnishing the funds.

(h) All audit reports, attestation engagement reports, and financial statements of special purpose governmental entities shall be public records.

(3) ***(a) Any board, commission, or agency established by statute with regulatory authority or oversight responsibilities for a category of special purpose governmental entities may apply to the Auditor of Public Accounts to be approved to provide an alternative financial review of the special purpose governmental entities it regulates or oversees that are required by subsection (1)(a) of this section to submit an attestation engagement. The application shall be in the form and format determined by the Auditor of Public Accounts.***

***(b) The Auditor of Public Accounts shall review the application and if the auditor determines that the board, commission, or agency has the resources and capacity to conduct an acceptable alternative financial review, the auditor shall notify the DLG that the board, commission, or agency is approved to provide an alternative financial review of the special purpose governmental entities it regulates or***

***oversees that are required by subsection (1)(a) of this section to submit an attestation engagement.***

***(c) The Auditor of Public Accounts shall advise the DLG and the board, commission, or agency regarding modifications to the proposed alternative financial review procedures necessary to obtain the Auditor of Public Accounts' approval.***

***(d) Any board, commission, or agency approved to provide alternative financial reviews shall reapply to the Auditor of Public Accounts for approval to continue to provide alternative financial reviews at least every four (4) years. The Auditor of Public Accounts may require more frequent approvals.***

***(e) The Auditor of Public Accounts or the DLG may withdraw any approval granted under this subsection if the board, commission, or agency fails to conduct alternative financial reviews using the procedures and including the terms and components agreed to with the DLG.***

***(f) Any board, commission, or agency approved to provide alternative financial reviews shall notify the Auditor of Public Accounts and the DLG if an irregularity is found in the alternative financial review.***

***(g) Any special purpose governmental entity subject to regulation or oversight by a board, commission, or agency that obtains approval to provide an alternative financial review under this subsection shall have the option of having an alternative financial review performed by the board, commission, or agency, or may contract for the application of an attestation engagement as provided in subsection (1)(a) of this section.***

***(4)*** The DLG shall determine which procedures conducted under attestation standards will apply to special purpose governmental entities meeting the conditions established by subsection (1)(a) of this section. The DLG may determine that additional procedures be conducted under attestation standards for specific categories of special purpose governmental entities or for specific special purpose governmental entities, as needed, to obtain the oversight and information deemed necessary by the DLG.

***(5)***~~[(4)]~~ Based on the information submitted by special purpose governmental entities under KRS 65A.020 and 65A.090, the DLG shall determine when each special purpose governmental entity was last audited, and shall notify the special purpose governmental entity of when each audit or attestation engagement is due under the new standards and requirements of this section.

***(6) (a) In determining the requirements relating to audits and financial statements of special purpose governmental entities under subsection (1) of this section, the DLG may exclude annual receipts received by the special purpose governmental entity if:***

***1. The receipts constitute nonrecurring, nonoperating grants for the purpose of capital asset acquisition, capital construction, disaster recovery efforts, or other one (1) time purposes as determined by the DLG; and***

***2. The special purpose governmental entity requests, in writing to the DLG and for each fiscal year it receives the revenue in question, that the revenues in question not be included in determining its annual revenues.***

***(b) Any receipts excluded under paragraph (a) of this subsection shall still be reported as required under subsection (2)(a)2. of Section 2 of this Act.***

***(7)***~~[(5)]~~ The DLG may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

➔Section 4. KRS 65.003 is amended to read as follows:

(1) (a) The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city, county, or consolidated local government to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(b) The boards, officers, and employees of special purpose governmental entities shall be subject to a code of ethics as provided in KRS 65A.070. As used in this section, special purpose governmental entity has the same meaning as in KRS 65A.010.

(2) Any city, county, or consolidated local government may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities, counties, or consolidated local governments for joint adoption of a code of ethics which shall apply to all elected officials of the cities, counties, or consolidated local governments, and to appointed officials and employees as specified by each of the cities, counties, or consolidated local governments which enters into the agreement. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:

(a) The provision of administrative services relating to the implementation of a code of ethics;

(b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and

(c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city, county, or consolidated local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include but not be limited to provisions which set forth:

(a) Standards of conduct for elected and appointed officials and employees;

(b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city, county, or consolidated local government elective offices specified in subsection (1) of this section, elected officials of each city, county, or consolidated local government, and other officials or employees of the city, county, or consolidated local government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics~~[, provided that:~~

~~1. Nonpaid members of jointly created agencies may be exempted from filing financial disclosure statements; and~~

~~2. Board members, officers, and employees of special purpose governmental entities shall not be required to file financial disclosure statements for their service or employment with the special purpose governmental entity, unless the special purpose governmental entity adopts more stringent requirements under KRS 65A.070 that require the filing of financial disclosure statements]~~;

(c) A policy on the employment of members of the families of officials or employees of the city, county, or consolidated local government, as specified in the code of ethics;

(d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.

(4) The code of ethics ordinance adopted by a city, county, or consolidated local government may be amended but shall not be repealed.

(5) (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The Department for Local Government shall maintain the ordinances as public records and shall maintain a list of city, county, or consolidated local governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.

(b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city, county, or consolidated local government shall:

1. Deliver a copy of the ordinance by which the code was amended and proof of publication in

accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted; and

2. Deliver a copy of the ordinance by which the code was amended to the governing body of each special purpose governmental entity that follows that establishing entity's code of ethics pursuant to KRS 65A.070.

(c) For ordinances adopting or amending a code of ethics under this section, cities of the first class and consolidated local governments shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.

(6) If a city, county, or consolidated local government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city, county, or consolidated local government. Those agencies shall suspend delivery of all services or payments to the city, county, or consolidated local government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city, county, or consolidated local government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city, county, or consolidated local government.

**Signed by Governor March 19, 2015.**

## CHAPTER 18

**( SB 108 )**

AN ACT relating to the Uniform Interstate Family Support Act.

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

➔Section 1. KRS 407.5101 is amended to read as follows:

As used in KRS 407.5101 to 407.5902:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent;

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state ***or foreign country***;

(3) ***"Convention" means the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007;***

***(4)*** "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support;

***(5) "Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:***

***(a) Which has been declared under the law of the United States to be a foreign reciprocating country;***

***(b) Which has established a reciprocal arrangement for child support with this state as provided in Section 21 of this Act;***

***(c) Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under KRS 407.5101 to 407.5902; or***

***(d) In which the Convention is in force with respect to the United States;***

***(6) "Foreign support order" means a support order of a foreign tribunal;***

***(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention;***

***(8)*** ~~[(4)]~~ "Home state" means the state ***or foreign country*** in which a child lived with a parent or a person acting as parent for at least six (6) consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six (6) months old, the state ***or foreign country*** in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six (6) month or other period;

***(9)*** ~~[(5)]~~ "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state;

***(10)*** ~~[(6)]~~ "Income-withholding order" means an order or other legal process directed to an obligor's employer ***as defined in KRS 205.710*** or other debtor~~[, as defined by KRS 403.212,]~~ to withhold support from the income of the obligor;

***(11)*** ~~[(7)]~~ "Initiating ***tribunal*** ~~[state]~~" means ***the tribunal of*** a state ***or foreign country*** from which a ***petition or comparable pleading*** ~~[proceeding]~~ is forwarded or in which a ***petition or comparable pleading*** ~~[proceeding]~~ is filed for forwarding to ***another state or foreign country*** ~~[a responding state under this chapter or a law or procedure substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act]~~;

~~[(8) "Initiating tribunal" means the authorized tribunal in an initiating state;]~~

***(12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child;***

***(13)*** ~~[(9)]~~ "Issuing state" means the state in which a tribunal issues a support order or~~[ renders]~~ a judgment determining parentage ***of a child***;

***(14)*** ~~[(10)]~~ "Issuing tribunal" means the tribunal ***of a state or foreign country*** that issues a support order or~~[ renders]~~ a judgment determining parentage ***of a child***;

***(15)*** ~~[(11)]~~ "Law" includes decisional and statutory law and rules and regulations having the force of law;

***(16)*** ~~[(12)]~~ "Obligee" means:

(a) An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order~~[ has been issued]~~ or a judgment determining parentage ***of a child*** has been ***issued*** ~~[rendered]~~;

(b) A ***foreign country,*** state***,*** or political subdivision ***of a state*** to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee ***in place of child support***;~~[ or]~~

(c) An individual seeking a judgment determining parentage of the individual's child; ***or***

***(d) A person that is a creditor in a proceeding under Article 7 of this chapter;***

***(17)*** ~~[(13)]~~ "Obligor" means an individual, or the estate of a decedent ***that***:

(a) ***Owes*** ~~[Who]~~ or is alleged to owe a duty of support;

(b) ~~[Who ]~~Is alleged but has not been adjudicated to be a parent of a child;~~[ or]~~

(c) ~~[Who ]~~Is liable under a support order; ***or***

***(d) Is a debtor in a proceeding under Article 7 of this chapter;***

***(18) "Outside this state" means a location in another state or a country other than the United States, whether or not the country is a foreign country;***

***(19) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity;***

***(20) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;***

***(21)*** ~~[(14)]~~ "Register" means to file a support order or judgment determining parentage ***of a child issued in another state or foreign country*** with the Cabinet for Health and Family Services;

***(22)*** ~~[(15)]~~ "Registering tribunal" means a tribunal in which a support order ***or judgment determining parentage of a child*** is registered;

***(23)*** ~~[(16)]~~ "Responding state" means a state in which a ***petition or comparable pleading for support or to determine parentage of a child*** ~~[proceeding]~~ is filed or to which a ***petition or comparable pleading*** ~~[proceeding]~~ is forwarded for filing from ***another state or foreign country*** ~~[an initiating state under this chapter or a law or procedure substantially similar to KRS 407.5101 to 407.5902, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act]~~;

***(24)*** ~~[(17)]~~ "Responding tribunal" means the authorized tribunal in a responding state ***or foreign country***;

***(25)*** ~~[(18)]~~ "Spousal-support order" means a support order for a spouse or former spouse of the obligor;

***(26)*** ~~[(19)]~~ "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession ***under*** ~~[subject to]~~ the jurisdiction of the United States. The term includes ~~[:~~

~~(a) ]~~an Indian tribe;~~[ and~~

~~(b) A foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act;]~~

***(27)*** ~~[(20)]~~ "Support enforcement agency" means a public official***, governmental entity,*** or ***private*** agency authorized to~~[ seek]~~:

(a) ***Seek*** enforcement of support orders or laws relating to the duty of support;

(b) ***Seek*** establishment or modification of child support;

(c) ***Request*** determination of parentage;~~[ or]~~

(d) ***Attempt*** to locate obligors or their assets; ***or***

***(e) Request determination of the controlling child support order.***

***(28)*** ~~[(21)]~~ "Support order" means a judgment, decree, ***decision, directive,*** or order, whether temporary, final, or subject to modification, ***issued in a state or foreign country*** for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, ***retroactive support,*** or reimbursement ***for financial assistance provided to an individual obligee in place of child support. The term*** ~~[, and]~~ may include related costs and fees, interest, income withholding, ***automatic adjustment, reasonable*** attorney's fees, and other relief; and

***(29)*** ~~[(22)]~~ "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage ***of a child***.

➔Section 2. KRS 407.5103 is amended to read as follows:

***(1)*** Remedies provided by KRS 407.5101 to 407.5902 are cumulative and do not affect the availability of remedies under other law ***or the recognition of a foreign support order on the basis of comity***.

***(2) The provisions of KRS 407.5101 to 407.5902 do not:***

***(a) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or***

***(b) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation.***

➔SECTION 3. A NEW SECTION OF ARTICLE 1 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) A tribunal of this state shall apply Articles 1 to 6 of this chapter and, as applicable, Article 7 of this chapter, to a support proceeding involving:***

***(a) A foreign support order;***

***(b) A foreign tribunal; or***

***(c) An obligee, obligor, or child residing in a foreign country.***

***(2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of Articles 1 to 6 of this chapter.***

***(3) Article 7 of this chapter applies only to a support proceeding under the Convention. In such a proceeding, if a provision of Article 7 of this chapter is inconsistent with Articles 1 to 6 of this chapter, Article 7 of this chapter controls.***

➔Section 4. KRS 407.5201 is amended to read as follows:

***(1)*** In a proceeding to establish ***or***~~[,]~~ enforce~~[, or modify]~~ a support order or to determine parentage ***of a child***, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

***(a)***~~[(1)]~~ The individual is personally served with summons, or notice within this state;

***(b)***~~[(2)]~~ The individual submits to the jurisdiction of this state by consent ***in a record***, by entering a general appearance, or by filing a responsive pleading having the effect of waiving any contest to personal jurisdiction;

***(c)***~~[(3)]~~ The individual resided with the child in this state;

***(d)***~~[(4)]~~ The individual resided in this state and provided prenatal expenses or support for the child;

***(e)***~~[(5)]~~ The child resides in this state as a result of the acts or directives of the individual;

***(f)***~~[(6)]~~ The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

***(g)***~~[(7)]~~ The individual asserted parentage ***of a child*** in the putative father registry maintained in this state by the Cabinet for Health and Family Services; or

***(h)***~~[(8)]~~ There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

***(2) The bases of personal jurisdiction set forth in subsection (1) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of Section 50 of this Act are met, or, in the case of a foreign support order, unless the requirements of Section 53 of this Act are met.***

➔SECTION 5. KRS 407.5202 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***Personal jurisdiction acquired by a tribunal of this state in a proceeding under KRS 407.5101 to 407.5902 or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 8, 9, and 14 of this Act.***

➔Section 6. KRS 407.5203 is amended to read as follows:

Under KRS 407.5101 to 407.5902, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state ***or a foreign country***.

➔Section 7. KRS 407.5204 is amended to read as follows:

(1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state ***or a foreign country*** only if:

(a) The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state ***or the foreign country*** for filing a responsive pleading challenging the exercise of jurisdiction by the other state ***or the foreign country***;

(b) The contesting party timely challenges the exercise of jurisdiction in the other state ***or the foreign country***; and

(c) If relevant, this state is the home state of the child.

(2) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state ***or a foreign country*** if:

(a) The petition or comparable pleading in the other state ***or foreign country*** is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

(b) The contesting party timely challenges the exercise of jurisdiction in this state; and

(c) If relevant, the other state ***or foreign country*** is the home state of the child.

➔SECTION 8. KRS 407.5205 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A tribunal of this state that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:***

***(a) At the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or***

***(b) Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.***

***(2) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise continuing, exclusive jurisdiction to modify the order if:***

***(a) All of the parties who are individuals file consent in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one (1) of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or***

***(b) Its order is not the controlling order.***

***(3) If a tribunal of another state has issued a child support order pursuant to KRS 407.5101 to 407.5902 or a law substantially similar to KRS 407.5101 to 407.5902 which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.***

***(4) A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.***

***(5) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.***

➔Section 9. KRS 407.5206 is amended to read as follows:

(1) A tribunal of this state ***that has issued a child support order consistent with the law of this state*** may serve as an initiating tribunal to request a tribunal of another state to enforce***:***

***(a) The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to KRS 407.5101 to 407.5902; or***

***(b) A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order***~~[ or modify a support order issued in that state]~~.

(2) A tribunal of this state having continuing~~[, exclusive]~~ jurisdiction over a support order may act as a responding tribunal to enforce~~[ or modify]~~ the order.~~[ If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply KRS 407.5316 to receive evidence from another state and KRS 407.5318 to obtain discovery through a tribunal of another state.~~

~~(3) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.]~~

➔Section 10. KRS 407.5207 is amended to read as follows:

(1) If a proceeding is brought under this chapter and only one (1) tribunal has issued a child support order, the order of that tribunal controls and shall be recognized.

(2) If a proceeding is brought under KRS 407.5101 to 407.5902 and two (2) or more child support orders have been issued by tribunals of this state or another state ***or foreign country*** with regard to the same obligor and ***same*** child, a tribunal of this state ***having personal jurisdiction over both the obligor and the individual obligee*** shall apply the following rules ***and by***~~[ in determining which]~~ order ***shall determine which order controls and shall be recognized***~~[ to recognize for purposes of continuing, exclusive jurisdiction]~~:

(a) If only one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the order of that tribunal controls~~[ and shall be recognized]~~.

(b) If more than one (1) of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902***:***~~[,]~~

***1.*** An order issued by a tribunal in the current home state of the child controls***; or***~~[ and shall be recognized, but ]~~

***2.*** If an order has not been issued in the current home state of the child, the order most recently issued controls~~[ and shall be recognized]~~.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under KRS 407.5101 to 407.5902, the tribunal of this state~~[ having jurisdiction over the parties]~~ shall issue a child support order, which controls~~[ and shall be recognized]~~.

(3) If two (2) or more child support orders have been issued for the same obligor and ***same*** child***, upon request of***~~[ and if the obligor or the individual obligee resides in this state,]~~ a party ***who is an individual or that is a support enforcement agency,***~~[may request]~~ a tribunal of this state ***having personal jurisdiction over both the obligor and the obligee who is an individual shall***~~[to]~~ determine which order controls~~[ and shall be recognized]~~ under subsection (2) of this section. The request ***may be filed with a registration for enforcement or registration for modification pursuant to Article 6 of this chapter, or may be filed as a separate proceeding.***

***(4) A request to determine which is the controlling order*** shall be accompanied by a~~[ certified]~~ copy of every ***child*** support order in effect ***and the applicable record of payments***. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

***(5)***~~[(4)]~~ The tribunal that issued the controlling order under subsection (1), (2), or (3) of this section~~[ is the tribunal that]~~ has continuing~~[, exclusive]~~ jurisdiction ***to the extent provided in Sections 8 and 9 of this Act***~~[under KRS 407.5205]~~.

***(6)***~~[(5)]~~ A tribunal of this state that determines by order ***which is***~~[the identity of]~~ the controlling order under subsection (2)(a) or (2)(b) of this section or that issues a new controlling order under subsection (2)(c) of this section shall state in that order***:***

***(a)*** The basis upon which the tribunal made its determination***;***

***(b) The amount of prospective support, if any; and***

***(c) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided in Section 12 of this Act***.

***(7)***~~[(6)]~~ Within thirty (30) days after issuance of an order determining ***which is***~~[the identity of]~~ the controlling order, the party obtaining the order shall file a certified copy of it ***in***~~[with]~~ each tribunal that issued or registered an earlier order of child support. A party ***or support enforcement agency obtaining***~~[who obtains]~~ the order ***that***~~[and]~~ fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

***(8) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section shall be recognized in proceedings under KRS 407.5101 to 407.5902.***

➔Section 11. KRS 407.5208 is amended to read as follows:

In responding to~~[ multiple]~~ registrations or petitions for enforcement of two (2) or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one (1) of which was issued by a tribunal of another state ***or a foreign country***, a tribunal of this state shall enforce those orders in the same manner as if the~~[ multiple]~~ orders had been issued by a tribunal of this state.

➔SECTION 12. KRS 407.5209 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***A tribunal of this state shall credit amounts collected for a particular period pursuant to any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country.***

➔SECTION 13. A NEW SECTION OF ARTICLE 2 OF KRS CHAPTER 407 IS CREATED TO READ AS

FOLLOWS:

***A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under KRS 407.5101 to 407.5902, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to Section 27 of this Act, communicate with a tribunal outside this state pursuant to Section 28 of this Act, and obtain discovery through a tribunal outside this state pursuant to Section 29 of this Act. In all other respects, Articles 3 to 6 of this chapter do not apply, and the tribunal shall apply the procedural and substantive law of this state.***

➔SECTION 14. A NEW SECTION OF ARTICLE 2 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) A tribunal of this state issuing a spousal-support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal-support order throughout the existence of the support obligation.***

***(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.***

***(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal-support order may serve as:***

***(a) An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or***

***(b) A responding tribunal to enforce or modify its own spousal support order.***

➔Section 15. KRS 407.5301 is amended to read as follows:

(1) Except as otherwise provided in KRS 407.5101 to 407.5902, ***Article 3 of this chapter***~~[KRS 407.5301 to 407.5319]~~ applies to all proceedings under KRS 407.5101 to 407.5902.

(2) ~~[This section provides for the following proceedings:~~

~~(a) Establishment of an order for spousal support or child support pursuant to KRS 407.5401;~~

~~(b) Enforcement of a support order and income withholding order of another state without registration pursuant to KRS 407.5501 to 407.5902;~~

~~(c) Registration of an order for spousal support or child support of another state for enforcement pursuant to KRS 407.5601 to 407.5612;~~

~~(d) Modification of an order for child support or spousal support issued by a tribunal of this state pursuant to KRS 407.5203 to 407.5206;~~

~~(e) Registration of an order for child support of another state for modification pursuant to KRS 407.5601 to 407.5612;~~

~~(f) Determination of parentage pursuant to KRS 407.5701; and~~

~~(g) Assertion of jurisdiction over nonresidents pursuant to KRS 407.5201 and 407.5202.~~

~~(3) ]~~An individual petitioner or a support enforcement agency may ***initiate***~~[commence]~~ a proceeding authorized under KRS 407.5101 to 407.5902 by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state ***or a foreign country*** which has or can obtain personal jurisdiction over the respondent.

➔Section 16. KRS 407.5303 is amended to read as follows:

Except as otherwise provided by KRS 407.5101 to 407.5902, a responding tribunal of this state ***shall***:

(1) ~~[Shall ]~~Apply the procedural and substantive law~~[, including the rules on choice of law,]~~ generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) ~~[Shall ]~~Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

➔Section 17. KRS 407.5304 is amended to read as follows:

(1) Upon the filing of a petition authorized by KRS 407.5101 to 407.5902, an initiating tribunal of this state shall forward~~[ three (3) copies of]~~ the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If ***requested by the***~~[a]~~ responding ***tribunal***~~[state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the Uniform Interstate Family Support Act]~~, a tribunal of this state ***shall***~~[may]~~ issue a certificate or other document and make findings required by law of the responding state. If the responding ***tribunal***~~[state]~~ is ***in*** a foreign ***country, upon request***~~[jurisdiction,]~~ the tribunal ***of this state shall***~~[may]~~ specify the amount of support sought***, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported,*** and provide other documents necessary to satisfy the requirements of the responding ***foreign tribunal***~~[state]~~.

➔Section 18. KRS 407.5305 is amended to read as follows:

(1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to ***Section 15 of this Act***~~[KRS 407.5301(3)]~~, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent ***not prohibited by other***~~[otherwise authorized by]~~ law, may do one (1) or more of the following:

(a) ***Establish***~~[Issue]~~ or enforce a support order, modify a child support order, ***determine the controlling child support order,*** or ~~[render a judgment to ]~~determine parentage ***of a child***;

(b) Order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(c) Order income withholding;

(d) Determine the amount of any arrearages, and specify a method of payment;

(e) Enforce orders by civil or criminal contempt, or both;

(f) Set aside property for satisfaction of the support order;

(g) Place liens and order execution on the obligor's property;

(h) Order an obligor to keep the tribunal informed of the obligor's current residential address, ***electronic mail address,*** telephone number, employer, address of employment, and telephone number at the place of employment;

(i) Issue a bench warrant or writ of arrest for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the bench warrant or writ of arrest in any local and state computer systems for criminal warrants;

(j) Order the obligor to seek appropriate employment by specified methods;

(k) Award reasonable attorney's fees and other fees and costs; and

(l) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under KRS 407.5101 to 407.5902, or in the documents accompanying the order, the calculations on which the support order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under KRS 407.5101 to 407.5902 upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under KRS 407.5101 to 407.5902, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

***(6) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.***

➔Section 19. KRS 407.5306 is amended to read as follows:

If a petition or comparable pleading is received by an inappropriate tribunal of this state, ***the tribunal***~~[it]~~ shall forward the pleading and accompanying documents to an appropriate tribunal ***of***~~[in]~~ this state or another state and

notify the petitioner where and when the pleading was sent.

➔Section 20. KRS 407.5307 is amended to read as follows:

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency ***of this state*** that is providing services to the petitioner~~[ as appropriate]~~ shall:

(a) Take all steps necessary to enable an appropriate tribunal ***of***~~[in]~~ this state**,**~~[ or]~~ another state***, or a foreign country*** to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time, and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of~~[ a written]~~ notice ***in a record*** from initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

(e) Within two (2) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of ***notice in a record***~~[a written communication]~~ from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(3) ***A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification shall make reasonable efforts:***

***(a) To ensure that the order to be registered is the controlling order; or***

***(b) If two (2) or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so.***

***(4) A support enforcement agency of this state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.***

***(5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a child support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to Section 30 of this Act.***

***(6)*** KRS 407.5101 to 407.5902 does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

➔Section 21. KRS 407.5308 is amended to read as follows:

***(1)*** If the Cabinet for Health and Family Services determines that a contracting official is neglecting or refusing to provide services to an individual, the Cabinet for Health and Family Services may order that official to perform his duties under KRS 407.5101 to 407.5902 or may provide those services directly to the individual.

***(2) The Cabinet for Health and Family Services may determine that a foreign country has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.***

➔Section 22. KRS 407.5310 is amended to read as follows:

(1) The Cabinet for Health and Family Services is the state information agency under KRS 407.5101 to 407.5902.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under KRS 407.5101 to 407.5902 and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(b) Maintain a register of ***names and addresses of*** tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the ***county***~~[place]~~ in this state in which the ***obligee who is an*** individual~~[ obligee]~~ or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under KRS 407.5101 to 407.5902 received from ***another***~~[an initiating tribunal or the]~~ state ***or foreign country***~~[information agency of the initiating state]~~; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and Social Security.

➔Section 23. KRS 407.5311 is amended to read as follows:

(1) ***In a proceeding under KRS 407.5101 to 407.5902,*** a petitioner seeking to establish ***a support order, to determine parentage of a child,*** or ***to register and*** modify a support order ***of a tribunal of another state or a foreign country shall file a petition***~~[or to determine parentage in a proceeding under KRS 407.5101 to 407.5902 must verify the petition]~~. Unless otherwise ordered under ***Section 24 of this Act***~~[KRS 407.5312]~~, the petition or accompanying documents ***shall***~~[must]~~ provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee ***or the parent and alleged parent***, and the name, sex, residential address, Social Security number, and date of birth of each child for ***whose benefit***~~[whom]~~ support is sought ***or whose parentage is to be determined***, with the obligor's, obligee's, ***parent's, alleged parent's,*** and children's personal identifiers provided in accordance with KRS 403.135. ***Unless filed at the time of registration,*** the petition ***shall***~~[must]~~ be accompanied by a~~[ certified]~~ copy of any support order ***known to have been issued by another tribunal***~~[in effect]~~. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition ***shall***~~[must]~~ specify the relief sought. The petition and accompanying documents ***shall***~~[must]~~ conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

➔SECTION 24. KRS 407.5312 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.***

➔Section 25. KRS 407.5313 is amended to read as follows:

(1) The petitioner may not be required to pay a filing fee or other costs.

(2) If the obligee prevails, a responding tribunal ***of this state*** may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or~~[ the]~~ responding state ***or foreign country***, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that the hearing was requested primarily for delay. In a proceeding under ***Article 6 of this chapter***~~[KRS 407.5601 to 407.5612]~~, a hearing is presumed to have been requested primarily for a delay if a registered support order is confirmed or enforced without change.

➔Section 26. KRS 407.5314 is amended to read as follows:

(1) Participation by a petitioner in a proceeding ***under KRS 407.5101 to 407.5902*** before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(2) A petitioner is not amenable to service of civil process while physically present in this state to participate in a

proceeding under KRS 407.5101 to 407.5902.

(3) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under KRS 407.5101 to 407.5902 committed by a party while ***physically*** present in this state to participate in the proceeding.

➔Section 27. KRS 407.5316 is amended to read as follows:

(1) The physical presence of ***a nonresident party who is an individual***~~[the petitioner]~~ in a~~[ responding]~~ tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage ***of a child***.

(2) ***An***~~[A verified petition,]~~ affidavit, ***a***~~[or]~~ document substantially complying with federally mandated forms, ***or***~~[and]~~ a document incorporated by reference in any of them, ***which would*** not ***be*** excluded under the hearsay rule if given in person, is admissible in evidence if given under ***penalty of perjury***~~[oath]~~ by a party or witness residing ***outside this***~~[in another]~~ state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(4) Copies of bills for testing for parentage ***of a child***, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten (10) days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(5) Documentary evidence transmitted from ***outside this***~~[another]~~ state to a tribunal of this state by telephone, telecopier, or other ***electronic*** means that do not provide an original ***record***~~[writing]~~ may not be excluded from evidence on an objection based on the means of transmission.

(6) In a proceeding under KRS 407.5101 to 407.5902, a tribunal of this state ***shall***~~[may]~~ permit a party or witness residing ***outside this***~~[in another]~~ state to be deposed or to testify ***under penalty of perjury*** by telephone, audiovisual means, or other electronic means at a designated tribunal or other location~~[ in that state]~~. A tribunal of this state shall cooperate with ***other*** tribunals~~[ of other states]~~ in designating an appropriate location for the deposition or testimony.

(7) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(8) A privilege against disclosure of communications between spouses does not apply in a proceeding under KRS 407.5101 to 407.5902.

(9) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under KRS 407.5101 to 407.5902.

***(10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.***

➔SECTION 28. A NEW SECTION OF ARTICLE 3 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.***

➔Section 29. KRS 407.5318 is amended to read as follows:

A tribunal of this state may:

(1) Request a tribunal ***outside this***~~[of another]~~ state to assist in obtaining discovery; and

(2) Upon request, compel a person over ***which***~~[whom]~~ it has jurisdiction to respond to a discovery order issued by a tribunal ***outside this***~~[of another]~~ state.

➔SECTION 30. KRS 407.5319 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign country a certified statement by the custodian of the record of***

***the amounts and dates of all payments received.***

***(2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the child support enforcement agency of this state or a tribunal of this state shall:***

***(a) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and***

***(b) Issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.***

***(3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (2) of this section shall furnish to a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.***

➔Section 31. KRS 407.5401 is amended to read as follows:

(1) If a support order entitled to recognition under KRS 407.5101 to 407.5902 has not been issued, a responding tribunal of this state ***with personal jurisdiction over the parties*** may issue a support order if:

(a) The individual seeking the order resides ***outside this***~~[in another]~~ state; or

(b) The support enforcement agency seeking the order is located ***outside this***~~[in another]~~ state.

(2) The tribunal may issue a temporary child support order if ***the tribunal determines that such an order is appropriate and the individual ordered to pay is***:

(a) ***A presumed father of the child***~~[The respondent has signed a verified statement acknowledging parentage]~~;

(b) ***Petitioning to have his paternity adjudicated***~~[The respondent has been determined by or pursuant to law to be the parent];[ or]~~

(c) ***Identified as the father of the child through genetic testing;***~~[There is other clear and convincing evidence that the respondent is the child's parent]~~

***(d) An alleged father who has declined to submit to genetic testing;***

***(e) Shown by clear and convincing evidence to be the father of the child;***

***(f) An acknowledged father as provided by KRS 213.046;***

***(g) The mother of the child; or***

***(h) An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated***.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to ***Section 18 of this Act***~~[KRS 407.5305]~~.

➔SECTION 32. A NEW SECTION OF ARTICLE 4 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***A tribunal of this state authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under KRS 407.5101 to 407.5902 or a law or procedure substantially similar to KRS 407.5101 to 407.5902.***

➔Section 33. KRS 407.5501 is amended to read as follows:

An income-withholding order issued in another state may be sent ***by or on behalf of the obligee, or by the support enforcement agency,*** to the person~~[ or entity]~~ defined as the obligor's employer under the income-withholding law of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

➔Section 34. KRS 407.5502 is amended to read as follows:

(1) Upon receipt of an income-withholding order, the obligator's employer shall immediately provide a copy of an order to the obligor.

(2) The employer shall treat an income-withholding order that has been issued in another state and that appears

regular on its face as if it had been issued by a tribunal of this state.

(3) Except as otherwise provided in subsection (4) of this section and ***Section 35 of this Act***~~[KRS 407.5503]~~, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order terms that specify:

(a) The duration and amount of periodic payments of current child support, stated as a sum certain;

(b) The person~~[ or agency]~~ designated to receive payments and the address to which the payments are to be forwarded;

(c) Medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;

(d) The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

(e) The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

(4) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

(a) The employer's fee for processing an income-withholding order;

(b) The maximum amount permitted to be withheld from the obligor's income; and

(c) The times within which the employer must implement the withholding order and forward the child support payment.

➔Section 35. KRS 407.5503 is amended to read as follows:

If an obligor's employer receives ***two (2) or more***~~[multiple]~~ income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the ***two (2) or more***~~[multiple]~~ orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for ***two (2) or more***~~[multiple]~~ child support obligees.

➔Section 36. KRS 407.5504 is amended to read as follows:

An employer ***that***~~[who]~~ complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

➔Section 37. KRS 407.5505 is amended to read as follows:

An employer ***that***~~[who]~~ willfully fails to comply with an income-withholding order issued ***in***~~[by]~~ another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

➔Section 38. KRS 407.5506 is amended to read as follows:

(1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state ***by registering the order in a tribunal of this state and filing a contest to that order as provided in Article 6 of this chapter, or otherwise contesting the order*** in the same manner as if the order had been issued by a tribunal of this state.~~[ KRS 407.5604 applies to the contest.]~~

(2) The obligor shall give notice of the contest to:

(a) A support enforcement agency providing services to the obligee;

(b) Each employer that has directly received an income-withholding order ***relating to the obligor***; and

(c) The person~~[ or agency]~~ designated to receive payments in the income-withholding order, or, if no person~~[ or agency]~~ is designated, the obligee.

➔Section 39. KRS 407.5507 is amended to read as follows:

(1) A party ***or support enforcement agency*** seeking to enforce a support order or an income-withholding order, or both, issued ***in***~~[by a tribunal of]~~ another state ***or a foreign support order*** may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to KRS 407.5101 to 407.5902.

➔Section 40. KRS 407.5601 is amended to read as follows:

A support order or an income-withholding order issued by a tribunal ***in***~~[of]~~ another state ***or a foreign support order*** may be registered in this state for enforcement.

➔Section 41. KRS 407.5602 is amended to read as follows:

(1) ***Except as otherwise provided in Section 60 of this Act*** a support order or income-withholding order of another state ***or a foreign support order*** may be registered in this state by sending the following~~[ documents and information]~~ to the Cabinet for Health and Family Services~~[ or the appropriate tribunal within this state wherein the obligor resides, works, or owns property]~~:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two (2) copies, including one (1) certified copy, of ***the order***~~[all orders]~~ to be registered, including any modification of ***the***~~[an]~~ order;

(c) A sworn statement by the ***person requesting***~~[party seeking]~~ registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known;

1. The obligor's address and the obligor's Social Security number provided in accordance with KRS 403.135;

2. The name and address of the obligor's employer and any other source of income of the obligor; and

3. A description and the location of property of the obligor in this state not exempt from execution; and

(e) ***Except as otherwise provided in Section 24 of this Act,*** the name and address of the obligee and, if applicable, the~~[ agency or]~~ person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as ***an order of a tribunal of another state or*** a foreign ***support order***~~[judgment]~~, together with one (1) copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

***(4) If two (2) or more orders are in effect, the person requesting registration shall:***

***(a) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;***

***(b) Specify the order alleged to be the controlling order, if any; and***

***(c) Specify the amount of consolidated arrears, if any.***

***(5) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.***

➔Section 42. KRS 407.5603 is amended to read as follows:

(1) A support order or income-withholding order issued in another state ***or a foreign support order*** is registered when the order is filed in the registering tribunal of this state.

(2) A registered ***support*** order issued in another state ***or foreign country*** is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(3) Except as otherwise provided in ***Article 6 of this chapter***~~[KRS 407.5602 to 407.5612]~~, a tribunal of this state

shall recognize and enforce, but may not modify, a registered ***support*** order if the issuing tribunal had jurisdiction.

➔SECTION 43. KRS 407.5604 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in subsection (4) of this section, the law of the issuing state or foreign country governs:***

***(a) The nature, extent, amount, and duration of current payments under a registered support order;***

***(b) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and***

***(c) The existence and satisfaction of other obligations under the support order.***

***(2) In a proceeding for arrears under a registered support order, the statute of limitation of this state, or of the issuing state or foreign country, whichever is longer, applies.***

***(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.***

***(4) After a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign country issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.***

➔Section 44. KRS 407.5605 is amended to read as follows:

(1) When a support order or income-withholding order issued in another state ***or a foreign support order*** is registered, the registering tribunal ***of this state*** shall notify the nonregistering party. The notice shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) ***A***~~[The]~~ notice shall inform the nonregistering party:

(a) That a registered ***support*** order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this state;

(b) That a hearing to contest the validity or enforcement of the registered order shall be requested within twenty (20) days of the notice ***unless the registered order is under Section 61 of this Act***;

(c) That failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages~~[ and precludes further contest of that order with respect to any matter that could have been asserted]~~; and

(d) Of the amount of any alleged arrearages.

(3) ***If the registering party asserts that two (2) or more orders are in effect, a notice shall also:***

***(a) Identify the two (2) or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;***

***(b) Notify the nonregistering party of the right to a determination of which is the controlling order;***

***(c) State that the procedures provided in subsection (2) of this section apply to the determination of which is the controlling order; and***

***(d) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.***

***(4)*** Upon registration of an income-withholding order for enforcement, ***the support enforcement agency of*** the registering tribunal shall notify the obligor's employer pursuant to KRS 403.215 or KRS 405.465.

➔Section 45. KRS 407.5606 is amended to read as follows:

(1) A nonregistering party seeking to contest the validity or enforcement of a registered ***support*** order in this state shall request a hearing within ***the time required by Section 44 of this Act***~~[twenty (20) days after notice of the registration]~~. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of

any alleged arrearages pursuant to ***Section 46 of this Act***~~[KRS 407.5607]~~.

(2) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered ***support*** order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

➔Section 46. KRS 407.5607 is amended to read as follows:

(1) A party contesting the validity or enforcement of a registered ***support*** order or seeking to vacate the registration has the burden of proving one (1) or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended, or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made;~~[ or]~~

(g) The statute of limitation under ***Section 43 of this Act***~~[KRS 407.5604]~~ precludes enforcement of some or all of the ***alleged*** arrearages***; or***

***(h) The alleged controlling order is not the controlling order***.

(2) If a party presents evidence establishing a full or partial defense under subsection (1) of this section, a tribunal may stay enforcement of ***a***~~[the]~~ registered ***support*** order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered ***support*** order may be enforced by all remedies available under the law of this state.

(3) If the contesting party does not establish a defense under subsection (1) of this section to the validity or enforcement of ***a registered support***~~[the]~~ order, the registering tribunal shall issue an order confirming the order.

➔Section 47. KRS 407.5608 is amended to read as follows:

Confirmation of a registered ***support*** order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

➔Section 48. KRS 407.5609 is amended to read as follows:

A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the same manner provided in ***Sections 40, 41, 42, 43, 44, 45, 46, and 47 of this Act***~~[KRS 407.5601 to 407.5604]~~ if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading ***shall***~~[must]~~ specify the grounds for modification.

➔Section 49. KRS 407.5610 is amended to read as follows:

A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered ***support*** order may be modified only if the requirements of ***Section 50 of this Act***~~[KRS 407.5611]~~ have been met.

➔SECTION 50. KRS 407.5611 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) If Section 52 of this Act does not apply, upon petition a tribunal of this state may modify a child support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:***

***(a) The following requirements are met:***

***1. Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;***

***2. A petitioner who is a nonresident of this state seeks modification; and***

***3. The respondent is subject to the personal jurisdiction of the tribunal of this state; or***

***(b) This state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.***

***(2) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.***

***(3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two (2) or more tribunals have issued child support orders for the same obligor and same child, the order that controls and shall be so recognized under Section 10 of this Act establishes the aspects of the support order which are nonmodifiable.***

***(4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.***

***(5) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.***

***(6) Notwithstanding subsections (1) to (5) of this section and subsection (2) of Section 4 of this Act, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:***

***(a) One (1) party resides in another state; and***

***(b) The other party resides outside the United States.***

➔SECTION 51. KRS 407.5612 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***If a child support order issued by a tribunal of this state is modified by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to KRS 407.5101 to 407.5902, a tribunal of this state:***

***(1) May enforce its order that was modified only as to arrears and interest accruing before the modification;***

***(2) May provide appropriate relief for violations of its order which occurred before the effective date of the modification; and***

***(3) Shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.***

➔Section 52. KRS 407.5613 is amended to read as follows:

(1) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(2) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of ***Articles 1 and 2 of this chapter***~~[KRS 407.5101 to 407.5209]~~, ***this Article***~~[KRS 407.5601 to 407.5614]~~, and the procedural and substantive law of the state to the proceeding for enforcement or modification. ***Articles 3, 4, 5, 7, and 8***~~[KRS 407.5301 to 407.5507 and KRS 407.5701 to 407.5802]~~ do not apply.

➔SECTION 53. A NEW SECTION OF ARTICLE 6 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in Section 65 of this Act, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether the consent to modification of a child support order otherwise required of the individual pursuant to Section 50 of this Act has been given or whether the individual seeking modification is a resident of this state or of the foreign country.***

***(2) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.***

➔SECTION 54. A NEW SECTION OF ARTICLE 6 OF KRS CHAPTER 407 IS CREATED TO READ AS

FOLLOWS:

***A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the Convention may register that order in this state under Sections 40, 41, 42, 43, 44, 45, 46, and 47 of this Act if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition shall specify the grounds for modification.***

➔SECTION 55. KRS 407.5701 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***In this Article:***

***(1) "Application" means a request under the Convention by an obligee or obligor, or on behalf of a child, made through a central authority for assistance from another central authority;***

***(2) "Central authority" means the entity designated by the United States or a foreign country described in paragraph (d) of subsection (5) of Section 1 of this Act to perform the functions specified in the Convention;***

***(3) "Convention support order" means a support order of a tribunal of a foreign country described in paragraph (d) of subsection (5) of Section 1 of this Act;***

***(4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States;***

***(5) "Foreign central authority" means the entity designated by a foreign country described in paragraph (d) of subsection (5) of Section 1 of this Act to perform the functions specified in the Convention;***

***(6) "Foreign support agreement":***

***(a) Means an agreement for support in a record that:***

***1. Is enforceable as a support order in the country of origin;***

***2. Has been:***

***a. Formally drawn up or registered as an authentic instrument by a foreign tribunal; or***

***b. Authenticated by, or concluded, registered, or filed with a foreign tribunal; and***

***3. May be reviewed and modified by a foreign tribunal; and***

***(b) Includes a maintenance arrangement or authentic instrument under the Convention; and***

***(7) "United States central authority" means the Secretary of the United States Department of Health and Human Services.***

➔SECTION 56. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***This Article applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this Article is inconsistent with Articles 1 to 6 of this chapter, this Article controls.***

➔SECTION 57. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***Under KRS 205.712, the Department for Income Support, Child Support Enforcement, within the Cabinet for Health and Family Services is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.***

➔SECTION 58. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) In a support proceeding under this Article, the Cabinet for Health and Family Services shall:***

***(a) Transmit and receive applications; and***

***(b) Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.***

***(2) The following support proceedings are available to an obligee under the Convention:***

***(a) Recognition or recognition and enforcement of a foreign support order;***

***(b) Enforcement of a support order issued or recognized in this state;***

***(c) Establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;***

***(d) Establishment of a support order if recognition of a foreign support order is refused under paragraph (b), (d), or (i) of subsection (2) of Section 62 of this Act;***

***(e) Modification of a support order of a tribunal of this state; and***

***(f) Modification of a support order of a tribunal of another state or a foreign country.***

***(3) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:***

***(a) Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;***

***(b) Modification of a support order of a tribunal of this state; and***

***(c) Modification of a support order of a tribunal of another state or a foreign country.***

***(4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.***

➔SECTION 59. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of this state applies.***

***(2) A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, Sections 60 to 67 of this Act apply.***

***(3) In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:***

***(a) A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and***

***(b) An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.***

***(4) A petitioner filing a direct request is not entitled to assistance from the Cabinet for Health and Family Services.***

***(5) This Article does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.***

➔SECTION 60. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in this Article, a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in this state as provided in Article 6 of this chapter.***

***(2) Notwithstanding Section 23 of this Act and subsection (1) of Section 41 of this Act, a request for registration of a Convention support order shall be accompanied by:***

***(a) A complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law;***

***(b) A record stating that the support order is enforceable in the issuing country;***

***(c) If the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;***

***(d) A record showing the amount of arrears, if any, and the date the amount was calculated;***

***(e) A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and***

***(f) If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.***

***(3) A request for registration of a Convention support order may seek recognition and partial enforcement of the order.***

***(4) A tribunal of this state may vacate the registration of a Convention support order without the filing of a contest under Section 61 of this Act only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.***

***(5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a Convention support order.***

➔SECTION 61. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in this Article, Sections 44, 45, 46, and 47 of this Act apply to a contest of a registered Convention support order.***

***(2) A party contesting a registered Convention support order shall file a contest not later than thirty (30) days after notice of the registration, but if the contesting party does not reside in the United States, the contest shall be filed not later than 60 days after notice of the registration.***

***(3) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (2) of this section, the order is enforceable.***

***(4) A contest of a registered Convention support order may be based only on grounds set forth in Section 62 of this Act. The contesting party bears the burden of proof.***

***(5) In a contest of a registered Convention support order, a tribunal of this state:***

***(a) Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and***

***(b) May not review the merits of the order.***

***(6) A tribunal of this state deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.***

***(7) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.***

➔SECTION 62. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in subsection (2) of this section, a tribunal of this state shall recognize and enforce a registered Convention support order.***

***(2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:***

***(a) Recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;***

***(b) The issuing tribunal lacked personal jurisdiction consistent with Section 4 of this Act;***

***(c) The order is not enforceable in the issuing country;***

***(d) The order was obtained by fraud in connection with a matter of procedure;***

***(e) A record transmitted in accordance with Section 60 of this Act lacks authenticity or integrity;***

***(f) A proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;***

***(g) The order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under KRS 407.5101 to 407.5902;***

***(h) Payment, to the extent alleged arrears have been paid in whole or in part;***

***(i) In a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country:***

***1. If the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or***

***2. If the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or***

***(j) The order was made in violation of Section 65 of this Act.***

***(3) If a tribunal of this state does not recognize a Convention support order under paragraph (b), (d), or (i) of subsection (2) of this section:***

***(a) The tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and***

***(b) The Cabinet for Health and Family Services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under Section 58 of this Act.***

➔SECTION 63. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***If a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.***

➔SECTION 64. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in subsections (3) and (4) of this section, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.***

***(2) An application or direct request for recognition and enforcement of a foreign support agreement shall be accompanied by:***

***(a) A complete text of the foreign support agreement; and***

***(b) A record stating that the foreign support agreement is enforceable as an order of support in the issuing country.***

***(3) A tribunal of this state may vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.***

***(4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:***

***(a) Recognition and enforcement of the agreement is manifestly incompatible with public policy;***

***(b) The agreement was obtained by fraud or falsification;***

***(c) The agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under KRS 407.5101 to 407.5902 in this state; or***

***(d) The record submitted under subsection (2) of this section lacks authenticity or integrity.***

***(5) A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.***

➔SECTION 65. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***(1) A tribunal of this state may not modify a Convention child support order if the obligee remains a resident of***

***the foreign country where the support order was issued unless:***

***(a) The obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or***

***(b) The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.***

***(2) If a tribunal of this state does not modify a Convention child support order because the order is not recognized in this state, subsection (3) of Section 62 of this Act applies.***

➔SECTION 66. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***Personal information gathered or transmitted under this Article may be used only for the purposes for which it was gathered or transmitted.***

➔SECTION 67. A NEW SECTION OF ARTICLE 7 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***A record filed with a tribunal of this state under this Article shall be in the original language and, if not in English, shall be accompanied by an English translation.***

➔Section 68. KRS 407.5801 is amended to read as follows:

(1) For purposes of this section and ***Section 69 of this Act***~~[KRS 407.5802]~~, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by KRS 407.5101 to 407.5902.

(2) The governor of this state may:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(b) On the demand ***of***~~[by]~~ the governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(3) A provision for extradition of individuals not inconsistent with KRS 407.5101 to 407.5902 applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled from the demanding state.

➔Section 69. KRS 407.5802 is amended to read as follows:

(1) Before making ***a*** demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least sixty (60) days previously the obligee had initiated proceedings for support pursuant to KRS 407.5101 to 407.5902 or that the proceedings would be of no avail.

(2) If, under KRS 407.5101 to 407.5902, or a law substantially similar to KRS 407.5101 to 407.5902,~~[ the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act,]~~ the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(3) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

➔SECTION 70. KRS 407.5901 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.***

➔SECTION 71. KRS 407.59015 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***KRS 407.5101 to 407.5902 applies to proceedings begun on or after the effective date of this Act to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.***

➔SECTION 72. A NEW SECTION OF ARTICLE 9 OF KRS CHAPTER 407 IS CREATED TO READ AS FOLLOWS:

***If any provision of KRS 407.5101 to 407.5902 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of KRS 407.5101 to 407.5902 which can be given effect without the invalid provision or application, and to this end provisions of KRS 407.5101 to 407.5902 are severable.***

➔Section 73. KRS 403.135 is amended to read as follows:

(1) If another section of this chapter or ***Section 23 of this Act***~~[KRS 407.5311]~~ or ***Section 41***~~[407.5602]~~ requires the provision of a personal identifier in a pleading, document, or exhibit filed with the court, the party making the filing shall provide the personal identifier in accordance with the Kentucky Rules of Civil Procedure.

(2) The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific order of the court.

(3) As used in this section, "personal identifier" means a Social Security number, name of minor child, date of birth, or financial account number.

**Signed by Governor March 19, 2015.**

## CHAPTER 19

**( SB 153 )**

AN ACT relating to motor carriers.

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

➔SECTION 1. KRS 281.010 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***As used in this chapter:***

***(1) "Automobile utility trailer" means any trailer or semitrailer designed for use with and towed behind a passenger motor vehicle;***

***(2) "Automobile utility trailer certificate" means a certificate authorizing a person to engage in the business of automobile utility trailer lessor;***

***(3) "Automobile utility trailer lessor" means any person operating under an automobile utility trailer certificate who is engaged in the business of leasing or renting automobile utility trailers, but shall not include the agents of such persons;***

***(4) "Broker" means a person selected by the cabinet through a request for proposal process to coordinate human service transportation delivery within a specific delivery area. A broker may also provide transportation services within the specific delivery area for which the broker is under contract with the cabinet;***

***(5) "Bus" means a motor vehicle operating under a bus certificate transporting passengers for hire between points over regular routes;***

***(6) "Bus certificate" means a certificate granting authority for the operation of one (1) or more buses;***

***(7) "Cabinet" means the Kentucky Transportation Cabinet;***

***(8) "Certificate" means a certificate of compliance issued under this chapter to motor carriers;***

***(9) "Charter bus" means a motor vehicle operating under a charter bus certificate providing for-hire intrastate***

*transportation of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;*

*(10) "Charter bus certificate" means a certificate granting authority for the operation of one (1) or more charter buses;*

*(11) "Commissioner" means the commissioner of the Department of Vehicle Regulation;*

*(12) "CTAC" means the Coordinated Transportation Advisory Committee created in KRS 281.870;*

*(13) "Department" means the Department of Vehicle Regulation;*

*(14) "Delivery area" means one (1) or more regions established by the cabinet in administrative regulations promulgated under KRS Chapter 13A for the purpose of providing human service transportation delivery in that region;*

*(15) "Disabled persons vehicle carrier" means a motor carrier for hire, transporting passengers including the general public who require transportation in disabled persons vehicles;*

*(16) "Disabled persons vehicle" means a motor vehicle operating under a disabled persons vehicle certificate especially equipped for the transportation of passengers with disabilities in accordance with 49 C.F.R. Part 38, and is designed or constructed with not more than fifteen (15) regular seats. It shall not mean an ambulance as defined in KRS 311A.010. It shall not mean a motor vehicle equipped with a stretcher;*

*(17) "Disabled persons vehicle certificate" means a certificate granting authority for the operation of one (1) or more disabled persons vehicles transporting passengers for hire;*

*(18) "Driveaway" means the transporting and delivering of motor vehicles, except semitrailers and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for hire. "Driveaway" does not include the transportation of such vehicles by the full mount method on trailers or semitrailers;*

*(19) "Driveaway certificate" means a certificate granting authority for the operation of one (1) or more motor carrier vehicles operating as a driveaway;*

*(20) "Driver" means the person physically operating the motor vehicle;*

*(21) "Highway" means all public roads, highways, streets, and ways in this state, whether within a municipality or outside of a municipality;*

*(22) "Household goods" has the same meaning as in 49 C.F.R. sec. 375.103;*

*(23) "Household goods carrier" has the same meaning as "household goods motor carrier" in 49 C.F.R. sec. 375.103;*

*(24) "Household goods certificate" means a certificate granting authority for the operation of one (1) or more household goods vehicles;*

*(25) "Human service transportation delivery" means the provision of transportation services to any person that is an eligible recipient in one (1) of the following state programs:*

*(a) Nonemergency medical transportation under KRS Chapter 205;*

*(b) Mental health, intellectual disabilities, or comprehensive care under KRS Chapter 202A, 202B, 210, or 645;*

*(c) Work programs for public assistance recipients under KRS Chapter 205;*

*(d) Adult services under KRS Chapter 205, 209, 216, or 273;*

*(e) Vocational rehabilitation under KRS Chapter 151B or 157; or*

*(f) Blind industries or rehabilitation under KRS Chapter 151B or 163;*

*(26) "Interstate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;*

*(27) "Intrastate commerce" has the same meaning as in 49 C.F.R. sec. 390.5;*

*(28) "Limousine" means a motor vehicle operating under a limousine certificate that is designed or constructed*

*with not more than fifteen (15) regular seats;*

*(29) "Limousine certificate" means a certificate granting authority for the operation of one (1) or more limousines transporting passengers for hire;*

*(30) "Mobile application" means an application or a computer program designed to run on a smart phone, tablet computer, or other mobile device that is used by a TNC to connect drivers with potential passengers;*

*(31) "Motor carrier" means any person in either a private or for-hire capacity who owns, controls, operates, manages, or leases, except persons leasing to authorized motor carriers, any motor vehicle for the transportation of passengers or property upon any highway, and any person who engages in the business of automobile utility trailer lessor, driveaway, or U-Drive-It;*

*(32) "Motor carrier vehicle" means a motor vehicle used by a motor carrier to transport passengers or property;*

*(33) "Motor carrier vehicle license" means a license issued by the department for a motor carrier vehicle authorized to operate under a certificate;*

*(34) "Motor carrier license plate" means a license plate issued by the department to a motor carrier authorized to operate under a certificate other than a household goods, property, TNC, or U-Drive-It certificate;*

*(35) "Motor vehicle" means any motor-propelled vehicle used for the transportation of passengers or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles;*

*(36) "Passenger" means an individual or group of people;*

*(37) "Permit" means a temporary permit of compliance issued under this chapter for a specified period not to exceed ten (10) days, and for a specific vehicle, to any motor carrier, including one who is a nonresident of the Commonwealth, who operates a motor vehicle and is not entitled to an exemption from the payment of fees imposed under Section 38 of this Act because of the terms of a reciprocal agreement between the Commonwealth and the state in which the vehicle is licensed;*

*(38) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and includes any trustee, assignee, or personal representative thereof;*

*(39) "Prearranged ride" means the period of time that begins when a transportation network company driver accepts a requested ride through a digital network or mobile application, continues while the driver transports the rider in a personal vehicle, and ends when the transportation network company services end;*

*(40) "Pre-trip acceptance liability policy" means the transportation network company liability insurance coverage for incidents involving the driver for a period of time when a driver is logged into a transportation network company's digital network or mobile application but is not engaged in a prearranged ride;*

*(41) "Property" means general or specific commodities, including hazardous and nonhazardous materials;*

*(42) "Property certificate" means a certificate granting authority for the transportation of property, other than household goods, not exempt under Section 5 of this Act;*

*(43) "Regular route" means the scheduled transportation of passengers between designated points over designated routes under time schedules that provide a regularity of services;*

*(44) "Regular seat" means a seat ordinarily and customarily used by one (1) passenger and, in determining such seating capacity, the manufacturer's rating may be considered;*

*(45) "Street hail" means a request for service made by a potential passenger using hand gestures or verbal statement;*

*(46) "Subcontractor" means a person who has signed a contract with a broker to provide human service transportation delivery within a specific delivery area and who meets human service transportation delivery requirements, including proper operating authority;*

*(47) "Tariff" means the listing of compensation received by a motor carrier for household goods that includes the manner in which and the amount of fares an authorized motor carrier may charge;*

*(48) "Taxicab" means a motor vehicle operating under a taxicab certificate that is designed or constructed with not more than eight (8) regular seats and may be equipped with a taximeter;*

*(49) "Taxicab certificate" means a certificate granting authority for the operation of one (1) or more taxicabs transporting passengers for hire;*

***(50) "Taximeter" means an instrument or device approved by the department that automatically calculates and plainly indicates the charge to a passenger for hire who is being charged on the basis of mileage;***

***(51) "Transportation network company" or "TNC" means a person or entity that connects passengers through its digital network or mobile application to its drivers for the provision of transportation network company services;***

***(52) "Transportation network company certificate" or "TNC certificate" means a certificate granting the authority for the operation of one (1) or more transportation network company vehicles transporting passengers for hire;***

***(53) "Transportation network company driver" or "TNC driver" means an individual who operates a motor vehicle that is owned or leased by the individual, or a motor vehicle for which the driver is an insured driver and has the permission of the owner or lessee of the motor vehicle, and used to provide transportation network company services;***

***(54) "Transportation network company service" or "TNC service" means a prearranged passenger transportation service offered or provided through the use of a transportation network company mobile application or digital network to connect potential passengers with transportation network company drivers;***

***(55) "Transportation network company vehicle" or "TNC vehicle" means a privately owned or leased motor vehicle, designed or constructed with not more than eight (8) regular seats, operating under a transportation network company certificate;***

***(56) "U-Drive-It" means any person operating under a U-Drive-It certificate who leases or rents a motor vehicle for consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee; and***

***(57) "U-Drive-It certificate" means a certificate granting authority for the operation of one (1) or more U-Drive-Its.***

➔Section 2. KRS 281.590 is amended to read as follows:

It is hereby declared to be the public policy of this Commonwealth***:***

***(1)*** To provide for fair and impartial regulation of all transportation subject to the provisions of this chapter, so administered as to recognize and preserve the inherent advantages of each type of motor transportation; to promote safe, adequate, economical and efficient service~~[ and foster sound economic conditions in transportation and among the several carriers]~~;

***(2)*** To encourage the establishment and maintenance of reasonable charges for such transportation service, without unjust discriminations~~[,]~~ ***or*** undue preferences or advantages~~[, or unfair or destructive competitive practices]~~; ***and***

***(3)*** To cooperate with the several states and the duly authorized officials thereof, all to the end of developing, coordinating and preserving a state transportation system by motor vehicles as defined in this chapter adequate to meet the needs of this Commonwealth. All of the provisions of this chapter shall be administered and enforced with the view to carry out the~~[ above]~~ declaration of policy ***in this section***.

➔Section 3. 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 carrier transportation as defined in this chapter, and shall apply, as far as practicable, the administrative and judicial interpretations of ***acts administered by the Federal Motor Carrier Safety Administration and other federal agencies under the United States Department of Transportation***~~[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 provisions established by the Federal Highway Administration in 49 C.F.R. sec. 390.21 and 49 C.F.R. pts. 391, 393, 395, and 396 shall not apply to a motor vehicle registered under KRS 186.050(4)(a)1., or its towed unit, if:

(a) The vehicle is not engaged in interstate commerce;

(b) The vehicle is engaged in farming or agricultural related activities; and

(c) The gross vehicle weight, gross vehicle weight rating, gross vehicle combination weight, or gross vehicle combination weight rating of the vehicle and its towed unit is twenty-six thousand (26,000) pounds or less.

(4) The provisions established by the Federal Highway Administration in 49 C.F.R. secs. 391.41 to 391.49 and 49 C.F.R. pt. 395 shall not apply to a motor vehicle registered under KRS 186.050(3)(b), or its towed unit, if:

(a) The vehicle is not engaged in interstate commerce;

(b) The vehicle is not transporting hazardous materials required to be placarded in accordance with 49 C.F.R. pt. 172;

(c) The vehicle is not designed or used to transport sixteen (16) or more passengers, including the driver; and

(d) The gross vehicle weight, gross vehicle weight rating, gross vehicle combination weight, or gross vehicle combination weight rating of the vehicle and its towed unit is twenty-six thousand (26,000) pounds or less.

(5) 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 4. KRS 281.602 is amended to read as follows:

The Department of Vehicle Regulation shall have the authority to file the notice of a lien with the county clerk prescribed in KRS 131.515 with respect to any license tax, excise tax, motor fuel tax, or other motor vehicular tax ***or fee*** administered by the department.

➔Section 5. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection;

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or

(e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in KRS 311A.010;

(9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;

(12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate~~[ of public convenience and necessity]~~ or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles shall not constitute an integrated intermodal operation within the meaning of this section;

(13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI;

(14) Motor vehicles used to transport children to educational events or conservation camps run by, or sponsored by, the Department of Fish and Wildlife;

(15) Motor vehicles used to transport children to events or camps run by, or sponsored by, the Kentucky Sheriffs Association; or

(16) (a) Motor vehicles used in the transportation of persons who are sixty (60) years of age or older or who are visually impaired, if the motor vehicles are owned by a nonprofit organization or being used on behalf of a nonprofit organization that is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code.

(b) Motor vehicles owned and operated by a nonprofit organization that are exempt under this subsection shall be subject to liability insurance coverage as established by KRS 281.655.

(c) Motor vehicles owned privately but operated on behalf of a nonprofit organization that are exempt under this subsection shall be subject to liability insurance coverage as established by KRS 304.39-110.

➔Section 6. KRS 281.610 is amended to read as follows:

(1) The provisions of this chapter shall apply to interstate commerce, except insofar as such application is in conflict with any provision of the Constitution of the United States or the Acts of Congress.

(2) The commissioner may grant a certificate~~[ of convenience and necessity]~~ for the transportation of ***passengers***~~[persons]~~ or property for compensation in interstate commerce, and may regulate such interstate commerce under the authority of and in accordance with the provisions of any Act of Congress vesting in or delegating to the commissioner such authority as an agency of the United States government. The commissioner may notify the proper department of the federal government of his assent to the requirements and conditions of such Act of Congress in regard to interstate commerce by motor vehicle.

➔Section 7. KRS 281.6185 is amended to read as follows:

***All***~~[(1)For human service transportation delivery programs, Any]~~ disabled persons ***vehicles***~~[carrier transporting persons with disabilities requiring the use of specialized equipment]~~ shall ***be in compliance***~~[comply]~~ with the provisions of ***49 C.F.R. Part 38 and this chapter***~~[KRS 281.014(5)(a)]~~. A carrier operating under a disabled ***persons vehicle***~~[person]~~ certificate may provide service to any person not requiring the use of the specialized equipment. A person requiring the use of specialized equipment may be accompanied by a companion.

~~[(2) Any person or his predecessor in interest engaged as of January 1, 1998, in the transportation of disabled persons, pursuant to a valid taxicab certificate or a taxicab certificate limited to wheelchair equipped vans issued by the department, authorizing this activity, shall, upon application, be issued a certificate as a disabled persons carrier to authorize a continuation of the same operation, except the origin of the trip may be anywhere in the authorized county rather than restricted to the city and its suburban area. Any person or the person's predecessor in interest with a pending taxicab application filed prior to January 1, 1998, may elect to amend the pending taxicab application so as to designate all or a portion of the application as an application for approval to operate disabled person vehicles.]~~

➔SECTION 8. KRS 281.624 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***The department shall promulgate administrative regulations pursuant to KRS Chapter 13A to establish requirements and to set forth standards for household goods carriers, including but not limited to the:***

***(1) Determination of weights;***

***(2) Establishment of rates for accessorial services;***

***(3) Types of discounts prohibited;***

***(4) Prohibition against a carrier acting as an agent for another carrier;***

***(5) Insurance provisions;***

***(6) Information required on a receipt or bill of lading;***

***(7) Information required on a freight bill;***

***(8) Liability of carriers;***

***(9) Estimation of charges;***

***(10) Absorption or advancement of dock charges;***

***(11) Information for prospective shippers;***

***(12) Minimum weight shipments; and***

***(13) Filing of tariffs.***

➔Section 9. KRS 281.626 is amended to read as follows:

~~[(1) ]~~Any person who operates as a U-Drive-It and rents vehicles for less than sixty (60) days shall obtain a U-Drive-It ***certificate***~~[permit]~~ prior to beginning operations. Any person who operates as a U-Drive-It and rents or leases vehicles for sixty (60) days or more may obtain a U-Drive-It ***certificate***~~[permit.~~

~~(2) For any person seeking a U-Drive-It permit who is subject to a hearing to be held by the department upon his application pursuant to KRS 281.625, the question for determination shall be the fitness, willingness, and ability of the applicant, and whether the operation proposed is bona fide.]~~

➔SECTION 10. KRS 281.630 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A person shall not act as a motor carrier without first obtaining a certificate from the department.***

***(2) A certificate for the intrastate transportation of passengers or property, including household goods, shall be issued to any qualified applicant authorizing operation covered by the application, if it is found that the applicant conforms to the provisions of this chapter and the requirements of the administrative regulations promulgated in accordance with this section.***

***(3) (a) The department shall issue the following certificates:***

***1. Taxicab certificate;***

***2. Limousine certificate;***

***3. Disabled persons vehicle certificate;***

***4. Transportation network company certificate;***

***5. Household goods certificate;***

***6. Charter bus certificate;***

***7. Bus certificate;***

***8. U-Drive-It certificate;***

***9. Property certificate;***

***10. Driveaway certificate; and***

***11. Automobile utility trailer certificate.***

***(b) Application for a certificate shall be made in such form as the department may require. The department shall receive an application fee of two hundred fifty dollars ($250) for all applications, except that the department shall receive an application fee of twenty-five dollars ($25) for a property certificate.***

***(c) Before the department may issue a certificate, an applicant shall:***

***1. Pay the application fee established under paragraph (b) of this subsection;***

***2. For entities other than TNCs, file a motor carrier vehicle license application for each motor carrier vehicle as required by Section 12 of this Act. The applicant shall file at least one (1) motor carrier vehicle license application before being eligible for a certificate;***

***3. For TNCs, file a TNC authority application with the department pursuant to administrative regulations promulgated by the department;***

***4. File with the department one (1) or more approved indemnifying bonds or insurance policies as required by Section 15 of this Act;***

***5. For taxicab, limousine, disabled persons vehicle, TNC, household goods, charter bus, and bus certificates, obtain and retain for a period of at least three (3) years, a nationwide criminal background check, in compliance with Section 11 of this Act, of each owner, official, employee, independent contractor, or agent operating a passenger vehicle or household goods vehicle or entering a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods;***

***6. For household goods certificates, file with the department a current tariff; and***

***7. For a bus certificate, file with the department authorization from a city as required by Section 13 of this Act.***

***(4) (a) Every certificate shall be renewed annually. Application for renewal shall be in such form as the department may require.***

***(b) A certificate not renewed within one (1) calendar year after the date for its renewal shall become null and void.***

***(c) The department shall not renew any certificate if it has been revoked or, if suspended, during the period of any suspension. A certificate shall not be considered revoked or suspended when an appeal of the revocation or suspension is pending in a court of competent jurisdiction.***

***(d) For the renewal of an intrastate certificate, the department shall receive a fee of two hundred fifty dollars ($250), except for an application for renewal of a property certificate, for which the department shall receive a fee of twenty-five dollars ($25).***

***(e) Before the department may renew a certificate, the certificate holder shall:***

***1. Pay the renewal fee established under paragraph (d) of this subsection;***

***2. For the entities other than TNCs, file a motor carrier vehicle license application or renewal for each motor carrier vehicle as required by Section 12 of this Act. The certificate holder shall file at least one (1) motor carrier vehicle license application or renewal before being eligible for renewal;***

***3. For TNCs, file a TNC authority application with the department pursuant to administrative regulations promulgated by the department;***

***4. File with the department one (1) or more approved indemnifying bonds or insurance policies as required by Section 15 of this Act;***

***5. Every three (3) years, for taxicab, limousine, disabled persons vehicle, TNC, household goods, charter bus, and bus certificates, obtain and retain for a period of at least three (3) years, a nationwide criminal background check in compliance with Section 11 of this Act, of each owner, official, employee, independent contractor, or agent operating a passenger vehicle or entering a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods. However, within the three (3) year period:***

***a. If a new owner, official, employee, independent contractor, or agent joins the certificate holder and performs the aforementioned duties; or***

***b. If the certificate holder has knowledge that a current owner, official, employee, independent contractor, or agent who performs the aforementioned duties has been convicted of or pled guilty to any of the offenses listed in subsection (2) of Section 11 of this Act;***

***then the certificate holder shall obtain and retain for a period of at least three (3) years, a nationwide criminal background check for that owner, official, employee, independent contractor, or agent; and***

***6. For household goods certificates, have on file with the department a current tariff.***

***(5) (a) A motor carrier operating under a household goods certificate shall, at all times the certificate is in effect, maintain on file with the department a current tariff.***

***(b) Except for a household goods certificate holder that has had only an out-of-state address on file with the department prior to January 1, 2015, all certificate holders shall maintain on file with the department an address within the Commonwealth. The certificate holder shall keep open for public inspection at that address such information as the department may require.***

***(c) The certificate holder shall not charge, demand, collect, or receive a greater, less, or different compensation for the transportation of household goods or for any service in connection therewith, than the tariff filed with the department and in effect at the time would require. A certificate holder shall not make or give any unreasonable preference or advantage to any person, or subject any person to any unreasonable discrimination.***

***(6) A certificate shall not be transferred unless the transfer involves either the change of the legal name of the***

***existing certificate holder or the incorporation of a sole proprietor certificate holder.***

***(7) A certificate authorizing a person to act as an automobile utility trailer lessor shall also authorize the agents of the person to act on his or her behalf during the period of their agency.***

***(8) A motor carrier vehicle shall not be operated after the expiration of the certificate under which it is operated.***

***(9) A person shall not knowingly employ the services of a motor carrier not authorized to perform such services.***

***(10) If the department, after a hearing held upon its own motion or upon complaint, finds any existing rate unjustly discriminatory, or finds the services rendered or facilities employed by any motor carrier to be unsafe, inadequate, inconvenient, or in violation of law or of the administrative regulations of the department, it may by final order do any or all of the following:***

***(a) Require the certificate holder to follow any rate or time schedule in effect at the time of service;***

***(b) Require the certificate holder to issue a refund to the complainant;***

***(c) Require the certificate holder to pay the fine set out in Section 33 of this Act to the department; and***

***(d) Determine the reasonable, safe, adequate, and convenient service to be thereafter furnished.***

***(11) Hearings conducted under authority of this section shall be conducted in the same manner as provided in Section 14 of this Act.***

***(12) The department shall have the power to promulgate administrative regulations as it may deem necessary to carry out the provisions of this section.***

➔Section 11. KRS 281.6301 is amended to read as follows:

(1) A person granted a ***taxicab, limousine, disabled persons vehicle, transportation network company,*** household goods***, charter bus, or bus*** certificate~~[ under KRS 281.624]~~ shall obtain and retain for a period of at least three (3) years a ***nationwide*** criminal background check of each ***certificate holder, owner, official,*** employee***, independent contractor, or agent operating a passenger or household goods vehicle, or*** whose duties may require ***in person*** contact with the public or entry into a private residence or storage facility for the purpose of providing or facilitating the transportation of household goods.

(2) A~~[ household goods]~~ certificate holder shall not ***engage, permit, or*** employ any person***, including the certificate holder,*** to perform any of the duties outlined in subsection (1) of this section if that person has been convicted of any of the following offenses:

(a) A Class A felony;

(b) A Class B felony; or

(c) A sex crime as defined in KRS 17.500.

(3) ***A certificate holder shall not engage, permit, or employ any person, including the certificate holder, to operate a motor carrier vehicle if that person has been convicted of any of the following offenses:***

***(a) Leaving the scene of a traffic accident;***

***(b) Causing a fatality or fatalities through negligent operation of a vehicle;***

***(c) Using a vehicle in the commission of a felony involving the manufacture or distribution of a controlled substance.***

***(4) A certificate holder shall not engage, permit, or employ any person, including the certificate holder, to operate a motor carrier vehicle if that person has been convicted of any of the following offenses in the past three (3) years:***

***(a) Operating a motor vehicle on a suspended license in violation of KRS 186.620(2);***

***(b) Operating a motor vehicle twenty-six (26) miles per hour or more in excess of the speed limit in violation of KRS 189.390; or***

***(c) Racing.***

***(5) A certificate holder shall not engage, permit, or employ any person, including the certificate holder, to***

***operate a motor carrier vehicle if that person has four (4) convictions in the past three (3) years for operating a motor vehicle in excess of the speed limit in violation of KRS 189.390 or for any offense which requires the assessment of penalty points by the department.***

***(6)*** Criminal background checks under this section shall be:

(a) Performed at the expense of the~~[ household goods]~~ certificate holder;

(b) Completed prior to the employment of ***or contracting with*** an applicant; and

(c) Completed using an entity from an approved list issued by the ***department***~~[cabinet]~~.

(4) The ***department***~~[cabinet]~~ shall promulgate administrative regulations pursuant to KRS Chapter 13A to implement the provisions of this section.

➔SECTION 12. KRS 281.631 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) No person shall act as a motor carrier without first obtaining a motor carrier vehicle license from the department for each motor carrier vehicle.***

***(2) Application for and renewal of a motor carrier vehicle license shall be made in such form as the department may require. Every motor carrier vehicle license shall be renewed annually.***

***(3) (a) Except as permitted under paragraph (b) of this subsection, an applicant or license holder shall pay to the department the following annual license fees:***

***1. Thirty dollars ($30) for each taxicab, limousine, TNC, or disabled persons vehicle;***

***2. Ten dollars ($10) for each motor carrier vehicle transporting household goods for hire;***

***3. One hundred dollars ($100) for each charter bus or bus;***

***4. Fifteen dollars ($15) for each motor carrier vehicle operating as a U-Drive-It;***

***5. Ten dollars ($10) for each motor carrier vehicle transporting property other than `household goods and those exempt under Section 5 of this Act;***

***6. Ten dollars ($10) for each motor carrier vehicle operating as a driveaway; and***

***7. Ten dollars ($10) for each automobile utility trailer.***

***(b) The cabinet may promulgate administrative regulations to set forth an optional motor carrier vehicle license fee schedule under this subsection on a bulk basis for applicants who employ or contract with more than fifty (50) vehicles. Bulk application fees under these administrative regulations may use a tiered system based on the type of certificate and the number of vehicles.***

***(4) Before the department may issue or renew a motor carrier vehicle license, the applicant or license holder shall:***

***(a) Pay the fee established under subsection (3) of this section;***

***(b) For a taxicab, limousine, disabled persons vehicle, TNC vehicle, charter bus, and bus, provide a copy of the vehicle registration for each out-of-state registered motor carrier vehicle being licensed, and if necessary, a statement showing that the driver is an insured driver of the vehicle, and that the registered owner or lessee authorizes the use of the vehicle for TNC services; and***

***(c) For a taxicab, limousine, disabled persons vehicle, TNC vehicle, charter bus, and bus, obtain and retain for a period of at least three (3) years, an inspection of the motor vehicle in the manner and form as the department may require.***

***(5) No motor carrier vehicle shall be operated after the expiration of the motor carrier vehicle license under which it is operated.***

***(6) All cities or counties of the Commonwealth may impose an annual license fee on an intrastate taxicab, limousine, or disabled persons vehicle operated from said city or county. The annual license fee shall not exceed thirty dollars ($30) per vehicle.***

***(7) Notwithstanding any other provisions of this section, nonresident motor carriers engaged in transporting passengers for hire in irregular route interstate charter or special operations shall be exempt from all fees prescribed in this chapter, if reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his or her state.***

***(8) If any person required to pay a license fee under subsection (3) of this section, begins the operation of an additional motor carrier vehicle after the date of their certificate or renewal, the fee shall be as many twelfths of the annual fee as there are unexpired months in the certificate or renewal year.***

***(9) The department may promulgate administrative regulations as it deems necessary to carry out.***

➔Section 13. KRS 281.635 is amended to read as follows:

Notwithstanding anything contained in this chapter:

(1) All cities of the Commonwealth are vested with the power to~~[ sell franchises or, where no franchise is sold,]~~ grant ***authorization***~~[authorizations]~~ for the operation of~~[ city]~~ buses over their streets and highways~~[; provided, however, no person shall apply for or obtain any such franchise or authorization from any city without a prior finding by the Department of Vehicle Regulation, after a hearing, conducted pursuant to KRS 281.625, that there is a demand and necessity for the service sought to be rendered, which finding shall be valid and effective for a period of one (1) year from and after the date thereof, exclusive of any delay due to the order of any court. Upon certification by the department to a city that there is a demand and necessity for the service sought to be rendered, any city may award any duly qualified person a franchise or authorization covering the proposed operation]~~. Upon acquiring~~[ a franchise or]~~ authorization, the holder ***of the authorization***~~[thereof]~~ shall apply to the Department of Vehicle Regulation for a~~[ city]~~ bus certificate~~[ which shall be issued to the holder of the franchise or authorization without a hearing. The governing body of any city which does not have a city bus service may determine that there is a demand and necessity for a city bus service, and may thereafter apply to the Department of Vehicle Regulation for a city bus certificate to be operated by the city which may be issued without a hearing, if the department determines that it will be in the public interest. Unless a certificate is exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court, the authority conferred by the issuance of the certificate of convenience and necessity shall be void]~~.

(2)~~[ The applicant for a certificate or renewal of a certificate to operate a city bus shall at the time of application file with the department a map or maps showing the route or routes and territory proposed to be served, together with a time schedule, and shall thereafter, during the license year, file only those additional maps or time schedules that the commissioner may require.~~

~~(3)]~~ The governing body of any city in the Commonwealth in which city buses operate shall have supervisory and regulatory power over ***such***~~[city]~~ buses, while operating in the city, and shall have authority to enforce all ordinances or regulations pertaining to routes, services, time schedules, and operation of the~~[ city]~~ buses and the drivers thereof, but any interested party may appeal to the department from any action, finding, or order of any city within thirty (30) days after the entry of the action, finding, or order, and a hearing shall be held ***in accordance with Section 14 of this Act***~~[before the department in the same manner as other hearings are held as provided for in this chapter]~~; however, any action, finding, or order of any city shall be sustained if there is substantial evidence or reason to support it; otherwise the department shall make the orders as it deems necessary and proper. However, where a carrier's entire operation is confined to intracity transportation within the corporate limits of a single city, there shall be no appeal to the department from the actions, findings, or orders of the city. Provided further, that where any city bus is subject to the regulatory powers of more than one (1) city and the regulations are in conflict or such as to impede the transportation facilities serving the cities, or the carrier is failing to furnish safe, adequate and convenient service to the public, the department may, upon complaint or on its own initiative, call a hearing and enter orders as are necessary and proper.

***(3)***~~[(4)]~~ The governing body of any city ***of the first class, a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first class, a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, or an urban-county government,*** in the Commonwealth in which taxicabs***, limousines, or disabled persons vehicles*** operate shall have ***concurrent*** supervisory and regulatory power over ***those certified carriers operating from***~~[taxicabs certificated to operate in the city, and while operating in]~~ the city, and shall have authority to enforce all ordinances or regulations pertaining to ***their***~~[the number and]~~ operation~~[ of taxicabs]~~, but any interested party may appeal to the department from any action, finding, or order of any city within thirty (30) days after the entry of the action, finding, or order, and a hearing shall be held ***in accordance with Section 14 of this Act***~~[before the department in the same manner as other hearings are held as provided for in this chapter]~~; however, any action, finding, or order of any city shall be sustained if there is substantial evidence or reason to support it; otherwise, the department shall make any orders that it deems necessary and proper. ***Where any taxicab, limousine, or disabled persons vehicle carrier is subject to the regulatory powers of more than one (1) city and the regulations of those cities are in conflict or impede serving the transportation needs of the Commonwealth, the department may, upon***

***complaint or on its own initiative, call a hearing and enter orders as are necessary and proper, including establishing or requiring the establishment of uniform regulations***~~[However, where a carrier's entire operation is confined to intracity transportation within the corporate limits of a single city, there shall be no appeal to the department from the actions, findings, or orders of the city]~~.

***(4)***~~[(5)]~~ The governing body of any city ***of the first class, a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first class, a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, or an urban-county government,*** in the Commonwealth is hereby vested with the ***concurrent***~~[exclusive]~~ power to prescribe the qualifications with respect to the health, vision, sobriety, intelligence, ability, moral character, and experience of the drivers of taxicabs***, limousines, or disabled persons vehicles operating from***~~[ certificated to operate in]~~ the city, and while operating in the city, and may issue permits for qualified drivers. However, any taxicab***, limousine, disabled persons vehicle, or TNC vehicle*** driver must also possess a ***valid***~~[Kentucky]~~ operator's license ***from Kentucky or another jurisdiction***.

***(5)***~~[(6) Until any city of the Commonwealth enacts ordinances or prescribes rules and regulations as may be reasonably necessary to exercise the prior powers delegated in this section to the cities respecting the supervision and regulation of city buses, taxicabs, and taxicab drivers, the department shall possess the powers and may promulgate administrative regulations reasonably necessary to supervise and control city buses, taxicabs, and taxicab drivers, having regard for the public safety and the public need for service.~~

~~(7) If any city fails to exercise any of the authority granted it in this section, the authority shall be vested in the department.~~

~~(8) The department may, under the provisions of this chapter, originate, establish, change, promulgate, and enforce any rate that has or may be fixed by any contract, franchise, or agreement between the holder of any city bus certificate and any city, and all rights and obligations arising out of any contract regulating any rate shall be subject to the jurisdiction and supervision of the department, but no rate shall be changed nor any contract, franchise, or agreement affecting it be abrogated or changed until a hearing has been conducted.~~

~~(9)]~~ The governing body of a city shall not have authority over a motor vehicle that is being operated as a human service transportation delivery vehicle under a contract with the Transportation Cabinet in accordance with KRS 96A.095(4).

➔Section 14. KRS 281.640 is amended to read as follows:

***(1)*** Hearings before the department shall be conducted in accordance with the provisions of KRS Chapter 13B.~~[ The hearing shall be conducted by an examiner, who shall be a practicing attorney in this state and who shall be a full-time employee of the department. The examiner shall be appointed by the commissioner of the department.]~~

***(2) After a hearing held upon the department's motion or upon complaint, in addition to the remedies outlined in subsection (10) of Section 10 of this Act, the department may suspend or revoke any certificate or license issued to a motor carrier if the department is satisfied the motor carrier or the motor carrier's drivers, other agents, or motor carrier vehicles:***

***(a) Violate the provisions of this chapter;***

***(b) Violate an order or administrative regulation promulgated by the department;***

***(c) Violate the laws of this state; or***

***(d) Are found to be unfit to carry out the duties, obligations, and responsibilities of a motor carrier.***

***(3)*** The commissioner or one (1) of the assistant commissioners with approval by the commissioner, shall have authority to issue a final order of the department. The recommended order shall not become the final order of the department through failure to file exceptions, but in the absence of exceptions ordinarily will be taken by the department as the basis of its final order.~~[ However, nothing contained in this section shall prevent the commissioner from holding or conducting any hearing, referred to in this section, in regard to rates, fares, and charges, and his decision shall be the final order of the department]~~

***(4) The department shall have the right to withdraw, set aside, or amend any final order it has issued, except that such action upon the part of the department shall be taken between the date of the rendition of the final order and the expiration of the time for appeal or until an appeal has been taken.***

***(5) The renewal by the department of the certificate of a motor carrier shall not be construed to be a waiver of any violation that occurred prior to the renewal and shall not prevent subsequent proceedings against the motor carrier.***

***(6) An appeal to the Franklin Circuit Court may be taken from any final order of the department by anyone who was a party to the proceedings before it by filing a petition of appeal with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B. In the case of an appeal in which a certificate has been revoked or suspended, the certificate shall remain in force until final disposition of the appeal***.

➔Section 15. KRS 281.655 is amended to read as follows:

(1) Before any certificate~~[ or permit]~~ will be issued or renewed, the applicant or holder of the certificate~~[ or permit]~~ shall file or shall have on file with the department ***one (1) or more***~~[an]~~ approved indemnifying ***bonds***~~[bond]~~ or insurance ***policies***~~[policy]~~ issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of ***each***~~[the]~~ bond or policy shall be continuous and shall remain in full force until canceled under proper notice. ***Each***~~[The]~~ bond or policy shall have attached thereto the state insurance endorsement. All bonds or policies required ***under this section***~~[herein]~~ shall be issued in the name of the holder of the certificate~~[ or permit]~~. In lieu of the ***bonds***~~[bond]~~ or ***policies***~~[policy]~~, the department, under appropriate regulations, may require the filing of ***one (1) or more***~~[an]~~ approved ***certificates***~~[certificate]~~ of insurance, the ***terms***~~[term]~~ of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(2) The ***bonds***~~[bond]~~ or ***policies***~~[policy]~~ required of a U-Drive-It or automobile utility trailer lessor shall provide public liability and property damage coverage when operated either by the lessee or lessor thereof or agents, servants, or employees of either.

(3) All bonds or policies shall provide blanket coverage for all equipment operated pursuant to the certificate or permit.

(4) ~~[Except as provided in subsection (12) of this section, ]~~The types and minimum amounts of insurance to be carried on each vehicle shall be as follows:

MOTOR VEHICLES FOR THE TRANSPORTATION OF PERSONS,

INCLUDING U-DRIVE-ITS

| Capacity | Death of or Injury to Any One Person | Total Liability for Death of or Injury to Persons | Property Damage |
|---|---|---|---|
| ***7 regular seats*** | ***$100,000.00*** | ***$300,000.00*** | ***$50,000.00*** |
| ***8 or more regular seats*** | ***$100,000.00*** | ***$600,000.00*** | ***$50,000.00*** |
| ~~[7 persons or less~~ | ~~$10,000.00~~ | ~~$20,000.00~~ | ~~$5,000.00~~ |
| ~~8 to 16 inclusive~~ | ~~10,000.00~~ | ~~30,000.00~~ | ~~5,000.00~~ |
| ~~17 to 25 inclusive~~ | ~~10,000.00~~ | ~~40,000.00~~ | ~~5,000.00~~ |
| ~~26 or more~~ | ~~10,000.00~~ | ~~50,000.00~~ | ~~5,000.00]~~ |

MOTOR VEHICLES FOR THE TRANSPORTATION OF PROPERTY,

INCLUDING U-DRIVE-ITS AND AUTOMOBILE UTILITY TRAILERS

| Gross Weight | Death of or Injury to Any One Person | Total Liability for Death of or Injury to Persons | Property Damage |
|---|---|---|---|
| ***18,000 lbs. or less*** | ***$100,000.00*** | ***$300,000.00*** | ***$50,000.00*** |

| | | | |
|---|---|---|---|
| ***More than 18,000 lbs.*** | ***$100,000.00*** | ***$600,000.00*** | ***$50,000.00*** |
| ~~[ 18,000 lbs. or less~~ | ~~$10,000.00~~ | ~~$20,000.00~~ | ~~$5,000.00~~ |
| ~~More than 18,000 lbs.~~ | ~~100,000.00~~ | ~~300,000.00~~ | ~~50,000.00]~~ |

(5) Any person, firm, or corporation operating or causing to be operated any vehicle for the transportation of petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds shall have the following types and minimum amount of insurance carried on each vehicle:

| Death of or Injury to Any One Person | Total Liability for Death of or Injury to Persons | Property Damage |
|---|---|---|
| $100,000.00 | $300,000.00 | $50,000.00 |

(6) Any person, firm, or corporation operating or causing to be operated any vehicle for the transportation of hazardous material as defined in KRS 174.405, except petroleum or petroleum products in bulk in amounts less than ten thousand (10,000) pounds, shall have on each vehicle single limits liability insurance coverage of not less than one million dollars ($1,000,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence.

(7) Before any ***household goods certificate shall be issued or renewed, the applicant or certificate holder***~~[Kentucky intrastate household goods motor carrier of property shall be issued a certificate or renewal of a certificate, the motor carrier]~~ shall file or have on file with the department an approved insurance policy or bond compensating shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into possession of the carrier in connection with its transportation service ***in the amounts required by 49 C.F.R. sec. 387.303(c) for interstate household goods motor carriers***~~[:~~

~~(a) For loss of or damage to property carried on any one (1) motor vehicle in the amount of five thousand dollars ($5,000); and~~

~~(b) For loss of or damage to or aggregate of losses or damages of or to property occurring at any one (1) time and place in the amount of ten thousand dollars ($10,000)]~~.

The policy or bond shall have attached thereto the Kentucky cargo policy endorsement and shall be issued by some insurance or surety company authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. In lieu of the bond or policy, the department, under appropriate regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(8)~~[ The department may by regulation require motor carriers for hire operating exclusively in interstate commerce to file proof of cargo insurance coverage in the form and in the amounts the commissioner deems advisable.~~

~~(9)]~~ No insurance company or insurance carrier issuing any policy filed with the department, and no surety or obligor on any bond or contract filed with the department, shall be relieved from liability under the policy, bond, or contract until after the expiration of ***thirty (30)***~~[fifteen (15)]~~ days' notice to the department of an intention to cancel the policy, bond, or contract. A prior cancellation may be allowed in cases where one (1) policy, bond, or contract is substituted for another policy, bond, or contract if the substituted policy, bond, or contract is of force and effect at a time prior to the expiration of ***thirty (30)***~~[fifteen (15)]~~ days' notice to the department of an intention to cancel the policy, bond, or contract for which the additional policy, bond, or contract is being substituted. The acceptance of any notice of an intention to cancel any policy, bond, or contract or the cancellation of any policy, bond, or contract by the department, unless under the circumstances set forth, shall not relieve the insurance company, insurance carrier, surety, or obligor of any liability that accrued prior to the effective date of the cancellation.

***(9)***~~[(10)]~~ Upon the cancellation of any bond or insurance policy required by this section, all operating rights granted by the certificate~~[ or permit]~~ for which the bond or policy was filed, shall immediately cease, and the department may immediately require the cessation of all operations conducted under authority of the certificate~~[ or permit]~~, and may require the ***immediate*** surrender of all certificates~~[, permits]~~, licenses, and other evidence of a right to act as a motor carrier.

***(10)***~~[(11)]~~ The department may exempt in whole or in part from the requirements of this section any person who applies for the exemption and shows to the satisfaction of the department that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he ***or she*** may become liable as a result of the operation of any vehicle owned by him ***or her*** or operated under authority of his ***or her*** certificate~~[ or permit]~~.

***(11)***~~[(12) The minimum amounts of insurance to be carried on each taxicab shall be liability coverage of not less than twenty-five thousand dollars ($25,000) for all damages arising out of bodily injury sustained by any one (1) person, and not less than fifty thousand dollars ($50,000) for all damages arising out of bodily injury sustained by all persons injured as a result of any one (1) accident, plus liability coverage of not less than ten thousand dollars ($10,000) for all damages arising out of damage to or destruction of property, including the loss of use thereof, as a result of any one (1) accident arising out of ownership, maintenance, use, loading, or unloading of the insured vehicle.~~

~~(13)]~~ The provisions of this section notwithstanding, the Secretary of Transportation may adopt, incorporate by reference, or set forth in its entirety the provisions of Title 49, United States Code of Federal Regulations, Part 387, relating to the levels of financial responsibility for motor carriers, in effect as of ***the effective date of this Act***~~[July 13, 1990]~~, or as amended after that date, with respect to any motor carrier operating in Kentucky.

***(12) The cabinet shall promulgate administrative regulations to set standards for pre-trip acceptance liability policies and prearranged ride liability insurance policies for transportation network company vehicles. The minimum amount of insurance for pre-trip acceptance liability policies shall be fifty thousand dollars ($50,000) for death and personal injury to one (1) person, one hundred thousand dollars ($100,000) for death and personal injury resulting from one (1) incident, and twenty-five thousand dollars ($25,000) for property damage. The minimum amount of insurance for prearranged ride liability policies shall be the same as for motor vehicles for the transportation of persons under subsection (4) of this section. Pre-trip acceptance liability policies and prearranged ride liability policies may be issued by an eligible surplus lines insurer.***

➔Section 16. KRS 281.656 is amended to read as follows:

Upon the cancellation of any bond or insurance policy required by KRS 281.655, all operating rights granted by the certificate~~[ or permit]~~ for which said bond or insurance policy was filed shall immediately abate ***and be suspended***; provided, however, that if the bond or insurance policy is reinstated within ***one hundred eighty (180)***~~[thirty (30)]~~ days from the date of cancellation the operating rights granted by the certificate~~[ or permit]~~ shall again be in force and effect, otherwise they shall become void. Upon the event of the cancellation of any bond or insurance policy or upon the event of any order of the department cancelling or suspending the operating rights granted by any certificate,~~[ or permit the department is empowered to immediately require the cessation of]~~ all operations conducted under authority of the affected certificate ***shall cease***~~[or permit,]~~ and ***the department may***~~[to]~~ require, through its agents, the surrender of all certificates~~[, permits]~~, licenses, and other evidence of right to act as a motor carrier.

➔Section 17. KRS 281.687 is amended to read as follows:

(1) As used in this section:

(a) "Motor vehicle renting company" means a holder of a ***certificate***~~[permit]~~ as required under ***Section 10 of this Act***~~[KRS 281.615]~~ to operate as a U-Drive-It~~[ as defined in KRS 281.014]~~, which regularly engages in renting or leasing motor vehicles to customers for less than a sixty (60) day term as part of an established business;

(b) "Vehicle license costs" means the costs incurred by a motor vehicle renting company for licensing, titling, registration, property tax, plating, and inspecting rental motor vehicles; and

(c) "Vehicle license cost recovery fee" means a charge on a vehicle rental transaction originating within the Commonwealth that is separately stated on the rental agreement to recover vehicle license costs.

(2) (a) If a motor vehicle renting company includes a vehicle license cost recovery fee as a separately stated charge in a rental transaction, the amount of the fee shall represent the company's good-faith estimate of the motor vehicle rental company's daily charge to recover its actual total annual vehicle license costs.

(b) If the total amount of the vehicle license cost recovery fees collected by a motor vehicle renting company under this section in any calendar year exceeds the company's actual vehicle license costs, the motor vehicle renting company shall:

1. Retain the excess amount; and

2. Adjust the vehicle cost recovery fee for the following calendar year by a corresponding amount.

(3) Nothing in this section shall prevent a motor vehicle renting company from including, or making adjustments during the calendar year to, separately stated surcharges, fees, or charges in the rental agreement, which may include but are not limited to vehicle license cost recovery fees, airport access fees, airport concession fees, consolidated facility charges, and all applicable taxes.

➔Section 18. KRS 281.720 is amended to read as follows:

***Except for vehicles operating under a TNC, household goods, property, or U-Drive-It certificate,*** the department shall prescribe and furnish a ***motor carrier license plate*** ~~[distinguishing plate or plates]~~, which shall at all times be displayed on each motor ***carrier*** vehicle authorized to be operated under a certificate~~[ of public convenience and necessity or permit. Where a carrier is the holder of one or more city bus certificates, or the carrier holds both a city bus certificate or certificates and a suburban bus certificate or certificates, the department shall issue to it for each vehicle operated thereunder a city bus license plate which shall authorize the operation of said vehicle under either one or all the certificates so held]~~. ***A*** ~~[No]~~ person shall ***not*** transfer ***a motor carrier license plate*** ~~[such plates]~~ from one ***(1)*** motor vehicle to another***,*** except by the authority and with the consent of the department.

➔Section 19. KRS 281.728 is amended to read as follows:

(1) ***A*** ~~[No airport shuttle certificate]~~ holder ***of a*** ~~[,]~~ taxicab***, limousine, disabled persons vehicle, transportation network company*** ~~[ certificate holder]~~, or U-Drive-It certificate~~[ holder]~~ shall ***not*** advertise or hold itself out as supplying ***any other services,*** ~~[limousine service]~~ unless the ***service is authorized by the carrier's certificate and the*** motor ***carrier*** vehicle in question meets the definition of ***the particular vehicle type being advertised or offered*** ~~[limousine in KRS 281.014]~~.

(2) Nothing in this section shall preclude the holder of ***a*** ~~[an airport shuttle certificate,]~~ taxicab***, limousine, TNC, disabled persons vehicle*** ~~[ certificate]~~, or U-Drive-It certificate from operating a motor vehicle which meets the definition of ***more than one (1) type of motor carrier vehicle*** ~~[a limousine under that certificate]~~.

➔Section 20. KRS 281.730 is amended to read as follows:

(1) ~~[A motor carrier shall not require or permit any driver or chauffeur operating a motor vehicle for hire under a certificate or permit to remain continuously on duty for a longer period than twelve (12) hours, and when any driver or chauffeur has been continuously on duty for twelve (12) hours he shall have at least eight (8) consecutive hours off duty. A motor carrier shall not require or permit any driver or chauffeur to remain on duty for a longer period than sixteen (16) hours in the aggregate in any twenty-four (24) hour period, and when a driver or chauffeur has been on duty sixteen (16) hours in the aggregate in any twenty-four (24) hour period he shall have at least ten (10) consecutive hours off duty. The period of release from duty required by this section shall be given at places and under circumstances that allow rest and relaxation from the strain of the duties of the employment to be obtained. A period off duty shall not be deemed to break the continuity of service unless it is for at least three (3) consecutive hours and is given at a place and under circumstances that allow rest and relaxation from the strain of the duties of the employment to be obtained. In case of an unforeseen emergency not resulting from the negligence of the carrier or his agents, servants, or employees, the driver or chauffeur may complete his run or tour of duty, if the run or tour of duty but for the delay caused by the emergency could reasonably have been completed without a violation of this section. The department may require reports as it deems necessary for the enforcement of this section.~~

~~(2) The provisions of this section shall not apply to matters relating to the wages, hours, working conditions, and conditions of employment of the employees of motor carriers when the employees are employed and working under and pursuant to a collective bargaining agreement entered into between their employer and the employees' collective bargaining agent or representative, for and on behalf of the employees; provided that the collective bargaining agent or representative is a bona fide labor organization.~~

~~(3) Notwithstanding the above provisions, ~~]~~The secretary of the Transportation Cabinet may adopt by reference or set forth in its entirety the provisions of ***49 C.F.R. secs. 350.341 and*** ~~[49 C.F.R. sec.]~~ 395 in effect as of July 15, 1986, or as amended with respect to any motor vehicle registered in Kentucky.

***(2)*** ~~[(4)]~~ The provisions of ***subsection*** ~~[subsections]~~ (1)~~[ to (3)]~~ of this section pertaining to the maximum driving and on-duty time shall not apply to transporters of agricultural commodities or farm supplies for agricultural purposes if the transportation is limited to an area within a one hundred (100) air mile radius from the source of the commodities or distribution point for the farm supplies and is during Kentucky's planting and harvesting seasons. For the purposes of this subsection, Kentucky's planting and harvesting seasons shall mean January 1 to December 31 of each year.

***(3)***~~[(5)]~~ The provisions of subsection ***(2)***~~[(4)]~~ of this section shall be void if the Secretary of the United States Department of Transportation determines through a rulemaking proceeding that Section 345(a.)(1.) of the National Highway System Designation Act of 1995 presents a hazard to the traveling public.

➔Section 21. KRS 281.735 is amended to read as follows:

(1) The department shall, in its safety regulations, prescribe rules prohibiting overcrowding in the various types of motor vehicles carrying passengers for hire.

(2) The owner or driver~~[ or chauffeur]~~ of any motor vehicle for the transportation of passengers shall not permit any passengers to ride upon the steps or running-board of any such motor vehicle, nor shall he permit any passenger to ride on the top of any such motor vehicle unless the top has been designed and equipped with seats constructed for such use and provided with protecting railing or protective enclosure on all four (4) sides of the top of the vehicle, and unless such use has been authorized by a certificate issued by the department.

(3) No motor carrier shall operate a motor vehicle for the transportation of persons for hire, except~~[ city and suburban]~~ buses, with an extreme width exceeding ninety-six (96) inches, except upon such highways which are a part of the state-maintained system upon which increased widths have been authorized by order of the commissioner of highways as provided by law. The extreme width of a~~[ city or suburban]~~ bus shall not exceed one hundred two (102) inches.

➔Section 22. KRS 281.745 is amended to read as follows:

The driver~~[ or chauffeur ]~~of any motor vehicle used in the transportation of passengers for hire shall stop such motor vehicle before crossing at grade the main track of any railroad~~[ or interurban electric railway]~~, except where the crossing is a guarded crossing protected by gates or a flag controlled or operated by an employee of the railroad~~[ or interurban]~~ company. The stop shall be made at not less than ten (10) feet nor more than thirty (30) feet from the nearest track to be crossed. After making the stop, the ***driver***~~[chauffeur]~~ shall look carefully in each direction for approaching cars or trains, and shall not start his ***or her*** vehicle until he ***or she*** has ascertained that no cars or trains are approaching in each direction.

➔Section 23. KRS 281.752 is amended to read as follows:

***For motor carriers defined under KRS 138.655(5) and (7) and for the purposes of tax collection,*** the department ***may***~~[shall prescribe and]~~ charge a fee~~[,]~~ of ten dollars ($10) in each instance~~[,]~~ for the issuance of such identifying plates, decals, cards, signs***,*** or papers, for the identification of motor vehicles, ***operated within the state***~~[as defined in KRS 281.011(3), (4) and (5) and KRS 138.655(5) and (7) which vehicles have been qualified for, and have been granted reciprocal privileges in Kentucky in regard to motor vehicle registration fees and highway use taxes. The commissioner may by reciprocal agreement with the proper officials of other jurisdictions waive such fees applicable to residents of such other jurisdictions which afford like privileges to residents of Kentucky]~~.

➔Section 24. KRS 281.760 is amended to read as follows:

Every ***motor*** carrier operating under a certificate or permit issued by the Department of Vehicle Regulation shall observe traffic rules and regulations of each city and each urban-county while operating therein.

➔Section 25. KRS 281.775 is amended to read as follows:

The department may conduct any investigation, inquiry, or hearing that it may deem proper in connection with the performance of its duties under this chapter with respect to motor carriers. The investigation and inquiry may be conducted by or before the commissioner or any of his assistants or any representative of the department designated by the commissioner. Any hearing shall be conducted in accordance with ***Section 14 of this Act***~~[KRS Chapter 13B]~~.

➔Section 26. KRS 281.802 is amended to read as follows:

(1) ***A***~~[No]~~ carrier who is the holder of a certificate~~[ or permit]~~ issued by this department ***shall not***~~[may]~~ advertise under any name other than that in which its certificate~~[ or permit]~~ is issued.

(2) ***A***~~[No]~~ person shall ***not*** advertise his ***or her*** services for the intrastate transportation of ***passengers or*** household goods~~[, as defined in KRS 281.624,]~~ without including in such advertisement the certificate~~[ or permit]~~ number issued to him ***or her*** by the department.

➔Section 27. KRS 281.820 is amended to read as follows:

The department may require any motor carrier to keep within this state, subject to inspection at all reasonable times by the department, such books of account or ***other*** records as are reasonably necessary to enable the department to obtain full information at all times regarding the amounts due from such operator in fees or taxes ***and in order to***

***regulate the motor carrier's operation***. The books and records shall be at all times open to inspection by***, but shall not be kept or retained by,*** the department.

➔Section 28. KRS 281.830 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.470, 186.020 and 186.050 and in subsection (2) of this section, the fees and taxes prescribed by this chapter shall be in addition to the fees and taxes prescribed by any other law of this state.

(2) ***A***~~[No]~~ city or county ***shall not***~~[may]~~ impose a license fee or tax upon any ***intrastate taxicab, limousine, disabled persons vehicle, or TNC***~~[motor]~~ vehicle operated under a certificate~~[ or permit]~~, except that a city may impose ***an annual***~~[a]~~ license fee~~[ or tax upon a taxicab]~~ as set out in subsection ***(6) of Section 12 of this Act***~~[(4) of KRS 186.281]~~.

***(3) A city or county shall not impose or collect any fee or tax of any kind upon any interstate or intrastate commercial private or for-hire motor carrier vehicle for loading or unloading of property, including household goods.***

➔Section 29. KRS 281.835 is amended to read as follows:

To carry out the declaration of policy provided for in ***this chapter***~~[KRS 281.590]~~, the department may enter into ***reciprocal***~~[reciprocity]~~ agreements with other jurisdictions whereby motor vehicles, as defined in KRS 186.010 and ***Section 1 of this Act***~~[subsection (2) of KRS 281.011]~~, while operating into or through the Commonwealth of Kentucky in interstate commerce and properly licensed in another state, shall be exempt in whole or in part from registration fees and seat and mileage taxes under KRS Chapter 186, provided like or similar privileges are granted motor vehicles, as defined in KRS 186.010 and ***Section 1 of this Act***~~[subsection (2) of KRS 281.011]~~, properly licensed in this state.

➔Section 30. KRS 281.838 is amended to read as follows:

Any person who is a nonresident of the Commonwealth of Kentucky and who operates any motor vehicle as defined in ***Section 1 of this Act***~~[subsection (2) of KRS 281.011]~~ not entitled to exemption from the payment of the fees imposed by KRS 186.050 by reason of the terms of a reciprocal agreement existing between the Commonwealth of Kentucky and the state in which such vehicle is licensed, may, in lieu of the payment of the fees imposed by KRS 186.050, obtain from the Department of Vehicle Regulation a temporary permit. Under regulations adopted by the Department of Vehicle Regulation application for such a temporary permit shall be made and such permits shall be issued for a specified period not exceeding ten (10) days, and for a specific vehicle. The fee for each permit shall be twenty-five ($25) dollars for any vehicle subject to the fees in KRS 186.050 for a vehicle and any towed unit with a declared gross weight of fifty-five thousand (55,000) pounds or less; or forty dollars ($40) for any vehicle subject to the fees in KRS 186.050 for a vehicle and any towed unit with a declared gross weight of fifty-five thousand one (55,001) pounds or more.

➔Section 31. KRS 281.873 is amended to read as follows:

(1) As used in this section and KRS 281.874, unless the context otherwise requires:

(a) "Certificate Type 01" means a private automobile;

(b) "Certificate Type 02" means a taxicab ***or similar for-profit motor carrier vehicle***~~[service]~~;

(c) "Certificate Type 03" means a bus service;

(d) "Certificate Type 04" means a nonprofit transit system;

(e) "Certificate Type 07" means a specialty carrier certified to transport nonemergency, ambulatory disoriented persons;

(f) "Certificate Type 08" means a specialty carrier, using ***ramp or*** lift-equipped vehicles in compliance with the Americans with Disabilities Act, certified to transport nonemergency, nonambulatory persons;

(g) "Level of eligibility" means the specialty transport classification a person is designated based upon the written recommendation of the person's personal physician, physician assistant, advanced practice registered nurse, or qualified mental health professional that is used to establish the type of specialty transport needed for the person; and

(h) "Qualified mental health professional" shall have the same meaning as in KRS 202A.011.

(2) Except for members of the general public, the level of eligibility shall dictate both the necessity and the type of

special carrier transport for a person participating in the human service transportation delivery program and shall ensure the person shall be transported in the appropriate vehicle designed to accommodate the person's level of eligibility. The broker shall, upon request by a recipient, provide specialty carrier transportation for a period up to thirty (30) days without written recommendation of the recipient's personal physician, physician assistant, advanced practice registered nurse, or qualified mental health professional. A broker shall be prohibited from changing or altering a person's level of eligibility and the accompanying certificate type. A broker shall report questionable specialty classifications to the cabinet.

(3) A parent, guardian, or designee of the parent or guardian shall accompany any minor under the age of thirteen (13) who is receiving human service transportation delivery program services. A parent, guardian, or designee of the parent or guardian may accompany a minor between the ages of thirteen (13) and seventeen (17) who is receiving human service transportation delivery program services.

(4) An escort shall not be required for any person aged thirteen (13) or older, unless the person's physician, physician assistant, advanced practice registered nurse, or qualified mental health professional has recommended that the person be transported with an escort based upon one (1) of the following criteria:

(a) A history of a behavior that has resulted in harm to the person or to others while receiving human service transportation delivery program services;

(b) A medical history of a behavior that indicates that the person may be a danger to himself or herself or others; or

(c) Information that the person may become violent in a transportation setting from the person's support coordinator, who is providing services under 907 KAR 1:145 or any other Medicaid program, and also from the person's parent or guardian.

(5) A requirement for an escort under subsection (4) of this section shall be removed upon the recommendation of the physician, physician assistant, advanced practice registered nurse, or qualified mental health professional.

(6) If an escort is required under subsection (4) of this section, the transportation provider shall provide one (1) escort per vehicle to pick up each individual at his or her designated location, remain with the person during transport, and escort the person to the designated health care provider or other covered service.

(7) If a person receiving transportation delivery services under a Certificate Type 07 or 08 is not required to have an escort under the provisions of subsection (4) of this section, but needs assistance to and from the transportation vehicle, the transportation provider shall provide that service if the following conditions exist:

(a) It would take less than five (5) minutes to accompany the person to and from the transportation vehicle; and

(b) The transportation provider can maintain visual contact with his or her vehicle if there are other persons receiving transportation delivery services remaining in the vehicle.

(8) Any transportation provider that leaves a vehicle to accompany a person to or from the transportation vehicle shall:

(a) Turn off the vehicle engine and retain the key in his or her possession; or

(b) Enable a transmission locking device that prohibits unauthorized use of the vehicle and retain the key in his or her possession.

(9) If a person receiving human service transportation services does not require an escort under the provisions of subsection (4) of this section, but needs assistance to and from the vehicle, the transportation provider shall provide one (1) escort per vehicle if the conditions of paragraphs (a) and (b) of subsection (7) of this section do not exist.

(10) If a state agency has been appointed as the guardian of a person receiving human service transportation program services, the state shall ensure that the transportation provider provides an escort when the person meets the criteria under subsection (4) of this section.

(11) A parent, guardian, or designee of the parent or guardian accompanying a minor shall not be charged a fare.

➔Section 32. KRS 281.883 is amended to read as follows:

***(1)*** The Department of Kentucky State Police 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 shall by administrative regulation provide an administrative process for appealing a citation of a safety violation or the penalty imposed because of the violation.

***(2) The department shall promulgate administrative regulations to establish a procedure for administrative citation, assessment, and appeal of the penalties in Section 33 of this Act for any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter. Any hearing pursuant to this subsection shall be conducted in accordance with KRS Chapter 13B.***

➔Section 33. KRS 281.990 is amended to read as follows:

(1) Except as provided in subsection (5) of this section, a person shall be fined not less than twenty-five dollars ($25) and no more than two hundred dollars ($200), if the person:

(a) Violates, causes, aids, or abets any violation of the provisions of this chapter, or any order, rule, or administrative regulation lawfully issued pursuant to authority granted by this chapter;

(b) Knowingly makes any false or erroneous statement, report, or representation to the Department of Vehicle Regulation with respect to any matter placed under the jurisdiction of the department by this chapter;

(c) Knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter; or

(d) Knowingly fails to keep, or knowingly destroys or mutilates, any accounts or records.

Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or administrative regulation of the department issued pursuant thereto, shall constitute a violation thereof.

(2) (a) Any person who violates ***subsection (1) of Section 10 of this Act or subsection (1) of Section 12 of this Act***~~[KRS 281.615(1)]~~ shall be fined not less than ***five hundred***~~[two thousand]~~ dollars ***($500)***~~[($2,000)]~~ nor more than three thousand five hundred dollars ($3,500).

(b) Any person who operates as a motor carrier in violation of the terms of his or her certificate or ***motor carrier vehicle license***~~[permit]~~ shall be fined not less than ***five hundred***~~[two thousand]~~ dollars ***($500)***~~[($2,000)]~~ nor more than three thousand five hundred dollars ($3,500).

(3)~~[ In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, the person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.~~

~~(4)]~~ A person who violates ***subsection (9) of Section 10 of this Act***~~[KRS 281.615(2)]~~ shall not be subject to a penalty under this section.

***(4)***~~[(5)]~~ (a) Except as provided in this subsection, any person who violates KRS 281.757 shall be fined two hundred fifty dollars ($250) for each offense.

(b) A person who is cited for a violation of KRS 281.757 in which the lights were inoperable or the reflectors were missing may, within thirty (30) days from the date of the citation, provide proof to the county attorney of the county in which the offense occurred that the mechanical problem has been repaired and that the lights are in working order or that the required reflectors have been placed on the vehicle. If such proof is shown, the citation shall be dismissed.

(c) A law enforcement officer and the ***department***~~[Transportation Cabinet]~~ shall not issue a citation to a person as violating KRS 281.757 if the atmospheric conditions all motorists were subjected to at the time the person is stopped reasonably limit the ability of a person to keep the vehicle's lights or reflectors from being obscured by dirt, mud, or debris.

➔Section 34. KRS 96A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires, the following words or terms shall mean as follows:

(1) "City" means any incorporated city in the Commonwealth;

(2) "County" means any county in the Commonwealth wherein there is located an incorporated city and for the purpose of this chapter shall also mean a county which has adopted an urban-county government or consolidated local government;

(3) "State" means the Commonwealth;

(4) "Transit authority" or "authority" means a transit authority created pursuant to this chapter;

(5) "Board" means the board of a transit authority;

(6) "Public body" means any city or county of the Commonwealth;

(7) "Governing body" means, as to a county, the fiscal court thereof; as to a consolidated local government, the legislative council thereof; and as to a city, the legislative body thereof, howsoever the same may be denominated according to law;

(8) "Proceedings" means, in the case of a county, a resolution of its fiscal court; and in the case of a city or consolidated local government, an ordinance adopted and made effective according to law by its governing body;

(9) "Joint proceedings" relates only to the establishment of a transit authority by two (2) or more public bodies acting in concert or by agreement, and means the proceedings, taken collectively, by the governing bodies of the public bodies participating in the creation and establishment of a transit authority;

(10) "Appointing authority" means, as to a county, the county judge/executive thereof; and as to any city or consolidated local government, the elected chief executive officer, whether designated as its mayor or otherwise;

(11) "Area" or "transit area" means the geographical area which may be encompassed from time to time within the lawful boundaries of such cities and counties as may be involved in the creation and establishment of an authority; and of any cities or counties within any single unified metropolitan area which may subsequently become participants as provided in this chapter;

(12) "Mass transit" or "mass transportation" means the transportation of persons and their baggage within or without a transit area, but shall not include the for-hire operation of a taxicab, or~~[ industrial]~~ bus as defined by KRS Chapter 281;

(13) "Human service transportation delivery" means the same as defined in ***Section 1 of this Act***~~[KRS 281.014]~~;

(14) "Delivery area" means the same as defined in ***Section 1 of this Act***~~[KRS 281.014]~~; and

(15) "Broker" means the same as defined in ***Section 1 of this Act***~~[KRS 281.014]~~.

➔Section 35. KRS 96A.020 is amended to read as follows:

(1) A transit authority may be created and established under the provisions of this chapter by proceedings or joint proceedings, and the name thereof shall be "Transit Authority of ....." If established by a city alone, or by a county alone, the name shall be completed by identification of the city or county. If created and established by joint proceedings, the name may be completed by inserting words generally identifying the area intended to be served, in such manner as the public bodies may determine by concert or agreement in their joint proceedings. Such transit authority shall constitute an agency and instrumentality for accomplishing essential governmental functions of the public body or public bodies creating and establishing the same, and shall be a political subdivision and a public body corporate, with power to contract and be contracted with, to sue and be sued, to establish, alter and enforce rules and regulations in furtherance of the purposes of its creation, to adopt, use and alter a corporate seal, and to have and exercise, generally, all of the powers of private corporations, as enumerated in KRS 271B.3-020, except to the extent the same may be inconsistent with this chapter. An authority shall be authorized to promote and develop mass transportation in its transit area and adjoining areas, including acquisition, operation and extension of existing mass transit systems; and an authority shall have and may exercise such powers as may be necessary or desirable to carry out such purposes.~~[ Subject to proof of public convenience and necessity as required by KRS Chapter 281, it may provide service outside its transit area and its adjoining areas.]~~

(2) Subsequent to the creation and establishment of a transit authority, one (1) or more additional public bodies may be permitted to join therein, in such manner and subject to such conditions as may be prescribed by the board of the authority with the concurrence and approval of all public bodies which have theretofore participated in the establishment or previous enlargement of the authority.

➔Section 36. KRS 138.446 is amended to read as follows:

(1) ~~[City and suburban ]~~Bus companies and taxicab companies operating under a certificate~~[ of convenience and necessity]~~ issued pursuant to KRS Chapter 281~~[, taxicab companies regulated by a consolidated local government organized under KRS Chapter 67C or by an urban county government organized under KRS Chapter 67A, holders of a nonprofit bus certificate as provided by KRS 281.619,]~~ and senior citizen programs

which utilize Title III funds of the Older Americans Act in the provision of transportation services shall be entitled to a refund of seven-ninths (7/9) of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund pursuant to this section unless he shall have first filed with the department a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) to be determined by the department, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall be filed with the department on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of tax paid on motor fuel used by buses or taxicabs. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses or taxicabs; the date and quantity of each purchase; the vendor from whom the fuel was purchased; the number of gallons on which refund is claimed; and other information the department may require. Invoices shall be attached to applications from taxicab companies.

(4) The department may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding any chemical or substance, which shall be furnished by the department and used in the manner as prescribed by the department. The department also may require that the dealer keep a complete record of all the gasoline sold by him, which records shall give the date of each sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) The department shall audit the application and make any other investigation it deems necessary to determine whether it constitutes a proper claim. When the department is satisfied that a refund is proper, it shall authorize seven-ninths (7/9) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(6) When the department finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the department shall refuse to grant any refunds to the person making the false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of the findings.

(7) The department may prescribe, promulgate and enforce administrative regulations relating to the administration and enforcement of this section.

(8) The refund provided for in this section shall be effective on motor fuel purchased on or after July 1, 1978.

➔Section 37. KRS 138.463 is amended to read as follows:

(1) A holder of a ***certificate***~~[permit]~~ as required under ***Section 10 of this Act***~~[KRS 281.615]~~ to operate as a U-Drive-It as defined in ***Section 1 of this Act***~~[KRS 281.014]~~ may pay the usage tax as provided in KRS 138.460 or, subject to the provisions of this section, may pay a usage tax of six percent (6%) levied upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the ***certificate***~~[permit]~~.

(2) The provisions of KRS 138.462 and this section shall apply to all rental and leasehold contracts entered into after March 9, 1990.

(3) A holder of a ***certificate***~~[permit]~~ shall pay the usage tax as provided in KRS 138.460 unless he shows to the satisfaction of the cabinet that he is regularly engaged in the renting or leasing of motor vehicles to retail customers as a part of an established business. The issuance of a U-Drive-It ***certificate***~~[permit]~~ under the provisions of KRS Chapter 281 shall create a rebuttable presumption that the holder of a ***certificate***~~[permit]~~ is regularly engaged in renting or leasing. Persons first engaging in the renting or leasing of motor vehicles to retail customers shall, in addition to obtaining a ***certificate***~~[permit]~~ required under ***Section 10 of this Act***~~[KRS 281.615]~~, demonstrate to the satisfaction of the cabinet that they are prepared to qualify under the standards set forth in this subsection.

(4) In the event the holder of such ***certificate***~~[permit]~~ qualifies under subsection (3) of this section and elects to pay the usage tax by the alternate method as provided in subsection (1) of this section, or is required by subsection (8) of this section to pay by the alternate method, he shall pay the ***fee***~~[seat tax]~~ imposed by ***subsection (3) of Section 12 of this Act***~~[KRS 186.281(3)]~~ and in addition shall pay the monthly tax authorized by subsection (1) of this section.

(5) The tax authorized by subsection (1) of this section shall be the direct obligation of the holder of the ***certificate***~~[permit]~~ but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the cabinet each month on forms and pursuant to regulations promulgated by the cabinet.

(6) (a) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the date the return was filed, except as provided in paragraph (c) of this subsection, and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the cabinet.

(b) For the purpose of paragraphs (a) and (c) of this subsection, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(c) Notwithstanding the four (4) year time limitation of paragraph (a) of this subsection, in the case of a return where the tax computed by the cabinet is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within six (6) years from the date the return was filed.

(7) Failure of the holder of the ***certificate***~~[permit]~~ to remit the taxes applicable to the rental charges as provided herein shall be sufficient cause for the Department of Vehicle Regulation to void the ***certificate***~~[permit]~~ issued to such holder and the usage tax on each of the motor vehicles which had been registered by the holder under the ***certificate***~~[permit]~~ shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the holder.

(8) Notwithstanding the provisions of KRS 138.460 and subsection (1) of this section, a holder of a ***certificate***~~[permit]~~ operating a fleet of rental passenger cars which has been registered pursuant to an allocation formula approved by the cabinet shall pay the tax by the method provided in this section. The provisions of this section shall apply to all vehicles rented by the holder in this state.

(9) The usage tax reported and paid on every rental or lease of a vehicle registered pursuant to this section shall be based on the fair market rental or lease value of the vehicle. Fair market rental or lease value shall be based on standards established by administrative regulation promulgated by the cabinet. The cabinet may remove a vehicle from the U-Drive-It program without a hearing if it is determined by the cabinet that no taxes have been remitted on that vehicle during the registration period. However, the tax reported and paid to the Transportation Cabinet shall not be less than the amount due based on the actual terms of a rental or lease agreement. The burden of proving that the consideration charged by the holder satisfies this subsection is on the holder.

➔Section 38. KRS 186.050 is amended to read as follows:

(1) The annual registration fee ***shall be eleven dollars fifty cents ($11.50)*** for***:***

***(a)*** Motor vehicles, including ***pickup trucks and passenger vans; and***

***(b)*** ***Motor carrier vehicles, as defined in Section 1 of this Act***~~[taxicabs, airport limousines, and U-Drive-Its]~~, primarily designed for carrying passengers ***or passengers for hire*** and having ***been designed or constructed to transport***~~[provisions for]~~ not more than ***fifteen (15)***~~[nine (9)]~~ passengers, including the operator~~[, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents ($11.50)]~~.

(2) Except as provided in KRS 186.041 and 186.162, the annual registration fee for each motorcycle shall be nine dollars ($9).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of ten thousand (10,000) pounds or less, except those mentioned in subsections (1) and (2) of this section~~[ and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity]~~, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles**,** except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire ***which are designed or constructed to transport more than fifteen (15) passengers including the operator, whose registration fee shall be one hundred dollars ($100)***,

~~[operating under certificates of convenience and necessity, ]~~are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

| Declared Gross Weight of Vehicle and Any Towed Unit | Registration Fee |
|---|---|
| 10,001-14,000 | 30.00 |
| 14,001-18,000 | 50.00 |
| 18,001-22,000 | 132.00 |
| 22,001-26,000 | 160.00 |
| 26,001-32,000 | 216.00 |
| 32,001-38,000 | 300.00 |
| 38,001-44,000 | 474.00 |
| 44,001-55,000 | 669.00 |
| 55,001-62,000 | 1,007.00 |
| 62,001-73,280 | 1,250.00 |
| 73,281-80,000 | 1,410.00 |

(4) (a) 1. Any farmer owning a truck having a gross weight of twenty-six thousand (26,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of twenty-six thousand (26,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.

2. Any farmer owning a truck having a gross weight of twenty-six thousand one (26,001) pounds to thirty-eight thousand (38,000) pounds may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight between twenty-six thousand one (26,001) pounds and thirty-eight thousand (38,000) pounds, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock, or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.

(c) An initial applicant for, or an applicant renewing, his or her registration pursuant to this subsection, may at the time of application make a voluntary contribution to be deposited into the agricultural program trust fund established in KRS 246.247. The recommended voluntary contribution shall be set at ten dollars ($10) and automatically added to the cost of registration or renewal unless the individual registering or renewing the vehicle opts out of contributing the recommended amount. The county clerk shall collect and forward the voluntary contribution to the cabinet for distribution to the Department of Agriculture.

(5) Any person owning a truck or bus used solely in transporting school children and school employees may have

the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city with a population equal to or greater than three thousand (3,000) based upon the most recent federal decennial census, or within five (5) miles of its limits if it is a city with a population of less than three thousand (3,000) based upon the most recent federal decennial census, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided,

however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.

(13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through, or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.

(14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:

(a) The automobile shall be provided for the full-time exclusive use of the applicant; and

(b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

(15) An applicant for any motor vehicle registration issued pursuant to this section shall have the opportunity to make a donation of two dollars ($2) to promote a hunger relief program through specific wildlife management and conservation efforts by the Department of Fish and Wildlife Resources in accordance with KRS 150.015. If an applicant elects to make a contribution under this subsection, the two dollar ($2) donation shall be added to the regular fee for any motor vehicle registration issued pursuant to this section. One (1) donation may be made per issuance of each registration. The fee shall be paid to the county clerk and shall be transmitted by the State Treasurer to the Department of Fish and Wildlife Resources to be used exclusively for the purpose of wildlife management and conservation activities in support of hunger relief. The county clerk may retain up to five percent (5%) of the fees collected under this subsection for administrative costs associated with the collection of this donation. Any donation requested under this subsection shall be voluntary and may be refused by the applicant at the time of issuance or renewal of a license plate.

➔Section 39. KRS 186.164 is amended to read as follows:

(1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any

investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3). The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar ($3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar ($3) county clerk fee for use on any other vehicle of the same classification and category owned, leased, or acquired by the person during the current licensing period. If the owner or lessee has the special plate reissued to a vehicle which has been previously registered in this state, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab,~~[ airport]~~ limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:

(a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;

(b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;

(c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the

person's race, color, religion, sex, or national origin;

(d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;

(e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;

(f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and

(g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.

(10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate standing committees on transportation of the denial and the reasons upon which the cabinet based the denial. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.

(11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.

(12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars ($10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.

(13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.

(15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of:

1. Election to the United States Congress or the Kentucky General Assembly;

2. Election or appointment to the Kentucky Court of Justice;

3. Membership in a Masonic Order, Fraternal Order of Police, or emergency management organization;

4. Eligibility for membership in the Gold Star Mothers of America;

5. Eligibility as a father for associate membership in the Gold Star Mothers of America;

6. Eligibility for membership in the Gold Star Wives of America;

7. Ownership of an amateur radio operator license;

8. Receipt of the Silver Star Medal; or

9. Receipt of the Bronze Star Medal awarded for valor.

(b) The time schedule permissible for a group or organization to request a design change for the special license plate; and

(c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.

(16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

➔Section 40. KRS 186.240 is amended to read as follows:

(1) It shall be the duty of the cabinet to carry out the provisions of KRS 186.005 to 186.260, and:

(a) Prepare and furnish to the clerk in each county a sufficient supply of all forms and blanks provided for in KRS 186.005 to 186.260. The forms for receipts shall be designated for the writing of not less than triplicate copies, the originals of which shall be numbered consecutively for each county, the second and third copies bearing the same number as the original. Receipts to be used as duplicates for lost receipts, as provided in KRS 186.180(1), shall be in duplicate only, and shall not be numbered;

(b) Keep a numerical record of all registration numbers issued in the state, for which they may use the second copy of receipts forwarded by the clerk of each county, and also keep a record of motor or vehicle identification numbers required by KRS 186.160; and

(c) Furnish to each clerk, originally each year upon estimate, and thereafter upon requisition at all times, a sufficient supply of plates and other insignia evidencing registration for all classes of vehicles required to be registered. The cabinet shall prescribe a plate of practical form and size for police identification purposes that shall contain:

1. The registration number;

2. The word "Kentucky;" and

3. The name of the county in which the plate is issued, or in lieu thereof the words "Official," "Transportation," "Executive," or "Farm." Plates for commercial vehicles, shall contain the year the license expires and words or information the Department of Vehicle Regulation may prescribe by administrative regulation, pursuant to KRS Chapter 13A. Numerals indicating a year shall not be placed upon any license plate issued pursuant to KRS 186.060, relating to the licensing of vehicles owned exclusively by the state and KRS 186.061, relating to the licensing of vehicles owned exclusively by a nonprofit volunteer fire department, volunteer fire prevention unit, and volunteer fire protection unit. A state slogan may be placed upon the plate.

(2) License plates issued pursuant to KRS 186.050(1) shall conform to the provisions of subsection (1)(c) of this section except:

(a) The word "Kentucky" shall be centered above the county name in which the plate is issued;

(b) The words "Bluegrass State" shall be centered at the top of the plate above the registration number; and

(c) The name of the county in which the plate is issued shall be centered in the lower portion of the plate below the registration number and shall be printed in letters that are the same size as those used to print the word "Kentucky." Beginning January 1, 1993, the Transportation Cabinet shall provide for the issuance of reflectorized plates for all motor vehicles, and shall collect a fee, in addition to the fee set out in KRS Chapter 186 and ***Section 12 of this Act*** ~~[KRS 281.860]~~, of fifty cents ($0.50). The fifty cents ($0.50) fee to reflectorize license plates shall be used by the cabinet as provided in subsection (3) of this section;

(3) The reflectorized license plate program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys as provided in this subsection. The fifty cents ($0.50) fee collected by the cabinet to reflectorize license plates shall be deposited into the program fund and used to issue reflectorized license plates. If at the end of a fiscal year, money remains in the program fund, it shall be retained in the fund and shall not revert to the state road fund. The interest and income earned on money in the program fund shall also be retained in the program fund to carry out the provisions of this subsection. The Transportation Cabinet shall begin issuing the new reflectorized license plate under the provisions of this subsection on January 1, 2003, and shall continue to issue a new reflectorized license plate on a schedule to be determined at the discretion of the cabinet in the years thereafter;

(4) Except as directed under subsection (3) of this section, the Transportation Cabinet shall receive all moneys forwarded by the clerk in each county and turn it over to the State Treasurer for the benefit of the state road fund;

(5) The Transportation Cabinet shall require an accounting by the clerk in each county for any moneys received by him under the provisions of this chapter, after the deduction of his fees under this chapter, and for all receipts, forms, plates, and insignia consigned to him. The Auditor of Public Accounts, pursuant to KRS 43.071, shall annually audit each county clerk concerning his responsibilities for the collection of various fees and taxes associated with motor vehicles. The secretary of the Transportation Cabinet, with the advice, consultation, and approval of the Auditor, shall develop and implement an inventory and accounting system which shall insure that the audits mandated in KRS 43.071 are performed in accordance with generally accepted auditing standards. The Transportation Cabinet shall pay for the audits mandated by KRS 43.071; and

(6) When applied for under KRS 186.160, motor or vehicle numbers assigned shall be distinctive to show that they were designated by the cabinet.

➔Section 41. KRS 186.991 is amended to read as follows:

Any person who violates, or causes, aids, or abets any violation of KRS~~[ 186.052,]~~ 186.053~~[, 186.281 and 186.286]~~ or of any order, rule, or regulation lawfully issued pursuant thereto, shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

➔SECTION 42. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

***The secretary of the Transportation Cabinet, or his or her designee, is hereby authorized to join and negotiate with other states a compact for overdimensional permits. If the secretary joins a compact pursuant to this section, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing the administration and enforcement of a compact on overdimensional permits.***

➔Section 43. KRS 381.770 is amended to read as follows:

(1) As used in this section:

(a) "Automobile collector" means a person who collects and restores motor vehicles; and

(b) "Ordinary public view" means a sight line within normal visual range by a person on a public street or sidewalk adjacent to real property;

(c) "Parts car" means an automobile that is not intended to be operated along streets and roads, but is used to provide parts for the restoration of other automobiles; and

(d) "Imminent danger" means a condition which could cause serious or life-threatening injury or death at any time.

(2) Except as provided in subsection (3) of this section, it shall be unlawful for the owner, occupant or person having control or management of any land within a city, county, consolidated local government, urban-county, or unincorporated area to permit a public nuisance, health hazard, or source of filth to develop thereon through the accumulation of:

(a) Junked or wrecked automobiles, vehicles, machines, or other similar scrap or salvage materials, excluding inoperative farm equipment;

(b) One (1) or more mobile or manufactured homes as defined in KRS 227.550 that are junked, wrecked, or nonoperative and which are not inhabited;

(c) Rubbish; or

(d) The excessive growth of weeds or grass.

(3) The provisions of paragraph (a) of subsection (2) of this section shall not apply to:

(a) Junked, wrecked, or nonoperative automobiles, vehicles, machines, or other similar scrap or salvage materials located on the business premises of a licensed automotive recycling dealer as defined under the provisions of KRS 190.010(8);

(b) Junked, wrecked, or nonoperative motor vehicles, including parts cars, stored on private real property by automobile collectors, whether as a hobby or a profession, if these motor vehicles and parts cars are stored out of ordinary public view by means of suitable fencing, trees, shrubbery, or other means; and

(c) Any motor vehicle as defined in ***Section 1 of this Act*** ~~[KRS 281.011]~~ that is owned, controlled, operated, managed, or leased by a motor carrier.

(4) It shall be unlawful in any city, county, consolidated local government, or urban-county for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy, or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures, or other residents of the city, county, consolidated local government, or urban-county.

(5) Any city, county, consolidated local government, or urban-county may establish by ordinance reasonable standards and procedures for the enforcement of this section. The procedures shall comply with all applicable statutes, administrative regulations, or codes. Proper notice shall be given to property owners before any action is taken pursuant to this section; and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner.

(6) Unless imminent danger exists on the subject property that necessitates immediate action, the city, county, consolidated local government, or urban-county government shall send, within fourteen (14) days of a final determination after hearing or waiver of hearing by the property owner, a copy of the determination to any lien holder of record of the subject property by first-class mail with proof of mailing. The lien holder of record may, within forty-five (45) days from receipt of that notice, correct the violations cited or elect to pay all fines, penalty charges, and costs incurred in remedying the situation as permitted by subsection (7) of this section.

(7) A city, county, consolidated local government, or urban-county shall have a lien against the property for the reasonable value of labor and materials used in remedying the situation. The affidavit of the responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The lien shall be notice to all persons from the time of its recording and shall bear interest thereafter until paid. The lien created shall take precedence over all other liens, except state, county, school board, and city taxes, except as provided in subsection (8) of this section. The lien may be enforced by judicial proceeding.

(8) The lien provided in subsection (7) of this section shall not take precedence or priority over a previously recorded lien if:

(a) The city, county, consolidated local government, or urban-county government failed to provide the lien holder a copy of the determination in accordance with subsection (6) of this section; or

(b) The lien holder received a copy of the determination as required by subsection (6) of this section, and the lien holder corrected the violations or paid the fines, penalty charges, and costs incurred in remedying the violation.

(9) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties, and other charges and the city, county, or urban-county may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed. The failure of a city, county, consolidated local government, or urban-county government to comply with subsection (6) of this section, and the failure of a lien to take precedence over previously filed liens as provided in subsection (8) of this section, shall not limit or restrict any remedies that the city, county, consolidated local government, or urban-county government has against the owner of the property.

(10) The provisions of subsections (5), (7), and (9) of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant, or person is not the generator of the rubbish or is not dumping or knowingly allowing the dumping of the rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto the property.

➔Section 44. KRS 281.905 is amended to read as follows:

(1) The duties of the committee shall be ~~[:~~

~~(a) ]~~to advise the executive and legislative branches of government of the Commonwealth on issues regarding industrial expansion, promotion of motor carrier development, safety training, and improvement of motor carrier taxation and regulation methods~~[; and~~

~~(b) To coordinate and monitor educational training courses on motor carrier operations and safety regulation pursuant to KRS 281.907]~~.

(2) The committee may request information and data from agencies of state government and may conduct studies to assist in the performance of its functions and duties.

(3) The committee shall meet no less than quarterly during each calendar year, but may meet more frequently, if required. Meetings may be held at any place within the Commonwealth as determined by the committee. The Transportation Cabinet shall provide meeting facilities and administrative assistance and support to the committee and the expense of operations of the committee shall be paid from the budget of the Department of Vehicle Regulation.

(4) The chairman of the committee shall be the secretary of the Transportation Cabinet, or his designee. The vice chairman shall be elected from the nine (9) appointed members of the committee. A majority of the membership of the committee shall constitute a quorum for the conduct of business.

(5) The meetings of the committee shall be public and the board shall file annual reports of its activities, findings, and recommendations with the office of the Secretary of State and the Legislative Research Commission. The reports shall be a matter of public record.

➔Section 45. The following KRS sections are repealed:

186.052 License fee for driveaway operations -- Tags.

186.281 Seat and other vehicle taxes.

186.286 Apportionment of seat taxes.

281.011 Definitions for chapter.

281.012 Definitions.

281.013 Definitions for chapter.

281.014 Definitions for chapter.

281.015 Definitions.

281.604 Assessment of AVIS reprogramming costs required due to KRS 186.072 and 186.073.

281.607 Recognition of corporate limits and population of city government units prior to merger into urban-county government -- Recognition of boundaries of service districts.

281.612 Authorization for joining interstate compact for overdimensional permits.

281.615 Permit for motor carrier required -- Employment illegal, when.

281.618 Construction of certificates authorizing transportation of persons.

281.619 Nonprofit bus certificate.

281.620 Application for certificate, permit, or change therein -- Fee.

281.625 Hearing on application -- Notice -- Protest -- Exceptions.

281.6251 Notice of intention to apply for certificate.

281.632 Temporary authority for service -- Renewal of temporary authority period.

281.633 Personal representative's power over decedent's certificate -- Transferring certificate when holder incorporates.

281.637 Charter bus certificate.

281.641 Department may withdraw, set aside or amend final order -- Time.

281.645 New application after denial of previous application.

281.650 Renewal of certificate or permit.

281.660 Taxicab permits to be renewed as certificates.

281.6602 County taxicab and limousine certificates.

281.670 Suspension, revocation, or alteration of certificate or permit -- Notice to carrier of license holder's failure to appear -- Suspension for carrier's driver's failure to satisfy citation or summons.

281.675 Standards of certificate holder's rates and services.

281.680 Filing and public inspection of rate and service schedules and contracts -- Collective ratemaking procedures.

281.685 Adherence to rates, fares, charges, and schedules -- Prohibition against discrimination.

281.690 Changes in rates.

281.695 Powers of Department of Vehicle Regulation to regulate rates and service.

281.700 Abandonment or change of route, service or schedule.

281.710 Nonresident carrier to have agent for service of process.

281.780 Right of appeal -- How taken.

281.801 Application determined on basis of affidavits when no protest filed.

281.804 Operation of taxicab in competition with common carrier.

281.806 Chapter not to be construed to prohibit department from granting certificate authorizing operation of taxicabs from unincorporated community.

281.850 Automobile utility trailer lessor's permit.

281.860 Annual tax on utility trailer.

281.907 Educational training courses for motor carriers -- Certification of providers -- Fees -- Records.

281.910 Local government authority over regulation of taxicabs -- Adoption -- Ordinance -- Review by cabinet -- Revocation of authority.

281.912 Safety inspection -- Proof -- Safety and out-of-service criteria -- Revocation for fraudulent inspection record.

281.914 Existing certificate holders.

➔Section 46. Any certificate or permit issued by the Department of Vehicle Regulation under the provisions of KRS Chapter 281 or by a local government under the provisions of KRS 281.910 that is valid on the effective date of this Act shall continue to be valid until the renewal date of the permit or certificate. Existing certificate or permit holders shall make initial application to the department for the appropriate certificate under the provisions of Section 10 of this Act prior to the holder's renewal date.

**Signed by Governor March 19, 2015.**

## CHAPTER 20

**( SB 89 )**

AN ACT relating to firearms sales to current and retired employees.

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

➔Section 1. KRS 45A.600 is amended to read as follows:

(1) ***(a) When an agency of Kentucky state government or a public university safety and security department organized pursuant to KRS 164.950 transitions from the use of one (1) firearm owned by that agency to another, the agency may sell the firearm that is being replaced directly to an employee of the agency if:***

***1. The firearm was issued to the employee in the course of employment; and***

***2. The employee is otherwise authorized by law to own or possess the firearm.***

***(b) 1. The agency shall notify employees of the intended replacement of firearms and that employees may purchase firearms pursuant to paragraph (a) of this subsection.***

***2. The employee desiring to purchase the firearm issued to the employee shall notify the head of the issuing agency of his or her intention not less than ten (10) days after receiving notice of the intended replacement.***

***(2) (a)*** Upon~~[ his]~~ retirement from state employment, a state employee to whom a ***firearm***~~[handgun]~~ has been issued during the course of~~[ his]~~ employment may purchase the ***firearm***~~[handgun]~~ which was issued~~[ to him]~~ during the course of~~[ his]~~ employment ***if the employee is otherwise authorized to privately own or possess the firearm***.

~~[(2) The purchase price shall be the fair market value determined by the Finance and Administration Cabinet, Division of Personal Property. The proceeds from the sale of the handgun shall be deposited to the credit of an agency account for the issuing agency and shall be used for the purpose of purchasing replacement firearms.]~~

***(b)***~~[(3)]~~ The employee desiring to purchase the ***firearm***~~[handgun]~~ issued to ***the employee***~~[him]~~ shall notify the head of the issuing agency of such intention not less than thirty (30) days prior to the scheduled date of~~[ his]~~ retirement.

***(3) The purchase price shall be the fair market value determined by the Finance and Administration Cabinet, Division of Personal Property. The proceeds from the sale of the firearm shall be deposited to the credit of an agency account for the issuing agency and shall be used for the purpose of purchasing replacement firearms.***

***(4) Any firearms that are not purchased by employees or retirees shall be disposed of pursuant to Section 2 of this Act.***

***(5)***~~[(4)]~~ This statute shall supersede other state laws with regard to the disposition of state property for the purpose stated in this section and for no other purpose.

➔Section 2. KRS 45A.047 is amended to read as follows:

(1) When an agency of Kentucky state government or a public university safety and security department organized pursuant to KRS 164.950 disposes of firearms or ammunition owned by that agency, the disposition shall be by:

(a) Public auction to persons who are eligible under federal law to purchase the type of firearm or ammunition;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display; or

(d) Sale to a ***current or*** retiring employee as authorized by law.

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor for officers meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government. The provisions of this subsection shall not apply to the Department of Fish and Wildlife.

(3) Body armor purchased for a service animal shall be purchased only for an animal owned by the law enforcement agency specified in subsection (1) of this section.

➔Section 3. KRS 65.041 is amended to read as follows:

KRS 45A.343 and 45A.425 to the contrary notwithstanding:

(1) When a police department, sheriff's department, or other agency of city, county, urban-county, or charter county government or other unit of local government disposes of firearms or ammunition owned by that unit of local government, the disposition shall be by:

(a) Public auction to persons eligible under federal law to purchase the type of firearm or ammunition being offered for sale;

(b) Trade to the federally licensed firearms dealer providing new firearms or ammunition to the agency;

(c) Transfer to another government agency or government-operated museum in Kentucky for official use or display; or

(d) Sale to the ***employee***~~[officer]~~ to whom the firearm was issued,~~[ upon his or her retirement,]~~ if all of the following provisions are satisfied:

1. The firearm was issued to the ***employee***~~[officer]~~ as his or her~~[ primary]~~ service weapon;

2. ***The employee is retiring or an employee's service weapon is being replaced;***

***3.*** The ***employee***~~[officer]~~ is otherwise authorized by law to own or possess the firearm; and

***4.***~~[3.]~~ The sale price of the firearm is the fair market value of the firearm, not to exceed the actual cost of the firearm to the unit of government; and

(2) If the firearms or ammunition are sold, the proceeds of the sale shall be utilized solely for the purchase of body armor meeting or exceeding National Institute of Justice standards, firearms, ammunition, or range facilities, or a combination thereof, by the agency of government.

**Signed by Governor March 19, 2015.**

## CHAPTER 21

**( SB 186 )**

AN ACT relating to oil and gas production and reclamation.

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

➔SECTION 1. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) For the purposes of this section and Sections 2, 3, and 4 of this Act, a storage tank facility that is not being actively used and maintained shall be deemed abandoned if:***

***(a) The cabinet sends written notice, by certified mail, return receipt requested, to the address of the last known owner or operator of the facility or tank or to the registered agent of a corporate owner or operator; and***

***(b) The owner or operator fails to respond within thirty (30) days after receiving the notice indicating the intent to continue to use the tank or facility.***

***(2) Within thirty (30) days of the owner or operator's indication of intent to continue to use the tank or facility, the owner or operator shall restore the status of the tank or facility to active maintenance and shall***

***implement a spill prevention, control, and countermeasure plan. If after thirty (30) days of an operator's indication of intent to continue to use the tank or facility, the operator fails to restore the status of the facilities to active maintenance, the cabinet shall deem the tank or facility abandoned.***

➔SECTION 2. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created the Kentucky Abandoned Storage Tank Reclamation Program. The purpose of the program is to reclaim abandoned storage tank facilities in order to return the property to productive use. Reclamation of abandoned storage tank facilities shall include removing necessary tank infrastructure and removing primary and secondary sources of contamination of the land, air, and water. Abandoned storage tank facilities enrolled in the program shall be eligible for reclamation and clean up funds from the Kentucky abandoned storage tank reclamation fund.***

***(2) The Kentucky abandoned storage tank reclamation fund is hereby created as an interest bearing, restricted, agency account. The fund shall be administered by the cabinet. Interest credited to the account shall be retained in the account. Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in this section and Sections 1, 3, and 4 of this Act.***

***(3) Moneys in the fund shall be for carrying out the purpose provided in subsection (1) of this section including any administrative costs, set forth in this section and Sections 1, 3, and 4 of this Act. The fund may receive moneys from federal and state grants or appropriations, and from any other proceeds for the purposes of this section and Sections 1, 3, and 4 of this Act.***

***(4) Funds expended for costs incurred in reclaiming abandoned storage tank facilities shall be in accordance with the provisions of this section and after the cabinet deems that there is:***

***(a) No person identified or found with continuing legal responsibility for the abandoned storage tank facility; or***

***(b) Reclamation measures are necessary to respond to an imminent threat to the public health, safety, and environment.***

***(5) Reclamation measures paid for by the fund shall include the following:***

***(a) Removal and disposal of abandoned storage tank facilities; and***

***(b) Reclamation of lands affected by abandoned storage tank facilities including:***

***1. Removal of aboveground flow lines;***

***2. Removal or treatment of contaminated soil to no more than three (3) feet in depth;***

***3. Elimination of all berms, dikes, and other structures utilized as spill prevention, control, and countermeasure structures; and***

***4. Grading and seeding of the surface where the tank or tank battery was located.***

***(6) If during the course of removing and reclaiming an abandoned storage tank facility, the division observes evidence of soil contamination below three (3) feet depth, the division shall consult with the Department for Environmental Protection to determine whether further action is necessary to protect public health and the environment. Nothing contained in this section shall be construed to obligate the fund to provide additional moneys for removal or treatment of contaminated soil other than provided in subsection (5)(b)2. of this section.***

***(7) Any person performing reclamation measures pursuant to this section shall comply with applicable local, state, and federal laws and regulations.***

***(8) The cabinet shall have the authority to:***

***(a) Contract for services provided by and engage in cooperative projects with other government agencies for the remediation, clean-up, and disposal of abandoned storage tanks; and***

***(b) Enter into agreements with those government agencies to compensate those agencies with funds from the account; and***

***(c) Accept and deposit into the fund any federal, state, and other funds for the purposes of this section and Sections 7, 9, and 10 of this Act.***

➔SECTION 3. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) The cabinet and its authorized representatives, agents, and contractors shall have the right and authority to enter upon property threatened by an abandoned storage tank facility and to access any other property for the purpose of removal and reclamation of the abandoned storage tank facility if the cabinet makes a finding of fact that:***

***(a) An abandoned storage tank facility poses a threat to human health, safety, and the environment under subsection (4)(b) of Section 2 of this Act and is eligible to be enrolled in the Kentucky Abandoned Storage Tank Reclamation Program;***

***(b) The cabinet determines that action in the public interest should be taken to dispose of the abandoned storage tank facilities and to reclaim the lands threatened by the abandoned storage tank facilities; and***

***(c) 1. The owner or owners of the property are not known or are not readily available; or***

***2. The owner or owners will not give permission for the Commonwealth, political subdivisions, or their agents, employees, or contractors to enter upon the property.***

***(2) Prior to entry on the land for the purpose of conducting remediation, the cabinet shall give notice by mail to the all owners of the property, if known. If the owners are unknown, then the cabinet shall post notice upon the premises and shall advertise once in a newspaper of general circulation in the municipality or county in which the land where the abandoned storage tank facilities are located.***

***(3) Additionally, the cabinet and its authorized representatives, agents, and contractors shall have the right to enter upon any property for the purpose of conducting field inspections or investigations to determine the existence and status of abandoned storage tank facilities and to determine the feasibility of removal and reclamation of the abandoned storage tank facility.***

***(4) Entry upon the land under this section shall be construed as an exercise of the Commonwealth's police power for the protection of the public health, safety, and general welfare. Entry shall not be construed as an act of condemnation of property or of trespass thereon.***

***(5) The cabinet may initiate, in addition to any other remedies provided in KRS Chapter 353, in any court of competent jurisdiction, an action in equity for an injunction to restrain any interference with the exercise of the right to enter or to conduct any work authorized under this section and Sections 1, 2, and 4 of this Act.***

***(6) Any person who intends to remove an abandoned storage tank facility shall:***

***(a) Notify the cabinet before undertaking the removal;***

***(b) Do so at his or her own risk and expense; and***

***(c) Bear sole responsibility for complying with all applicable local, state, and federal laws and regulations during the removal, disposal, and reclamation of the site.***

***(7) Nothing in this section shall be construed as an additional grant of authority for any person or entity other than the cabinet or the cabinet's agents to take action under this section and Sections 1, 2, and 4 of this Act.***

➔SECTION 4. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) The cabinet shall have the authority to recover actual and necessary expenditures, including administrative costs, reasonably incurred in carrying out the duties of this section and Sections 1, 2, and 3 of this Act from:***

***(a) The last owner or operator of record of the abandoned storage tank facility where fund moneys were expended; and***

***(b) Any other party legally responsible for causing or contributing to a threat to human health, safety, and the environment that the Commonwealth incurred costs or expenses under this section and Sections 1, 2, and 3 of this Act.***

***(2) The cabinet may initiate an action for reimbursement of costs in any court of competent jurisdiction. The recovery of any costs under this section and Section 3 of this Act shall be credited to the Kentucky Abandoned Storage Tank Reclamation Fund except for recovered administrative costs which shall be retained by the cabinet.***

***(3) The cabinet may not seek reimbursement from the landowner for costs incurred under this section and***

***Section 3 of this Act unless the landowner qualifies as the last known owner or operator under subsection (1)(a) of this section or caused or contributed to a threat under subsection (1)(b) of this section.***

***(4) Expenditures of moneys from the fund for the purposes established subsection (4) and (5) of Section 2 of this Act shall be prioritized in the following order:***

***(a) Abandoned storage tank facilities that are an imminent threat to human health, safety, and the environment as evidenced by leaking tanks, berms, or dikes near dwellings, streams, rivers, water bodies, or other sensitive areas;***

***(b) Abandoned storage tank facilities that pose a threat to human health, safety, and the environment as evidenced by the facilities proximity to structures, streams, rivers, water bodies, or other sensitive areas; and***

***(c) Abandoned storage tank facilities that pose a potential threat to human health, safety, and the environment.***

➔SECTION 5. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) An operator employing a high-volume horizontal fracturing treatment shall provide notice required under subsection (3) of this section to each surface property owner within one thousand (1,000) feet of the surface location of the proposed well, at least twenty (20) days prior to commencement of a high-volume horizontal fracturing treatment of a horizontal well. For purposes of this subsection, a surface property owner is the person who is assessed for the purpose of taxes imposed according to the records of the property valuation administrator of the county where the property is located.***

***(2) The operator shall, for the purpose of giving notice, secure from the property valuation administrator's office, the names of persons entitled to notice under this section. Notice to the persons indicated as surface property owners in the office of the property valuation administrator shall be conclusive evidence that the operator has met the requirements of this section.***

***(3) The notice to surface property owners shall include:***

***(a) The name and address of the operator;***

***(b) The surface location of the proposed well; and***

***(c) The name and location of the cabinet office where the permit and related documents are available for public inspection and, if the documents are available electronically, the Web site where the permit and related documents may be inspected.***

➔SECTION 6. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) At least twenty (20) days prior to the commencement of a high-volume horizontal fracturing treatment on a deep horizontal well, an operator shall conduct a baseline water quality test of each down-gradient surface water impoundment or water supply from a groundwater source that is used for domestic, agriculture, industrial, or other legitimate use located within one thousand (1,000) feet of the surface location of the proposed deep horizontal well. Between three (3) and six (6) months following the completion of the deep horizontal well, a subsequent water quality test shall be conducted of the water supply where a baseline sample was collected.***

***(2) The water quality tests shall be conducted by a laboratory certified by the cabinet for drinking water quality sampling, and the test analysis shall be submitted to the Division of Oil and Gas and to the water supply owner within thirty (30) days of the receipt of the analysis. Each set of samples collected under this section shall include analysis for:***

***(a) pH;***

***(b) Total dissolved solids, dissolved methane, dissolved propane, dissolved ethane, alkalinity, and specific conductance;***

***(c) Chloride, sulfate, arsenic, barium, calcium, chromium, iron, magnesium, selenium, cadmium, lead, manganese, mercury, and silver;***

***(d) Surfactants;***

***(e) Benzene, toluene, ethyl benzene, and xylene; and***

***(f) Gross alpha and beta particles to determine the presence of any naturally occurring radioactive***

***materials.***

***(3) The Division of Oil and Gas shall develop a form for an operator to document a water supply owner's permission to collect a water sample. An operator is exempt from the requirements of this section if a water supply owner refuses to grant access despite an operator's good faith efforts to obtain consent to acquire the necessary water quality samples. An operator shall document the good faith efforts used to seek consent from the water supply owner who refused access to conduct the water quality sampling. The operator shall submit the documented good faith efforts to the Division of Oil and Gas.***

➔SECTION 7. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) A vendor or service provider performing any part of a high-volume horizontal fracturing treatment shall furnish the operator with the information required by subsection (2) of this section, as applicable, and with any information as needed for the operators to comply with this section. The information shall be provided as soon as possible and in no case later than forty-five (45) days after the completion of a high-volume horizontal fracturing treatment.***

***(2) Within ninety (90) days of concluding a high-volume horizontal fracturing treatment, the operator of the horizontal well shall complete the chemical disclosure registry form and post the form on the chemical disclosure registry. The following information shall be required to be furnished:***

***(a) Operator's name;***

***(b) The date of the high-volume horizontal fracturing treatment;***

***(c) The county in which the well is located;***

***(d) The API number for the well;***

***(e) The well name and number;***

***(f) The longitude and latitude of the wellhead;***

***(g) The true vertical depth of the well;***

***(h) The total water volume used;***

***(i) Each chemical additive used in the fracturing treatment, including the chemical abstract service number added, if applicable;***

***(j) The maximum concentration, in percent by mass, of each chemical intentionally added to the base fluid, if applicable; and***

***(k) The total amount of proppant used, if applicable.***

***(3) A vendor, service provider, or operator shall not be required to:***

***(a) Disclose any trade secrets under subsection (2)(j) of this section to the chemical disclosure registry;***

***(b) Disclose chemicals that are not disclosed to it by a third-party manufacturer of the chemicals; or***

***(c) Disclose chemicals that:***

***1. Occur incidentally or are otherwise unintentionally present in trace amounts;***

***2. May be the incidental result of a chemical reaction or chemical process; or***

***3. May be constituents of naturally occurring materials that become part of a high-volume horizontal fracturing treatment, where the chemicals are unknown to the vendor, service provider, or operator.***

➔SECTION 8. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) If the vendor, service provider, or operator of a high-volume horizontal fracturing treatment claims that the volume of a chemical or relative concentration of chemical is a trade secret, the operator of the horizontal well shall indicate that claim on the chemical disclosure registry form and, as applicable, the vendor, service provider, or operator shall submit a request to the director to designate the information as a trade secret.***

***(2) At the time of claiming entitlement to trade secret protection, the vendor, service provider, or operator shall file with the director the following information on a form prescribed by the division. The form shall***

***include:***

***(a) The claimant's name, authorized representative, mailing address, and phone number;***

***(b) The specific information claimed to be entitled to trade secret protection;***

***(c) Whether there has been a previous determination by a court, or by a governmental agency that the information is or is not entitled to confidential treatment; and***

***(d) The measures taken by the vendor, service provider, or operator to protect the confidentiality of the information.***

***(3) Any information claimed to be a trade secret shall be disclosed by the director only:***

***(a) In accordance with this section and Sections 9 and 10 of this Act; or***

***(b) If ordered by a court to do so.***

***(4) Vendors, service providers, and operators shall identify the volume and relative concentration of any chemicals used in the high-volume horizontal fracturing treatment that are claimed to be a trade secret to the cabinet. The cabinet shall release that information to any health professional who request the information if:***

***(a) The request is in writing;***

***(b) The health professional provides a written statement of the need for the information; and***

***(c) The health professional executes a confidentiality agreement.***

***(5) The health professional's written statement of need under subsection (4)(b) of this section shall be a statement that the health professional has a reasonable basis to believe that:***

***(a) The information is needed for purposes of diagnosis or treatment of an individual; and***

***(b) The individual being diagnosed or treated may have been exposed to the chemical concerned.***

***(6) The confidentiality agreement shall state:***

***(a) The health professional shall not use the information for purposes other than the health needs asserted in the written statement of need; and***

***(b) The health professional shall otherwise maintain the information as confidential.***

***(7) Where a health professional determines that a medical emergency exists, and the amount or mixture of any chemicals claimed to be a trade secret are necessary for emergency treatment, the director shall:***

***(a) Immediately direct the vendor, service provider, or operator, as applicable, to disclose the information to the health professional upon verbal acknowledgement by the health professional that:***

***1. The information shall not be used for purposes other than the health needs asserted; and***

***2. The health professional shall otherwise maintain the information as confidential; and***

***(b) Request a written statement of need and a confidentially agreement from all health professionals to whom the information regarding the concentration or mixture of any chemicals claimed to be a trade secret was disclosed, as soon as circumstances permit.***

***(8) Information disclosed to a health professional under this section shall not be construed as publicly available by virtue of the disclosure of the information to a health care professional. Release of the information under this section shall not be construed as a waiver of a trade secret claim by the party who has asserted that claim.***

***(9) The division shall develop a form for the vendor, service provider, or operator to claim trade secret status under subsections (1) and (2) of this section and a standard confidentiality agreement for medical professionals under subsections (5), (6), and (7) of this section.***

➔SECTION 9. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) The director shall direct a vendor, service provider, or operator, as applicable, to immediately disclose information regarding the concentration or mixture of a chemical claimed to be a trade secret to the extent that the disclosure is necessary to assist in responding to an emergency spill or discharge, except that the individuals receiving the information shall not disseminate the information further. In addition, the director***

***upon request may disclose the specific information concerning the volume of a chemical or relative concentration of chemicals, or both, which are claimed to be a trade secret for the purpose of responding to an emergency spill or discharge if request is made by letter or electronic mail from:***

***(a) The Kentucky Department for Environmental Protection;***

***(b) The Kentucky Department for Natural Resources;***

***(c) The Kentucky Department for Public Health; or***

***(d) A local public health department.***

***(2) Any information disclosed under this section shall not be construed as publicly available by virtue of the disclosure to any entity listed in this section, and release of the information under this section shall not be construed as a waiver of a trade secret claim by the party who has asserted that claim.***

➔SECTION 10. A NEW SECTION OF KRS 353.500 TO 353.720 IS CREATED TO READ AS FOLLOWS:

***(1) The director shall notify the vendor, service provider, or operator, as applicable, within ten (10) days of receipt of a request pursuant to the Kentucky Open Records Act for disclosure of information for which trade secret status has been asserted. The director may request additional information from the vendor, service provider, or operator, as applicable, to determine whether to grant or reject the request for disclosure.***

***(2) If the cabinet determines that the information is entitled to confidential treatment and that determination is challenged pursuant to the provisions of the Kentucky Open Records Act, the director may call upon the owner or operators to assist in the defense of that determination.***

***(3) If the cabinet makes a determination that the information is not entitled to confidential treatment, notwithstanding KRS 61.870 to 61.884, the director shall:***

***(a) Notify the vendor, service provider, or operator, as applicable, who asserted the trade secret status; and***

***(b) Delay release of the information for a period of ten (10) working days after mailing the notice.***

***(4) Judicial review of any determination under this section shall be undertaken in accordance with the Kentucky Open Records Act, and administrative review of the determination to release or to withhold information shall not be required.***

➔Section 11. KRS 353.180 is amended to read as follows:

(1) No person shall abandon or remove casings from any oil or gas well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with its administrative regulations. Upon the department's plugging of an abandoned well in accordance with the requirements of this subsection, the department may sell, by sealed bid, or include as part of compensation in the contract for the plugging of the well, all equipment removed from that well and deposit the proceeds of the sale into the oil and gas well plugging fund, established in KRS 353.590***(28)*** ~~[(24)]~~.

(2) Not less than thirty (30) days before advertising for bids for the plugging of wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name and Carter Coordinate location, for which the department intends to seek bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, he shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that equipment and it shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner described in this subsection or a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this subsection.

(3) If a person fails to comply with subsection (1) of this section, any person lawfully in possession of land adjacent to the well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1) of this section, and may maintain a civil action against the owner or

person abandoning the well, jointly or severally, to recover the cost of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.

➔Section 12. KRS 353.510 is amended to read as follows:

As used in KRS 353.500 to 353.720, unless the context otherwise requires:

(1) "Department" means the Department for Natural Resources;

(2) "Commissioner" means the commissioner of the Department for Natural Resources;

(3) "Director" means the director of the Division of Oil and Gas as provided in KRS 353.530;

(4) "Commission" means the Kentucky Oil and Gas Conservation Commission as provided in KRS 353.565;

(5) "Person" means any natural person, corporation, association, partnership, receiver, governmental agency subject to KRS 353.500 to 353.720, trustee, so-called common-law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(6) "Correlative rights" means the reasonable opportunity of each person entitled thereto to recover and receive ***or receive,*** without waste***,*** the oil and gas in and under ***or produced from a tract or tracts in which the person owns or controls an interest, or proceeds thereof***~~[his tract or tracts, or the equivalent thereof]~~;

(7) "Oil" means natural crude oil or petroleum and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas after it leaves the underground reservoir;

(8) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined in subsection (7) of this section as oil;

(9) "Pool" means***:***

***(a)*** An underground reservoir containing a common accumulation of oil or gas or both***; or***

***(b)*** ***An area established by the commission as a pool***.

Each productive zone of a general structure which is completely separated from any other zone in the structure, or which for the purpose of KRS 353.500 to 353.720 may be so declared by the department, is covered by the word "pool"~~[ as used herein]~~;

(10) "Field" means the general area which is underlaid or appears to be underlaid by at least one (1) pool; and "field" includes the underground reservoir containing oil or gas or both. The words "field" and "pool" mean the same thing when only one (1) underground reservoir is involved; however, "field," unlike "pool," may relate to two (2) or more pools;

(11) "Just and equitable share of production" means, as to each person, an amount of oil or gas or both substantially equal to the amount of recoverable oil and gas in that part of a pool underlying his tract or tracts;

(12) "Abandoned," when used in connection with a well or hole, means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of oil or gas or for the injection or disposal of fluid therein;

(13) "Workable bed" means:

(a) A coal bed actually being operated commercially;

(b) A coal bed that the department decides can be operated commercially and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(c) A coal bed which, from outcrop indications or other definite evidence, proves to the satisfaction of the commissioner to be workable, and which, when operated, will require protection if wells are drilled through it;

(14) "Well" means a borehole***:***

***(a)*** Drilled ***or proposed to be drilled***~~[, shaft driven, or hole dug or such proposed or otherwise used]~~ for the purpose of producing ***gas or oil;***

***(b)*** ***Through which gas or oil***~~[natural gas or petroleum, or one through which natural gas or petroleum]~~ is being produced***; or***

***(c)*** ***Drilled or proposed to be drilled***~~[, or]~~ for the purpose of injecting any water, gas, or other fluid therein or ~~[one ]~~into which any water, gas, or other fluid is being injected;

(15) "Shallow well" means any well drilled and completed at a depth ***of six thousand (6,000)***~~[less than four thousand (4,000)]~~ feet ***or less*** except, in the case of any well drilled and completed east of longitude line 84 degrees 30'; shallow well means any well drilled and completed at a depth ***of six thousand (6,000)***~~[less than four thousand (4,000)]~~ feet or above the base of the lowest member of the Devonian Brown Shale, whichever is the deeper in depth;

(16) "Deep well" means any well drilled and completed below the depth ***of six thousand (6,000) feet or, in case of a well located east of longitude line 84 degree 30', a well drilled and completed at a depth below six thousand (6,000) feet or below the base of the lowest member of the Devonian Brown Shale, whichever is deeper***~~[herein provided for a shallow well]~~;

(17) "Operator" means***:***

***(a)*** ***For a deep well,*** any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas produced therefrom, either for himself or for himself and others**.**~~[;]~~ In the event that there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as ***the royalty owner***~~["operator"]~~ to the extent of ***the prevailing royalty in***~~[seven-eighths (7/8) of]~~ the oil and gas in that portion of the pool underlying the tract owned by ***the***~~[such]~~ owner, and as ***operator***~~["royalty owner"]~~ as to ***the remaining***~~[one-eighth (1/8)]~~ interest in such oil and gas**.**~~[; and]~~ In the event the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as "operator" as to such pool; ***and***

***(b)*** ***For a shallow well, any owner of the right to develop, operate, and produce oil and gas from a pool and to appropriate the oil and gas therefrom, either for himself, or herself or for himself or herself and others. If there is no oil and gas lease in existence with respect to the tract in question, the owner of the oil and gas rights therein shall be considered as operator to the extent of seven-eighths (7/8) of the oil and gas in that portion of the pool underlying the tract owned by the owner, and as a royalty owner as to the one-eighth (1/8) interest in the oil and gas. If the oil is owned separately from the gas, the owner of the right to develop, operate, and produce the substance being produced or sought to be produced from the pool shall be considered as operator as to the pool;***

(18) "Royalty owner" means any owner of oil and gas in place, or oil and gas rights, to the extent that ***the***~~[such]~~ owner is not an operator as defined in subsection (17) of this section;

(19) "Drilling unit" generally means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum~~[ recoverable]~~ oil or gas ***reasonably recoverable*** in ***the***~~[such]~~ area. Where the regulatory authority has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, ***the***~~[such]~~ area shall be a drilling unit;

(20) "Underground source of drinking water" means those subsurface waters identified as ~~[such ]~~in regulations promulgated by the department which shall be consistent with the definition of underground source of drinking water in regulations promulgated by the Environmental Protection Agency pursuant to the Safe Drinking Water Act, 42 U.S.C. secs. 300(f) et seq.;

(21) "Underground injection" means the subsurface emplacement of fluids by well injection but does not include the underground injection of natural gas for purposes of storage;

(22) "Endangerment of underground sources of drinking water" means underground injection which may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and if the presence of ***the***~~[such]~~ contaminant may result in ***the***~~[such]~~ system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons;

(23) "Class II well" means wells which inject fluids:

(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

(b) For enhanced recovery of oil or natural gas; and

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure;

(24) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state***;***

***(25) "Horizontal well" means a well, the wellbore of which is initially drilled on a vertical or directional plane and which is curved to become horizontal or nearly horizontal, in order to parallel a particular geological formation and which may include multiple horizontal or stacked laterals;***

***(26) "Vertical well" means a well, the wellbore of which is drilled on a vertical or directional plane into a formation and is not turned or curved horizontally to allow the wellbore additional access to the oil and gas reserves in the formation;***

***(27) "Prevailing royalty" means the royalty rate or percentage that the commission determines is the royalty most commonly applicable with regard to the tract or unit in the issue. The royalty rate set by the commission shall not be less than one-eighth (1/8) or twelve and one-half percent (12.5%);***

***(28) "Best management practices" means demonstrated practices intended to control site run-off and pollution of surface water and groundwater to prevent or reduce the pollution of waters of the Commonwealth;***

***(29) "Abandoned storage tank facility" means any aboveground storage tank or interconnected grouping of tanks that is no longer being actively used and maintained in conjunction with the production and storage of crude oil or produced water;***

***(30) "Spill prevention, control, and countermeasure structures" means containment structures constructed around a storage facility to contain facility discharges;***

***(31) "Landowner" means any person who owns real property where an abandoned storage tank facility is currently located;***

***(32) "Chemical Abstracts Service" means the division of the American Chemical Society that is the globally recognized authority for information on chemical substances;***

***(33) "Chemical abstracts service number" means the unique identification number assigned to a chemical by the Chemical Abstracts Service;***

***(34) "Chemical" means any element, chemical compound, or mixture of elements or compounds that has its own specific name or identity, such as a chemical abstracts service number;***

***(35) "Chemical disclosure registry" means the chemical registry known as FracFocus developed by the Groundwater Protection Council and the Interstate Oil and Gas Compact Commission. If that registry becomes permanently inoperable, the chemical disclosure registry shall mean another publicly accessible Web site that is designated by the commissioner;***

***(36) "Division" means the Kentucky Division of Oil and Gas;***

***(37) "Emergency spill or discharge" means an uncontrolled release, spill, or discharge associated with an oil or gas well or production facility that has an immediate adverse impact to public health, safety, or the environment as declared by the secretary of the cabinet;***

***(38) "Health professional" means a physician, physician assistant, nurse practitioner, registered nurse, or emergency medical technician licensed by the Commonwealth of Kentucky;***

***(39) "High-volume horizontal fracturing treatment" means the stimulated treatment of a horizontal well by the pressurized application of more than eighty thousand (80,000) gallons of water, chemical, and proppant, combined for any stage of the treatment or three hundred twenty thousand (320,000) gallons in the aggregate for the treatment used to initiate or propagate fractures in a geological formation for the purpose of enhancing the extraction or production of oil or natural gas;***

***(40) "Proppant" means sand or any natural or man-made material that is used in a hydraulic fracturing treatment to prop open the artificially created or enhanced fractures once the treatment is completed;***

***(41) "Total water volume" means the total quantity of water from all sources used in a high-volume hydraulic fracturing treatment;***

***(42) "Trade secret" means information concerning the volume of a chemical or relative concentration of chemicals used in a hydraulic fracturing treatment that:***

***(a) Is known only to the hydraulic fracturing treatment's owners, employees, former employees, or***

***persons under contractual obligation to hold the information in confidence;***

***(b) Has been perfected and appropriated by the exercise of individual ingenuity which gives the hydraulic fracturing treatment's owner an opportunity to retain or obtain an advantage over competitors who do not know the information; and***

***(c) Is not required to be disclosed or otherwise made available to the public under any federal or state law or administrative regulation; and***

***(43) "Cabinet" means the Energy and Environment Cabinet.***

➔Section 13. KRS 353.590 is amended to read as follows:

(1) Any person seeking a permit required by KRS 353.570 shall submit to the department a written application in a form prescribed by the department.

(2) Each application shall be accompanied by a specified fee as follows:

(a) The fee shall be three hundred dollars ($300) for each well to be drilled, deepened, or reopened for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole.

(b) If the department receives delegation of authority for administration of the underground injection control program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended), the department may, by administrative regulation, establish a fee or schedule of fees in an amount not to exceed fifty dollars ($50) per well, in addition to the fees imposed by paragraph (a) of this subsection, upon each application to drill, deepen, or reopen a well for any purpose relating to the production, repressuring, or storage of oil or gas, and for each water supply well, observation well, and geological or structure test hole. The fees or schedule of fees to be established by administrative regulation shall not exceed an amount sufficient to recover the costs incurred by the department in administering the Underground Injection Control Program less any other state or federal funds which are made available for this purpose.

(c) All money paid to the State Treasurer for fees required by paragraph (b) of this subsection shall be for the sole use of the department in the administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub. L. 93-523 as amended).

(3) ***Applications for each deep well shall be assessed a fee according to the following schedules:***

***(a) For a vertical deep well:***

***1. With a total vertical depth of seven thousand (7,000) feet or less, the fee shall be five hundred dollars ($500); and***

***2. With a total vertical depth greater than seven thousand (7,000) feet, the fee shall be six hundred dollars ($600); and***

***(b) For a horizontal deep well:***

***1. With a total measured well depth of ten thousand (10,000) feet, or less, the fee shall be five thousand dollars ($5,000);***

***2. With a total measured well depth greater than ten thousand (10,000) feet, the fee shall be six thousand dollars ($6,000); and***

***3. Five hundred dollars ($500) for each additional lateral.***

***(4) For a horizontal deep well, each additional deep horizontal well located on the same well pad shall be assessed the following fee:***

***(a) Three thousand dollars ($3,000) for a total measured well depth up to ten thousand (10,000) feet; and***

***(b) Four thousand dollars ($4,000) for a total measured well depth greater than ten thousand (10,000) feet.***

***(5)*** All money paid to the State Treasurer for licenses and fees required by KRS 353.500 to 353.720 shall be for the sole use of the department and shall be in addition to any moneys appropriated by the General Assembly for the use of the department.

***(6)***~~[(4)]~~ Each application shall be accompanied by a plat, which shows the location and elevation of each well, prepared according to the administrative regulations promulgated under KRS 353.500 to 353.720. The plat shall be certified as accurate and correct by a professional land surveyor licensed in accordance with the provisions of KRS Chapter 322.

***(7)***~~[(5)]~~ When any person submits to the Department for Natural Resources an application for a permit to drill a well, or to reopen, deepen, or temporarily abandon any well which is not covered by surety bond, the department shall, except as provided in this section, require from the well operator the posting of a bond. ***Bonds for deep wells are posted for the purpose of ensuring well plugging and reclamation of disturbed areas.***~~[Except for bonds for well depths greater than four thousand (4,000) feet,]~~ The bond ***for plugging shallow wells*** shall be posted in accordance with the following schedule:

| Well Depth | Bond Amount |
|---|---|
| 0 to 500 feet | $500.00 |
| 501 feet to 1,000 feet | $1,000.00 |
| 1,001 feet to 1,500 feet | $1,500.00 |
| 1,501 feet to 2,000 feet | $2,000.00 |
| 2,001 feet to 2,500 feet | $2,500.00 |
| 2,501 feet to 3,000 feet | $3,000.00 |
| 3,001 feet to 3,500 feet | $3,500.00 |
| 3,501 feet to 4,000 feet | $4,000.00 |
| 4,001 feet ***to 4,500 feet***~~[and deeper]~~ | $5,000.00 |
| ***4,501 feet to 5,000 feet*** | ***$6,000.00*** |
| ***5,001 feet to 5,500 feet*** | ***$7,000.00*** |
| ***5,501 feet to 6,000 feet*** | ***$8,000.00*** |

***(8) Plugging and reclamation bonds for vertical deep wells shall be twenty-five thousand dollars ($25,000). However, the commission may establish a higher bonding amount for vertical deep wells if the anticipated plugging and reclamation costs exceed the minimum bonding amounts established in this section.***

***(9) The minimum amount of plugging and reclamation bond for a horizontal deep well shall be forty thousand dollars ($40,000). However, the commission may establish a bond amount greater than forty thousand dollars ($40,000) if the anticipated plugging and reclamation costs exceed the minimum bond.***

~~[(6) The commission may establish a bond in a sum greater than five thousand dollars ($5,000) for any well to be drilled to a depth of more than four thousand (4,000) feet if the members of the commission determine that the particular circumstances of the drilling of the well warrant an increase in the bond amount established in subsection (5) of this section.]~~

***(10) (a)***~~[(7)]~~ All bonds required to be posted under this section ***for plugging shallow wells*** shall:

***1.*** ~~[(a)]~~ Be made in favor of the Department for Natural Resources;

***2.*** ~~[(b)]~~ Be conditioned that the wells, upon abandonment, shall be plugged in accordance with the administrative regulations of the department and that all records required by the department be filed as specified; and

***3.*** ~~[(c)]~~ Remain in effect until the plugging of the well is approved by the department, or the bond is released by the department***.***

***(b) All bonds required to be posted under this section for plugging deep wells shall:***

***1. Be made in favor of the Department for Natural Resources;***

***2. Be conditioned that the wells, upon abandonment, shall be plugged and the disturbed area reclaimed in accordance with the statutes and the administrative regulations of the department and that all records required by the department be filed as specified; and***

***3. Remain in effect until the plugging of the well and the reclamation of the disturbed area is***

***approved by the department or the bond is released by the department***.

***(11)*** ~~[(8)]~~ An operator may petition the department to amend the drilling depth and bond amount applicable to a particular well and shall not proceed to drill to a depth greater than that authorized by the department until the operator is so authorized, except pursuant to administrative regulations promulgated by the department.

***(12)*** ~~[(9)]~~ (a) Any qualified ***shallow*** well operator, in lieu of the individual bond, may file with the department a blanket bond according to the following tiered structure:

1. One (1) to twenty-five (25) wells require a ten thousand dollar ($10,000) bond;
2. Twenty-six (26) to one hundred (100) wells require a twenty-five thousand dollar ($25,000) bond;
3. One hundred one (101) to five hundred (500) wells require a fifty thousand dollar ($50,000) bond; and
4. Five hundred one (501) or more wells require a one hundred thousand dollar ($100,000) bond.

(b) Any nonqualified ***shallow*** well operator, in lieu of an individual bond, may file with the department a blanket bond according to the following tiered structure:

1. One (1) to one hundred (100) wells require a fifty thousand dollar ($50,000) bond; and
2. One hundred one (101) or more wells require a one hundred thousand dollar ($100,000) bond.

***(13)*** ~~[(10)]~~ To qualify for a blanket bond ***for a shallow well*** under the tiered structure set forth in subsection ***(12)*** ~~[(9)]~~(a) of this section, an operator shall:

(a) Have a blanket bond in place filed with the department prior to July 15, 2006, and have no outstanding, unabated violations of KRS Chapter 353 or regulations adopted pursuant thereto which have not been appealed;

(b) Demonstrate for a period of thirty-six (36) months prior to the request for blanket bonding a record of compliance with the statutes and administrative regulations of the division; or

(c) Provide proof of financial ability to plug and abandon wells covered by the blanket bond.

***(14)*** ~~[(11)]~~ In addition to the requirements set forth in subsection ***(15)*** ~~[(12)]~~ of this section, proof of financial ability set forth in subsection ***(13)*** ~~[(10)]~~(c) of this section shall be established by an audited financial statement that satisfies at least two (2) of the following ratios:

(a) A ratio of total liabilities to net worth less than two (2); or

(b) A ratio of the sum of net income plus depreciation, depletion, and amortization to total liability greater than one-tenth (0.1); or

(c) A ratio of current assets to current liabilities greater than one and five-tenths (1.5).

***(15)*** ~~[(12)]~~ If the operator is a corporate subsidiary, the operator further shall provide a corporate guarantee in which the guarantor shall be the parent corporation of the operator of the wells covered under the bond. The corporate guarantee shall provide:

(a) That if the operator fails to perform with the proper plugging and abandonment of any well covered by the blanket bond, the guarantor shall do so or provide for alternate financial assurance; and

(b) The corporate guarantee shall remain in force unless the guarantor sends notice of the cancellation by certified mail to the operator and to the department. Cancellation shall not occur, however, during the one hundred twenty (120) day period beginning on the first day that both the operator and the department have received notice of cancellation, as evidenced by the certified mail return receipts.

***(16)*** ~~[(13)]~~ An operator shall not be eligible for blanket bonding if ***the operator has***:

(a) ~~[It has ]~~More than ten (10) violations of KRS Chapter 353 or the regulations adopted pursuant thereto within the thirty-six (36) month period;

(b) ~~[It has ]~~Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto which have not been appealed;

(c) ~~[It has ]~~A forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper

abandonment of the well or wells on the forfeited permit or permits; or

(d) ~~[It has ]~~A permit or permits, upon which a bond or portion of a bond has been forfeited and the proceeds from the forfeiture have been spent by the department to plug or reclaim the permitted well or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.

***(17) Any deep well operator, in lieu of an individual bond, may file with the department a blanket bond according to the following:***

***(a) One (1) to ten (10) vertical deep wells require a two hundred thousand dollars ($200,000) bond; and***

***(b) One (1) to ten (10) horizontal deep wells require a three hundred twenty thousand dollar ($320,000) bond.***

***(18)*** ~~[(14)]~~ A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds.

***(19)*** ~~[(15)]~~ Individuals acquiring a single well for domestic use may post a combination bond which shall consist of a cash bond in the amount of one thousand dollars ($1,000) plus a lien on the property to cover future plugging costs. Only one (1) combination bond may be posted by each individual.

***(20)*** ~~[(16)]~~ A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for an individual well bond. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may serve for a blanket bond, provided that the first five thousand dollars ($5,000) of the blanket bond is posted with the department in cash.

***(21)*** ~~[(17)]~~ The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth.

***(22)*** ~~[(18)]~~ A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the oil and gas well plugging fund, created in subsection ***(28)*** ~~[(24)]~~ of this section, to be used in accordance with the purposes described therein. All cash bonds being held by the department on July 13, 1990, shall likewise be deposited in the interest-bearing account, with the proceeds to be used for the purposes established for the oil and gas well plugging fund.

***(23)*** ~~[(19)]~~ The bond amounts prescribed by subsection ***(7)*** ~~[(5)]~~ of this section shall be applicable only to permits issued upon and after July 15, 2006. All bonds posted for permits issued prior to July 15, 2006, shall remain in full force and effect for the duration of the permits.

***(24)*** ~~[(20)]~~ The blanket bond amounts prescribed by subsection ***(12)*** ~~[(9)]~~ of this section shall be effective upon and after July 15, 2006. Any operator having filed a blanket bond with the department prior to July 15, 2006, may at its discretion increase the level of the blanket bond incrementally by increasing the blanket bond by the amount of the individual bond prescribed by subsection ***(12)*** ~~[(9)]~~ of this section on any wells drilled subsequent to July 15, 2006, until the blanket bond has reached the level prescribed by subsection ***(12)*** ~~[(9)]~~ of this section.

***(25)*** ~~[(21)]~~ A successor to the well operator shall post bond, pay a twenty-five dollar ($25) fee per well to the department, and notify the department in writing in advance of commencing use or operation of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.

***(26)*** ~~[(22)]~~ If the requirements of this section with respect to proper plugging upon abandonment and submission of all required records on all well or wells have not been complied with within the time limits set by the department, by administrative regulation, or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator by certified mail, addressed to the permanent address shown on the application for a permit.

(a) The notice shall specify in what respects the operator has failed to comply with this chapter or the administrative regulations of the department.

(b) If the operator has not reached an agreement with the department or has not complied with the

requirements set forth by it within forty-five (45) days after mailing of the notice, the bond shall be forfeited to the department.

***(27)*** ~~[(23)]~~ A bond forfeited pursuant to the provisions of this chapter may be collected by an attorney for the department or by the Attorney General, after notice from the director of the Division of Oil and Gas.

***(28)*** ~~[(24)]~~ All sums received under this section or through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the oil and gas well plugging fund, which shall be an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned wells coming within the authority of the department pursuant to this chapter. The plugging of any well pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

***(29)*** ~~[(25)]~~ Upon request by any person applying for a permit for a geological or structure test hole, the department shall keep the location and elevation of the hole confidential until the information is allowed to be released by the person obtaining the permit.

***(30)*** ~~[(26)]~~ For the purpose of this chapter, "water supply well" shall not include:

(a) Any well for a potable water supply for domestic use or for livestock; or

(b) Any water well used primarily for cooling purposes in an industrial process.

***(31)*** ~~[(27)]~~ Notwithstanding the provisions of KRS Chapter 353 or this section, no operator shall be eligible to receive additional permits if that operator or any entity in which it has an ownership interest has:

(a) Any outstanding, unabated violations of KRS Chapter 353 or the regulations adopted pursuant thereto, which have not been appealed;

(b) A forfeiture of a bond, whether an individual bond or portion of a blanket bond, on any permit where the operator has not entered into an agreed order with the department for the plugging and proper abandonment of the well or wells on the forfeited permit or permits; or

(c) A permit or permits upon which a bond or portion of a bond has been forfeited, and the proceeds therefrom having been spent by the department to plug or reclaim the permitted well, or wells, unless the operator has made restitution to the department for all costs associated with the forfeiture, plugging, and proper abandonment.

➔Section 14. KRS 353.592 is amended to read as follows:

In addition to the powers conferred upon the department by KRS 353.500 to 353.720 and notwithstanding any provision of KRS 353.500 to 353.720, the department is authorized but not obligated to develop and promulgate a regulatory program for the purpose of accepting primary responsibility for administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Public Law 93-523 as amended). To that end, the department shall include in any regulatory program developed and promulgated under this provision:

(1) Regulations regarding the drilling, casing, operation, plugging, construction, conversion, maintenance, and abandonment of class II wells to protect underground sources of drinking water and to prevent their endangerment;

(2) Regulations prohibiting underground injection through class II wells except as authorized by such regulations or by a permit issued pursuant thereto;

(3) Regulations requiring owners or operators of class II wells to demonstrate financial responsibility for the costs of closure of all class II wells. Such demonstration of financial responsibility may include but need not be limited to the well plugging bond required by KRS 353.590***(7)*** ~~[(5)]~~ and ***(12)*** ~~[(9)]~~;

(4) Regulations providing for reasonable public notice of applications for permits for class II wells and providing for public participation in the issuance of such permits;

(5) Regulations establishing a schedule of fees for the mechanical integrity testing and periodic registration of class II wells to be paid by the owners or operators thereof. The schedule of fees shall be based upon the reasonable cost to the department of administering the underground injection control program. The regulations may provide for the collection of a fee prior to delegation of authority by the Federal Environmental Protection

Agency which shall be refunded by the department if the department does not receive said delegation.

No regulation promulgated pursuant to this section shall authorize the endangerment of an underground source of drinking water or be more stringent than regulations promulgated by the Environmental Protection Agency pursuant to the Underground Injection Control Program of the Safe Drinking Water Act, 42 U.S.C. sec. 300f et seq.

➔Section 15. KRS 353.5901 is amended to read as follows:

(1) ~~[In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, ]~~A well operator shall submit to the department an operations and reclamation ***plan***~~[proposal]~~ at the time of filing an application for permit to drill, deepen, or reopen a well. The ***plan***~~[proposal]~~ shall be filed on forms provided by the department and shall include:

(a) A ***narrative description of those best management practices intended to be employed***~~[proposal]~~ to prevent ***pollution,*** erosion***,***~~[ of]~~ and sedimentation from the well site and all disturbed areas, including roads***. The description shall be updated when the best management practices utilized on site differ from those described in the plan***;

(b) A narrative description of the location of all areas to be disturbed, including the location of roads, gathering lines, the well site, tanks and other storage facilities, and any other information that may be required by the department. Accompanying this narrative description shall be a plat depicting the location on the land of all of these disturbances or facilities; ***and***

(c) ~~[A signed agreement by the surface owners of all disturbed areas to the operations and reclamation proposal; and~~

~~(d) ]~~Any additional information that the department may require.

(2) ***The plan shall include at a minimum a narrative describing the following categories:***

***(a) Site plans;***

***(b) Construction practices to be used;***

***(c) Reclamation methods to be used after well completion;***

***(d) Maintenance of the reclaimed site; and***

***(e) Site closure describing plugging, abandonment, and reclamation procedures.***

***(3) The department shall review and approve the operations and reclamation plan prior to permit issuance in cases where there has not been a severance of the ownership of the oil and gas from the ownership of the surface to be disturbed.***

***(4)*** In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface and the surface owners of all disturbed areas have not signed agreements with the well operator agreeing to the operations and reclamation ***plan***~~[proposal]~~, at the time of filing the application the well operator shall cause to be delivered to the surface owners of all disturbed areas who have not agreed to the operations and reclamation ***plan***~~[proposal]~~, by certified mail, return receipt requested:

(a) A copy of the operations and reclamation ***plan***~~[proposal]~~ required by paragraph (a) of subsection (1) of this section, and the narrative description of land disturbances and plat required by paragraph (b) of subsection (1) of this section; and

(b) A notice to read as follows: "If you do not agree with the proposed use of your land by the well operator, the well operator may request mediation of your dispute by the General Counsel's Office of the Department for Natural Resources. If mediation is requested, and you decide to participate, each party to the mediation will be charged one hundred dollars ($100) to help cover the cost of mediation. You will be notified of the time and place for mediation, if the well operator chooses mediation, and of your right to participate."

The certified mail receipt, when returned, shall be filed by the well operator with the department and made part of the permit application.

***(5)***~~[(3)]~~ If the well operator has been unable to reach agreement with the surface owners of all areas to be disturbed in all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the permit required by this chapter shall not be issued until the dispute has been referred to mediation by the General Counsel's Office of the Department for Natural

Resources, and mediation has been concluded either by agreement between the parties or by a report of the mediator, in accordance with subsection ***(6)***~~[(4)]~~ of this section.

***(6)***~~[(4)]~~ The well operator may request mediation any time after filing the permit application, and all parties participating in the mediation shall pay a nonrefundable fee of one hundred dollars ($100) to the Kentucky State Treasurer, which shall be for the sole use of the department and shall be in addition to any money appropriated by the General Assembly for the use of the department. ***The department may waive the mediation fee for surface owners who submit verifiable proof of financial inability to pay.*** The department shall notify the well operator and all surface owners of areas to be disturbed by drilling who have not agreed to the operation and reclamation plan of the date and time mediation shall be conducted by certified mail, return receipt requested. The department shall conduct mediation at the site proposed to be disturbed within fifteen (15) days from the date requested, if practicable. At the mediation, the mediator will attempt to facilitate an agreement between the well operator and the surface owner. If an agreement is not forthcoming after mediation, the mediator shall, within five (5) days after mediation, issue a report to the director of the Division of Oil and Gas recommending that the director:

(a) Accept the ***plan***~~[proposal]~~ as submitted by the well operator; or

(b) Accept the ***plan***~~[proposal]~~ with modifications set forth by the mediator.

***(7)***~~[(5)]~~ If an agreement between the well operator and the surface owners of all disturbed areas is not forthcoming after mediation, the mediator shall consider the following factors as to the reasonable use of the surface by the well operator in issuing a report to the director~~[, which recommendations shall become permit conditions]~~:

(a) The location of roads, gathering lines, and tank batteries;

(b) The timing of the operation, considering seasonal uses of the land by the surface owner and the need of the well operator to drill expeditiously;

(c) The impact on the other uses of the land by the surface owner, including the location of timber, houses, barns, ponds, crops, and other improvements;

(d) Whether the ***plan***~~[proposal]~~ includes a plan for timely, effective reclamation of all disturbed areas; and

(e) Any other information deemed appropriate by the mediator.

***(8)***~~[(6)]~~ The director shall act upon the recommendation of the mediator within five (5) days of the receipt of the mediation report.

➔Section 16. KRS 353.651 is amended to read as follows:

The following provisions of this section ***and the administrative regulations promulgated pursuant thereto*** shall apply to any ***vertical*** deep well ***and any horizontal deep well as indicated***:

(1) Drilling units ***for vertical deep wells***:

(a) The commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, regulate the drilling and location of ***vertical deep*** wells in ***a***~~[any]~~ pool and the production therefrom so as to prevent reasonably avoidable net drainage from each developed unit (that is, drainage which is not equalized by counterdrainage) so that each owner in a pool shall have the right and opportunity to recover his ***or her*** fair and equitable share of the recoverable oil and gas in ***the***~~[such]~~ pool***;***~~[.]~~

(b) For the prevention of waste, to protect and enforce the correlative rights of the owners in a pool, and to avoid the augmenting and accumulation of risks arising from the drilling of an excessive number of wells, the commission shall, after notice and a hearing, to be conducted in accordance with KRS Chapter 13B, establish drilling units for ***vertical deep wells in*** each pool. The spacing of ***vertical deep*** wells in proved oil and gas fields shall be governed by administrative regulations promulgated for that particular field ***or other administrative regulation promulgated by the commission***. ***Vertical deep*** wells drilled in areas not covered by special field administrative regulations shall be governed by statewide administrative regulations promulgated by the commission ***or orders of the commission issued after a hearing;***~~[.]~~

(c) Each ***vertical deep*** well permitted to be drilled ***in***~~[upon]~~ any drilling unit shall be drilled in accordance with***:***

***1.*** The administrative regulations promulgated by the commission***;*** and ~~[in accordance with ]~~

***2.*** A spacing pattern fixed by the commission for the ***well or the*** pool in which the ***vertical deep*** well is located, ***as applicable,*** with any exceptions that may be reasonably necessary where it is shown, in accordance with administrative regulations promulgated by the commission, that the unit is partly outside the pool or for some other reason a well otherwise located on the unit would not be likely to produce in paying quantities, or topographical conditions are such as to make the drilling at the location unduly burdensome***, or other similar cause***. Whenever an exception is granted, the commission shall take action as will offset any advantage which the person securing the exception may have over other owners by reason of the drilling of the well as an exception***;*** ~~[.]~~

(d) No drilling unit established by the commission shall be smaller than the maximum area which can be drained efficiently by one (1) ***vertical*** deep well so as to produce the reasonable maximum recoverable oil or gas in ***the*** ~~[such]~~ area, unless an exception is granted in accordance with administrative regulations promulgated by the commission***; and*** ~~[.]~~

(e) An order establishing ***a*** drilling ***unit for a vertical deep well*** ~~[units]~~ may be modified, altered, extended, amended, or vacated by the commission after notice and hearing as prescribed above.

(2) ***Drilling units for horizontal deep wells:***

***(a) For the prevention of waste and for the protection and enforcement of the correlative rights of the owners in a pool, the commission shall, after notice and hearing conducted in accordance with KRS Chapter 13B and with the administrative regulations of the commission, establish drilling units for horizontal deep wells. Drilling units shall be based on the information provided to or requested by the commission;***

***(b) Each horizontal deep well permitted to be drilled on a drilling unit established by the commission shall be drilled in accordance with the administrative regulations promulgated by the commission and any orders of the commission; and***

***(c) The establishment of any horizontal deep well unit shall be on terms that are fair, reasonable, equitable, and which are necessary or proper to protect and safeguard the respective rights and obligations of the working interest owners and the royalty owners based on the evidence before the commission.***

***(3)*** Pooling of interests in drilling units:

(a) When two (2) or more separately owned tracts are embraced within a drilling unit, or when there are separately owned interests in all or a part of a drilling unit, the interested persons may pool their tracts or interests for the development and operation of the drilling unit. In the absence of voluntary pooling and upon application of any operator having an interest in the drilling unit, and after the commission has given notice to all persons reasonably known to own an interest in the oil or gas in the drilling unit, and after a hearing conducted in accordance with KRS Chapter 13B, the commission shall enter an order pooling all tracts or interests in the drilling unit for the development and operation thereof and for the sharing ***of*** production therefrom. Each pooling order shall be upon terms and conditions which are just and reasonable***;*** ~~[.]~~

(b) All operations, including, but not limited to, the commencement, drilling, or operation of a deep well, upon any portion of a drilling unit for which a pooling order has been entered, shall be deemed for all purposes the conduct of those operations upon each separately owned tract in the drilling unit by the several owners thereof. That portion of the production allocated to a separately owned tract included in a drilling unit shall, when produced, be deemed for all purposes to have been actually produced from the tract by a deep well drilled thereon***;*** ~~[.]~~

(c) Any pooling order under the provisions of subsection ***(3)*** ~~[(2)]~~ of this section shall authorize the drilling and operation of a deep well for the production of oil or gas from the pooled acreage; shall designate the operator to drill and operate ***the*** ~~[such]~~ deep well; shall prescribe the time and manner in which all owners of operating interests in the pooled tracts or portions of tracts may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, completing, equipping, operating, plugging, and abandoning the deep well shall be borne, and all production therefrom shared, by all owners of operating interests in proportion to the acreage in the pooled tracts owned or under lease to each owner; and shall make provision for payment of all reasonable costs thereof, including reasonable charge for supervision and for interest on past due accounts, by all those who elect to participate

therein. Upon the application of any operator having an interest in the drilling unit, the person or persons selected to drill and operate the deep well shall be determined by competitive bids***;*** ~~[.]~~

(d) Upon request, any pooling order shall provide just and equitable alternatives whereby an owner of an operating interest who does not elect to participate in the risk and cost of the drilling of a deep well may elect to surrender his interest or a portion thereof to the participating owners on a reasonable basis and for a reasonable consideration, which, if not agreed upon, shall be determined by the commission; or to participate in the drilling of the deep well on a limited or carried basis on terms and conditions which, if not agreed upon, shall be determined by the commission to be just and reasonable***;*** ~~[.]~~

(e) If an operator owning an interest in a pooled drilling unit elects not to participate in the risk and cost of drilling of a deep well thereon, and another operator owning an interest therein, shall drill and operate, or pay the costs of drilling and operating a deep well as provided in the commission's order, then the operating owner shall be entitled to the share of production from the tracts or portions thereof accruing to the interest of the nonparticipating owner, exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto, of the tracts or portions thereof, or exclusive of ***the prevailing royalty*** ~~[one-eighth (1/8)]~~ of the production attributable to all unleased tracts or portions thereof, until the market value of the nonparticipating owner's share of the production, exclusive of any royalty, overriding royalty or ***the prevailing royalty*** ~~[one-eighth (1/8)]~~ of production, equals ***three (3)*** ~~[two (2)]~~ times the share of the costs payable by or charged to the interest of the nonparticipating owner***; and*** ~~[.]~~

(f) If a dispute shall arise as to the costs of drilling and operating a deep well, the commission shall determine and apportion the costs, within ninety (90) days from the date of written notification to the commission of the existence of such dispute.

***(4)*** ~~[(3)]~~ This section shall not apply to wells drilled, deepened, or reopened for the injection of water, gas, or other fluids into any subsurface formation.

➔Section 17. KRS 353.652 is amended to read as follows:

(1) Upon the application of any operator in a deep well pool productive of oil or gas, or both, and other minerals which may be associated and produced therewith and after notice given by the commission to all persons reasonably known to own an interest in the oil or gas in the pool, and after a hearing conducted in accordance with KRS Chapter 13B, the commission may enter a final order requiring the unit operation of a pool or of any portion or combinations thereof within a field. The unit operation shall be in connection with a program designed to avoid the drilling of unnecessary wells, or otherwise to prevent waste, or to increase the ultimate recovery of the unitized minerals by additional recovery methods. The final order shall provide for the unitization of separately-owned tracts and interests within the pool or pools, but only after finding that:

(a) The order is reasonably necessary for the prevention of waste;

(b) The proposed plan of unitized operation will increase the ultimate recovery of oil or gas, or both, from the pool and will be economically feasible;

(c) The production of oil or gas, or both, from the unitized pool can be allocated in a manner to insure the recovery by all owners of their just and equitable share of the production; and

(d) A contract incorporating the unitization agreement has been signed or in writing ratified or approved by the owners of at least seventy-five percent (75%) in interest ***in the pool*** as costs are shared under the terms of the order and by seventy-five percent (75%) in interest ***in the pool*** as production is to be allocated of the royalty in the unit area, and a contract incorporating the required arrangements for operations has been signed or in writing ratified or approved by the owners of at least seventy-five percent (75%) in interest ***in the pool*** as costs are shared, and the commission has made a finding to that effect either in the final order or a supplemental order.

(2) The final order requiring the unit operation shall designate one (1) operator as unit operator and shall also make provision for the proportionate allocation to all operators of the costs and expenses of the unit operation, including a reasonable charge for supervision, which allocation shall be in the proportion that the separately-owned tracts share in the production from the unit. In the absence of an agreement entered into by the operators and filed with the commission providing for sharing the costs of capital investments in wells and physical equipment, and intangible drilling costs, the commission shall provide by order for the sharing of the costs in the same proportion as the costs and expenses of the unit operation, but any operator who has not consented to the unitization shall not be required to contribute to the costs or expenses of the unit operation, or

to the cost of capital investment in wells and physical equipment, and intangible drilling costs, except out of the proceeds from the sale of the production accruing to the interest of the operator exclusive of any royalty or overriding royalty interest.

(3) The commission, after notice and hearing as provided above may from time to time by entry of a new or amending final order enlarge the unit area by approving agreements adding to the area a pool or any portion or combinations thereof not previously included. Any new or amended final order shall not become effective unless and until:

(a) All of the terms and provisions of the unitization agreement relating to the extension or enlargement of the unit area or to the addition of pools or portions or combinations thereof to unit operations have been fulfilled and satisfied and evidence thereof has been submitted to the commission; and

(b) The extension or addition effected by the order has been agreed to in writing by the owners of at least seventy-five percent (75%) in interest ***in the pool*** as costs are shared in the pool or pools or portions or combinations thereof to be added to unit operations by the order and by seventy-five percent (75%) in interest ***in the pool*** as production is to be allocated of the royalty owners in the pool, pools, portions, or combinations and evidence thereof has been submitted to the commission.

(4) Any agreement, in providing for allocation of production from the unit area, shall first allocate to each pool or added portion a portion of the total production of oil and gas, or both, from all pools affected within the area, as enlarged, the allocation to be in proportion to the contribution which added pool or portions or extensions thereof are expected to make, during the remaining course of unit operations, to the total production of oil or gas, or both, of the unit as enlarged. The remaining portion of unit production shall be allocated among the separately-owned tracts within the previously established unit area in the same proportions as those specified prior to the enlargement.

➔Section 18. KRS 353.730 is amended to read as follows:

(1) Any person may investigate an abandoned well upon receipt of approval from the department. The person shall submit to the department:

(a) An application requesting approval to investigate and stating the planned methods for the investigation. In all cases where there has been a complete severance of the ownership of the oil and gas from the ownership of the surface to be disturbed, the application shall include a plan to prevent erosion and sedimentation;

(b) A twenty-five dollar ($25) fee; and

(c) A certification by the applicant that he has the authority to enter the property upon which the well is located and to conduct the investigation.

(2) The department shall review all applications for investigation. If the department approves the request for investigation, the applicant shall be allowed to produce the well without a permit as required by KRS 353.570, and the applicant shall submit a report of investigation to the department on forms provided by the department. In order to produce the well for more than sixty (60) days, the applicant must obtain a bond as required by KRS 353.590***(7)***~~[(5)]~~ or ***(12)***~~[(9)]~~. Notwithstanding the provisions of KRS 353.590(2), no fee shall be required for any such well.

➔Section 19. KRS 353.737 is amended to read as follows:

(1) In order to collect and provide accurate information regarding the location of a well drilled through a workable coal bed, the well operator shall, within thirty (30) days following the drilling of the well, provide to the division a plat which shows the well's as-drilled location and elevation. The plat shall be certified as accurate by a professional land surveyor licensed in accordance with KRS Chapter 322 and shall be provided in addition to the plat accompanying the application for permit, which is required under KRS 353.590***(6)***~~[(4)]~~. The as-drilled well location plat required by this section shall provide coordinates in feet units, using NAD 83, with Single Zone Projection as those terms are defined in KRS 353.010.

(2) A well shall be deemed to be in compliance with applicable permit requirements if the as-drilled location of the well is:

(a) At the surface, within fifteen (15) feet of the location specified in the permit to drill; and

(b) Drilled through the base of the lowest workable coal bed within one hundred fifty (150) feet from the true vertical of the as-drilled surface location.

➔Section 20. This section shall be known as the Kentucky Oil and Gas Regulatory Modernization Act of 2015.

**Signed by Governor March 19, 2015.**

## CHAPTER 22

**( HB 20 )**

AN ACT relating to the valuation of motor vehicles for property tax purposes.

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

➔Section 1. KRS 132.485 is amended to read as follows:

(1) (a) ***Except as otherwise provided in paragraph (b) of this subsection,*** the registration of a motor vehicle with a county clerk in order to operate it or permit it to be operated upon the highways of the state shall be deemed consent by the registrant for the motor vehicle to be assessed by the property valuation administrator from a standard manual prescribed by the department~~[ of Revenue]~~ for valuing motor vehicles for assessment unless***:***

***1.*** The registrant appears before the property valuation administrator to assess the vehicle***; or***

***2. The motor vehicle is twenty (20) years old or older, in which case paragraph (b) of this subsection applies regarding its valuation***.

The standard value of motor vehicles shall be the average trade-in value prescribed by the valuation manual unless information is available that warrants any deviation from the standard value.

(b) ***In the case of motor vehicles that are twenty (20) years old or older:***

***1. It shall not be presumed that a vehicle has been maintained in, or restored to, the original factory or otherwise classic condition or that its value has increased over the previous year;***

***2. In assessing motor vehicles under this paragraph and calculating the taxes due thereon, through the AVIS or otherwise, if the registrant does not appear before the property valuation administrator to assess the vehicle, the standard value shall be as follows:***

***a. The actual valuation of the vehicle as was assessed in the vehicle's nineteenth year, if the vehicle was assessed for taxation in the Commonwealth in that year; or***

***b. The average trade-in value prescribed by the applicable edition of the valuation manual for the vehicle in its nineteenth year, if the vehicle was not assessed for taxation in the Commonwealth in that year;***

***reduced by ten percent (10%) annually for each year beyond nineteen (19) years; and***

***3. In the case of any motor vehicle for which the assessment procedure provided in subparagraph 2.b. of this paragraph would apply but cannot be carried out because the applicable edition of the valuation manual is unavailable, the property valuation administrator shall conduct an assessment of the vehicle to determine the value thereof for the given taxable year. The assessment under this subparagraph may be done in person if the vehicle's owner presents the vehicle at the property valuation administrator's office, or the assessment may be done through a review of photographs and other documentary evidence. In subsequent years, that valuation shall be reduced by ten percent (10%) annually.***

***(2)*** The registration of a recreational vehicle with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant thereof for the recreational vehicle to be assessed by the property valuation administrator at a valuation determined from a standard manual prescribed by the department~~[ of Revenue]~~ for valuing recreational vehicles for assessment unless the registrant appears in person before the property valuation administrator to assess the vehicle.

***(3)***~~[(2)]~~ The registration of a motor vehicle on or before the date that the registration of the vehicle is required is prima facie evidence of ownership on January 1.

***(4)*** ~~[(3)]~~ When a motor vehicle is purchased in one (1) year, but registration takes place after January 1 of the following year through no fault of the owner, the department~~[ of Revenue]~~ shall assess the motor vehicle and shall send notice of the assessment to the January 1 owner in accordance with KRS 186A.035. If the month of registration has passed for the current year, the assessment shall be due and payable if not protested to the department within forty-five (45) days from the date of the notice. Payments made after the due date shall carry the normal penalty and interest for motor vehicles.

***(5)*** ~~[(4)]~~ This section does not apply to motor vehicles or recreational vehicles owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

➔Section 2. The provisions of Section 1 of this Act shall apply to motor vehicles assessed on or after January 1, 2016.

**Signed by Governor March 19, 2015.**

## CHAPTER 23

**( HB 24 )**

AN ACT relating to dextromethorphan abuse.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) A person, other than a medical facility, medical practitioner, pharmacist, pharmacy intern, pharmacy technician, pharmacy licensed or registered under KRS Chapter 315, or registrant under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. secs. 301 et seq., shall not possess one (1) gram or more of:***

***(a) Pure dextromethorphan; or***

***(b) Dextromethorphan extracted from solid or liquid dose forms, as defined by United States Pharmacopeia reference standards.***

***(2) A person shall not sell any products containing dextromethorphan to individuals under eighteen (18) years of age, except that in any prosecution for selling a product containing dextromethorphan to an individual under eighteen (18) years of age it shall be an affirmative defense that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his or her age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he or she was of legal age to purchase products containing dextromethorphan. This evidence may be introduced either in mitigation of the charge or as a defense to the charge itself.***

***(3) Any person who sells any product containing dextromethorphan shall limit access to these products by requiring proof of age from a prospective buyer by showing a government-issued photo identification card that displays his or her date of birth if the person has reason to believe that the prospective buyer is under the age of eighteen (18) years.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) No person shall aid or assist any person under eighteen (18) years of age in purchasing any product containing dextromethorphan.***

***(2) A person under eighteen (18) years of age shall not misrepresent his or her age for the purpose of inducing a retail establishment or the retail establishment's agent, servant, or employee to sell or serve a product containing dextromethorphan to the underage person.***

***(3) A person under eighteen (18) years of age shall not use or attempt to use any false, fraudulent, or altered identification card, paper, or any other document to purchase or attempt to purchase or otherwise obtain a product containing dextromethorphan.***

***(4) Any person under the age of eighteen (18) years of age shall not purchase or attempt to purchase or have another person purchase for him or her a product containing dextromethorphan.***

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) Any person who violates subsection (1) of Section 1 of this Act shall be subject to a fine of one thousand dollars ($1,000) for the first violation and two thousand five hundred dollars ($2,500) for each subsequent violation.***

***(2) Any person who knowingly violates subsection (2) of Section 1 of this Act shall be subject to a fine of twenty-five dollars ($25) for the first violation and two hundred dollars ($200) for each subsequent violation.***

***(3) Any person who knowingly violates subsection (3) of Section 1 of this Act shall be subject to a fine of twenty-five dollars ($25) for the first violation and two hundred fifty dollars ($250) for each subsequent violation.***

***(4) Any person who knowingly violates subsection (1) of Section 2 of this Act shall be subject to a fine of one hundred dollars ($100) for the first violation and two hundred dollars ($200) for each subsequent violation.***

***(5) Any person who violates subsection (2), (3), or (4) of Section 2 of this Act shall be subject to a fine of twenty-five dollars ($25) for the first violation, a fine of one hundred dollars ($100) for the second violation, and a fine of two hundred dollars ($200) for each subsequent violation.***

**Signed by Governor March 19, 2015.**

## CHAPTER 24

**( HB 76 )**

AN ACT relating to securities.

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

➔SECTION 1. A NEW SECTION OF KRS 292.410 TO 292.415 IS CREATED TO READ AS FOLLOWS:

***(1) Except as expressly provided in this section and Section 2 of this Act, KRS 292.330 to 292.390 shall not apply to the offer or sale of a security after July 1, 2015, by the issuer of the security if all of the following conditions are met:***

***(a) The issuer of the security is:***

***1. A business entity organized under the laws of Kentucky;***

***2. Authorized to do business in Kentucky; and***

***3. Doing business in Kentucky in accordance with the Securities Act of 1933 Rule, 17 C.F.R sec. 230.147(c);***

***(b) The transaction meets the requirement of the federal exemption for intrastate offerings in the Securities Act of 1933 Rules, 15 U.S.C. sec. 77c(a)(11) and 17 C.F.R. sec. 230.147;***

***(c) The aggregate offering price of the securities complies with the following criteria:***

***1. If the issuer has not undergone and made available to each prospective purchaser and the commissioner the opinion letter and applicable documentation resulting from a financial audit of its most recently completed fiscal year that complies with generally accepted accounting principles, the sum of all cash, and other consideration to be received for all sales of securities in reliance on this exemption, shall not exceed one million dollars ($1,000,000) in a twelve (12) month period, less the aggregate amount received for all sales of securities by the issuer that do not take place prior to the six (6) month period immediately preceding or after the six (6) month period immediately following any offers or sales made in reliance on this exemption;***

***2. If the issuer has undergone and made available to each prospective purchaser and the commissioner the opinion letter and applicable documentation resulting from a financial audit of its most recently completed fiscal year that complies with generally accepted accounting***

***principles, the sum of all cash, and other consideration to be received for all sales of securities in reliance on this exemption, shall not exceed two million dollars ($2,000,000) in a twelve (12) month period, less the aggregate amount received for all sales of securities by the issuer that do not take place prior to the six (6) month period immediately preceding or after the six (6) month period immediately following any offers or sales made in reliance on this exemption;***

***3. In 2020, and every fifth year thereafter, the commissioner shall, by rule, cumulatively adjust the dollar limitations provided in this paragraph to reflect the change in the Consumer Price Index for all Urban Consumers, published by the federal Bureau of Labor Statistics, rounding each dollar limitation to the nearest fifty thousand dollars ($50,000); and***

***4. An offer or sale to an officer, director, partner, trustee, or individual occupying similar status or performing similar functions with respect to the issuer or to a person owning ten percent (10%) or more of the outstanding shares of any class or classes of securities of the issuer shall not count toward the monetary limitations set forth in this paragraph;***

***(d) All sales that are part of the same offering, made in reliance on this exemption, meet all of the terms and conditions of this exemption. Offers and sales that are made more than six (6) months before the start of an offering or are made more than six (6) months after completion of an offering, shall not be considered part of the offering, if during those six (6) month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under this exemption, other than offers and sales to individuals identified in the disclosure document;***

***(e) The issuer does not accept more than ten thousand dollars ($10,000) from any single purchaser unless the purchaser is an accredited investor, as defined by the Securities Act of 1933 Rule, 17 C.F.R. sec. 230.501;***

***(f) Unless waived by written consent of the commissioner, not less than ten (10) days before the commencement of an offering of securities, pursuant to this exemption, the issuer submits the following to the commissioner:***

***1. A notice filing on a form prescribed by the department;***

***2. The filing fee established by the commissioner;***

***3. A copy of the disclosure document to be provided to prospective purchasers pursuant to paragraph (p) of this subsection;***

***4. A copy of the escrow agreement entered pursuant to paragraph (g) of this subsection; and***

***5. Any other documents or information the commissioner may require to administer and enforce the requirement of this exemption;***

***(g) All cash and other consideration paid for securities sold pursuant to an offering in accordance with this exemption are directed to and deposited into a single escrow account maintained by a bank, credit union, or other depository financial institution located in Kentucky, authorized to do business in Kentucky, and which maintains deposit or share insurance on its deposits or shares. The escrow agent for any such escrow account shall maintain the records necessary to obtain pass-through insurance for the escrowed funds. The commissioner may request information from the financial institution necessary to ensure compliance with this section. Any information received by the commissioner or the department shall be confidential and shall not be subject to disclosure pursuant to the Kentucky Open Records Act, KRS 61.870 to 61.884;***

***(h) Offers made pursuant to this exemption state a target offering amount and an offering deadline. The offering deadline shall not be less than twenty-one (21) days nor more than one (1) year from the date the offer is made;***

***(i) If the sum of all cash and other consideration received and held in escrow, as required by paragraph (g) of this subsection, does not equal or exceed the target offering amount upon expiration of the offering deadline or the early closing of the offering, pursuant to paragraph (k) of this subsection, the transaction is void and the escrow agent shall return all funds deposited into the escrow account to the purchasers;***

***(j) A purchaser is permitted to cancel his or her commitment to invest at any time prior to forty-eight (48) hours before expiration of the offering deadline if notice of cancellation is delivered***

***electronically or physically in writing to the individual or addresses identified in the disclosure document. If a purchaser is given notice of an early closing, pursuant to paragraph (k) of this subsection, the purchaser shall be permitted to cancel the commitment within seventy-two (72) hours of delivery of the notice;***

***(k) An issuer may close an offering prior to the offering deadline if notice of the closing is delivered to each purchaser in accordance with the notice provisions set forth in the disclosure document, required pursuant to paragraph (p) of this subsection, and posts it conspicuously on each Internet Web site on which the offer was posted, at least five (5) days prior to the early closing;***

***(l) Before or as a result of the offering, the issuer is not:***

***1. An investment company, as defined by the Investment Company Act of 1940, 15 U.S.C. sec. 80a-3;***

***2. An entity that would be an investment company, but for the exclusions provided in the Investment Company Act of 1940, 15 U.S.C. sec. 80a-3(c);***

***3. Subject to the reporting requirements of the Securities and Exchange Act of 1934, 15 U.S.C. sec. 78m or 15 U.S.C. sec. 78o(d); or***

***4. A company that has not yet defined its business operations, has no business plan, has no stated investment goal for the funds being raised, or that plans to engage in a merger or acquisition with an unspecified business entity;***

***(m) The issuer informs all prospective purchasers of securities that the securities have not been registered under federal or state securities law and that the securities are subject to limitations on resale. The issuer shall display the following notice on the cover page of the disclosure document in a conspicuous manner in at least twelve (12) point, boldface type:***

***"BEWARE, YOU MAY LOSE YOUR ENTIRE INVESTMENT IN THIS TRANSACTION.***

***IN MAKING AN INVESTMENT DECISION, INVESTORS SHALL RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR DIVISION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD, EXCEPT AS PERMITTED BY SUBSECTION (e) OF SEC RULES 147, 17 C.F.R. sec. 230.147(e) AS PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHALL BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.";***

***(n) The issuer requires each purchaser to certify in writing or electronically as follows:***

***"I understand and acknowledge that I am investing in a high-risk, speculative business venture. I may lose all of my investment, or under some circumstances more than my investment, and I can afford this loss. This offering has not been reviewed or approved by any state or federal securities commission or division or other regulatory authority and no such person or authority has confirmed the accuracy or determined the adequacy of any disclosure made to me relating to this offering. The securities I am acquiring in this offering are illiquid, there is no ready market for the sale of such securities, it may be difficult or impossible for me to sell or otherwise dispose of this investment, and accordingly, I may be required to hold this investment indefinitely. I may be subject to tax on my share of the taxable income and losses of the company, whether or not I have sold or otherwise disposed of my investment or received any dividends or other distributions from the company.";***

***(o) The issuer obtains from each prospective purchaser evidence that the prospective purchaser is a resident of Kentucky and, if applicable, is an accredited investor. A prospective purchaser's residence shall be determined in accordance with the Securities Act of 1933 Rule, 17 C.F.R. sec. 230.147(d). An affirmative representation made by a natural person that the individual is a Kentucky resident and proof of at least one (1) of the following shall be considered sufficient evidence that the***

***individual is a resident of Kentucky:***

***1. A valid Kentucky driver's license or other official personal identification card issued by the Commonwealth of Kentucky;***

***2. A current Kentucky voter registration; or***

***3. General property tax records showing that the individual owns and occupies property in Kentucky as his or her principal residence;***

***(p) The issuer shall provide a disclosure document to each prospective purchaser at the time the offer of securities is made that contains all of the following:***

***1. A description of the company, its type of entity, the address and telephone number of its principal office, its history, its business plan, and the intended use of the offering proceeds, including any amounts to be paid as compensation or otherwise to any owner, executive officer, director, managing member, or other person occupying a similar status with the company or performing similar functions on behalf of the issuer;***

***2. The identity of all persons owning more than ten percent (10%) of the ownership interests of any class of securities of the company;***

***3. The identity of the executive officers, directors, managing members, and other persons occupying a similar status or performing similar functions in the name of and on behalf of the issuer, including their titles and prior experience;***

***4. The terms and conditions of the securities being offered and of any outstanding securities of the company;***

***5. The offering deadline and the target offering amount;***

***6. Any conditions upon which the issuer may exercise its right to close an offering prior to the offering deadline, including but not limited to the notice that will be provided to both purchasers and potential purchasers if the offering is closed prior to the offering deadline and the method in which the notice will be delivered;***

***7. Either the percentage ownership of the company represented by the offered securities or the valuation of the company implied by the price of the offered securities;***

***8. The price per share, unit, or interest of the securities being offered;***

***9. Any restrictions on transfer of the securities being offered;***

***10. A disclosure of any anticipated future issuance of securities that might dilute the value of securities being offered;***

***11. The identity of any person who has been or will be retained by the issuer to assist the issuer in conducting the offering and sale of the securities, including any Internet Web site operator, but excluding persons acting solely as accountants, attorneys, or employees whose primary job responsibilities involve operating the business of the issuer;***

***12. A description of the consideration being paid to any person identified in subparagraph 11. of this paragraph, for such assistance to the issuer;***

***13. A description of any litigation, legal proceedings, or pending regulatory action involving the company or its management;***

***14. The names and addresses, including the Uniform Resource Locator, of each Internet Web site that will be used by the issuer to offer or sell securities pursuant to this exemption;***

***15. The name of the individual and addresses to which purchasers may deliver cancellations, pursuant to paragraph (j) of this subsection. Issuers shall provide the name of at least one natural person with both an electronic and a physical address to which cancellations may be delivered;***

***16. Current financial statements certified by the principal executive officer shall be true and complete in all material respects. If applicable, the documentation required by paragraph (c)2. of this subsection shall also be provided; and***

*17. Any additional information material to the offering, including if appropriate, a written statement of significant factors that make the offering speculative or risky. This statement shall be concise and organized logically and shall not be limited to risks that could apply to any issuer or any offering;*

*(q) 1. The exemption shall not be used if an issuer or person affiliated with the issuer or offering is subject to disqualification pursuant to:*

*a. The Securities Act of Kentucky, KRS Chapter 292;*

*b. A rule or order of the commissioner;*

*c. The Securities Act of 1933, 15 U.S.C. sec. 77c(a)(11); or*

*d. The Securities Act of 1933 Rule, 17 C.F.R. sec. 230.262.*

*2. Disqualification may be set aside by the commissioner if:*

*a. Upon a showing of good cause and without prejudice to any other action by the commissioner, the commissioner determines that it is not necessary that an exemption be denied under the circumstances; and*

*b. The issuer establishes that it made a factual inquiry into whether any disqualification existed under this subsection, but did not know and could not have known in the exercise of reasonable care that a disqualification existed. The nature and scope of the requisite inquiry will vary based on the circumstances of the subject issuer and the other offering participants;*

*(r) The offering is made exclusively through one (1) or more Internet Web sites that are operated by a broker-dealer, registered pursuant to KRS 292.330, or an Internet Web site operator, registered pursuant to Section 2 of this Act. Each issuer and registrant shall comply with the following:*

*1. Before any offer or sale of securities, the issuer shall provide to the registrant evidence that the issuer is organized under the laws of Kentucky and is authorized to do business in Kentucky;*

*2. The registrant shall maintain continuous registration with the department;*

*3. The registrant shall limit Web site access to the offer or sale of securities to Kentucky residents only;*

*4. The registrant shall not be a purchaser in any offering made pursuant to this exemption;*

*5. The registrant shall not hold an interest in or be affiliated with or under common control with any issuer making an offer or sale pursuant to this exemption;*

*6. Prior to and throughout the term of any offering, the registrant shall give the commissioner access to the Internet Web site on which any offering is made pursuant to this exemption; and*

*7. The issuer may distribute a limited notice stating that the issuer is conducting an offering pursuant to this exemption, the name of the registrant or registrants through which the offer is being conducted, and a link directing potential purchasers to the Internet Web site of the registrant or registrants. The notice shall contain a disclaimer that states that the offering is limited to Kentucky residents;*

*(s) The issuer shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner prescribes by administrative regulation or order. All required records shall be:*

*1. Preserved for three (3) years unless the commissioner prescribes otherwise for particular types of record, by administrative regulation or order; and*

*2. Maintained within this state, or at the request of the commissioner be made available at any time for examination by the department in the issuer's principal office or by production of exact copies in this state; and*

*(t) The issuer shall provide, free of charge, a quarterly report to the issuer's purchasers until no securities issued under this exemption are outstanding. The issuer may satisfy this reporting requirement by making the information available on an Internet Web site if the information is made*

***available within forty-five (45) days after the end of each fiscal quarter and remains available until the succeeding quarterly report is issued. The issuer shall file each quarterly report with the department and, if the quarterly report is made available on an Internet Web site, the issuer shall also provide a written copy of the report to any purchaser upon request. The report shall contain all of the following:***

***1. Any compensation received by each director or executive officer, including cash compensation earned since the previous report and on an annual basis, any bonuses, stock options, or other rights to receive securities of the issuer or any affiliate of the issuer, and payments that reduce personal living expenses, such as company vehicle, free housing, meals, or club dues; and***

***2. An analysis by the issuer's management of the business operations and financial condition of the issuer.***

***(2) The provisions of KRS 292.410(3) and (4) shall apply to the exemption set forth in this section.***

➔SECTION 2. A NEW SECTION OF KRS 292.410 TO 292.415 IS CREATED TO READ AS FOLLOWS:

***(1) This section applies to registrants operating an Internet Web site pursuant to subsection (1)(r) of Section 1 of this Act.***

***(2) Broker-dealers registered pursuant to KRS 292.330 and operating an Internet Web site, pursuant to subsection (1)(r) of Section 1 of this Act, shall make an annual notice filing with the department on a form prescribed by the commissioner, but shall be otherwise exempt from the provisions of this section.***

***(3) In lieu of the registration requirements of KRS 292.330, a person may apply for registration with the department as an Internet Web site operator by filing an application on a form prescribed by the commissioner that shall include the following:***

***(a) The Internet Web site operator is a business entity organized pursuant to the laws of Kentucky, authorized to do business in Kentucky, and engaged exclusively in intrastate offers and sales of securities in Kentucky;***

***(b) The Internet Web site operator is solely engaged in the business of operating an Internet Web site in accordance with this section and subsection (1)(r) of Section 1 of this Act;***

***(c) The identity, location, and contact information for the Internet Web site operator and any director, executive officer, general partner, managing member, or other person with management authority designated by the commissioner;***

***(d) A statement that the Internet Web site operator or any director, executive officer, general partner, managing member, or other person with management authority of the Internet Web site operator has never been subject to any conviction, order, judgment, decree, or other action specified in the Securities Act of 1933 Rule, 17 C.F.R. sec. 230.506(d); and***

***(e) Any other documents, certifications, or information the commissioner may require to administer and enforce the requirements of this section.***

***(4) (a) An Internet Web site operator registered pursuant to this section shall:***

***1. Charge a fee to an issuer for an offering of securities on the Internet Web site only in a:***

***a. Fixed amount for each offering;***

***b. Variable amount based on the length of time that securities are offered on the Internet Web site; or***

***c. Combination of the fixed and variable amounts; and***

***2. Comply with any other requirements that the commissioner, by administrative regulation or order, determines is necessary or appropriate in the public interest or for the protection of investors.***

***(b) An Internet Web site operator registered pursuant to this section shall not:***

***1. Offer investment advice or recommendations;***

***2. Solicit purchases, sales, or offers to buy the securities offered or displayed on its Internet Web site;***

***3. Compensate employees, agents, or other persons for the solicitation of securities or the sale of securities displayed or referenced on the Internet Web site;***

***4. Be compensated based on the amount of securities sold;***

***5. Identify, promote, or otherwise refer to any individual security offered on its Internet Web site in any advertising for the Internet Web site; or***

***6. Hold, manage, possess, or handle purchaser funds or securities.***

***(5) Each application filed pursuant to subsection (3) of this section shall be accompanied by the filing fee established by the commissioner and a surety bond filed with the application in an amount satisfactory to the commissioner, but no less than fifty thousand dollars ($50,000). The surety bond shall be in favor of the Commonwealth and shall secure payment of costs, fines, and damages to any person determined by the commissioner, after a hearing conducted in accordance with KRS Chapter 13B, to be aggrieved by an Internet Web site operator's violation of this section and Section 1 of this Act.***

***(6) Registration as an Internet Web site operator shall expire annually. Subsequent registration may be issued upon filing of a written renewal application, on a form prescribed by the commissioner and upon payment of the renewal fee established by the commissioner.***

***(7) Each Internet Web site operator registered pursuant to the section shall make and keep all accounts, correspondence, memoranda, papers, books, and other records which the commissioner prescribes by administrative regulation or order. All required records shall be:***

***(a) Preserved for three (3) years, unless the commissioner, by administrative regulation or order, prescribes otherwise for specified types of records; and***

***(b) 1. Kept within this state; or***

***2. At the request of the commissioner be made available at any time for examination by the department in the principal office of the registrant, or by production of exact copies to the department.***

***(8) The commissioner may conduct examinations of any Internet Web site operator registered pursuant to this section:***

***(a) 1. At a date and time specified by the commissioner; and***

***2. Within the scope determined by the commissioner;***

***(b) Without prior notice to the Internet Web site operator; and***

***(c) The Internet Web site operator shall pay the reasonable expense attributable to any examination, not to exceed an amount prescribed by the commissioner by administrative regulation.***

***(9) If any change occurs that results in an Internet Web site operator no longer meeting the minimum requirements for registration as set forth in this section, the Internet Web site operator shall provide notice of such change to the commissioner as soon as practicable after discovery. Within thirty (30) days of delivery of the notice provided in this subsection, the Internet Web site operator shall, unless otherwise permitted or directed by the commissioner, cease and desist from operating an Internet Web site operator pursuant to subsection (1)(r) of Section 1 of this Act.***

***(10) The commissioner may deny, refuse to renew, condition, limit, suspend, or revoke the registration of an Internet Web site operator for any of the grounds set forth in KRS 292.337, which are applicable to a broker-dealer, agent, investment adviser, or investment adviser representative.***

***(11) Except as provided in subsection (12) of this section, the commissioner shall not issue an order pursuant to subsection (10) of this section without appropriate notice to the applicant or registrant, opportunity for a hearing, and written findings of fact and conclusions of law in accordance with KRS Chapter 13B.***

***(12) The commissioner may take emergency action against an applicant or registrant, in accordance with the provisions set forth in KRS 13B.125, if such action is in the public interest and there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare.***

➔Section 3. Sections 1 and 2 of this Act shall be known and may be referred to as the Kentucky Intrastate Crowdfunding Exemption.

**Signed by Governor March 19, 2015.**

## CHAPTER 25

**( SB 62 )**

AN ACT relating to public service.

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

➔Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not

suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same

principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement

allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. ***If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have his or her retirement voided.*** If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided; and

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. ***If an elected official is reelected to a new term of office in the same position and retires following the election but prior to taking the new term of office, he or she shall be deemed by the system as having a prearranged agreement under the provisions of this subparagraph and shall have***

***his or her retirement voided.*** If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium.

➔Section 2. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Lay-offs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For lay-offs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;

(j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;

2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;

3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;

4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and

6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

***(8) For any individual hired or elected to office before January 1, 2015, and paid through the Kentucky Human Resources Information System, the Personnel Cabinet shall not require payroll payments to be made by direct deposit or require the individual to use a Web-based program to access his or her salary statement.***

**Signed by Governor March 19, 2015.**

## CHAPTER 26

**( HB 168 )**

AN ACT relating to incompatible licenses.

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

➔Section 1. KRS 243.110 is amended to read as follows:

(1) Except as provided in subsection ***(3)***[~~(2)~~] of this section, each kind of license listed in KRS 243.030 shall be incompatible with every other kind listed in that section and no person or entity holding a license of any of those kinds shall apply for or hold a license of another kind listed in KRS 243.030.

(2) ***(a) Each kind of license listed in KRS 243.040(1), (3), or (4) shall be incompatible with every other kind listed in KRS 243.040(1), (3), or (4), and no person holding a license of any of those kinds shall apply for or hold a license of any other kind listed in KRS 243.040(1), (3), or (4).***

***(b) A brewery holding a license listed in KRS 243.040(6) or (9) shall not apply for or hold a license listed in KRS 243.040(3) or (4).***

***(3) (a)*** The holder of a quota retail package license may also hold a quota retail drink license, an NQ2 retail

drink license, or a special nonbeverage alcohol license.

***(b)*** The holder of a transporter's license may also hold a distilled spirits and wine storage license.

***(c)*** The holder of a distiller's license may also hold a rectifier's license, a special nonbeverage alcohol license, or a winery license.

***(d)*** A commercial airline system or charter flight system retail license, a commercial airline system or charter flight system transporter's license, and a retail drink license if held by a commercial airline or charter flight system may be held by the same person or corporation.

***(e)*** A Sunday retail drink license and supplemental license may be held by the holder of a primary license.

***(4)*** ~~[(3)]~~ Any person may hold two (2) or more licenses of the same kind.

***(5)*** ~~[(4)]~~ A person or entity shall not evade the prohibition against applying for or holding licenses of two (2) kinds by applying for a second license through or under the name of a different person or entity. The state director shall examine the ownership and management of applicants, and shall deny the application for a license if the applicant is substantially interested in a person or entity that holds an incompatible license.

**Signed by Governor March 20, 2015.**

## CHAPTER 27

**( HB 47 )**

AN ACT relating to the Public Pension Oversight Board.

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

➔Section 1. KRS 7A.200 is amended to read as follows:

The Public Pension Oversight Board of the Kentucky General Assembly is hereby established. The purpose of the board shall be to review, analyze, and provide oversight to the General Assembly on the benefits, administration, investments, funding, laws and administrative regulations, and legislation pertaining to the ***state-administered retirement systems*** ~~[Kentucky Retirement Systems]~~.

➔Section 2. KRS 7A.210 is amended to read as follows:

As used in KRS 7A.200 to 7A.260, unless the context requires otherwise:

(1) "Board" means the Public Pension Oversight Board;

(2) "***State-administered retirement systems*** ~~[Kentucky Retirement Systems]~~" means:

(a) The State Police Retirement System as provided by KRS 16.505 to 16.652;

(b) The Kentucky Employees Retirement System as provided by KRS 61.510 to 61.705; ~~[ and]~~

(c) The County Employees Retirement System as provided by KRS 78.510 to 78.852;

***(d) The Legislators' Retirement Plan as provided by KRS 6.500 to 6.577;***

***(e) The Judicial Retirement Plan as provided by KRS 21.345 to 21.580;*** and

***(f) The Kentucky Teachers' Retirement System as provided by KRS 161.220 to 161.716; and***

(3) "State agency" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other entity of the executive, judicial, or legislative branch of the state government.

➔Section 3. KRS 7A.220 is amended to read as follows:

(1) The Public Pension Oversight Board shall be composed of the following thirteen (13) members:

(a) Two (2) members of the General Assembly appointed by the Speaker of the House of Representatives, each of whom shall serve while a member of the House for the term for which he or she has been elected, and one (1) of whom the Speaker shall designate as co-chair;

(b) Two (2) members of the General Assembly appointed by the President of the Senate, each of whom shall serve while a member of the Senate for the term for which he or she has been elected, and one (1) of whom the President shall designate as co-chair;

(c) One (1) member of the General Assembly appointed by the Minority Floor Leader of the Senate, who shall serve while a member of the Senate for the term for which he or she has been elected;

(d) One (1) member of the General Assembly appointed by the Minority Floor Leader of the House of Representatives, who shall serve while a member of the House for the term for which he or she has been elected;

(e) One (1) individual appointed by the Speaker of the House of Representatives, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;

(f) One (1) individual appointed by the President of the Senate, who shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience or who shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section;

(g) The state budget director or his or her designee;

(h) The Auditor of Public Accounts or his or her designee;

(i) The Attorney General or his or her designee; and

(j) Two (2) individuals appointed by the Governor, one (1) of whom shall be certified as a chartered financial analyst (CFA) with at least ten (10) years of investment experience and one (1) of whom shall possess at least ten (10) years of retirement experience as defined by subsection (2) of this section.

(2) For purposes of this section, "retirement experience" means:

(a) Experience in retirement or pension plan management;

(b) A certified public accountant with relevant experience in retirement or pension plan accounting;

(c) An actuary with relevant experience in retirement or pension plan consulting;

(d) An attorney licensed to practice law in the Commonwealth of Kentucky with relevant experience in retirement or pension plans; or

(e) A current or former university professor whose primary area of emphasis is economics or finance.

(3) Individuals appointed under subsection (1)(e), (f), and (j) of this section shall not:

(a) Be a member of the General Assembly;

(b) Be employed by a state agency of the Commonwealth of Kentucky or receiving a contractual payment for services rendered to a state agency of the Commonwealth of Kentucky that would conflict with his or her service to the board; ***or***

(c)~~[ Be a member or retired member of the Kentucky Retirement Systems; or~~

~~(d)]~~ Serve more than three (3) consecutive ***four (4) year*** terms on the board.

(4) Any vacancy which may occur in the membership of the board shall be filled by the appointing authority who made the original appointment.

***(5) Individuals appointed under subsection (1)(e), (f), and (j) of this section shall serve a term of four (4) years.***

➔Section 4. KRS 7A.240 is amended to read as follows:

The Public Pension Oversight Board shall have the authority to:

(1) Except ***for information protected under***~~[as provided by]~~ KRS 61.661 ***or 161.585 or information specific to the account of a current or former employee or retiree***, require the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~, or any other state agency, to provide any and all information necessary to carry out the duties of the board, including any actuarial analysis. The cost of providing the information to the board, including any actuarial analysis, shall be included in the administrative budget of the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~ or the state agency;

(2) Conduct public hearings in furtherance of its general duties, at which it may request the appearance of officials

of any state agency and solicit the testimony of interested groups and the general public;

(3) Establish a uniform format for reports and data submitted to the board by the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~ and the frequency and due dates for the reports and data;

(4) Request the Auditor of Public Accounts to perform a financial or special audit of the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~; and

(5) Subject to selection and approval by the Legislative Research Commission, utilize the services of consultants, actuaries, managers, legal counsel, and auditors to render professional, managerial, and technical assistance, as needed.

➔Section 5. KRS 7A.250 is amended to read as follows:

The Public Pension Oversight Board:

(1) Shall, from time to time, conduct an impartial review of all the laws governing the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~ and recommend any changes it may find desirable with respect to benefits and administration, funding of benefits, investments of funds, and the improvement of language, structure, and organization of the statutes;

(2) Shall, once every five (5) years, review the benefits provided to employees who begin participating in the systems administered by Kentucky Retirement Systems on or after January 1, 2014, and recommend any changes to the provisions affecting these employees that are necessary to maintain the actuarial soundness of the systems;

(3) Shall review semiannually the investment programs of the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~, including a review of asset allocation targets and ranges, risk factors, asset class benchmarks, total return objectives, relative volatility, performance evaluation guidelines, investment policies, and securities litigation policies and recoveries from fraud or other corporate malfeasance. The board may establish an advisory committee, as provided by KRS 7A.260, which may include investment professionals to assist in complying with the provisions of this subsection;

(4) May review any benefits, bylaws, policies, or charters established by the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~;

(5) Shall, at the request of the Speaker of the House of Representatives or the President of the Senate, evaluate proposed changes to laws affecting the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~ and report to the Speaker or the President on the probable costs, actuarial implications, and desirability as a matter of public policy;

(6) May review all new or amended administrative regulations of the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~ and provide comments to the Administrative Regulation Review Subcommittee established by KRS 13A.020;

(7) Shall research issues related to the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~ as directed by the Legislative Research Commission; and

(8) Shall publish an annual report covering the board's evaluation and recommendations with respect to the operations of the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~**.** The report shall be submitted to the Legislative Research Commission no later than December ***3***1 of each year and shall include at a minimum any legislative recommendations made by the board, a summary of the financial and actuarial condition of the ***state-administered retirement systems***~~[Kentucky Retirement Systems]~~, and an analysis of the adequacy of the current levels of funding.

**Signed by Governor March 20, 2015.**

## CHAPTER 28

**( HB 62 )**

AN ACT relating to public agencies.

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

➔SECTION 1. A NEW SECTION OF KRS 61.510 TO 61.705 IS CREATED TO READ AS FOLLOWS:

***Notwithstanding any other provision of KRS 61.510 to 61.705 or 78.510 to 78.852 to the contrary:***

***(1) Any employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System on July 1, 2015, except as limited by subsection (5) of this section, may:***

***(a) Voluntarily cease participation in its respective retirement system subject to the requirements and restrictions of this section; or***

***(b) Be required to involuntarily cease participation in the system under the provisions of this section if the board has determined the employer is no longer qualified to participate in a governmental plan or has failed to comply with the provisions of KRS 61.510 to 61.705 or 78.510 to 78.852.***

***(2) (a) If an employer desires to voluntarily cease participation in the Kentucky Employees Retirement System or the County Employees Retirement System as provided by subsection (1)(a) of this section:***

***1. The employer shall adopt a resolution requesting to cease participation in the system and shall submit the resolution to the board for its approval;***

***2. The cessation of participation in the system shall apply to all employees of the employer;***

***3. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section;***

***4. The employer shall provide an alternative retirement program for employees who will no longer be covered by the system, which may include a voluntary defined contribution plan; and***

***5. The employer shall pay to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 3. of this paragraph. The full actuarial cost shall not include any employee who seeks a refund of his or her account balance within sixty (60) days of the employer's effective cessation date. An employee's election to receive a refund of his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits for the time worked for the employer ceasing participation. The full actuarial cost may be paid by lump-sum payment or in installment payments to the system. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made. If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:***

***a. Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;***

***b. Be charged interest over the life of the installment period, at the actuarially assumed rate of return; and***

***c. Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:***

***i. A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;***

***ii. Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and***

***iii. The perfected security interest shall attach until the amount owed is paid in full.***

***The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section.***

***(b) If the board determines an employer must involuntarily cease participation in the system as provided by subsection (1)(b) of this section:***

***1. The cessation of participation in the system shall apply to all employees of the employer;***

***2. The employer shall pay for all administrative costs of an actuarial study to be completed by the Kentucky Retirement Systems' consulting actuary and for any other administrative costs for discontinuing participation in the system as determined by the board and as provided by this section; and***

***3. The employer shall pay to the system the full actuarial cost of the benefits accrued by its current and former employees in the system as determined separately for the pension fund and the insurance fund by the actuarial study required by subparagraph 2. of this paragraph. The full actuarial cost shall not include any employee who seeks a refund of his or her account balance within sixty (60) days of the employer's effective cessation date. An employee's election to receive a refund of his or her account balance within sixty (60) days of the employer's effective cessation date is an irrevocable waiver of the right to obtain service credits for the time worked for the employer ceasing participation. The full actuarial cost may be paid by lump-sum payment or in installment payments to the system. The actuarial cost shall be fixed, and the employer shall not be subject to any increases or subsequent adjustments, once the lump sum is paid or the first installment payment is made. If the employer elects to pay the full actuarial cost in installment payments, the employer shall, as determined by the board:***

***a. Pay installment payments over a time period determined by the board, not to exceed twenty (20) years;***

***b. Be charged interest over the life of the installment period at the actuarially assumed rate of return; and***

***c. Provide adequate security in any relevant real estate, chattel paper, deposit accounts, documents, goods covered by documents, instruments, investment property, letters of credit rights, and money. In order to ensure security provided is adequate:***

***i. A detailed financing statement shall be provided to the Kentucky Retirement Systems board listing all assets to be used as security and the value certified by a licensed attorney;***

***ii. Security interest shall be a perfected interest in accordance with provisions set forth in KRS Chapter 355 and subject to approval of the board; and***

***iii. The perfected security interest shall attach until the amount owed is paid in full.***

***The board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund or adequate security of the delinquent employer as is necessary to ensure payment of any installment payments owed under this section.***

***(3) Any employee hired on or after the employer's effective cessation date by an employer who has ceased participation in the system as provided by this section shall not, regardless of his or her membership date in the systems administered by Kentucky Retirement Systems, be eligible to participate in the Kentucky Employees Retirement System or the County Employees Retirement System through the employer that ceased participation for the duration of his or her employment with that employer.***

***(4) If an employer has ceased participation in the system as provided by this section:***

***(a) The rights of recipients and the vested rights of inactive members accrued as of the employer's effective cessation date shall not be impaired or reduced in any manner as a result of the employer ceasing participation in the system; and***

***(b) Employees of the employer ceasing participation shall accrue benefits through the employer's effective cessation date but shall not accrue any additional benefits in the Kentucky Employees Retirement System or the County Employees Retirement System, including earning years of service credit through the ceased employer, after the employer's effective cessation date for as long as they remain employed by the employer. The day after the employer's effective cessation date, each employee described by this paragraph shall be considered an inactive member with respect to his or her employment with the employer that ceased participation and, subject to the provisions and limitations of KRS 61.510 to 61.705 and 78.510 to 78.852, shall:***

*1. Retain his or her accounts with the Kentucky Employees Retirement System or the County Employees Retirement System and have those accounts credited with interest in accordance with KRS 61.510 to 61.705 and 78.510 to 78.852;*

*2. Retain his or her vested rights in accordance with paragraph (a) of this subsection;*

*3. Be eligible to take a refund of his or her accumulated account balance in accordance with KRS 61.625 or any other available distribution if eligible; and*

*4. Except for federal tax purposes, be treated as if his or her employment terminated as of the employer's effective cessation date, unless otherwise prohibited by applicable federal tax authority.*

*(5) (a) Kentucky Employees Retirement System employers who are county attorney offices, Commonwealth's attorney offices, local and district health departments governed by KRS Chapter 212, master commissioners, executive branch agencies whose employees are subject to KRS 18A.005 to 18A.200, state-administered retirement systems, state-supported universities and community colleges, property valuation administration offices, or employers in the legislative or judicial branch of Kentucky state government, shall not be eligible to voluntarily discontinue participation in the Kentucky Employees Retirement System unless the employer is a nonstock nonprofit corporation organized under KRS Chapter 273.*

*(b) Only the employers in the County Employees Retirement System who are a nonstock nonprofit corporation organized under KRS Chapter 273 may voluntarily cease participation in the County Employees Retirement System.*

*(6) For purposes of this section, the full actuarial cost shall be determined by the Kentucky Retirement Systems' consulting actuary separately for the pension fund and the insurance fund using the assumptions established by the system as of the most recently completed actuarial valuation and based upon the following methodology:*

*(a) For each fund, the systems' consulting actuary shall determine the assets at market value that are held in the Kentucky Employees Retirement System or the County Employees Retirement System, as applicable, to cover employer-financed accrued liabilities. The market value of assets of each fund, to the extent sufficient, will be allocated to categories in the following order:*

*1. Inactive member accumulated account balances;*

*2. Active member accumulated account balances;*

*3. Recipient liabilities;*

*4. Employer-financed inactive member liabilities; and*

*5. Employer-financed active member liabilities;*

*(b) The systems' consulting actuary shall apportion the market value of assets in each fund for each category listed in paragraph (a) of this subsection to the employer ceasing participation based on the employer's share of each category's liabilities in the fund that are represented by the members and recipients of the employer ceasing participation;*

*(c) The systems' consulting actuary shall determine the amount of the employer-financed accrued liabilities separately for each fund for all members and recipients of the employer ceasing participation; and*

*(d) The full actuarial cost for each fund shall be equal to the amount by which paragraph (c) of this subsection exceeds paragraph (b) of this subsection.*

*(7) The Kentucky Retirement Systems shall promulgate administrative regulations pursuant to KRS Chapter 13A to administer this section.*

*(8) Any employer who voluntarily ceases participation, or who is required to involuntarily cease participation as provided in this section, shall hold the Commonwealth harmless from damages, attorney's fees and costs from legal claims for any cause of action brought by any member or retired member of the departing employer.*

*(9) For purposes of this section:*

***(a) "Employer's effective cessation date" means the last day of the system's plan year in the year in which the employer has elected to cease participation in the system, provided the employer has met the requirements of this section and has given the Kentucky Retirement Systems sufficient notice as provided by administrative regulations promulgated by the systems;***

***(b) "Inactive member" means a member who is not participating with the system;***

***(c) "Active member" means a member who is participating in the system; and***

***(d) "Employer" means the governing body of a department, as defined by Section 2 of this Act, or a county as defined by KRS 78.510.***

➔Section 2. KRS 61.510 is amended to read as follows:

As used in KRS 61.510 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.510 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.510 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.510 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon. For members who begin participating on or after September 1, 2008, "accumulated contributions" shall not include employee contributions that are deposited into accounts established pursuant to 26 U.S.C. sec. 401(h) within the funds established in KRS 16.510, 61.515, and 78.520, as prescribed by KRS 61.702(2)(b);

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4). For employees who begin participating on or after September 1, 2008, creditable compensation shall not include payments for compensatory time;

(14) "Final compensation" of a member means:

(a) For a member who begins participating before September 1, 2008, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance;

(c) For a member who begins participating before September 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(d) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) complete fiscal years immediately preceding retirement divided by five (5). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit. If the member does not have five (5) complete fiscal years that each contain twelve (12) months of service credit, then one (1) or more additional fiscal years shall be used; or

(e) For a member who begins participating on or after September 1, 2008, but prior to January 1, 2014, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) complete fiscal years he was paid at the highest average monthly rate divided by three (3). Each fiscal year used to determine final compensation must contain twelve (12) months of service credit;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee

contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are adopted by the board. In cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, unless the member has chosen the Social Security adjustment option as provided for in KRS 61.635(8), in which case the member's actual age shall be used. For members who began participating in the system prior to January 1, 2014, no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.510 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year. The "fiscal year" shall be the limitation year used to determine contribution and benefit limits as established by 26 U.S.C. sec. 415;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system***. The term "parted employer" shall not include a department, board, or agency that ceased participation in the system pursuant to Section 1 of this Act***;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of

pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall not be considered a recipient, except for purposes of KRS 61.623;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded actuarial accrued liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded actuarially accrued liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543;

(35) "Month" means a calendar month;

(36) "Membership date" means:

(a) The date upon which the member began participating in the system as provided in KRS 61.543; or

(b) For a member electing to participate in the system pursuant to KRS 196.167(4) who has not previously participated in the system or the Kentucky Teachers' Retirement System, the date the member began participating in a defined contribution plan that meets the requirements of 26 U.S.C. sec. 403(b);

(37) "Participant" means a member, as defined by subsection (8) of this section, or a retired member, as defined by subsection (24) of this section;

(38) "Qualified domestic relations order" means any judgment, decree, or order, including approval of a property settlement agreement, that:

(a) Is issued by a court or administrative agency; and

(b) Relates to the provision of child support, alimony payments, or marital property rights to an alternate payee;

(39) "Alternate payee" means a spouse, former spouse, child, or other dependent of a participant, who is designated to be paid retirement benefits in a qualified domestic relations order;

(40) "Accumulated employer credit" mean the employer pay credit deposited to the member's account and interest credited on such amounts as provided by KRS 16.583 and 61.597; and

(41) "Accumulated account balance" means:

(a) For members who began participating in the system prior to January 1, 2014, the member's accumulated contributions; or

(b) For members who began participating in the system on or after January 1, 2014, in the hybrid cash balance plan as provided by KRS 16.583 and 61.597, the combined sum of the member's accumulated contributions and the member's accumulated employer credit.

➔Section 3. KRS 61.520 is amended to read as follows:

(1) Each department determined by the board to be eligible and qualified for participation shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be determined by the board and fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, board for mental health or individuals with an intellectual disability, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) ***Except as provided by Section 1 of this Act:***

***(a)*** Once a department participates it shall continue to participate as long as it remains qualified***; and*** ~~[.]~~

***(b)*** Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.

➔Section 4. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on

and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include ***persons who are not eligible to participate in the system as provided by Section 1 of this Act or*** those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the former Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

➔Section 5. KRS 61.543 is amended to read as follows:

(1) ***(a)*** Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee***:***

***1.*** Did not elect to become a member as provided by subsection (2) of KRS 61.525***;*** ~~[, or unless the employee ]~~

***2.*** Did not elect membership pursuant to KRS 61.545(3)***; or***

***3. Is not eligible to participate in the system as provided by Section 1 of this Act***.

***(b)*** After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month the contributions are deducted or picked up during a fiscal or calendar year, if the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;

(b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or the contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and

(c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during the period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made

to the retirement system and any interest credited in accordance with KRS 61.575.

(5) Notwithstanding the provisions of this section and KRS 61.560, employees engaged pursuant to KRS 148.026 and 56.491 in a regular full-time position as defined in KRS 61.510(21) prior to January 1, 1993, shall be allowed service credit for each month the employee received creditable compensation for an average of one hundred (100) or more hours of work, if the employee pays to the retirement system the contributions that would have been deducted for the period of employment. The contributions shall be credited to the member's account and shall not be picked up pursuant to KRS 61.560(4). The employer contributions for the period, plus interest calculated at the actuarial rate, shall be due within thirty (30) days of notice of receipt of payment from the employee.

➔Section 6. KRS 61.560 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives compensation five percent (5%) of his creditable compensation, unless he did not elect membership pursuant to KRS 61.545(3), and except that members of the General Assembly, who elect the survivorship option provided in KRS 61.635(13), shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year.

(2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.

(3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

***(5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by Section 1 of this Act.***

➔Section 7. KRS 78.530 is amended to read as follows:

(1) (a) Each county and school board, as defined in KRS 78.510, will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. In cases where general purpose county government does not participate, but the sheriff and his employees or the county clerk and his employees do, the sheriff or the clerk shall retain the order in his office. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that:

1. County governments entering the system between April 9, 2002, and July 1, 2003, under this section shall be excluded from this requirement; and

2. Agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

(2) Once a county or school board participates, it shall thereafter continue to participate, except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employee electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. Cities which participate in the system pursuant to subsection ***(6)***~~[(7)]~~ of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 shall be required to purchase on behalf of each employee electing coverage only as much service credit as the employee has accumulated in the city-administered plan, up to the participation date of the city. Accumulated service shall include service for which an employee received a refund pursuant to KRS 95.620 or 95.866, if such refund has been repaid. If the employee has not yet repaid the refund, he may make payment to the system by any method acceptable to the system, and the requirement of five (5) years of continuous reemployment prior to repayment of refunds shall not apply. Upon the employee's repayment, the city shall purchase the associated service credit for the employee. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board. A shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period, except that cities which participate in the system pursuant to subsection ***(6)***~~[(7)]~~ of this section, KRS 79.080, 90.400, 90.410, 95.520, 95.621, 95.761, 95.768, 95.852, or 96.180 may, at their option, extend the payment schedule to a maximum of thirty (30) years, may choose to make level payments at the interest rate actuarially assumed by the board over the life of the payment schedule chosen, and may retain employer contributions and the earnings thereon attributable to employees electing coverage;

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958, and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. In addition, the city may maintain any tax, the proceeds of which had been devoted to funding pension obligations under the locally administered plan prior to participation in the system, for the purpose of funding current service costs incurred after the date of participation. The city may increase the tax to pay current service costs which exceed the local pension system costs to which the tax had been devoted, but the city shall not collect from the tax more revenues than are necessary to pay current service costs incurred after the date of participation. The city may continue the tax so long as it participates in the system, and the tax shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect either tax authorized by this paragraph if its participation has been terminated pursuant to ***Section 1 of this Act***~~[KRS 78.535]~~;

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employees who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the

date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under paragraph (b) of this subsection;

(e) A county which did not participate by alternate participation may, until July 1, 1991, purchase current service credit for those employees who rejected membership in the system at the time the county first participated. The employer shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. The county shall pay the cost of the service credit by lump sum or by establishing a payment schedule under paragraph (b) of this subsection; and

(f) A county which participated in the system but did not elect the alternate participation plan may at a later date elect the alternate participation plan. In this case, the county shall purchase on behalf of each employee participating in the system current service credit for employment in regular full-time positions between July 1, 1958, or a later date selected by the county government, and the participation date of the county. The county shall also purchase, for employees who decide to participate when the county elects the alternate participation plan, current service credit for employment in regular full-time positions between July 1, 1958, or the later date selected by the county government, and the participation date of the county. In addition, the county shall pay the employer contributions on the creditable compensation of the employees who later elect membership from the participation date of the county to the date the member elects participation. The employee shall pay the employee contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employee and employer contributions. Cost of the service credit over that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by a payment schedule established under paragraph (b) of this subsection.

(g) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, this subsection shall not apply to members who begin participating in the system on or after January 1, 2014, and no county that elects to participate in the system on or after January 1, 2014, shall be eligible to participate under the alternate participation plan.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) ~~[An agency whose participation in the County Employees Retirement System has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employees thereof and the County Employees Retirement System.~~

~~(7) ]~~(a) After August 1, 1988, except as permitted by KRS 65.156, no local government retirement system shall be created pursuant to KRS 70.580 to 70.598 and any local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768, and KRS Chapter 96 shall be closed to new members. New employees who would have been granted membership in such retirement systems shall instead be granted membership in the County Employees Retirement System. Employees who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or firefighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400, or 90.410, or any such policemen or firefighter members employed on or prior to August 1, 1988, who transfer to the County Employees Retirement System, shall be certified by their employers as working in hazardous positions. Each city participating in the County Employees

Retirement System pursuant to this subsection shall execute the appropriate order authorizing such participation, shall select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which closed their local pension systems to new members and participated in the system prior to July 15, 1988, whose employees at the time of transition were given the option to join the system shall not be required to offer said employees a second option to join the system.

(b) Notwithstanding any statute to the contrary, after April 9, 2002, the systems shall deny the request for participation of any agency which does not have an irrevocable contract with the state Personnel Cabinet for health insurance coverage under KRS 18A.225 to 18A.229 for its active employees, except that agencies entering the system on or after April 9, 2002, which were established by a merger or an interlocal agreement to provide public services shall be excluded from this requirement if all agencies entering into the merger or interlocal agreement had an initial participation date with the system prior to April 9, 2002.

***(7)*** ~~[(8)]~~ Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participation plan shall, if its police and firefighters were not covered by Social Security, or any city which operates a pension under KRS 90.400 or 90.410, shall be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the County Employees Retirement System for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

➔Section 8. KRS 78.535 is amended to read as follows:

(1) If a participating county fails to fully comply with the provisions of KRS 78.510 to 78.852, ***the board may require the county to involuntarily cease participation in the system as provided by Section 1 of this Act*** ~~[the board shall notify the county in writing of its failure to comply and shall inform the county that the failure shall be deemed to be cause for termination of the participation of the county in the system]~~.

(2) ~~[In not less than ninety (90) days after the issuance of the notice in accordance with subsection (1) of this section, the board may terminate the participation of the county in the system unless the county has fully complied or has made satisfactory arrangements to comply. The board shall determine the effective date of the termination of participation.~~

~~(3) The county may appeal the decision of the board to the Franklin Circuit Court.~~

~~(4) Employees of the county who are members of the system on the effective date of termination of participation shall have the privilege of continuing in membership in the system until their county employment is terminated. The employees shall continue to make contributions to the system in accordance with the provisions of KRS 78.610 and the county shall contribute employer contributions for the employees in accordance with KRS 61.565.~~

~~(5) Notwithstanding the provisions of subsection (4) of this section, the aggregate amount of the employer contributions during a fiscal year of a county whose participation has been terminated by the board shall be not less than the amount the system is required to pay in retirement allowances during the fiscal year to former employees of the county and the beneficiaries of the former employees. In determining the amount of retirement allowances, the system shall allow credit for the member contributions paid by the former employees.~~

~~(6) ]~~In lieu of ***cessation of*** ~~[termination of the]~~ participation of a county which fails to fully comply with the provisions of KRS 78.510 to 78.852, the board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund of the delinquent county as is necessary to achieve full compliance with the provisions of KRS 78.625.

➔Section 9. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social

Security, may decline prior to their participation in the system;

(2) (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;

(3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment, provided the person began participating in the system prior to January 1, 2014. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and

(4) All persons electing coverage in the system under KRS 78.530(3)(d).

(5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(6) Membership in the system shall not include ***persons who are not eligible to participate in the system as provided by Section 1 of this Act or*** those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

➔Section 10. KRS 78.610 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation unless he did not elect membership pursuant to KRS 61.545(3).

(2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.

(3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

***(5) The provisions of this section shall not apply to individuals who are not eligible for membership as provided by Section 1 of this Act.***

➔Section 11. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, Armed Forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, and qualified domestic relations orders, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Members' account, confidential, as provided for by KRS 61.661;

(30) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(31) Maximum disability benefit, as provided for by KRS 61.607;

(32) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(33) Employer contributions, as provided for by KRS 61.565;

(34) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment

payments, as provided for by KRS 61.552;

(35) Hospital and medical insurance plan, as provided by KRS 61.702;

(36) Death benefit, as provided by KRS 61.705;

(37) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(38) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(39) Disability procedure for members in hazardous positions as provided for in KRS 16.582;

(40) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;

(41) Death or disability from a duty-related injury as provided in KRS 61.621;

(42) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;

(43) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;

(44) Hybrid cash balance plan provided to new members as provided by KRS 61.597;

(45) Employer payment of increases in creditable compensation during the last five (5) years of employment as provided by KRS 61.598;~~[ and]~~

(46) Calculation of retirement allowance, as provided by KRS 61.599***; and***

***(47) Voluntary and involuntary cessation of participation by a participating agency as provided by Section 1 of this Act.***

➔Section 12. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by KRS 78.540(2) ***or is not eligible to participate in the system as provided by Section 1 of this Act***. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 78.610(4).

(a) For employees who are not employed by a school board, service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month based on the actual hours worked in a calendar or fiscal year. If the average number of hours of work is less than one hundred (100) hours per month, the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(b) For noncertified employees of school boards, for service prior to July 1, 2000, service credit shall be allowed for each month contributions are deducted or picked up under the employee's employment contract during a school year determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month if the employee receives creditable compensation for an average of eighty (80) or more hours of work per month based on the employee's employment contract. The school board shall certify the number of calendar days worked, the rate of pay, and the hours in a work day for each employee monthly or annually. The employer shall file at the retirement office the final monthly report or the annual report for a fiscal year no later than twenty (20) days following the completion of the fiscal year. The retirement system shall impose a penalty on the employer of one thousand dollars ($1,000) if the information is not submitted by the date required with an additional two hundred and fifty dollars ($250) for each additional thirty (30) day period the information is reported late.

1. If the employee works fewer than the number of contracted calendar days, the employee shall receive service credit determined by dividing the actual number of contracted calendar days worked by twenty (20) and rounded to the nearest whole month, provided that the number of hours worked during the period averages eighty (80) or more hours.

2. If the employee works fewer than the number of contracted calendar days and the average number of hours worked is less than eighty (80) per month, then the employee shall receive service credit for each calendar month in which he worked eighty (80) or more hours.

3. The retirement system shall refund contributions and service credit for any period for which the

employee is not given credit under this subsection.

(c) For noncertified employees of school boards, for service on and after July 1, 2000, at the close of each fiscal year, the retirement system shall add service credit to the account of each employee who made contributions to his or her account during the year. Employees shall be entitled to a full year of service credit if their total paid calendar days were not less than one hundred eighty (180) calendar days for a regular school or fiscal year. In the event an employee is paid for less than one hundred eighty (180) calendar days, the employee may purchase credit according to administrative regulations promulgated by the system. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Employees who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1. Employees who are employed and paid for less than the number of calendar days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. This credit shall be based upon the number of calendar days employed and the number of calendar days in the employee's annual employment agreement or normal employment year. Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the employee is employed during that year.

(d) Notwithstanding paragraph (c) of this subsection, a noncertified employee of a school board who retires between July 1, 2000, and August 1, 2001, may choose to have service earned between July 1, 2000, and August 1, 2001, credited as described in paragraph (b) of this subsection, if the employee or retired member notifies the retirement system within one (1) year of his initial retirement. The decision once made shall be irrevocable.

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Personnel Cabinet for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610, and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 78.640.

➔Section 13. KRS 95.520 is amended to read as follows:

(1) In cities meeting the criteria set out in KRS 95.518, there shall be a policemen's and firefighters' pension fund, and a board of trustees for that fund unless the policemen and firefighters are included in the membership of the County Employees Retirement System.

(2) The board of trustees is the trustee of the pension fund, and has exclusive control and management of the pension fund and of all moneys donated or paid for the relief or pensioning of members of the police and fire departments. It may do all things necessary to protect the fund.

(3) (a) After August 1, 1988, no new locally administered pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System.

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System.

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the

alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section.

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System, and not covered by Social Security for their employment with the city, are employed in hazardous positions. If the police and firefighters are covered by Social Security for their employment with the city, the city may certify that they are employed in hazardous positions.

~~[(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.520 to 95.620 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4).]~~

➔Section 14. KRS 95.621 is amended to read as follows:

(1) If a city described in KRS 95.518 adopted the alternative pension fund provisions under KRS 95.621 to 95.629 prior to August 1, 1988, to govern the pension fund for its policemen and firefighters, all the provisions in this section are mandatory. The provisions of KRS 95.620 shall apply to any city which has adopted KRS 95.621 to 95.629.

(2) Any member of the police or fire department serving at the time of passage of the ordinance and not desiring to participate in the fund and its benefits may be excluded by notifying the board of trustees of the pension fund in writing of his desire not to participate within ten (10) days after the effective date of this ordinance.

(3) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section, and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County Employees Retirement System;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section; ***and***

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System, and not covered by Social Security for their employment with the city, are employed in hazardous positions. If the police and firefighters are covered by Social Security for their employment with the city, the city may certify that they are employed in hazardous positions~~[; and~~

~~(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.621 to 95.629 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4)]~~.

➔Section 15. KRS 95.852 is amended to read as follows:

(1) There is hereby established in cities, a retirement and benefit fund for members of the police and fire departments, their dependents and beneficiaries, unless the policemen and firefighters are included in the membership of the County Employees Retirement System and certified to be working in hazardous positions. The fund shall be established as of July 1, 1956, and shall be known as the "Policemen's and Firefighters' Retirement Fund of the City of _____." In such name all of its business shall be transacted, and in such name or nominee name as provided by KRS 286.3-225 all of its moneys invested and all of its accumulated reserves consisting of cash, securities, and other property shall be held.

(2) (a) After August 1, 1988, no new pension fund shall be created pursuant to this section and cities which were covered by this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988;

(b) Cities which were covered by this section on or prior to August 1, 1988, shall provide for the retirement of police or firefighters rehired after August 1, 1988, by placing such employees in the County

Employees Retirement System;

(c) Cities which were covered by this section on or prior to August 1, 1988, shall place police or firefighters newly hired after August 1, 1988, in the County Employees Retirement System;

(d) Cities which were covered by this section on or prior to August 1, 1988, shall offer employees hired on or prior to August 1, 1988, membership in the County Employees Retirement System under the alternate participation plan as described in KRS 78.530(3), but such employees may elect to retain coverage under this section; ***and***

(e) The city shall certify that all police and firefighters placed in the County Employees Retirement System are employed in hazardous positions~~[; and~~

~~(f) If the city's participation in the County Employees Retirement System is terminated pursuant to KRS 78.535, the city shall provide retirement benefits pursuant to KRS 95.851 to 95.884 and KRS 95.991 to any of its police and firefighters who have not retained membership in the County Employees Retirement System pursuant to KRS 78.535(4)]~~.

➔Section 16. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary of the Cabinet for Health and Family Services shall allocate available funds to the boards for mental health or individuals with an intellectual disability or nonprofit organizations for disbursement during the fiscal year in accordance with approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets, and expenditures of the various programs; and if funds are not needed for a program to which they were allocated ***or if the board has failed to pay employer contributions for which it is liable by its participation in the Kentucky Employees Retirement System***, he may, after reasonable notice and opportunity for hearing, withdraw any funds that are unencumbered and reallocate them to other programs. He may withdraw funds from any program, or component part thereof***:*** ~~[,]~~

***(a)*** Which is not being operated and administered in accordance with its approved plan and budget, and the policies and administrative regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480***; or***

***(b) If the board has failed to pay employer contributions for which it is liable by its participation in the Kentucky Employees Retirement System***.

(2) If the secretary finds at any time that a board for mental health or individuals with an intellectual disability or nonprofit organization to which funds have been allocated for the operation of a regional community program for mental health or individuals with an intellectual disability is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and administrative regulations of the cabinet, ***or if the board has failed to pay employer contributions for which it is liable by its participation in the Kentucky Employees Retirement System or if the board has filed for bankruptcy,*** he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community programs for mental health or individuals with an intellectual disability.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional board for mental health or individuals with an intellectual disability or nonprofit organization, ***including a regional board's inability to pay employer contributions to the Kentucky Employees Retirement System or a regional board's actions to file for bankruptcy,*** which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community programs for mental health or individuals with an intellectual disability including, but not limited to, their financial record keeping, their personnel management operations, and their financial and program reporting; and

(b) Make personnel changes deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community board for mental health or individuals with an intellectual disability to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the Cabinet for Health and Family Services thirty (30) days prior to the anticipated action by the secretary. The notification shall be

by means of a letter from the secretary to the chairman of the board for mental health or individuals with an intellectual disability in question and shall state the reasons for the anticipated action. Following the notification, the board for mental health or individuals with an intellectual disability may:

(a) Comply with the secretary's action without contesting it; or

(b) Request an administrative hearing before a hearing officer appointed by the secretary to show cause why the action should not stand. The application shall be made within seven (7) days of the receipt of the letter from the secretary, and the hearing shall be conducted in accordance with KRS Chapter 13B.

➔Section 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**Signed by Governor March 20, 2015.**

## CHAPTER 29

**( HB 92 )**

AN ACT relating to alcohol and drug counseling.

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

➔Section 1. KRS 309.080 is amended to read as follows:

As used in KRS 309.080 to 309.089, unless the context otherwise requires:

(1) "Board" means the Kentucky Board~~[ of Certification]~~ of Alcohol and Drug Counselors;

(2) "Certified alcohol and drug counselor" means a person certified by the board ***who meets the requirements in Section 6 of this Act***;~~[ and]~~

(3) "Certificate holder" means an alcohol and drug counselor who is certified pursuant to KRS 309.080 to 309.089***;***

***(4) "Licensed clinical alcohol and drug counselor" means a person licensed by the board who meets the requirements of Section 7 of this Act;***

***(5) "Licensed clinical alcohol and drug counselor associate" means a person licensed by the board who meets the requirements of Section 8 of this Act;***

***(6) "Licensee" means a clinical alcohol and drug counselor who is licensed pursuant to KRS 309.080 to 309.089;***

***(7) "Practice of alcohol and drug counseling":***

***(a) Means the assessment and counseling of an individual, family, or group dealing with an alcohol or drug problem or addiction; and***

***(b) Does not include the diagnosis or treatment of a mental health condition, or the administration or interpretation of psychological tests;***

***(8) "Registered alcohol and drug peer support specialist" means a person registered by the board who meets the requirements in Section 5 of this Act; and***

***(9) "Registrant" means an alcohol and drug peer support specialist who is registered pursuant to KRS 309.080 to 309.089***.

➔Section 2. KRS 309.0805 is amended to read as follows:

(1) No person shall use the title ***"licensed clinical alcohol and drug counselor," "licensed clinical alcohol and drug counselor associate,"*** "certified alcohol and drug counselor**,**" ***or "registered alcohol and drug peer support specialist,"*** or hold himself ***or herself*** out as a ***"licensed clinical alcohol and drug counselor," "licensed clinical alcohol and drug counselor associate,"*** "certified alcohol and drug counselor**,**" ***or "registered alcohol and drug peer support specialist"*** unless he ***or she*** is ***licensed,*** certified***, or registered***

pursuant to KRS 309.080 to 309.089.

(2) Nothing in KRS 309.080 to 309.089 shall apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, social workers, psychologists, marriage and family therapists, art therapists, nurses, or students in accredited training programs in those professions, and nothing in KRS 309.080 to 309.089 shall be construed to limit, interfere with, or restrict the practice, descriptions of services, or manner in which they hold themselves out to the public.

(3) Nothing in KRS 309.080 to 309.089 shall be construed to alter, amend, or interfere with the practice of those who render counseling services, including but not limited to employment counseling, job placement counseling, vocational rehabilitation counseling, pastoral counseling based on any tenet of one's religious beliefs, or school counseling.

(4) Nothing in KRS 309.080 to 309.089 shall apply to the activities and services of a student intern or trainee who is pursuing a program of studies in alcohol and drug counseling at an accredited institution of higher education, if these activities are performed under the supervision or direction of an approved supervisor and the activities are part of the supervised program of studies.

➔Section 3. KRS 309.081 is amended to read as follows:

(1) There is hereby created the Kentucky Board~~[ of Certification]~~ of Alcohol and Drug Counselors consisting of seven (7) members who shall be appointed by the Governor. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business of alcohol and drug counseling, and the six (6) remaining members shall be ***licensed clinical alcohol and drug counselors or*** certified alcohol and drug counselors, pursuant to KRS 309.080 to 309.089. The board shall elect a ***chairperson***~~[chairman]~~ each year at the first meeting called after the appointment of new members.

(2) ~~[Initially, six (6) members shall be appointed by the Governor from a list of eighteen (18) names submitted by the Kentucky Certification Board of Chemical Dependency Professionals. These initial appointees shall be certified by the Kentucky Certification Board of Chemical Dependency Professionals. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business of alcohol and drug counseling. The Governor shall initially appoint two (2) members and the citizen at large member to terms of four (4) years, two (2) members to terms of three (3) years, and two (2) members to terms of two (2) years. Thereafter, ]~~Each member of the board shall serve for a term of four (4) years with a maximum of two (2) full consecutive terms.

(3) ~~[Beginning July 1, 1997, ]~~Each counselor member appointed to the board shall be a ***licensed clinical alcohol and drug counselor or*** certified alcohol and drug counselor and shall be actively engaged in the practice or teaching of alcohol and drug counseling in Kentucky.

(4) All reappointments to and vacancies on the board shall be filled by the Governor from a list of three (3) names for each position that shall be submitted by the Kentucky Association of Addiction Professionals. The list shall consist of the three (3) nominees receiving the most votes in an election for each position to be filled. The election shall be administered by the Kentucky Association of Addiction Professionals, and nominations may be submitted by any interested party. The nominees shall be selected by all alcohol and drug counselors ***licensed or*** certified under KRS 309.080 to 309.089. Vacancies shall be filled for the remainder of an unexpired term in the same manner as set out in this subsection.

(5) The citizen-at-large member shall be disqualified from serving on the board if:

(a) ***The member, a person who is a part of the member's household, or the member's relative***~~[He, a member of his household, or his relative]~~ becomes associated with or financially interested in the business of alcohol and drug counseling, or participates or has participated in a professional field related to alcohol and drug counseling; or

(b) ***The member, a person who is a part of the member's household, or the member's relative***~~[He, a member of his household, or his relative]~~ becomes, or is in training to become, a ***licensed clinical alcohol and drug counselor or*** certified alcohol and drug counselor.

(6) A counselor member of the board shall be disqualified from serving on the board if:

(a) He ***or she*** violates the code of professional ethics or standards of practice established pursuant to KRS 309.0813; or

(b) He ***or she*** ceases to be a ***licensed clinical alcohol and drug counselor or*** certified alcohol and drug counselor in Kentucky.

(7) Board members shall be reimbursed for all reasonable and necessary expenses they incur because of their board duties.

➔Section 4. KRS 309.0813 is amended to read as follows:

The board shall:

(1) Promulgate administrative regulations pursuant to KRS Chapter 13A for the administration and enforcement of KRS 309.080 to 309.089;

(2) Promulgate administrative regulations pursuant to KRS Chapter 13A establishing a code of ethics, standards of practice, and continuing education for ***licensed clinical alcohol and drug counselors, licensed clinical alcohol and drug counselor associates,*** certified alcohol and drug counselors***, and registered alcohol and drug peer support specialists***;

(3) Approve and disapprove, at least twice a year, those persons who shall be ***licensed,*** certified***, or registered*** under KRS 309.080 to 309.089;

(4) Approve the examination required of applicants for ***licensure or*** certification ***as alcohol and drug counselors and applicants for registration as alcohol and drug peer support specialists,*** and promulgate administrative regulations pursuant to KRS Chapter 13A for the administration and grading of the examination;

(5) ***Promulgate administrative regulations pursuant to KRS Chapter 13A to define the process to register with the board as a registered alcohol and drug peer support specialist, certified alcohol and drug counselor, licensed clinical alcohol and drug counselor associate, or licensed clinical alcohol and drug counselor***~~[Establish an examination committee to administer and evaluate the case method presentation and the oral examination]~~;

(6) Promulgate administrative regulations pursuant to KRS Chapter 13A establishing grounds and procedures for denying, suspending, failing to reissue, or revoking a ***license,*** certificate, ***or registration,*** and issuing reprimands and admonishments pursuant to KRS 309.080 to 309.089;

(7) Hold a hearing pursuant to KRS Chapter 13B upon the request of an aggrieved ***licensee, licensee associate,*** certificate holder***, or registrant,*** or an applicant for a ***license,*** certificate***, or registration***;

(8) Employ needed personnel and establish their duties and compensation;

(9) Maintain a register of ***licensed clinical alcohol and drug counselors, licensed clinical alcohol and drug counselor associates,*** certified alcohol and drug counselors***, and registered alcohol and drug peer support specialists***;

(10) Keep a complete record of the board's proceedings;

(11) Investigate suspected or alleged violations of KRS 309.080 to 309.089 and the administrative regulations promulgated pursuant to KRS 309.080 to 309.089;

(12) Promulgate administrative regulations pursuant to KRS ***Chapter*** 13A establishing an initial ***licensure fee,*** certification fee***, registration fee,*** and annual renewal ***fees***~~[fee]~~ not to exceed three hundred dollars ($300) each;

(13) Take legal action as necessary to restrain or enjoin violations of KRS 309.080 to 309.089 and the administrative regulations promulgated pursuant to KRS 309.080 to 309.089;~~[ and]~~

(14) Submit an annual report to the Governor and the Legislative Research Commission by January 1 of each year, which lists all hearings conducted by the board and the decisions rendered***; and***

***(15) Collect and deposit all fees, fines, and other moneys owed to the board into the State Treasury to the credit of the revolving fund established in Section 15 of this Act***.

➔SECTION 5. A NEW SECTION OF KRS 309.080 TO 309.089 IS CREATED TO READ AS FOLLOWS:

***An applicant for registration as an alcohol and drug peer support specialist shall pay the board an initial fee for registration, and shall:***

***(1) Be at least eighteen (18) years of age;***

***(2) Have obtained a high school diploma or equivalent;***

***(3) Have completed five hundred (500) hours of board-approved experience working with persons having a substance use disorder, twenty-five (25) hours of which shall have been under the direct supervision of:***

***(a) A certified alcohol and drug counselor who has at least two (2) years post-certification experience; or***

***(b) A licensed clinical alcohol and drug counselor;***

***(4) Have completed at least sixty (60) classroom hours of board-approved curriculum;***

***(5) Have passed a written examination that has been approved by the board;***

***(6) Have signed an agreement to abide by the standards of practice and code of ethics approved by the board;***

***(7) Attest to being in recovery for a minimum of two (2) years from a substance-related disorder;***

***(8) Have completed at least sixteen (16) hours of ethics training; three (3) hours of domestic violence training; two (2) hours of training in the transmission, control, treatment, and prevention of the human immunodeficiency virus; ten (10) hours of advocacy training; ten (10) hours of training in mentoring and education; and ten (10) hours of training in recovery support;***

***(9) Have submitted two (2) letters of reference from certified alcohol and drug counselors or licensed clinical alcohol and drug counselors;***

***(10) Live or work at least a majority of the time in Kentucky; and***

***(11) Have complied with the requirements for the training program in suicide assessment, treatment, and management in Section 18 of this Act and any administrative regulations promulgated thereunder.***

➔Section 6. KRS 309.083 is amended to read as follows:

An applicant for certification as an alcohol and drug counselor shall pay the board the initial fee for certification, and shall:

(1) Be at least eighteen (18) years of age;

(2) Have obtained a baccalaureate degree;

(3) Have completed six thousand (6,000) hours of board-approved experience working with~~[ alcohol or drug dependent]~~ persons ***having a substance use disorder***, three hundred (300) hours of which shall have been under the direct supervision of***:***

***(a)*** A certified alcohol and drug counselor who has at least two (2) years of post-certification experience; ***or***

***(b) A licensed clinical alcohol and drug counselor who has at least two (2) years of post-licensure experience;***

(4) Have completed at least two hundred seventy (270) classroom hours of board-approved curriculum;

(5) Have passed a written examination that has been approved by the International Certification Reciprocity Consortium on Alcoholism and Drug Abuse~~[ and an oral examination approved by the board]~~;

(6) Have signed an agreement to abide by the standards of practice and code of ethics approved by the board;

(7) Have completed at least six (6) hours of ethics training***; three (3) hours of domestic violence training;*** and two (2) hours of training in the transmission, control, treatment, and prevention of the human immunodeficiency virus;~~[ and]~~

(8) Have submitted two (2) letters of reference from certified ***or licensed clinical*** alcohol and drug counselors***;***

***(9) Live or work at least a majority of the time in Kentucky; and***

***(10) Have complied with the requirements for the training program in suicide assessment, treatment, and management in Section 18 of this Act and any administrative regulations promulgated thereunder***.

➔SECTION 7. A NEW SECTION OF KRS 309.080 TO 309.089 IS CREATED TO READ AS FOLLOWS:

***An applicant for licensure as a licensed clinical alcohol and drug counselor shall pay the board the initial fee for licensure, and shall:***

***(1) Be at least eighteen (18) years of age;***

***(2) Have obtained from a regionally accredited college or university or a college or university accredited by an agency recognized by the United States Department of Education:***

***(a) A sixty (60) hour master's degree in a behavioral science with clinical application;***

***(b) A thirty (30) hour advanced placement master's degree in a behavioral science with clinical application; or***

***(c) A doctoral degree in a behavioral science with clinical application;***

***(3) Have completed at least one hundred eighty (180) classroom hours of alcohol and drug counselor specific board-approved curriculum;***

***(4) Have passed a written examination as specified by the board in administrative regulation;***

***(5) Have signed an agreement to abide by the standards of practice and code of ethics approved by the board;***

***(6) Have completed at least six (6) hours of ethics training; three (3) hours of domestic violence training; and two (2) hours training in the transmission, control, treatment, and prevention of the human immunodeficiency virus, in addition to the educational requirements in subsection (2) of this section;***

***(7) Have submitted two (2) letters of reference from certified alcohol and drug counselors or licensed clinical alcohol and drug counselors;***

***(8) Live or work at least a majority of the time in Kentucky;***

***(9) Have complied with the requirements for the training program in suicide assessment, treatment, and management in Section 18 of this Act and any administrative regulations promulgated thereunder; and***

***(10) Have completed two thousand (2,000) hours of board-approved experience working with persons having a substance use disorder, three hundred (300) hours of which shall have been under the direct supervision of a licensed clinical alcohol and drug counselor.***

➔SECTION 8. A NEW SECTION OF KRS 309.080 TO 309.089 IS CREATED TO READ AS FOLLOWS:

***(1) An applicant for licensure as a licensed clinical alcohol and drug counselor associate shall:***

***(a) Pay the board the initial fee for licensure;***

***(b) Complete the requirements under subsections (1) to (9) of Section 7 of this Act; and***

***(c) Obtain a board-approved supervisor of record.***

***(2) Upon completion of the hours of board-approved experience specified in subsection (10) of Section 7 of this Act, a licensed clinical alcohol and drug counselor associate may apply to the board for licensure as a licensed clinical alcohol and drug counselor.***

➔SECTION 9. A NEW SECTION OF KRS 309.080 TO 309.089 IS CREATED TO READ AS FOLLOWS:

***(1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to define the process to register with the board as a supervisor of record, including required supervisory training.***

***(2) A registered alcohol and drug peer support specialist shall only practice as an employee of a licensed facility or under the board-approved supervision of a certified alcohol and drug counselor or licensed clinical alcohol and drug counselor.***

➔Section 10. KRS 309.084 is amended to read as follows:

(1) ~~[Upon application made prior to January 1, 1997, and payment of the initial certification fee, any person who is certified by the Kentucky Certification Board of Chemical Dependency Professionals prior to January 1, 1997, shall be deemed to be certified pursuant to KRS 309.080 to 309.089.~~

~~(2) After July 15, 1996, ]~~The board shall ***license,*** certify***, or register, as appropriate,*** any applicant who meets all of the requirements ***for licensure, certification, or registration*** set out in ***Sections 5, 6, and 7 of this Act and subsection (2) of this section*** ~~[KRS 309.083]~~, pays the fees established by the board, and is not disqualified pursuant to KRS 309.086.

***(2) (a) The board shall promulgate administrative regulations establishing a limited period of time, not less than ninety (90) days nor more than one (1) year, during which licensure may be extended to persons not meeting all the provisions of Section 7 of this Act if:***

***1. The person is a certified alcohol and drug counselor in Kentucky prior to the effective date of this Act; and***

***2. The applicant has a master's degree or a doctoral degree in a behavioral science with clinical application from a regionally accredited college or university or a college or university***

***accredited by an agency recognized by the United States Department of Education.***

***(b) After the expiration of the time period established by the board in administrative regulation under paragraph (a) of this subsection, the applicant for licensure shall meet the qualifications established in Section 7 or Section 8 of this Act.***

***(c) Applicants granted licensure under paragraph (a) of this subsection shall be granted authority to provide clinical supervision, as specified in regulations promulgated in accordance with subsection (1) of Section 9 of this Act, without delay to alcohol and drug counselors currently holding certification or licensure and those seeking certification or licensure***

~~[(3) Upon application and payment of the prescribed fees, any person who is and has been approved by the Kentucky Certification Board of Chemical Dependency Professionals as a trainee, prior to July 15, 1996, shall be certified without meeting the requirement of KRS 309.083(2) if he satisfies all the other requirements of that section, prior to December 31, 1997]~~.

➔SECTION 11. A NEW SECTION OF KRS 309.080 TO 309.089 IS CREATED TO READ AS FOLLOWS:

***(1) The board may permit an out-of-state licensed clinical alcohol and drug counselor, certified alcohol and drug counselor, or alcohol and drug peer support specialist to obtain a license, certificate, or registration by reciprocity if:***

***(a) The out-of-state licensee, certificate holder, or registrant possesses a valid license, certificate, or registration from another jurisdiction that grants the same privileges to persons licensed, certified, or registered by this state as Kentucky grants to persons licensed, certified, or registered by the other jurisdiction;***

***(b) The requirements for licensure, certification, or registration are substantially similar to the requirements in KRS 309.080 to 309.089; and***

***(c) The out-of-state licensee, certificate holder, or registrant seeking licensure, certification, or registration states that he or she has studied, is familiar with, and shall abide by KRS 309.080 to 309.089 and the administrative regulations promulgated thereunder.***

***(2) If the requirements for licensure, certification, or registration under KRS 309.080 to 309.089 are more restrictive than the standards of the other jurisdiction, then the out-of-state licensee, certificate holder, or registrant shall comply with the additional requirements in KRS 309.080 to 309.089 to obtain a reciprocal license, certificate, or registration.***

➔Section 12. KRS 309.085 is amended to read as follows:

(1) A ***license,*** certificate***, or registration*** issued pursuant to KRS 309.084 shall be renewed every three (3) years upon:

(a) Payment of the renewal fee as established pursuant to KRS 309.0813; and

(b) Completion of continuing education requirements, as established by the board by promulgation of an administrative regulation, not to exceed sixty (60) hours per renewal period.

(2) The board shall cancel any ***license,*** certificate***, or registration*** not renewed within ninety (90) days after the renewal date; however, the board may reinstate the ***license,*** certificate, ***or registration*** upon its holder paying the renewal fee and satisfying the other reinstatement requirements as established by the board by administrative regulation within one (1) year of the anniversary date of issue of renewal.

➔Section 13. KRS 309.086 is amended to read as follows:

(1) The board may revoke, suspend, place on probation, or restrict the ***license,*** certificate***, or registration*** of a ***licensee,*** certificate holder***, or registrant***; refuse to issue or renew a ***license,*** certificate***, or registration***; and reprimand, admonish, or fine a ***licensee,*** certificate holder***, or registrant*** for the following:

(a) Fraud or deceit in obtaining ***licensure,*** certification***, or registration***;

(b) Transferring the authority granted by the ***license,*** certificate***, or registration*** to another person;

(c) Using unfair, false, misleading, or deceptive trade practices;

(d) Willfully or deliberately disregarding professional standards of practice or violating the code of ethics;

(e) Aiding and abetting a person who obtains a ***license,*** certificate***, or registration*** fraudulently;

(f) Conspiring or combining with others to obtain a ***license,*** certificate***, or registration*** to be used by an ***unlicensed,*** uncertified***, or unregistered*** person with the intent to evade the provisions of KRS 309.080 to 309.089 and administrative regulations promulgated pursuant to those sections;

(g) Negligence or incompetence in complying with the applicable code of ethics and standards of practice or failure to comply with continuing education requirements;

(h) Violating KRS 309.080 to 309.089 and administrative regulations promulgated pursuant to those sections; or

(i) Being convicted of ***any***~~[a]~~ felony or any other crime in which an element of the crime is dishonesty or fraud, under the laws of any state or the United States within the past three (3) years.

(2) The board shall, upon the request of a ***licensed clinical alcohol and drug counselor,*** certified alcohol and drug counselor***, or registered alcohol and drug peer support specialist,*** or an applicant for ***licensure,*** certification***, or registration***~~[ as an alcohol and drug counselor]~~, hold a hearing pursuant to KRS Chapter 13B before denying an application***;***~~[ for certification,]~~ refusing to renew a ***license,*** certificate, ***or registration;*** suspending a ***license,*** certificate, ***or registration;*** or imposing a fine. The affected party may appeal the board's decision in the Circuit Court where the ***licensee,*** certificate holder***, or registrant*** resides. The action of the board shall remain in effect pending any appeals unless the board rescinds or modifies its order.

➔Section 14. KRS 309.087 is amended to read as follows:

A person whose ***license,*** certificate***, or registration*** has been revoked may apply for reinstatement, no earlier than one (1) year from the date of revocation, in accordance with administrative regulations promulgated by the board.

➔Section 15. KRS 309.089 is amended to read as follows:

In addition to the sanctions set out in KRS 309.086, the board may impose the following sanctions on ***licensees,*** certificate holders***, or registrants*** who violate the provisions of KRS 309.080 to 309.089 ***or***~~[and]~~ administrative regulations promulgated pursuant to those sections:

(1) Suspend a ***license,*** certificate***, or registration*** for a period of up to five (5) years; and

(2) Impose a fine of up to one thousand dollars ($1,000).

➔SECTION 16. A NEW SECTION OF KRS 309.080 TO 309.089 IS CREATED TO READ AS FOLLOWS:

***(1) All license, certificate, and registration fees, charges, and fines, and other moneys collected by the board under KRS 309.080 to 309.089 and the administrative regulations of the board, shall be deposited into the State Treasury and credited to a revolving fund to be used by the board in carrying out KRS 309.080 to 309.089, and are hereby appropriated for those purposes.***

***(2) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year. Any interest earnings of the fund shall become part of the fund and shall not lapse.***

➔Section 17. KRS 194A.540 is amended to read as follows:

The cabinet shall address child abuse, child neglect, domestic violence, rape, and sexual assault in a manner that includes but is not limited to:

(1) Providing coordinative functions so that no services funded or provided by state government agencies are duplicative to ensure the greatest efficiency in the use of resources and funding, and to ensure that a consistent philosophy underlies all efforts undertaken by the administration in initiatives related to child abuse, child neglect, domestic violence, and rape or sexual assault;

(2) Providing training and consultation to programs provided or funded by the state which provide services to victims of child abuse, child neglect, domestic violence, rape or sexual assault, and other crimes;

(3) Working in conjunction with staff from the Justice and Public Safety Cabinet and other staff within the Cabinet for Health and Family Services, and with input from direct service providers throughout Kentucky, to develop standards of care for victim and offender services provided or funded by the state;

(4) Designing and implementing research programs which attend to the quality of victim-related services;

(5) Providing consultation on the development of budgets for the rape crisis, child abuse, child neglect, and domestic violence programs funded by the state;

(6) Providing recommendations to the Governor and to the secretaries of the Justice and Public Safety Cabinet and the Cabinet for Health and Family Services, related to the improvement and expansion of victim services provided or funded by those agencies;

(7) Undertaking new and progressive initiatives to improve and enhance the delivery of services to victims of child abuse, child neglect, domestic violence, and rape or sexual assault;

(8) Establishing that the commissioner of the Department for Community Based Services may, at the request of the Governor or any secretary, serve as a designee on boards, commissions, task forces, or other committees addressing child abuse, domestic violence, and rape or sexual assault;

(9) Establishing that the secretary for health and family services shall, in consultation with the applicable licensure boards, develop elder abuse, neglect, and exploitation-related and domestic violence-related training courses that are appropriate for the following professions:

(a) Mental health professionals licensed or certified under KRS Chapters 309, 319, and 335;

(b) Alcohol and drug counselors ***licensed or*** certified ***under KRS Chapter 309, and alcohol and drug peer support specialists registered*** under KRS Chapter 309;

(c) Physicians who practice primary care, as defined in KRS 164.925, or who meet the definition of a psychiatrist under KRS 202A.011, and who are licensed under KRS Chapter 311;

(d) Nurses licensed under KRS Chapter 314;

(e) Paramedics certified under KRS Chapter 311;

(f) Emergency medical technicians certified under KRS Chapter 211; and

(g) Coroners as defined in KRS 72.405 and medical examiners as defined in KRS 72.240;

(10) Establishing that the courses identified in subsection (9) of this section shall include the dynamics of domestic violence and elder abuse, neglect, and exploitation; effects of domestic violence and elder abuse, neglect, and exploitation on adult and child victims; legal remedies for protection; lethality and risk issues; model protocols for addressing domestic violence and elder abuse, neglect, and exploitation; available community resources and victim services; and reporting requirements. The training shall be developed in consultation with legal, victim services, victim advocacy, and mental health professionals with an expertise in domestic violence and elder abuse, neglect, and exploitation; and

(11) Establishing that any health-care or mental health professional identified in subsection (9) of this section shall successfully complete a three (3) hour training course that meets the requirements of subsection (10) of this section. Health care or mental health professionals identified in subsection (9) of this section who are granted licensure or certification after July 15, 1996, shall successfully complete the training within three (3) years of the date of initial licensure or certification.

➔Section 18. KRS 210.366 is amended to read as follows:

(1) As used in this section:

(a) "Board" means the Kentucky Board of Social Work, Kentucky Board of Licensure of Marriage and Family Therapists, Kentucky Board of Licensed Professional Counselors, Kentucky Board of Licensure for Pastoral Counselors, Kentucky Board ~~[of Certification ]~~of Alcohol and Drug Counselors, Kentucky Board of Examiners of Psychology, and Kentucky Board of Licensure for Occupational Therapy; and

(b) "Training program in suicide assessment, treatment, and management" means an empirically supported training program approved by the boards that contains suicide assessment including screening and referral, suicide treatment, and suicide management. A board may approve a training program that excludes one (1) of the elements if the element is inappropriate for the profession in question or inappropriate for the level of licensure or credentialing of that profession based on the profession's scope of practice. A training program that includes only screening and referral elements shall be at least three (3) hours in length. All other training programs approved under this section shall be at least six (6) hours in length.

(2) Beginning January 1, 2015, each of the following professionals certified or licensed under KRS Title XXVI shall, at least once every six (6) years, complete a training program in suicide assessment, treatment, and

management that is approved, in administrative regulations, by the respective boards:

(a) A social worker, marriage and family therapist, professional counselor, or pastoral counselor certified or licensed under KRS Chapter 335;

(b) An alcohol and drug counselor ***licensed or*** certified under KRS Chapter 309***, and an alcohol and drug peer support specialist registered under KRS Chapter 309***;

(c) A psychologist licensed or certified under KRS Chapter 319; and

(d) An occupational therapist licensed under KRS Chapter 319A.

(3) (a) Except as provided in paragraph (b) of this subsection, a professional listed in subsection (2) of this section must complete the first training required by this section by July 2016.

(b) A professional listed in subsection (2) of this section applying for initial licensure***, registration,*** or certification on or after June 25, 2013, may delay completion of the first training required by this section for six (6) years after initial licensure***, registration,*** or certification if he or she can demonstrate successful completion of a six (6) hour academic training program in suicide assessment, treatment, and management that:

1. Was completed no more than six (6) years prior to the application for initial licensure***, registration,*** or certification; and

2. Is listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center.

(4) The hours spent completing a training program in suicide assessment, treatment, and management under this section count toward meeting any applicable continuing education requirements for each profession.

(5) A board may, by administrative regulation, specify minimum training and experience that is sufficient to exempt a professional from the training requirements in subsection (2) of this section.

(6) (a) The cabinet shall develop a model list of training programs in suicide assessment, treatment, and management.

(b) When developing the model list, the cabinet shall:

1. Consider suicide assessment, treatment, and management training programs of at least six (6) hours in length listed on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center; and

2. Consult with the boards, public and private institutions of higher education, experts in suicide assessment, treatment, and management, and affected professional associations.

(c) The cabinet shall report the model list of training programs to the Interim Joint Committee on Health and Welfare no later than December 15, 2014.

(7) Nothing in this section may be interpreted to expand or limit the scope of practice of any profession regulated under KRS Title XXVI.

(8) The cabinet and the boards affected by this section shall adopt any administrative regulations necessary to implement this section.

➔Section 19. KRS 222.005 is amended to read as follows:

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

(1) "Administrator" means the person or the designee of the person, in charge of the operation of an alcohol and other drug abuse prevention, intervention, or treatment program;

(2) "Agency" means a legal entity operating hospital-based or nonhospital-based alcohol and other drug abuse prevention, intervention, or treatment programs;

(3) "Alcohol and other drug abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:

(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;

(b) Use in situations which are potentially physically hazardous;

(c) Loss of control over the use of alcohol or other drugs or both; and

(d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence, including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both;

(4) "Cabinet" means the Cabinet for Health and Family Services;

(5) "Director" means the director of the Division of Behavioral Health of the Department for Behavioral Health, Developmental and Intellectual Disabilities;

(6) "Hospital" means an establishment with organized medical staff and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical;

(7) "Intoxication" means being under the influence of alcohol or other drugs, or both, which significantly impairs a person's ability to function;

(8) "Juvenile" means any person who is under the age of eighteen (18);

(9) "Narcotic treatment program" means a substance abuse program using approved controlled substances and offering a range of treatment procedures and services for the rehabilitation of persons dependent on opium, morphine, heroin, or any derivative or synthetic drug of that group;

(10) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900;

(11) "Patient" means any person admitted to a hospital or a licensed alcohol and other drug abuse treatment program;

(12) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening, or treating alcohol and other drug abuse problems;

(13) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(14) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons suffering from alcohol and other drug abuse. "Treatment" includes those services provided by the cabinet in KRS 222.211 and, in KRS 222.430 to 222.437, it specifically includes the services described in KRS 222.211(1)(c) and (d); and

(15) "Qualified health professional" has the same meaning as qualified mental health professional in KRS 202A.011, except that it also includes an alcohol and drug counselor ***licensed or*** certified under KRS Chapter 309.

**Signed by Governor March 20, 2015.**

## CHAPTER 30

**( HB 202 )**

AN ACT relating to taxation.

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

➔Section 1. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, a consolidated local government, or the fiscal court in a county containing an authorized city, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350, may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) ***(a)*** ***Except as otherwise provided in paragraph (b) of this subsection,*** all money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(8) to finance in part the expansion or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism located in the central business district of the consolidated local government or the authorized city located in the county.

***(b)*** ***1. This paragraph shall apply to the tax levied pursuant to this section, prior to the effective date of this Act, by a fiscal court of a county having a population between seventy-five thousand (75,000) and one hundred thousand (100,000) based on the 2010 federal decennial census.***

***2. When, in any fiscal year, the money collected from the tax authorized by this section exceeds the amount required to satisfy the annual debt service for the bond for that fiscal year, all or a portion of the excess amount collected for that fiscal year may be used to defray the costs to operate, renovate, or expand the governmental or nonprofit convention center or fine arts center described in paragraph (a) of this subsection, if an amount equal to one (1) year's required debt service is held in reserve to satisfy any future debt service obligations of the bond.***

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the consolidated local government or fiscal court shall take action to repeal the ordinance which levied the tax.

(4) As used in this section, "authorized city" means a city of the first class and a city included on the registry maintained by the Department for Local Government under subsection (5) of this section.

(5) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the second class. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

➔Section 2. KRS 141.381 is amended to read as follows:

(1) As used in this section:

(a) "Corporation" means the Bluegrass State Skills Corporation established by KRS 154.12-205;

(b) "Educational institution" means a regionally accredited college, university, or technical school;

(c) "Metropolitan College" means a nonprofit consortium that includes educational institutions located within the Commonwealth and the qualified taxpayer as members. The purpose of Metropolitan College shall be to provide postsecondary educational opportunities to employees of the qualified taxpayer as part of a combined work and postsecondary education program;

(d) "Other educational expenses" means the same kinds of educational expenses that were permitted under the Metropolitan College Consortium Agreement approved November 5, 2005; and

(e) "Qualified taxpayer" means any taxpayer who, on June 26, 2009, is a party to the Metropolitan College Consortium Agreement approved November 5, 2005.

(2) To be eligible for the tax credit provided by this section, a qualified taxpayer shall be a partner in Metropolitan College.

(3) A qualified taxpayer shall be allowed a nonrefundable credit against the tax imposed by KRS 141.020 or 141.040, and KRS 141.0401, for each taxable year beginning on or after July 1, 2010, in the amount of fifty percent (50%) of the actual costs incurred by the qualified taxpayer for:

(a) Tuition paid to an educational institution for a student participating in the Metropolitan College; and

(b) Other educational expenses paid on behalf of a student participating in the Metropolitan College;

on behalf of employees of the qualified corporation, for up to two thousand eight hundred (2,800) employees each year.

(4) To claim the credit each year, the qualified taxpayer shall, on an annual basis, submit to the corporation information listing each employee of the qualified taxpayer for whom tuition or other educational expenses were paid, the amount paid on behalf of each employee, and the amount of credit the qualified company is eligible to claim. The corporation shall review the information provided by the qualified company, and shall notify the department and the qualified company of the amount of credit the qualified company is eligible to

claim.

(5) The credit allowed by this section for any taxable year shall not exceed the tax liability of the taxpayer for the taxable year. Any credit not used may be carried forward to subsequent years.

(6) The qualified company shall provide to the corporation and the department any information and documentation requested for the purpose of monitoring the credit established by this section.

(7) The approved company shall maintain records and submit information as required by the corporation and the department. The corporation may share information provided by the approved company with the department for the purpose of monitoring the credit established by this section.

(8) The corporation may, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, establish additional standards or requirements for the administration of this section.

(9) The credit established by this section shall expire on April 15, ***2027*** ~~[2017]~~, unless extended by the General Assembly.

➔Section 3. This Act takes effect July 1, 2015.

**Signed by Governor March 20, 2015.**

## CHAPTER 31

**( HB 172 )**

AN ACT relating to underground facility protection.

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

➔Section 1. KRS 367.4903 is amended to read as follows:

As used in KRS 367.4903 to 367.4917:

(1) "Underground facility" means an underground line or system used for producing, storing, conveying, transmitting, or distributing telecommunications, electricity, gas, petroleum, petroleum products, cable television, hazardous liquids, water, steam, or sewerage, including storm drainage;

(2) "Damage" means weakening of structural or lateral support or penetration of a facility coating, housing, or other protective device. It also means the partial or complete dislocation or severance of underground facilities or rendering any underground facility permanently inaccessible by the placement of a permanent structure having one (1) or more stories;

(3) "Demolition" means any operation by which a structure or mass of material is wrecked, razed, moved, or removed by means of mechanized equipment, or discharge of explosives;

(4) "Excavator" means any entity or individual, other than those exempted by KRS 367.4915, engaged in excavation, demolition, or timber harvesting using mechanized equipment;

(5) "Operator" means any entity or individual owning or operating underground facilities to serve the public;

(6) "Excavation" means any activity that results in the movement, placement, probing, boring, or removal of earth, rock, or other material in or on the ground by the use of any tools or equipment, by the discharge of explosives, or by the harvesting of timber using mechanized equipment. Forms of excavating include but are not limited to auguring, backfilling, digging, ditching, drilling, driving, grading, piling, pulling-in, ripping, scraping, trenching, and tunneling. Driving wooden stakes by use of hand tools to a depth of six (6) inches or less below existing grade shall not constitute excavation;

(7) "Emergency" means there exists substantial likelihood that loss of life or property, the inability to restore interrupted utility service, an imminent danger to health or the environment, or the blockage of public transportation facilities will result before procedures required under KRS 367.4909 to 367.4913 can be completed;

(8) "Protection notification center" means an operator-provided notification center through which an excavator can contact the operator to enable the operator to provide the excavator with the approximate location of

underground facilities;

(9) "Kentucky Contact Center" means Kentucky Underground Protection, Inc., organized as a nonprofit corporation and a multimember protection notification center providing a single telephone contact number and designated by the Kentucky Public Service Commission to be the sole recipient of 811 dialed calls through which an excavator may contact all Kentucky Contact Center members and all affected operators may receive information to enable them to provide the excavator with the approximate location of underground facilities;

(10) "Routine road maintenance" means preservation, including road repairs and resurfacing, and the replacement of signs, posts, and guardrails at the exact same location when no additional penetration of existing grade is necessary, but does not include road construction, installation of signs, posts, and guardrails, or any activity that requires penetration of existing grade;

(11) "Approximate location," when referring to an underground facility, means:

(a) For underground metallic facilities and underground nonmetallic facilities with metallic tracer wire, a distance not to exceed the combined width of the underground facility plus eighteen (18) inches measured from the outer edge of each side of the underground facility; or

(b) For nonmetallic facilities without metallic tracer wire, the underground facility shall be located as accurately as possible from field location records and shall require notification from the operator of the inability to accurately locate the facility;

(12) ***"Working day"*** ~~["Business day"]~~ means ***a twenty-four (24) hour period commencing from the time of receipt of the notification by the Kentucky Contact Center*** ~~[any day]~~ except Saturday, Sunday, and holidays established by federal or state statute;

(13) "Nonintrusive excavating" means excavation using hand tools or equipment that uses air or water pressure as the direct means to break up soil for removal by hand tools or vacuum excavation;

(14) "Mechanized equipment" means mechanical power equipment, including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, skidders, and yarders;

(15) "Normal excavation locate request" means a notification made to a protection notification center where a request for locating utility facilities is processed;

(16) "Emergency locate request" means a notification made to a protection notification center by an excavator to alert facility owners or operators of the need to begin immediate excavation in response to an emergency; ~~[ and]~~

(17) "Design information request" means a notification made to a protection notification center by a person providing professional services and making a request in preparation for bidding, preconstruction engineering, or other advance planning efforts. A design information request may not be used for excavation purposes***; and***

***(18) "Large project" means an area of excavation occurring on or after July 1, 2016, measuring more than two thousand (2,000) feet in length. Multiple excavation notifications in an area may be considered together in determining if the excavations are part of a large project.***

➔Section 2. KRS 367.4909 is amended to read as follows:

(1) Each operator shall provide protection notification center access to excavators.

(2) Voluntary operator membership in the Kentucky Contact Center shall satisfy the requirement of subsection (1) of this section.

(3) Each operator member of the Kentucky Contact Center shall provide and update as needed to the Kentucky Contact Center the general location of its underground facilities, the operator identity and business address, and emergency notification telephone numbers.

(4) An operator shall respond to facility locate requests as follows:

(a) To a normal excavation locate request within two (2) ***working*** ~~[business]~~ days after receiving notification from an excavator***, excluding large projects***.

(b) To an emergency locate request as quickly as possible but not to exceed forty-eight (48) hours after receiving notification from an excavator; ~~[ and]~~

(c) To a design information request within ten (10) ***working*** ~~[business]~~ days after receiving notification from the person making the request***; and***

***(d) To a large project request within five (5) working days from the later of receiving notification from an excavator or the scheduled excavation start date for that location***.

(5) An operator shall, upon receiving an emergency locate request or a normal excavation locate request:

(a) Inform the excavator of the approximate location and description of any of the operator's facilities that may be damaged or pose a safety concern because of excavation or demolition;

(b) Inform the excavator of any other information that would assist in locating and avoiding contact with or damage to underground facilities;

(c) Unless permanent facility markers are provided, provide temporary markings to inform the excavator of the ownership and approximate location of the underground facility; and

(d) Notify the requesting party if underground facilities are not in conflict with the excavation or demolition.

(6) Upon receiving a design information request, an operator shall contact the person making the request within the time period specified in subsection (4) of this section. The operator shall:

(a) Designate with temporary underground facility markers the location of all underground facilities owned by the operator within the area of the design information request as defined in KRS 367.4903;

(b) Provide to the person making the design information request a description of all underground facilities owned by the operator in the area of the design information request and the location of the facilities, which may include drawings marked with a scale, dimensions, and reference points for underground utilities already built in the area or other facility records that are maintained by the operator; or

(c) Allow the person making the design information request or an authorized person to inspect the drawings or other records for all underground facilities with the proposed area of excavation at a location that is acceptable to the operator.

(7) An operator may reject a design information request based upon security considerations or if producing the information will place the operator at a competitive disadvantage, pending the operator obtaining additional information confirming the legitimacy of the notice. The operator shall notify the person making the design information request and may request additional information.

(8) Temporary underground facility markers shall consist of paint, chalk, flags, stakes, or any combination thereof and shall conform to the following standards of the American Public Works Association uniform color code:

| | | |
|---|---|---|
| (a) | Electric power distribution and transmission | Safety Red |
| (b) | Municipal electric systems | Safety Red |
| (c) | Gas distribution and transmission | High visibility safety yellow |
| (d) | Oil distribution and transmission | High visibility safety yellow |
| (e) | Dangerous materials, product lines | High visibility safety yellow |
| (f) | Telecommunication systems and cable television | Safety alert orange |
| (g) | Temporary survey markings | Safety pink |
| (h) | Police and fire communications | Safety alert orange |
| (i) | Water systems | Safety precaution blue |
| (j) | Sewer and storm drainage systems | Safety green |
| (k) | Proposed excavation or construction boundaries | White |
| (l) | Reclaimed water, slurry, and irrigation facilities | Purple |

(9) If extraordinary circumstances exist, an operator shall notify the excavator of the operator's inability to comply with this section. Extraordinary circumstances include extreme weather conditions, force majeure, disasters, or civil unrest that make timely response difficult or impossible.

(10) All underground facilities installed after January 1, 2013, shall include a means to accurately identify and locate the underground facilities from the surface. This subsection does not apply to the repair of existing facilities.

➔Section 3. KRS 367.4911 is amended to read as follows:

(1) (a) Each excavator, or person responsible for an excavation, planning excavation or demolition work shall, not less than two (2) full ***working*** ~~[business]~~ days nor more than ten (10) full ***working*** ~~[business]~~ days prior to commencing work, notify each affected operator of the excavator's intended work and work schedule. Contacting the applicable protection notification centers shall satisfy this requirement.

(b) An excavator may commence work before the two (2) full ***working*** ~~[business]~~ days provided for in paragraph (a) of this subsection have elapsed if all affected operators have notified the person that the location of all the affected operators' facilities have been marked or that they have no facilities in the area of the proposed excavation, demolition, or timber harvesting.

(2) Locate requests are valid for twenty-one (21) calendar days from the day of the initial request.

(3) Each excavator shall provide each applicable protection notification center with adequate information regarding:

(a) The name of the individual making the notification;

(b) The excavator's name, address, and a telephone number;

(c) The excavation or demolition site location or locations, each of which shall not exceed two thousand (2,000) feet in length unless the excavator and operator agree to a larger area, the city or community, county and street address, including the nearest cross street;

(d) The type and extent of excavation or demolition to be performed;

(e) A contact name and telephone number of the person responsible for the work to be performed.

(4) If more than one (1) excavator will operate at the same site, each excavator shall notify the protection notification centers individually. Notification by an excavator will serve as notification for any of that excavator's employees. Failure by an excavator to notify the protection notification center does not relieve individual employees of responsibility.

(5) The excavator shall inform and provide to excavation or demolition site employees:

(a) The underground facility location provided by each operator;

(b) Any related safety information provided by each operator; and

(c) The locate request identification number assigned by each protection notification center.

(6) The excavator shall protect and preserve temporary underground facility markers until the scheduled excavation or demolition is completed.

(7) If, after the two (2) day period provided by KRS 367.4909(4)(a), the excavator finds evidence of an unmarked underground facility at the site, he shall immediately notify the protection notification center.

(8) The excavator shall contact the protection notification center to request remarking two (2) ***working*** ~~[business]~~ days in advance of the expiration of each twenty-one (21) day period while excavation or demolition continues or if:

(a) The markings of any underground facility have been removed or are no longer visible; or

(b) The excavator has changed the work plan or location previously filed.

(9) (a) Each excavator who conducts or is responsible for any excavation or demolition that results in underground facility damage shall cease excavation or demolition activities and notify all affected operators of the location and nature of the underground facility damage.

(b) If the underground facility damage causes concern for public or workplace safety, the excavator shall notify appropriate public safety agencies of the location and nature of the safety concern.

(c) If the underground facility damage results in the escape of any flammable, toxic, or corrosive gas or liquid, the excavator shall cease excavation or demolition activities and immediately report to the appropriate authorities by calling the 911 emergency telephone number.

(10) When excavation or demolition is necessary within the approximate location of the underground facility, the excavator shall hand-dig or use nonintrusive means to avoid damage to the underground facility.

(11) Upon request by an operator or when the proposed excavation location cannot be accurately identified, an

excavator shall mark the boundaries of the location to be excavated using the procedure set forth in KRS 367.4909(8)(k). After marking the boundaries, the excavator shall contact the protection notification center or centers. The requirements of KRS 367.4909(4) to (10) are reestablished upon the operator receiving notification of this marking from the protection notification center or centers. This marking shall not alter, or relieve the excavator from complying with, the requirements of KRS 367.4905 to 367.4917.

➔Section 4. KRS 367.4913 is amended to read as follows:

(1) Each protection notification center shall:

(a) Operate the protection notification center during all ***working*** ~~[business]~~ days;

(b) Provide a locate request identification number to the excavator for each excavation or demolition location request;

(c) Promptly after receiving an excavation or demolition work notification from an excavator, provide to each of its affected operator members the excavator information required by KRS 367.4911(3);

(d) Maintain a list of all its operator member's identities, business address and business and emergency telephone numbers and record this information in accordance with KRS 64.012 with the county clerk of each county where the operator member has underground facilities. The county clerk shall provide this information upon request for the actual cost of providing a copy, to be paid by the requesting party to the county clerk. The county clerk shall assume no liability associated with the receipt of this information from the protection notification center or for subsequent provision of this same information to the requesting party;

(e) Make the operator members information list available to any person for inspection at its place of business without charge or provide a copy of the list to any person for any county upon request for a fee not to exceed the actual cost of providing a copy;

(f) Define and adopt policies and procedures for processing design information requests; and

(g) Provide the person making a design information request a list of identified operators that will receive notification and notify those operators.

(2) The Kentucky Contact Center shall be governed by a board of directors composed of representatives of member operators who are elected by the membership. Board seats may be filled by representatives of the following:

(a) A natural gas provider;

(b) An electric provider;

(c) A telecommunications provider;

(d) A water/sewer provider;

(e) An interstate pipeline operator;

(f) A municipal utility operator; and

(g) An advisory, nonvoting representative of one (1) of the following:

1. Home Builders Association of Kentucky;

2. National Electrical Contractors Association;

3. Associated General Contractors of Kentucky; or

4. Kentucky Association of Plumbing, Heating-Cooling Contractors.

(3) The Kentucky Contact Center's board of directors shall establish the method to calculate the cost of service provided by the center.

(4) The Kentucky Contact Center shall serve all Kentucky counties.

➔Section 5. KRS 367.4917 is amended to read as follows:

(1) An excavator who fails to comply with any provision of KRS 367.4911, or an operator who fails to comply with any provision of KRS 367.4909, shall be guilty of endangering underground facilities and may be subject to a fine of two hundred and fifty dollars ($250) for the first offense, no more than one thousand dollars

($1,000) for the second offense within one (1) year, and no more than three thousand dollars ($3,000) for the third and any subsequent offense.

(2) A protection notification center that fails to comply with any provision of KRS 367.4913 shall be subject to a fine of one thousand dollars ($1,000) for each offense.

(3) A person that knowingly provides false notice to a utility notification center of an emergency as defined in KRS 367.4903 shall be subject to a fine of one thousand dollars ($1,000) for each offense.

(4) Any person who violates any provision of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, that involves damage to a facility containing any flammable, toxic, corrosive, or hazardous material or results in the release of any flammable, toxic, corrosive, or hazardous material shall be subject to a fine not to exceed one thousand dollars ($1,000) for each offense. The penalties of this subsection are not in conflict with and are in addition to civil damages for personal injury or property damage.

(5) (a) All fines recovered for a violation of this section shall be paid to the general fund of the state, county, city, or fire protection agency which issued the citation.

(b) In the event that more than one (1) government agency was involved, the court shall direct an apportionment of the fines.

***(c) Failure to comply with the provisions of the Underground Facility Damage Prevention Act of 1994, KRS 367.4901 to 367.4917, may be determined at the conclusion of an investigation and shall be based on evidence available to state, county, or city officials, law enforcement, or fire protection agencies which issue the citation.***

**Signed by Governor March 20, 2015.**

## CHAPTER 32

**( HB 209 )**

AN ACT relating to special license plates.

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

➔Section 1. KRS 186.162 is amended to read as follows:

(1) As used in this section and in KRS 186.043, 186.164, 186.166, 186.1722, and 186.174:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle or motorcycle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Department of Veterans' Affairs, veterans declared by the United States Department of Veterans' Affairs to be one hundred percent (100%) service-connected disabled, and recipients of the Congressional Medal of

Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war and survivors of Pearl Harbor:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(c) Members of the Kentucky National Guard and recipients of the Purple Heart:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(d) Members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; recipients of the Silver Star Medal, or the Bronze Star Medal awarded for valor; persons who wish to receive Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses license plates beyond the two (2) exempted from fees under KRS 186.041(6); individuals eligible for a special military service academy license plate under KRS 186.041(8); and disabled veterans who have been declared to be between fifty percent (50%) and ninety-nine percent (99%) service-connected disabled by the United States Department of Veterans' Affairs:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(e) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(f) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(g) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).

2. Renewal Fee: Do not renew annually.

(h) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(i) Firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Emergency management:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Fraternal Order of Police:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky FOP Death Benefit Fund).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky FOP Death Benefit Fund).

(l) Law Enforcement Memorial:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(m) Personalized plates:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(n) Street rods:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(o) Nature plates:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(p) Amateur radio:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky General Assembly:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(r) Kentucky Court of Justice:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

(s) Masons:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(t) Collegiate plates:

1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be borne on the plate).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be borne on the plate).

(u) Independent Colleges:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the

Association's members).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(v) Child Victims:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(w) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the Kentucky Horse Council).

(x) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(y) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(z) Gold Star Mothers, Gold Star Fathers, or Gold Star Spouses:

1. Initial Fee: $0 ($0 SF/$0 CF/ $0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/ $0 EF).

3. A person may receive a maximum of two (2) plates under this paragraph free of charge and may purchase additional plates for fees as established in subsection (2)(d) of this section.

(aa) I Support Veterans:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Department of Veterans' Affairs).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the Kentucky Department of Veterans' Affairs).

***(ab) Gold Star Siblings:***

***1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the veterans' program trust fund established under KRS 40.460).***

***2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).***

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in KRS 186.164(3). The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars ($20) and the county clerk receiving five dollars ($5).

(4) Owners and lessees of motorcycles registered under KRS 186.050(2) may be eligible to receive special license plates issued under this section or established under the provisions of KRS 186.164 after the cabinet has received three hundred (300) applications and initial state fees from the sponsoring organization. Applicants for a special license plate for a motorcycle shall be required to pay the fee for a special plate as prescribed in this section or in KRS 186.164. The fee paid for the special plate for a motorcycle shall be in lieu of the registration fee required under KRS 186.050(2).

➔Section 2. KRS 186.164 is amended to read as follows:

(1) The SF portion of the fee required under KRS 186.162 shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under KRS 186.162 shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in KRS 186.162 on a quarterly basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in KRS 186.162, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3). The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in KRS 186.041(2), 186.042(5), and 186.174(2). A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) (a) If a special license plate issued under this chapter deteriorates to the point that the lettering, numbering, or images on the face of the plate are not legible, the plate shall be replaced free of charge, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(b) If a special license plate issued under this chapter is lost, stolen, or damaged in an accident, the county clerk shall issue a new plate upon payment of a three dollar ($3) county clerk fee, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate upon payment of a three dollar ($3) county clerk fee for use on any other vehicle of the same classification and category owned, leased, or acquired by the person during the current licensing period. If the owner or lessee has the special plate reissued to a vehicle which has been previously registered in this state, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a), except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in KRS 186.168(3). All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in KRS 186.162(3).

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting to create a special license plate that is not authorized under this chapter on June 20, 2005, shall comply with the following conditions before being eligible to apply for a special license plate:

(a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;

(b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;

(c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;

(d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;

(e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;

(f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and

(g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.

(10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate standing committees on transportation of the denial and the reasons upon which the cabinet based the denial. A person seeking a personalized license plate under KRS 186.174 shall be subject to the conditions specified in subsection (9)(c) to (g) of this section.

(11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.

(12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The entity that sponsors a special plate established by the process outlined in this section may set a requested donation amount, not to exceed ten dollars ($10), that will automatically be added to the cost of registration or renewal, unless the individual registering or renewing the vehicle registration opts out of contributing that recommended amount. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of June 20, 2005.

(13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, then the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state governmental agency, a program unit within a state governmental agency, or is a group or organization that does not have a statewide chapter, then an extra donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an

account separate from all other accounts the group or organization may have, and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under KRS 186.162 shall comply with the provisions of this subsection.

(15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of:

1. Election to the United States Congress or the Kentucky General Assembly;
2. Election or appointment to the Kentucky Court of Justice;
3. Membership in a Masonic Order, Fraternal Order of Police, or emergency management organization;
4. Eligibility for membership in the Gold Star Mothers of America;
5. Eligibility as a father for associate membership in the Gold Star Mothers of America;
6. Eligibility for membership in the Gold Star Wives of America;
7. Ownership of an amateur radio operator license;
8. Receipt of the Silver Star Medal;~~[ or]~~
9. Receipt of the Bronze Star Medal awarded for valor***; or***
***10. Eligibility for a Gold Star Siblings license plate for a person whose sibling died while serving the country in the United States Armed Forces. For the purposes of this subparagraph, "sibling" means a sibling by blood, a sibling by half-blood, a sibling by adoption, or a stepsibling***.

(b) The time schedule permissible for a group or organization to request a design change for the special license plate; and

(c) The procedures for review of proposed license plates and the standards by which proposed special license plates are approved or rejected in accordance with subsection (9) of this section.

(16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

➔Section 3. This Act shall take effect January 1, 2016.

**Signed by Governor March 20, 2015.**

## CHAPTER 33

**( HB 329 )**

AN ACT relating to pain management facilities.

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

➔Section 1. KRS 218A.175 is amended to read as follows:

(1) (a) As used in this section, "pain management facility" means a facility where the majority of patients of the practitioners at the facility are provided treatment for pain that includes the use of controlled

substances and:

1. The facility's primary practice component is the treatment of pain; or

2. The facility advertises in any medium for any type of pain management services.

(b) "Pain management facility" does not include the following:

1. A hospital, including a critical access hospital, as defined in KRS Chapter 216, a facility owned by the hospital, or the office of a hospital-employed physician;

2. A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians;

3. A hospice program or residential hospice facility licensed under KRS Chapter 216B;

4. An ambulatory surgical center licensed under KRS Chapter 216B; or

5. A long-term-care facility as defined in KRS 216.510.

(2) ***(a)*** Only a physician having a full and active license to practice medicine issued under KRS Chapter 311 shall have an ownership or investment interest in a pain management facility. Credit extended by a financial institution as defined in KRS 136.500 to the facility shall not be deemed an investment interest under this subsection. This ownership or investment requirement shall not be enforced against any pain management facility existing and operating on April 24, 2012, unless there is an administrative sanction or criminal conviction relating to controlled substances imposed on the facility, any person employed by the facility, or any person working at the facility as an independent contractor for an act or omission done within the scope of the facility's licensure or the person's employment.

***(b) A facility qualifying for the exemption permitted by paragraph (a) of this subsection whose ownership has been continuously held jointly and exclusively by practitioners having full and active licenses to practice in Kentucky since April 24, 2012, may, after the effective date of this Act:***

***1. Open and operate no more than two (2) additional facilities in locations other than those locations existing and operating on April 24, 2012;***

***2. Transfer whole or partial ownership between existing practitioner owners;***

***3. Transfer whole or partial ownership interests to new owners if the new owners are physicians having full and active licenses to practice in Kentucky and the facility notifies the cabinet of the transfer thirty (30) days before it occurs; and***

***4. Pass the ownership interest of a deceased former owner through that person's estate to a physician having a full and active license to practice in Kentucky without disqualifying the facility's grandfathered status under this subsection if the facility notifies the cabinet of the transfer thirty (30) days before it occurs in cases where the interest is being transferred to a physician who is not an existing owner in the facility.***

(3) Regardless of the form of facility ownership, beginning on July 20, 2012, at least one (1) of the owners or an owner's designee who is a physician employed by and under the supervision of the owner shall be physically present practicing medicine in the facility for at least fifty percent (50%) of the time that patients are present in the facility, and that physician owner or designee shall:

(a) Hold a current subspecialty certification in pain management by a member board of the American Board of Medical Specialties, or hold a current certificate of added qualification in pain management by the American Osteopathic Association Bureau of Osteopathic Specialists;

(b) Hold a current subspecialty certification in hospice and palliative medicine by a member board of the American Board of Medical Specialties, or hold a current certificate of added qualification in hospice and palliative medicine by the American Osteopathic Association Bureau of Osteopathic Specialists;

(c) Hold a current board certification by the American Board of Pain Medicine;

(d) Hold a current board certification by the American Board of Interventional Pain Physicians;

(e) Have completed a fellowship in pain management or an accredited residency program that included a rotation of at least five (5) months in pain management; or

(f) If the facility is operating under a registration filed with the Kentucky Board of Medical Licensure, have completed or hold, or be making reasonable progress toward completing or holding, a certification or training substantially equivalent to the certifications or training specified in this subsection, as authorized by the Kentucky Board of Medical Licensure by administrative regulation.

(4) A pain management facility shall accept private health insurance as one (1) of the facility's allowable forms of payment for goods or services provided and shall accept payment for services rendered or goods provided to a patient only from the patient or the patient's insurer, guarantor, spouse, parent, guardian, or legal custodian.

(5) If the pain management facility is operating under a license issued by the cabinet, the cabinet shall include and enforce the provisions of this section as additional conditions of that licensure. If the pain management facility is operating as the private office or clinic of a physician under KRS 216B.020(2), the Kentucky Board of Medical Licensure shall enforce the provisions of this section. The provisions of this subsection shall not apply to the investigation or enforcement of criminal liability.

(6) Any person who violates the provisions of this section shall be guilty of a Class A misdemeanor.

**Signed by Governor March 20, 2015.**

## CHAPTER 34

## ( HB 440 )

AN ACT relating to business entities.

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

➔Section 1. KRS 14.105 is amended to read as follows:

(1) The Secretary of State may accept electronic signatures to meet the filing requirements for a:

(a) Corporation as required in KRS Chapter 271B;

(b) Nonprofit corporation as required in KRS Chapter 273;

(c) Professional service corporation as required in KRS Chapter 274;

(d) Limited liability company as required in KRS Chapter 275;

(e) Partnership as required in KRS Chapter 362;

(f) Partnership as required in Subchapter 1 of KRS Chapter 362;

(g) Limited partnership as required in Subchapter 2 of KRS Chapter 362;

(h) Cooperative corporations and associations as required in KRS ***Chapter***~~[Chapters]~~ 272 ***or***~~[and]~~ 272A;

(i) Business trust as required in KRS Chapter 386 ***or a statutory trust under KRS Chapter 386A***;

(j) Rural electric and rural telephone cooperative corporation as required in KRS Chapter 279;

***(k) Unincorporated nonprofit association as required in Sections 12 to 44 of this Act;***

***(l)***~~[(k)]~~ Assumed name filing under KRS Chapter 365; and

***(m)***~~[(l)]~~ ***Filings***~~[Filing]~~ under KRS Chapter 14A.

(2) The electronic signature shall satisfy the requirements set forth in KRS 369.101 to 369.120.

➔Section 2. KRS 14A.2-010 is amended to read as follows:

(1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(2) This chapter shall require or permit filing a document in the office of the Secretary of State.

(3) A document shall contain the information required by the organic law or by this chapter, and may contain other information if permitted by the organic law.

(4) A document shall be typewritten, printed, or electronically transmitted. If a document is electronically transmitted, the document shall be in a format that can be retrieved or reproduced in typewritten or printed form.

(5) A document shall be in the English language. A name may be in a language other than English if written in English letters or Arabic or Roman numerals. A document not in English shall be accompanied by an English translation reasonably authenticated to the satisfaction of the Secretary of State.

(6) A document shall be executed in the manner set forth in KRS 14A.2-020.

(7) The person executing the document shall sign it and state beneath or opposite the signature the person's name and the capacity in which the document is signed. The document may but need not contain:

(a) A seal of the entity or foreign entity;

(b) An attestation, acknowledgment, or verification; or

(c) A statement regarding the preparer of the document which complies with KRS 382.335(1).

(8) If the Secretary of State has prescribed a mandatory form for a document, it shall be in or on the prescribed form.

(9) A document shall be delivered to the office of the Secretary of State for filing. Delivery may be made by electronic transmission, if and to the extent permitted by the Secretary of State. If the document is filed in typewritten or printed form and not transmitted electronically, the Secretary of State may require that up to two (2) exact or conformed copies be delivered with the document.

(10) When the document is delivered to the office of the Secretary of State for filing, the correct filing fee, the organization tax, and any penalty required by this chapter or other law to be collected by the office of the Secretary of State with the document shall be paid or provision for payment shall be made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by check, credit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, the liability shall not be finally discharged until the Secretary of State receives final payment or credit of collectible funds. If, after five (5) days' prior written notice to the entity, foreign entity, or person who delivered a document for filing for which the filing fee was not collectible, payment of the filing fee in full is not made in immediately available funds, the Secretary of State may declare the document filed to be null and void and of no legal effect and may remove the document from the records of the Secretary of State. Written notice given pursuant to this subsection may be given by electronic communication.

(11) A document is delivered to the office of the Secretary of State for filing upon actual receipt. A document delivered electronically that is self-operative will be treated as received on the date of receipt. A document that is not self-operative delivered electronically or otherwise will be treated as received on the date of delivery if delivery is accomplished not later than 4:30 p.m. prevailing time in Frankfort, Kentucky or otherwise on the next business day.

(12) Any communication from the Secretary of State to an entity or foreign entity may be accomplished electronically. Communications to an entity may be mailed to the entity by first-class mail at its principal office address.

***(13) If any law prohibits the disclosure by the Secretary of State of information contained in a record delivered for filing, the Secretary of State shall file the record if it otherwise complies with the applicable law, but the Secretary of State may redact such information so that it is not available to the public.***

➔Section 3. KRS 14A.3-010 is amended to read as follows:

(1) Except as authorized by subsection ***(24)***~~[(23)]~~ of this section, the real name of an entity or foreign entity shall be distinguishable from any name of record with the Secretary of State.

(2) The real name of a corporation or nonprofit corporation shall:

(a) 1. End with the word "corporation," "company," or "limited" or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd." or words or abbreviations of like import in another language, provided, however, that if a nonprofit corporation's name includes the word "company" or the abbreviation "Co.," it may not be immediately preceded by the word "and" or the abbreviation "&"; or

2. If a professional service corporation, shall end with the words "professional service corporation" or the abbreviation "P.S.C."; and

(b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by its organic act and its articles of incorporation.

(3) The real name of a limited liability company shall end with the phrase "limited liability company" or "limited company" or the abbreviation "LLC" or "LC," provided, however, if the company is a professional limited liability company the name shall end with the phrase "professional limited liability company" or "professional limited company" or the abbreviation "PLLC" or "PLC." In the name of either a limited liability company or a professional limited liability company, the word "limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."

(4) The real name of a limited liability partnership registered pursuant to KRS 362.555 shall contain the phrase "Registered Limited Liability Partnership" or the abbreviation "LLP" as the last words or letters of its name.

(5) The real name of a partnership subject to KRS 362.1-101 to 362.1-975, the "Kentucky Revised Uniform Partnership Act (2006)":

(a) Shall not contain the word "corporation" or "incorporated" or the abbreviation "Corp." or "Inc."; and

(b) May contain the word "limited" or the abbreviation "Ltd." only if the partnership has filed a statement of qualification.

(6) The real name of a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-931 shall end with the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.," "L.L.P.," "RLLP," or "LLP."

(7) The real name of a limited partnership subject to KRS 362.401 to 362.525, the "Kentucky Revised Uniform Limited Partnership Act," shall:

(a) Contain the word "Limited" or the abbreviation "Ltd." unless the limited partnership was formed under any statute of the Commonwealth prior to the adoption of the Kentucky Revised Uniform Limited Partnership Act; and

(b) Not contain the name of a limited partner unless:

1. That name is also the name of a general partner; or

2. The business of the limited partnership had been carried on under that name before the admission of that limited partner.

(8) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-977, the "Kentucky Uniform Limited Partnership Act (2006)," that is not a limited liability limited partnership may contain the name of any partner and shall:

(a) End with the phrase "limited partnership" or "limited" or the abbreviation "L.P.," "LP," or "Ltd."; and

(b) Not contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP."

(9) The real name of a limited partnership subject to KRS 362.2-102 to 362.2-977, the "Kentucky Uniform Limited Partnership Act (2006)," that is a limited liability limited partnership may contain the name of any partner and shall:

(a) End with the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP"; and

(b) Not contain only the phrase "limited partnership" or the abbreviation "L.P." or "LP."

(10) Subject to KRS 362.2-974, subsections (8) and (9) of this section shall not apply to a limited partnership formed under any statute of this Commonwealth prior to July 15, 1988.

(11) The real name of a rural telephone cooperative corporation:

(a) Shall contain the word "Telephone," "Telecommunications," "Company," or "Corporation" and the abbreviation "Inc.," unless in an affidavit made by its president or vice president, and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger, or conversion which relate to that cooperative, and filed, together with any such articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded there from by reason of the inclusion of such words or either thereof in its name; and

(b) May include the word "Cooperative."

(12) The phrase "Rural Electric Cooperative" may not be used in the name of any entity or foreign entity except for one formed under KRS Chapter 279.

(13) Except as otherwise provided in this section, the word "cooperative" may not be used in the name of any entity doing business in this Commonwealth.

(14) The name of a limited cooperative association shall end with the words "limited cooperative association" or "limited cooperative" or the abbreviation "L.C.A." or "LCA." "Limited" may be abbreviated as "Ltd.," "Cooperative" may be abbreviated as "Co-op" or "Coop," and "Association" may be abbreviated as "Assoc." or "Assn."

(15) There are no required identifiers for a business trust or a statutory trust, but the name of a business or statutory trust may include "Limited" or "Ltd." and may not include any of "incorporated," "corporation," "Inc.," "Corp.," "partnership," or "cooperative."

***(16) The real name of an unincorporated nonprofit association that has filed a certificate of association with the Secretary of State shall end with "Limited" or "Ltd.," and the real name of an unincorporated nonprofit association that has not filed a certificate of association with the Secretary of State shall not include "Limited" or "Ltd." No unincorporated nonprofit association shall include in its name any of "incorporated," "corporation," "Inc.," "Corp.," "company," "partnership," or "cooperative."***

***(17)*** ~~[(16)]~~ This chapter does not control the use of assumed names.

***(18)*** ~~[(17)]~~ The filing of articles of incorporation, articles of organization, articles of association, a statement of qualification, a certificate of limited partnership, a declaration or certificate of trust, ***a certificate of association,*** an application to transact authority in the Commonwealth, a statement of foreign qualification, a name registration, or name reservation under ***a*** ~~[the]~~ particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

***(19)*** ~~[(18)]~~ The provisions of subsection (2)(a) of this section shall not affect the right of any nonprofit corporation existing on June 13, 1968, to continue the use of its name as then in effect.

***(20)*** ~~[(19)]~~ The assumption of a nonprofit corporate name in violation of this section shall not affect or vitiate the corporate existence, but the courts of this Commonwealth having equity jurisdiction may, upon the application of the Commonwealth or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.

***(21)*** ~~[(20)]~~ This section shall not apply to any domestic or foreign telephone cooperative which became subject to KRS 279.310 to 279.600 by complying with the provisions of KRS 279.470 or which does business in this Commonwealth pursuant to KRS 279.570 and which elects to retain a name which does not comply with this section.

***(22)*** ~~[(21)]~~ Nothing in this section shall limit the ability of a professional regulatory board to promulgate rules governing entities and foreign entities under its jurisdiction.

***(23)*** ~~[(22)]~~ The real name of a foreign entity will be determined according to KRS 365.015. For entities not covered by that statute, the real name of the foreign entity will be the real name of the entity as so recognized in the jurisdiction of its origination.

***(24)*** ~~[(23)]~~ The real name of a partnership, other than that of a limited liability partnership as set forth on a statement of qualification or a registration as a limited liability partnership filed pursuant to KRS 362.555 or that of a foreign limited liability partnership as set forth on a statement of foreign qualification, need not be distinguishable from any name of record with the Secretary of State.

➔Section 4. KRS 14A.6-010 is amended to read as follows:

(1) Each entity and each foreign entity authorized to transact business in this Commonwealth shall deliver to the Secretary of State for filing an annual report that sets forth:

(a) The name of the entity or foreign entity and the state or country under whose law it is organized;

(b) The address of its registered office and the name of its registered agent at that office in this Commonwealth;

(c) The address of its principal office; and

(d) With respect to each:

1. Corporation, not-for-profit corporation, cooperative, association, or limited cooperative association, whether domestic or foreign:

   a. The name and business address of the secretary or other officer with responsibility for authenticating the records of the entity;

   b. The name and business address of each other principal officer; and

   c. The name and business address of each director;

2. Manager-managed limited liability company, whether domestic or foreign, the name and business address of each manager;

3. Limited partnership, whether domestic or foreign, the name and business address of each general partner;

4. Business trust, whether domestic or foreign, the name and business address of each trustee; and

5. Professional service corporation, domestic or foreign, a statement that each of the shareholders, not less than one-half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person.

~~[(2) A professional service corporation formed under the provisions of this chapter, except as this chapter may otherwise provide, shall have the same powers, authority, duties, and liabilities as a corporation formed under KRS Chapter 271B.]~~

***(2)***~~[(3)]~~ Information in the annual report shall be current as of the date the annual report is executed on behalf of the entity or foreign entity.

***(3)***~~[(4)]~~ The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which an entity was organized or a foreign entity was authorized to transact business in this state. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of each following calendar year.

***(4)***~~[(5)]~~ If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the entity or foreign entity in writing and return the report to it for correction, which notification may be accomplished electronically. For purposes of KRS 14A.2-130 or 14A.2-140, an annual report returned for correction shall not be deemed to have been delivered until it is returned and accepted by the Secretary of State.

***(5)***~~[(6)]~~ An entity or foreign entity may amend the information in its last filed annual report by delivery of an amendment to the annual report to the Secretary of State for filing on such form as is provided by the Secretary of State.

***(6) An unincorporated nonprofit association that has filed a certificate of association is subject to this section.***

(7) The requirement to file an annual report shall not apply to:

(a) A limited partnership governed as to its internal affairs by the Kentucky Uniform Limited Partnership Act as it existed prior to its repeal by 1988 Ky. Acts ch. 284, sec. 65;

(b) A partnership other than a limited liability partnership that has filed a statement of qualification pursuant to KRS 362.1-951 or a foreign limited liability partnership;~~[ or]~~

(c) A foreign rural electric cooperative or foreign rural telephone cooperative not required to qualify to transact business by a filing with the Secretary of State***; or***

***(d) An unincorporated nonprofit association that has not filed a certificate of association***.

➔Section 5. KRS 14A.9-010 is amended to read as follows:

(1) A foreign entity shall not transact business in this Commonwealth until it obtains a certificate of authority from the Secretary of State.

(2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:

(a) Maintaining, defending, or settling any proceeding;

(b) Holding meetings of the board of directors, shareholders, partners, members, managers, beneficial owners, or trustees or carrying on other activities concerning the internal affairs of the foreign entity;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign entity's own securities or maintaining trustees or depositaries with respect to those securities;

(e) Selling through independent contractors;

(f) Soliciting or obtaining orders, whether by mail or through employees, agents, or otherwise, if the orders require acceptance outside this state before they become contracts;

(g) Creating or acquiring indebtedness, mortgages, and security interests in real, personal, or intangible property;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; and

(k) Transacting business in interstate commerce.

(3) The list of activities in subsection (2) of this section is not exhaustive.

(4) Except as provided in subsection (6) of this section, this section shall not apply to foreign general partnerships. Whether a foreign limited liability partnership is transacting business in this Commonwealth shall be determined under subsection (2) of this section. A foreign limited liability partnership that is transacting business in this Commonwealth shall file a statement of foreign qualification pursuant to KRS 362.1-951.

(5) This section shall not apply in determining the contacts or activities that may subject a foreign entity to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.

(6) Notwithstanding any other law to the contrary, a foreign entity, in order to be eligible for award of a state contract under KRS Chapter 45A or 176, shall have a certificate of authority or a statement of foreign qualification.

***(7) A foreign insurer with a certificate of authority from the commissioner of the Department of Insurance is not subject to subsection (1) or (6) of this section.***

➔Section 6. KRS 271B.1-400 is amended to read as follows:

In this chapter:

***(1) "Appropriate court" means the Circuit Court for the county within the Commonwealth in which the corporation maintains its principal office or, if none, the county in which the registered office is located.***

***(2)*** ~~[(1)]~~ "Articles of incorporation" include amended and restated articles of incorporation and articles of merger;

***(3)*** ~~[(2)]~~ "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue;

***(4)*** ~~[(3)]~~ "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous;

***(5)*** ~~[(4)]~~ "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter***, and includes a professional service corporation***;

***(6)*** ~~[(5)]~~ "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;

***(7)*** ~~[(6)]~~ "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or

other acquisition of shares; a distribution of indebtedness; or otherwise;

***(8)*** ~~[(7)]~~ "Effective date of notice" is defined in KRS 271B.1-410;

***(9)*** ~~[(8)]~~ "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;

***(10)*** ~~[(9)]~~ "Employee" includes an officer but not a director. A director may accept duties that make him also an employee;

***(11)*** ~~[(10)]~~ "Entity" includes a domestic or foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government;

***(12)*** ~~[(11)]~~ "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state;

***(13)*** ~~[(12)]~~ "Governmental subdivision" includes authority, county, district, and municipality;

***(14)*** ~~[(13)]~~ "Includes" denotes a partial definition;

***(15)*** ~~[(14)]~~ "Individual" means a natural person and includes the estate of an incompetent or deceased individual;

***(16)*** ~~[(15)]~~ "Means" denotes an exhaustive definition;

***(17)*** ~~[(16)]~~ "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity;

***(18)*** ~~[(17)]~~ "Notice" is defined in KRS 271B.1-410;

***(19)*** ~~[(18)]~~ "Person" includes individual and entity;

***(20)*** ~~[(19)]~~ "Principal office" means the office in or out of this state, so designated in writing to the Secretary of State where the principal executive offices of a domestic or foreign corporation are located;

***(21)*** ~~[(20)]~~ "Proceeding" includes civil suit and criminal, administrative, and investigatory action;

***(22)*** ~~[(21)]~~ "Real name" shall have the meaning set forth in KRS 365.015.

***(23)*** ~~[(22)]~~ "Record date" means the date established under Subtitle 6 or 7 of this chapter on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed;

***(24)*** ~~[(23)]~~ "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under KRS 271B.8-400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation;

***(25)*** ~~[(24)]~~ "Share" means the unit into which the proprietary interests in a corporation are divided;

***(26)*** ~~[(25)]~~ "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation;

***(27)*** ~~[(26)]~~ "Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature;

***(28)*** ~~[(27)]~~ "State," when referring to a part of the United States, includes a state and Commonwealth and their agencies and governmental subdivisions, and a territory and insular possession and their agencies and governmental subdivisions of the United States.

***(29)*** ~~[(28)]~~ "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

***(30)*** ~~[(29)]~~ "United States" includes district, authority, bureau, commission, department, and any other agency of the United States; and

***(31)*** ~~[(30)]~~ "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

➔Section 7. KRS 271B.7-400 is amended to read as follows:

(1) A person shall not commence a proceeding in the right of a domestic or foreign corporation unless he was a shareholder of the corporation when the transaction complained of occurred or unless he became a shareholder through transfer by operation of law from one who was a shareholder at that time. The derivative proceeding shall not be maintained if it appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholders in enforcing the right of the corporation.

(2) A complaint in a proceeding brought in the right of a corporation shall be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why he did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.

(3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.

(4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.

(5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his behalf.

(6) In any derivative proceedings in the right of a foreign corporation, the matters covered by this section shall be governed by the laws of the jurisdiction of incorporation.

***(7) The articles of incorporation of the corporation may provide that proper venue for a derivative action or an action to compel the production of books and records is in or only is in the appropriate court.***

➔Section 8. KRS 271B.8-510 is amended to read as follows:

(1) Except as provided in subsection (4) of this section, a corporation may indemnify an individual made a party to a proceeding because he is or was a director against liability incurred in the proceeding if:

(a) He conducted himself in good faith; and

(b) He ***honestly***~~[reasonably]~~ believed:

1. In the case of conduct in his official capacity with the corporation, that his conduct was in its best interests; and

2. In all other cases, that his conduct was at least not opposed to its best interests; and

(c) In the case of any criminal proceeding, he had no reasonable cause to believe his conduct was unlawful.

(2) A director's conduct with respect to an employee benefit plan for a purpose he reasonably believed to be in the interests of the participants in and beneficiaries of the plan shall be conduct that satisfies the requirement of subsection (1)(b)2. of this section.

(3) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not be, of itself, determinative that the director did not meet the standard of conduct described in this section.

(4) A corporation may not indemnify a director under this section:

(a) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(b) In connection with any other proceeding charging improper personal benefit to him, whether or not involving action in his official capacity, in which he was adjudged liable on the basis that personal benefit was improperly received by him.

(5) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation shall be limited to reasonable expenses incurred in connection with the proceeding.

➔Section 9. KRS 271B.11-050 is amended to read as follows:

(1) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the Secretary of State for filing articles of merger or share exchange setting forth:

(a) ***The names of the parties to the merger or share exchange***~~[The plan of merger or share exchange]~~;

***(b) The name of the surviving corporation, if a merger, or the name of the acquiring corporation, if a share exchange;***

***(c) If a merger, the information required by KRS 271B.11-010(2)(c);***

***(d) If a merger, any amendment to the articles of incorporation of the surviving corporation;***

***(e) If a share exchange, the information required by KRS 271B.11-020(c);***

***(f)***~~[(b)]~~ If shareholder approval was not required, a statement to that effect; and

***(g)***~~[(c)]~~ If approval of the shareholders of one (1) or more corporations party to the merger or share exchange was required:

1. The designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and

2. Either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(2) A merger or share exchange shall take effect upon the effective date of the articles of merger or share exchange.

➔Section 10. KRS 271B.11-060 is amended to read as follows:

(1) When a merger takes effect:

(a) Every other corporation party to the merger shall merge into the surviving corporation and the separate existence of every corporation, except the surviving corporation, shall cease;

(b) The title to all property, whether real, personal, or intangible, owned by each corporation party to the merger shall be vested in the surviving corporation without reversion or impairment;

(c) The surviving corporation shall have all liabilities of each corporation party to the merger;

(d) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;

(e) The articles of incorporation of the surviving corporation shall be amended to the extent provided in the ***articles***~~[plan]~~ of merger; and

(f) The shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property shall be converted, and the former holders of the shares shall be entitled only to the rights provided in the articles of merger or to their rights under Subtitle 13.

(2) When a share exchange takes effect, the shares of each acquired corporation shall be exchanged as provided in the ***articles of share exchange***~~[plan]~~, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange or to their rights under Subtitle 13.

➔Section 11. KRS 271B.13-020 is amended to read as follows:

(1) A shareholder shall be entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:

(a) Consummation of a plan of merger to which the corporation is a party:

1. If shareholder approval is required for the merger by KRS 271B.11-030 or the articles of incorporation and the shareholder is entitled to vote on the merger; or

2. If the corporation is a subsidiary that is merged with its parent under KRS 271B.11-040;

(b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;

(c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale;

(d) Consummation of a plan of conversion of the corporation into a limited liability company or statutory trust;

(e) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

1. Alters or abolishes a preferential right of the shares to a distribution or in dissolution;

2. Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase of the shares;

3. Excludes or limits the right of the shares to vote on any matter other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

4. Reduces the number of shares owned by the shareholder to a fraction of a share, if the fractional share so created is to be acquired for cash under KRS 271B.6-040;

(f) Any transaction subject to the requirements of KRS 271B.12-210 or exempted by KRS 271B.12-220(2); or

(g) Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(2) A shareholder entitled to dissent and obtain payment for his shares under this chapter shall not challenge the corporate action creating his entitlement ***except by an application for injunctive relief prior to the consummation of the corporate action***~~[unless the action is unlawful or fraudulent with respect to the shareholder or the corporation]~~.

➔SECTION 12. KRS CHAPTER 273A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***As used in this chapter:***

***(1) "Appropriate court" means the Circuit Court of the county of the Commonwealth in which the unincorporated nonprofit association's principal office is located or, if none, the county in which the registered office is or was last maintained;***

***(2) "Established practices" means the practices used by an unincorporated nonprofit association without material change during the most recent five (5) years of its existence or, if it has existed for less than five (5) years, during its entire existence;***

***(3) "Governing principles" means the agreements, whether oral, in a record, or implied from its established practices, that govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and manager. The term includes any amendment or restatement of the agreements constituting the governing principles;***

***(4) "Manager" means a person that is responsible, whether alone or in concert with others, for the management of an unincorporated nonprofit association;***

***(5) "Member" means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association;***

***(6) "Nonprofit purpose" means any one (1) or more of the following purposes: charitable, benevolent, eleemosynary, educational, civic, patriotic, political, governmental, religious, social, recreational, fraternal, literary, cultural, athletic, scientific, agricultural, horticultural, animal husbandry, and professional, commercial, industrial, or trade association, but shall not include labor unions, cooperative organizations, and organizations subject to any of the provisions of the insurance laws or banking laws of this state which***

***may not be organized under this chapter;***

***(7) "Person" means an individual, corporation, business or statutory trust, estate, donative trust, partnership, limited partnership, limited liability company, cooperative, association, limited cooperative association, joint venture, public corporation, government or governmental subdivision, agency, instrumentality, or any other legal or commercial entity;***

***(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;***

***(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;***

***(10) "Statement of authority" means a statement authorizing a person to transfer an interest in real property held in the name of an unincorporated nonprofit association; and***

***(11) "Unincorporated nonprofit association" means an unincorporated organization consisting of two (2) or more members joined under an agreement that is oral, in a record, or implied from conduct, for one (1) or more common, nonprofit purposes. The term does not include:***

***(a) A trust;***

***(b) A marriage, domestic partnership, common law domestic relationship, civil union, or other domestic living arrangement;***

***(c) An organization formed under any other statute that governs the organization and operation of any person;***

***(d) A joint tenancy, tenancy in common, or tenancy by the entireties even if the co-owners share use of the property for a nonprofit purpose; or***

***(e) A relationship under an agreement in a record that expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.***

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) An unincorporated nonprofit association is a legal entity distinct from its members and managers.***

***(2) An unincorporated nonprofit association shall have perpetual duration unless the governing principles specify otherwise.***

***(3) An unincorporated nonprofit association shall have the same powers as an individual to do all things necessary or convenient to carry on its purposes.***

***(4) An unincorporated nonprofit association may engage in profit-making activities, but profits from any activities shall be used or set aside for the association's nonprofit purposes.***

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) An unincorporated nonprofit association may acquire, hold, encumber, or transfer in its name an interest in real, personal, or intangible property.***

***(2) An unincorporated nonprofit association may be a beneficiary of a trust or contract, a legatee, or a devisee.***

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) An interest in real property held in the name of an unincorporated nonprofit association may be transferred by a person authorized to do so in a statement of authority recorded by the association in the office in the county in which a transfer of the property would be recorded.***

***(2) A statement of authority shall set forth:***

***(a) The name of the unincorporated nonprofit association;***

***(b) The address in this Commonwealth, including the street address, if any, of the association or, if the association does not have an address in this Commonwealth, its out-of-state address;***

***(c) That the association is an unincorporated nonprofit association;***

***(d) The name and title or position of a person authorized to transfer an interest in real property held in the name of the association; and***

***(e) An affirmation by the person executing the statement that they are duly authorized to do so.***

***(3) A statement of authority shall be executed by a person other than the person authorized in the statement to transfer the interest.***

***(4) A filing officer may collect a fee for recording a statement of authority in the amount of ten dollars ($10).***

***(5) A document amending, revoking, or canceling a statement of authority or stating that the statement is unauthorized or erroneous shall meet the requirements for executing and recording an original statement.***

***(6) Unless canceled earlier, a recorded statement of authority and its most recent amendment expire five (5) years after the date of the most recent recording.***

***(7) If the record title to real property is in the name of an unincorporated nonprofit association and the statement of authority is recorded in the office of the county in which a transfer of the property would be recorded, the authority of the person named in the statement to transfer is conclusive in favor of a person that gives value without notice that the person lacks authority.***

➔SECTION 16. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) An unincorporated nonprofit association may file a certificate of association with the Secretary of State containing:***

***(a) The name of the association meeting the requirements of Section 4 of this Act;***

***(b) The mailing address of the association's initial principal office;***

***(c) The name and address of the association's registered agent and registered office, both meeting the requirements of KRS 14A.4-010; and***

***(d) A statement of the association's purpose.***

***(2) An unincorporated nonprofit association that has filed a certificate of association is thereby subject to Section 4 of this Act.***

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) If the association has filed a certificate of association with the Secretary of State, a debt, obligation, or other liability of an unincorporated nonprofit association, whether arising in contract, tort, or otherwise accruing or arising after the filing of the certificate is:***

***(a) Solely the debt, obligation, or other liability of the association; and***

***(b) Not a debt, obligation, or other liability of a member or manager solely because the member acts as a member or the manager acts as a manager.***

***(2) Subsection (1) of this section shall not affect the liability of a member or manager of an association for his or her own negligence, wrongful acts, or misconduct.***

➔SECTION 18. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) An unincorporated nonprofit association may sue or be sued in its own name.***

***(2) A member or manager may assert a claim the member or manager has against the unincorporated nonprofit association. An association may assert a claim it has against a member or manager.***

***(3) If the unincorporated nonprofit association has filed a statement of association and the claim accrued on or after the effective date thereof, a member or manager in an association is not a proper party to a proceeding to enforce that claim solely by reason of being a member or manager.***

➔SECTION 19. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) A judgment or order against an unincorporated nonprofit association is not by itself a judgment or order against a member or manager.***

***(2) Pursuant to this chapter, a judgment creditor of an unincorporated nonprofit association shall not levy execution against the assets of a member to satisfy a judgment based on a claim against the association unless:***

***(a) A judgment based on the same claim has been obtained against the association and a writ of execution on the judgment has been returned unsatisfied in whole or in part;***

***(b) The association is a debtor in bankruptcy;***

***(c) The member has agreed that the creditor need not exhaust association assets; or***

***(d) Liability is imposed on the member by law or contract independent of the existence of the association.***

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***In an action or proceeding against an unincorporated nonprofit association, process may be served on the registered agent or in any other manner authorized by the law of this Commonwealth.***

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***An action or proceeding against an unincorporated nonprofit association shall not abate merely because of a change in its members or managers.***

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Venue of an action against an unincorporated nonprofit association that has filed a certificate of association shall be in the appropriate court.***

***(2) Venue of an action brought in this Commonwealth against an unincorporated nonprofit association that has not filed a certificate of association shall be brought in accordance with the law applicable to an action brought in this Commonwealth against a general partnership.***

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***A member is not an agent of the association solely by reason of being a member.***

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall have the approval of its members to:***

***(a) Admit, suspend, dismiss, or expel a member;***

***(b) Select or dismiss a manager;***

***(c) Adopt, amend, or repeal the governing principles;***

***(d) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the association's property, with or without the association's goodwill, outside the ordinary course of its activities;***

***(e) Dissolve under subsection (1)(b) of Section 36 of this Act;***

***(f) Undertake any other act outside the ordinary course of the association's activities; or***

***(g) Determine the policy and purposes of the association.***

***(2) An unincorporated nonprofit association shall have the approval of the members to do any other act or exercise a right that the governing principles require to be approved by members.***

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Unless the governing principles of a corporation provide otherwise:***

***(a) Approval of a matter by members requires an affirmative majority of the votes cast at a meeting of members; and***

***(b) Each member is entitled to one (1) vote on each matter that is submitted for approval by members.***

***(2) Notice and quorum requirements for member meetings and the conduct of meetings of members shall be determined by the governing principles.***

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) A member shall not have a fiduciary duty to an unincorporated nonprofit association or to another member solely by being a member.***

***(2) A member shall discharge any duties to the unincorporated nonprofit association and the other members and exercise any rights under this chapter consistent with the governing principles and the obligation of good faith and fair dealing.***

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) A person becomes a member and may be suspended, dismissed, or expelled in accordance with the association's governing principles. If there are no applicable governing principles, a person may become a member or be suspended, dismissed, or expelled from an association only by a vote of its members. A person shall not be admitted as a member without the person's consent.***

***(2) Unless the governing principles provide otherwise, the suspension, dismissal, or expulsion of a member shall not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred or commitment made by the member before the suspension, dismissal, or expulsion.***

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) A member may resign as a member in accordance with the governing principles. In the absence of applicable governing principles, a member may resign at any time.***

***(2) Unless the governing principles provide otherwise, resignation of a member shall not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred or commitment made by the member before resignation.***

***(3) The governing principles may impose reasonable limitations upon the access to or use of any record of or information with respect to the unincorporated nonprofit association. Except as to limitations set forth in governing principles to which the member or manager requesting information has assented, the association bears the burden of proof in demonstrating the reasonableness of any restrictions imposed.***

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***Except as otherwise provided in the governing principles of the corporation, a member's interest or any right under the governing principles is not transferable.***

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***Except as otherwise provided in this chapter or the governing principles:***

***(1) Only the members may select a manager or managers;***

***(2) A manager may be a member or a nonmember;***

***(3) If a manager is not selected, all members are managers;***

***(4) Each manager has equal rights in the management and conduct of the association's activities;***

***(5) All matters relating to the association's activities shall be decided by its managers except for matters reserved for approval by members in Section 24 of this Act; and***

***(6) A difference among managers shall be decided by a majority of the managers.***

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) A manager owes to the unincorporated nonprofit association the fiduciary duties of loyalty and care.***

***(2) A manager shall manage the unincorporated nonprofit association in good faith, in a manner the manager honestly believes to be in the best interests of the association, and with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a similar position and under similar circumstances. A manager may rely in good faith upon any opinion, report, statement, or other information provided by another person that the manager reasonably believes is a competent and reliable source for the information.***

***(3) After full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty by a manager may be authorized or ratified by a majority of the members that are not interested directly or indirectly in the act or transaction.***

***(4) A manager that makes a business judgment in good faith satisfies the duties specified in subsection (1) of this section if the manager:***

***(a) Is not interested, directly or indirectly, in the subject of the business judgment and is otherwise able to exercise independent judgment;***

***(b) Is informed with respect to the subject of the business judgment to the extent the manager reasonably believes to be appropriate under the circumstances; and***

***(c) Believes that the business judgment is in the best interests of the unincorporated nonprofit***

***association and in accordance with its purposes.***

***(5) The governing principles in a record may limit or eliminate the liability of a manager to the unincorporated nonprofit association or its members for damages for any action taken, or for failure to take any action, as a manager, except liability for:***

***(a) The amount of financial benefit improperly received by a manager;***

***(b) An intentional infliction of harm on the association or one (1) or more of its members;***

***(c) An intentional violation of criminal law;***

***(d) Breach of the duty of loyalty; or***

***(e) Improper distributions.***

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***Notice and quorum requirements for meetings of managers and the conduct of meetings of managers shall be determined by the governing principles.***

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) On reasonable notice and for a proper purpose, a member or manager of an unincorporated nonprofit association may inspect and copy during the unincorporated nonprofit association's regular operating hours, at a reasonable location specified by the association, any record maintained by the association regarding its activities, financial condition, and other circumstances, to the extent the information is material to the member's or manager's rights and duties under the governing principles.***

***(2) An unincorporated nonprofit association may charge a person that makes a demand under this section reasonable copying costs, limited to the costs of labor and materials.***

***(3) The governing principles may impose reasonable limitations upon the inspection and use of any record of or information with respect to an unincorporated nonprofit association. Except as to limitations set forth in written governing principles to which a member or manager requesting information has assented, the association bears the burden of proof in demonstrating the reasonableness of any restrictions imposed.***

***(4) A former member or manager shall be entitled to information to which the member or manager was entitled while a member or manager if the information pertains to the period during which the person was a member or manager, the former member or manager seeks the information in good faith, and the former member or manager satisfies subsections (1) to (3) of this section.***

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in subsection (2) of this section, an unincorporated nonprofit association shall not pay dividends or make distributions to a member or manager.***

***(2) An unincorporated nonprofit association may:***

***(a) Pay reasonable compensation or reimburse reasonable expenses to a member or manager for services rendered;***

***(b) Confer benefits on a member or manager in conformity with its nonprofit purposes;***

***(c) Repurchase a membership and repay a capital contribution made by a member to the extent authorized by its governing principles; or***

***(d) Make distributions of property to members upon winding up and termination to the extent permitted by Section 37 of this Act.***

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall reimburse a member or manager for authorized expenses reasonably incurred in the course of the member's or manager's activities on behalf of the association.***

***(2) An unincorporated nonprofit association may indemnify a member or manager for any debt, obligation, or other liability incurred in the course of the member's or manager's activities on behalf of the association if the person seeking indemnification has complied with Sections 26 and 31 of this Act, as applicable. Governing principles in a record may broaden or limit indemnification.***

***(3) If a person is made or threatened to be made a party in an action based on that person's activities on behalf of an unincorporated nonprofit association and the person makes a request in a record to the association, a majority of the disinterested managers may approve in a record advance payment, or reimbursement, by the association, of all or a part of the reasonable expenses, including attorney's fees and costs, incurred by the person before the final disposition of the proceeding. To be entitled to an advance payment or reimbursement, the person shall state in a record that the person has a good faith belief that the criteria for indemnification in subsection (2) of this section have been satisfied and that the person will repay the amounts advanced or reimbursed if the criteria for payment have not been satisfied. The governing principles in a record may broaden or limit the advance payments or reimbursements.***

***(4) An unincorporated nonprofit association may purchase insurance on behalf of a member or manager for liability asserted against or incurred by the member or manager in the capacity of a member or manager, whether or not the association has authority under this chapter to reimburse, indemnify, or advance expenses to the member or manager against the liability.***

***(5) The rights of reimbursement, indemnification, and advancement of expenses under this section apply to a former member or manager for an activity undertaken on behalf of the unincorporated nonprofit association while a member or manager.***

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) An unincorporated nonprofit association may be dissolved as follows:***

- ***(a) If the governing principles provide a time or method for dissolution, at that time or by that method;***
- ***(b) If the governing principles do not provide a time or method for dissolution, upon approval by the members;***
- ***(c) If no member can be located and the association's operations have been discontinued for at least three (3) years, by the managers or, if the association has no current manager, by its last manager;***
- ***(d) By court order; or***
- ***(e) Under law other than this chapter.***

***(2) After dissolution, an unincorporated nonprofit association continues in existence until its activities have been wound up and it is terminated pursuant to Section 37 of this Act.***

➔SECTION 37. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***Winding up and termination of an unincorporated nonprofit association shall proceed in accordance with the following rules:***

***(1) All known debts and liabilities shall be paid or adequately provided for;***

***(2) Any property subject to a condition requiring return to the person designated by the donor shall be transferred to that person;***

***(3) Any property subject to a trust shall be distributed in accordance with the trust agreement; and***

***(4) Any remaining property shall be distributed as follows:***

- ***(a) As required by law other than this chapter that requires assets of an association to be distributed to another person with similar nonprofit purposes;***
- ***(b) In accordance with the association's governing principles or, in the absence of applicable governing principles, to the members of the association per capita or as the members direct; or***
- ***(c) If neither paragraph (a) nor (b) of this subsection applies, as directed by the appropriate court.***

➔SECTION 38. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) If, before the effective date of this Act, an interest in property was by terms of a transfer purportedly transferred to an unincorporated nonprofit association but under the law of this Commonwealth the interest did not vest in the association, or in one (1) or more persons on behalf of the association under subsection (2) of this section, on the effective date of this Act the interest vests in the association, unless the parties to the transfer have treated the transfer as ineffective.***

***(2) If, before the effective date of this Act, an interest in property was by terms of a transfer purportedly transferred to an unincorporated nonprofit association but the interest was vested in one (1) or more***

***persons to hold the interest for or on behalf of the association or the members of the association, on or after the effective date of this Act the persons, or their successors in interest, may transfer the interest to the association in its name, or the association may require that the interest be transferred to it in its name.***

➔SECTION 39. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***In applying and construing this chapter, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.***

➔SECTION 40. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***The provisions of this chapter governing the legal effect, validity, or enforceability of electronic records or electronic signatures, and of contracts formed or performed with the use of such records or signatures, modify, limit, and supersede the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. secs. 7001 et. seq., but this chapter does not modify, limit, or supersede Section 101(c) of the Electronic Signatures in Global and National Commerce Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act.***

➔SECTION 41. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Principles of law and equity supplement this chapter unless displaced by a particular provision of it.***

***(2) A statute governing a specific type of unincorporated nonprofit association prevails over an inconsistent provision in this chapter, to the extent of the inconsistency.***

➔SECTION 42. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***(1) Except as otherwise provided in subsection (2) of this section, the laws of this Commonwealth govern the operation in this state of all unincorporated nonprofit associations formed or operating in this Commonwealth.***

***(2) Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which a foreign unincorporated nonprofit association has its principal place of activities governs the internal affairs of the association.***

➔SECTION 43. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***The provisions of this chapter do not affect an action or proceeding commenced or right accrued before it takes effect.***

➔SECTION 44. A NEW SECTION OF KRS CHAPTER 273A IS CREATED TO READ AS FOLLOWS:

***Sections 12 to 44 of this Act shall be known and may be cited as the Kentucky Uniform Unincorporated Nonprofit Association Act.***

➔Section 45. KRS 275.015 is amended to read as follows:

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

(1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated;

(2) "Business entity" means a domestic or foreign limited liability company, corporation, partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association;

(3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;

(4) "Court" means every court having jurisdiction in the case;

(5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;

(6) "Dissent" means a right to object to a proposed action or transaction and, in connection therewith, to demand a redemption of a limited liability company interest;

(7) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;

(8) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280;

(9) "Foreign limited liability company" means an organization that is:

(a) An unincorporated association;

(b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and

(c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity;

***(10) "Foreign nonprofit corporation" means a corporation incorporated for a nonprofit purpose under the laws of a state other than the Commonwealth or under the laws of a foreign country;***

***(11)*** ~~[(10)]~~ "Knowledge" means actual knowledge of a fact;

***(12)*** ~~[(11)]~~ "Limited liability company" or "domestic limited liability company" means a limited liability company formed under this chapter ***and, except with respect to a nonprofit limited liability company,*** having one (1) or more members;

***(13)*** ~~[(12)]~~ "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195;

***(14)*** ~~[(13)]~~ "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country;

***(15)*** ~~[(14)]~~ "Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in KRS 275.175(3);

***(16)*** ~~[(15)]~~ "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165;

***(17)*** ~~[(16)]~~ "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280;

***(18)*** ~~[(17)]~~ "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity;

***(19)*** ~~[(18)]~~ "Nonprofit limited liability company" ~~[ ]~~means a limited liability company formed for a nonprofit purpose ***having one (1) or more or no members***;

***(20)*** ~~[(19)]~~ "Nonprofit purpose" includes any purpose authorized under KRS 273.167;

***(21)*** ~~[(20)]~~ "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. If a limited liability company has only one (1) member, an operating agreement shall be deemed to include:

(a) A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or

(b) If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing;

***(22)*** ~~[(21)]~~ "Person" means an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity;

***(23)*** ~~[(22)]~~ "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located;

***(24)*** ~~[(23)]~~ "Proceeding" means civil suit and criminal, administrative, and investigative action;

***(25)*** ~~[(24)]~~ "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing limited liability companies shall be applicable to professional limited liability

companies;

***(26)*** ~~[(25)]~~ "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;

***(27)*** ~~[(26)]~~ "Real name" shall have the meaning set forth in KRS 365.015;

***(28)*** ~~[(27)]~~ "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide; and

***(29)*** ~~[(28)]~~ "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

➔Section 46. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved, and it shall commence to wind up its affairs upon the happening of the first to occur of the following:

(1) The expiration of the term of the limited liability company set forth in the articles of organization, if any;

(2) Upon the occurrence of events specified in the articles of organization or a written operating agreement;

(3) Unless otherwise set forth in the operating agreement, the written consent of all of the members of a limited liability company;

(4) There are no remaining members, except that the limited liability company shall not be dissolved and its affairs shall not be wound up when:

(a) A member is admitted to the limited liability company in the manner provided for in a written operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(b) Unless otherwise provided in a written operating agreement, within ninety (90) days after the occurrence of the event that terminated the continued membership of the last remaining member, the successor-in-interest of the last remaining member agrees in writing to continue the limited liability company and to the admission of the successor-in-interest of that member or its designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member;

(5) Entry of a decree of judicial dissolution under KRS 275.290; or

(6) Filing of a certificate of dissolution by the Secretary of State under KRS 14A.7-020***; but***

***(7) If a nonprofit limited liability company does not have members, subsection (4) of this section shall not apply***.

➔Section 47. KRS 275.376 is amended to read as follows:

(1) A corporation may be converted to a limited liability company pursuant to this section.

(2) The terms and conditions of the conversion of a corporation to a limited liability company shall be set forth in a written plan of conversion and approved by the board of directors and by the shareholders of the corporation.

(3) The plan of conversion shall set forth:

(a) The name of the corporation planning to convert;

(b) The terms and conditions of the conversion, including the articles of organization and the written operating agreement, if any, of the limited liability company into which the corporation will convert; and

(c) The manner and basis of converting the shares of the corporation into membership interests, obligations, or other securities of the limited liability company or into cash or other property in whole or part.

(4) The plan of conversion may set forth any other provision relating to the conversion.

(5) For a plan of conversion to be approved:

(a) The board of directors shall recommend the plan of conversion to the shareholders, unless the board of directors determines that, because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the shareholders with a plan; and

(b) The shareholders entitled to vote shall approve the plan.

(6) The board of directors may condition its submission of the proposed conversion on any basis.

(7) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with KRS 271B.7-050. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan of conversion and contain or be accompanied by a copy or summary of the plan.

(8) Unless KRS Chapter 271B, the articles of incorporation, or the board of directors acting pursuant to subsection (6) of this section, require a greater vote or vote by voting groups, the plan of conversion to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(9) Separate voting by voting groups shall be required on a plan of conversion if the plan contains a provision that, if contained in a proposed amendment to the articles of incorporation, would require action by one (1) or more separate voting groups on the proposed amendment under KRS 271B.10-040.

(10) After a conversion is authorized, and at any time before articles of organization are filed, the planned conversion may be abandoned subject to any contractual rights, without further shareholder action, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner determined by the board of directors.

(11) After the conversion is approved, the corporation shall file articles of organization with the office of the Secretary of State that satisfy the requirements of KRS 275.025 and also include:

(a) A statement that the corporation was converted to a limited liability company;

(b) Its former name; and

(c) The designation, number of outstanding shares, and number of votes to be cast by each voting group entitled to vote separately on the plan of conversion and either the total number of undisputed votes cast for the plan separately by each voting group or a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(12) The conversion shall take effect when the articles of organization are filed with the office of the Secretary of State or, subject to KRS 14A.2-070, at a later date specified in the articles of organization.

***(13) Both a nonprofit corporation organized under the laws of the Commonwealth and a foreign nonprofit corporation, if not forbidden by the laws of its jurisdiction of organization, may convert into a nonprofit limited liability company, except that the only member or members of the converted nonprofit limited liability company shall be organizations qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code. The articles of organization filed to effect this conversion, in addition to the otherwise applicable requirements, shall contain an affirmative statement that the only member or members of the converted nonprofit limited liability company are qualified under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.***

➔Section 48. KRS 275.520 is amended to read as follows:

(1) ***Unless a nonprofit limited liability company has only business entities formed for a nonprofit purpose as its members,*** a nonprofit limited liability company shall not have or issue membership interests in the limited liability company, and no distribution shall be paid, and no part of the income or profit of the limited liability company shall be distributed to its members or managers.

***(2) No part of the income or profit of a nonprofit limited liability company shall be distributed to its manager or managers.***

***(3)*** ~~[(2)]~~ A nonprofit limited liability company may pay compensation in a reasonable amount to its members or managers for services rendered and may confer benefits upon its members in conformity with its purposes, and these payments or benefits shall not be deemed to be a distribution of income or profit.

➔Section 49. KRS 275.525 is amended to read as follows:

***(1)*** ***Unless a nonprofit limited liability company has only business entities formed for a nonprofit purpose as its members,*** no loan shall be made by ***the*** ~~[a nonprofit limited liability]~~ company to its members or managers, and any member or manager who assents to or participates in the making of a loan violating this prohibition shall be liable to the ~~[limited liability ]~~company for the amount of the loan until its repayment***.***

***(2)*** ***No loan shall be made by a nonprofit limited liability company to its managers, and any member or manager who assents to or participates in the making of a loan violating this prohibition shall be liable to the company for the amount of the loan until its repayment.***

➔SECTION 50. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

***(1)*** ***A member may maintain a direct action against a limited liability company, another member, or a manager to redress an injury sustained by, or to enforce a duty owed to, the member if the member can prevail without showing an injury or breach of duty to the company.***

***(2)*** ***A member may maintain a derivative action to redress an injury sustained by or enforce a duty owed to a limited liability company if:***

***(a)*** ***The member shall first make a demand on the other members and, if the company is manager-managed, the managers, requesting that they cause the company to bring an action to redress the injury or enforce the right, and they do not bring the action within a reasonable time; or***

***(b)*** ***A demand would be futile.***

***(3)*** ***A derivative action on behalf of a limited liability company shall be maintained only by a person that is a member at the time the action is commenced and who:***

***(a)*** ***Was a member when the conduct giving rise to the action occurred; or***

***(b)*** ***Acquired the status as a member by operation of law or pursuant to the terms of the operating agreement from a person that was a member at the time of the conduct giving rise to the action occurred.***

***(4)*** ***In a derivative action on behalf of the limited liability company, the complaint shall state with particularity:***

***(a)*** ***The date and content of the member's demand and the response to the demand; or***

***(b)*** ***The reason the demand should be excused as futile.***

***(5)*** ***Except as otherwise provided in subsection (8) of this section:***

***(a)*** ***Any proceeds or other benefits of a derivative action on behalf of a limited liability company, whether by judgment, compromise, or settlement, are the property of the company and not of the plaintiff; and***

***(b)*** ***If the plaintiff receives any proceeds or other benefits, the plaintiff shall immediately remit them to the company.***

***(6)*** ***A derivative action on behalf of a limited liability company may not be voluntarily dismissed or settled without the court's approval.***

***(7)*** ***The proper venue for a direct action under subsection (1) of this section or a derivative action shall be the Circuit Court for the county in which the company maintains its registered office and agent.***

***(8)*** ***On termination of the proceeding brought pursuant to this section, the court may:***

***(a)*** ***Require the plaintiff member to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding to the extent it finds that the proceeding or any portion thereof was commenced without reasonable cause or for an improper purpose; and***

***(b)*** ***Require the limited liability company to pay the plaintiff member's reasonable expenses, including counsel fees, incurred in the proceeding to the extent it finds that the proceeding has resulted in a substantial benefit to the company.***

➔Section 51. KRS 273.227 is amended to read as follows:

(1) A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(2) A duly appointed officer may appoint one (1) or more officers or assistant officers if authorized by the bylaws or the board of directors.

(3) The bylaws or the board of directors shall delegate to one (1) of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

(4) The same individual may simultaneously hold more than one (1) office in a corporation.

(5) Each officer shall be elected or appointed at such time and in such manner and for such terms not exceeding three (3) years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors.

(6) The articles of incorporation or the bylaws may provide that any one (1) or more officers of the corporation shall be ex officio members of the board of directors.

(7) Every officer of a corporation, by acceptance of election or appointment as ***an officer*** ~~[a director]~~, including by service, shall be deemed to have consented to the jurisdiction of the courts of the Commonwealth of Kentucky for any action by, in the name of, or on behalf of the corporation.

➔Section 52. KRS 275.165 is amended to read as follows:

(1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.

(2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:

(a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of the majority-in-interest of the members;

(b) Shall not be required to be members of the limited liability company or natural persons; and

(c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.

(3) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.

***(4) A member or manager shall not be entitled to remuneration for services performed for the limited liability company except as may be set forth in a written operating agreement.***

➔Section 53. KRS 275.175 is amended to read as follows:

(1) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, the affirmative vote, approval, or consent of a majority-in-interest of the members~~[, if management of the limited liability company is vested in the members,]~~ or a simple majority of the managers, each having a single vote,~~[ if the management of the limited liability company is vested in managers,]~~ shall be required to decide any matter connected with the business affairs of the limited liability company.

(2) Unless otherwise provided in a written operating agreement, ***irrespective of whether management of the limited liability company is vested in a manager or managers,*** the affirmative vote, approval, or consent of the ~~[majority in interest of the ]~~members shall be required to:

(a) Amend a written operating agreement;

(b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a~~[ written]~~ operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof;~~[ or]~~

(c) Amend the articles of organization***;***

***(d) Merge or convert the limited liability company or approve a sale of all or substantially all of its assets;***

***(e) Admit a new member, including the assignee of a member, as a member;***

***(f) Remove a member after the assignment of all assignable interest in the limited liability company;***

***(g) Waive an agreement to contribute to the limited liability company;***

***(h) Approve the voluntary dissolution of the limited liability company;***

***(i) Approve any acting contravention of a written operating agreement; or***

***(j) Allow the voluntary resignation of a member from a manager-managed limited liability company***.

(3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.

***(4) In a nonprofit limited liability company that does not have members, the capacity and authority to manage the business and affairs of the company shall be set forth in a written operating agreement.***

***(5)***~~[(4)]~~ Unless otherwise provided in the articles of organization or the written operating agreement, no member of a limited liability company shall have the right to dissent from an amendment to the operating agreement or the articles of organization.

➔Section 54. KRS 275.335 is amended to read as follows:

(1) Unless otherwise provided in a written operating agreement, a suit on behalf of the limited liability company may be brought in the name of the~~[ limited liability]~~ company only by:

(a) One (1) or more members of ***the***~~[a limited liability]~~ company,~~[ whether or not the operating agreement vests management of the limited liability company in one (1) or more managers,]~~ who are authorized to sue by the vote of more than one half (1/2) of the number of members eligible to vote thereon~~[, unless the vote of all members shall be required pursuant to KRS 275.175(1). In determining the vote required under KRS 275.175, the vote of any member who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded]~~; or

(b) One (1) or more managers of the limited liability company, if ***the articles of organization vest***~~[an operating agreement vests]~~ management of the ~~[limited liability ]~~company in one (1) or more managers, who are authorized to do so by the vote ***of more than one-half (1/2) of the number of managers eligible to vote***~~[required pursuant to KRS 275.175 of the managers eligible to vote thereon. In determining the required vote, the vote of any manager who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded]~~.

***(2) Subsection (1)(a) of this section shall be applicable irrespective of whether the articles of organization vest management of the limited liability company in one (1) or more managers.***

***(3) Unless otherwise provided in a written operating agreement, in any vote of the members or managers pursuant to subsection (1) of this section, the vote of any member or manager who has an interest in the outcome of the suit that is adverse to the interest of the limited liability company shall be excluded.***

***(4) Unless otherwise provided in a written operating agreement, any vote pursuant to subsection (1) of this section shall be set forth in a record signed or otherwise approved by each member or manager voting in favor of bringing suit on behalf of the limited liability company.***

***(5) Except as otherwise provided in a writing approved in accordance with subsection (1) of this section that would also be sufficient to amend the operating agreement pursuant to the terms of the written operating agreement or, in the absence of a provision governing amendment of the operating agreement, the prosecution and settlement of any suit brought pursuant to subsection (1) of this section shall be pursuant to Section 53 of this Act.***

***(6)***~~[(2)]~~ Every member and manager of a limited liability company shall be deemed to have consented to the jurisdiction of the courts of the Commonwealth of Kentucky for any action by, in the name of, or on behalf of the limited liability company or for any violation of a duty owed the limited liability company or a member thereof.

➔Section 55. KRS 362.605 is amended to read as follows:

***(1)*** A ***general*** partnership may sue or be sued in its ***real*** ~~[common]~~ name. A judgment by or against a partnership shall bind the partnership as if it were a legal entity. A judgment against a partnership shall not bind a partner in his individual capacity except to the extent permitted by KRS 362.220.

***(2) A limited partnership may sue or be sued in its real name. A judgment by or against a limited partnership shall bind the limited partnership as a legal entity. Judgment against a limited partnership shall not bind a general partner in his, her or its individual capacity except to the extent permitted by KRS 362.447 and 362.220, and only if the general partner is named as a party in the action.***

***(3) The real name of a partnership or limited partnership shall be determined in accordance with Section 59 of this Act.***

➔Section 56. KRS 275.360 is amended to read as follows:

(1) The business entity surviving from the merger shall deliver to the Secretary of State for filing articles of merger duly executed by each constituent business entity setting forth:

(a) The name and jurisdiction of formation or organization of each constituent business entity which is to merge;

~~[(b) The plan of merger;]~~

***(b)*** ~~[(c)]~~ The name of the surviving business entity;

***(c) The information required by KRS 275.355(2)(d);***

***(d) Any amendment to the articles of organization of the surviving limited liability company;***

***(e)*** ~~[(d)]~~ A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with KRS 275.350; and

***(f)*** ~~[(e)]~~ If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:

1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and

2. Appoints the Secretary of State as its agent for service of process in any such proceeding. The surviving entity shall specify the address to which a copy of the process shall be mailed to it by the Secretary of State.

(2) A merger shall take effect upon the later of the effective date of the filing of the articles of merger or the date set forth in the articles of merger.

(3) The articles of merger shall be executed by a limited liability company that is a party to the merger in the manner provided for in KRS 14A.2-020 and shall be filed with the Secretary of State in the manner provided for in KRS 14A.2-010.

(4) A plan of merger approved in accordance with KRS 275.350 may effect any amendment to an operating agreement for a limited liability company if it is the surviving company in the merger. An approved plan of merger may also provide that the operating agreement of any constituent limited liability company to the merger, including a limited liability company formed for the purpose of consummating a merger, shall be the operating agreement of the limited liability company that is the surviving business entity. Any amendment to an operating agreement or adoption of a new operating agreement made pursuant to this subsection shall be effective at the effective time and date of the merger. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or of any of the matters referred to in this section by any other means provided for in an operating agreement or other agreement or as otherwise permitted by law.

➔Section 57. KRS 275.365 is amended to read as follows:

A merger shall have the following effects:

(1) The constituent business entities that are parties to the merger shall be a single entity, which shall be the entity designated in the plan of merger as the surviving business entity.

(2) Each party to the merger, except the surviving business entity, shall cease to exist.

(3) The surviving business entity shall possess all the rights, privileges, immunities, and powers of each constituent business entity and shall be subject to all the restrictions, disabilities, and duties of each of the constituent entities to the extent the rights, privileges, immunities, powers, restrictions, disabilities, and duties are applicable to the type of business entity that is the surviving business entity.

(4) All property, whether real, personal, or intangible, and all debts due on whatever account, including promises to make capital contributions and subscriptions for shares, and all other choses in action, and all and every other interest of, belonging to, or due to each of the constituent business entities shall be vested in the surviving business entity without further act or deed.

(5) The title to all real estate and any interest therein, vested in any constituent business entity shall not revert or be in any way impaired by reason of the merger.

(6) The surviving entity shall thenceforth be liable for all liabilities and obligations of each of the constituent business entities merged, and any claim existing or action or proceeding pending by or against any constituent business entity may be prosecuted as if the merger had not taken place, or the surviving business entity may be substituted in the action.

(7) Neither the rights of creditors nor any liens on the property of any constituent business entity shall be impaired by the merger.

(8) The interests in a limited liability company or other business entities that are to be converted or exchanged into interests, other securities, cash, obligations, or other property under the terms of the plan of merger are so converted and the former holders thereof are entitled only to the rights provided in the plan of merger or the rights otherwise provided by law.

(9) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a merger, as the case may be, shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the merger takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the merger takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a merger shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the merger takes effect.

(10) If the surviving business entity is a limited liability company, such amendments to the articles of organization ***set forth in the articles of merger,*** and ***such amendments to*** the operating agreement thereof set forth in the plan of merger or the articles of merger, subject to KRS 275.200, shall be effective.

(11) If the surviving business entity is a limited liability company, the written operating agreement provided for in the plan of merger, if any, shall be binding upon each member in that limited liability company, but any provision thereof obligating a member to make a contribution to the limited liability company is subject to KRS 275.200.

➔Section 58. KRS 362.2-801 is amended to read as follows:

Except as otherwise provided in KRS 362.2-802, a limited partnership is dissolved, and its activities shall be wound up, only upon the occurrence of any of the following:

(1) The happening of an event specified in the partnership agreement;

(2) The consent of all general partners and of all limited partners;

(3) After the dissociation of a person as a general partner:

(a) If the limited partnership has at least one (1) remaining general partner, the consent to dissolve the limited partnership given within ninety (90) days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or

(b) If the limited partnership does not have a remaining general partner, the passage of ninety (90) days after the dissociation, unless before the end of that period:

1. Consent to continue the activities of the limited partnership and admit at least one (1) general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

2. At least one (1) person is admitted as a general partner in accordance with that consent;

(4) The passage of ninety (90) days after the dissociation of the limited partnership's last limited partner, unless before the end of that period the limited partnership admits at least one (1) limited partner;~~[ or]~~

(5) The administrative dissolution of the limited partnership by the Secretary of State under KRS 14A.7-010 or predecessor law***; or***

***(6) Except as provided in subsection (3) or (4) of this section, the same person shall not be both the only general partner and the only limited partner***.

➔Section 59. KRS 365.015 is amended to read as follows:

(1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman.

(b) The real name of a domestic:

1. General partnership that is not a limited liability partnership and that has not filed a statement of partnership authority is that name which includes the real name of each of the partners;

2. General partnership that is not a limited liability partnership and that has filed a statement of partnership authority is the name set forth on the statement of partnership authority;

3. General partnership that is a limited liability partnership is the name stated on the statement of qualification filed pursuant to KRS 362.1-931 or predecessor law;

4. Limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS 362.2-201 or predecessor law;

5. Business trust or statutory trust is the name set forth in the declaration of trust;

6. Corporation is the name set forth in its articles of incorporation;

7. Limited liability company is the name set forth in its articles of organization;~~[ and]~~

8. Limited cooperative association is the name set forth in its articles of association***; and***

***9. Unincorporated nonprofit association that has filed a certificate of association is the name set forth in the certificate of association and, if no certificate of association has been filed, the name under which the unincorporated nonprofit association generally acts***.

(c) The real name of a foreign:

1. General partnership is the name recognized by the laws of the jurisdiction under which it is formed as being the real name;

2. Limited liability partnership is the name stated in its statement of foreign qualification filed pursuant to KRS 362.1-952 or predecessor law;

3. Limited partnership is the name set forth in its certificate of limited partnership or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;

4. Business trust or statutory trust is the name recognized by the laws of the jurisdiction under which it is formed as being the real name of the business trust or statutory trust or the fictitious name adopted for use in this Commonwealth under Subchapter 3 of KRS Chapter 14A;

5. Corporation, including a cooperative or association that is incorporated, is the name set forth in its articles of incorporation or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;

6. Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law;~~[ and]~~

7. Limited cooperative association is the name set forth in its articles of association or the fictitious name adopted for use in this Commonwealth under KRS 14A.3-010 to 14A.3-050 or predecessor law***; and***

***8. Unincorporated nonprofit association is the name recognized by the laws of the jurisdiction under which it is organized as being the real name***.

(2) (a) No individual, general partnership, limited partnership, business or statutory trust, corporation, limited liability company,~~[ or]~~ limited cooperative association***, or unincorporated nonprofit association that has filed a certificate of association*** shall conduct or transact business in this Commonwealth under an assumed name or any style other than his, her, or its real name, as defined in subsection (1) of this section, unless such individual, general partnership, limited partnership, business or statutory trust, corporation, limited liability company,~~[ or]~~ limited cooperative association***, or unincorporated nonprofit association that has filed a certificate of association*** has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, general partnership, limited partnership, business or statutory trust, corporation, limited liability company,~~[ or]~~ limited cooperative association***, or unincorporated nonprofit association that has filed a certificate of association*** and his,~~[ or]~~ her**,** or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;

(e) The certificate shall be executed for an individual, by the individual, and otherwise as provided by KRS 14A.2-020.

(3) Each certificate of assumed name for an individual shall be filed with the county clerk where the person maintains his or her principal place of business. Each certificate of assumed name for a general partnership, limited partnership, business or statutory trust, corporation, limited liability company, or limited cooperative association shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity maintains its registered agent for service of process or, if no registered agent for service of process is required, then with the county clerk of the county where the entity maintains its principal office. If the entity does not maintain a registered agent for service of process and does not maintain a principal office in this Commonwealth, then the certificate of assumed name shall be filed only with the Secretary of State.

(4) An assumed name shall be effective for a term of five (5) years from the date of filing and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.

(5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party formerly transacting business under the assumed name and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for an individual by the individual or his or her agent and otherwise as provided in KRS 14A.2-020.

(6) A general partnership, except a limited liability partnership, shall amend an assumed name certificate to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by at least one (1) partner authorized to do so by the partners.

(7) The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons.

(8) In the event of the merger or conversion of a partnership, limited partnership, business or statutory trust, corporation, limited liability company, or limited cooperative association, any certificate of assumed name filed by a party to a merger or conversion shall remain in full force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger or conversion.

(9) A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.

(10) A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date and, if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.

(11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars ($20) for filing each certificate, amendment, and renewal certificate.

(12) A series entity, as defined in KRS 14A.1-070, may, on behalf of any series thereof, file a certificate of assumed name. The certificate shall provide that the assumed name is adopted on behalf of a series of the series entity and not on behalf of the series entity itself, but the certificate of assumed name shall be recorded on the records of the Secretary of State as being that of the series entity.

➔Section 60. KRS 386A.1-030 is amended to read as follows:

(1) Except as otherwise provided in KRS 386A.1-040(2), the governing instrument governs:

(a) The management, affairs, and conduct of the business of a statutory trust; and

(b) The rights, interests, duties, obligations, and powers of, and the relations among, the trustees, the beneficial owners, the statutory trust, and other persons.

(2) To the extent the governing instrument does not otherwise provide for a matter described in subsection (1) of this section, this chapter governs the matter.

(3) The governing instrument may include one (1) or more instruments, agreements, declarations, bylaws, or other records and refer to or incorporate any record.

(4) Subject to KRS 386A.1-040(2), without limiting the terms that may be included in a governing instrument, the governing instrument may:

(a) Provide the means by which beneficial ownership is determined and evidenced;

(b) Limit a beneficial owner's right to transfer a beneficial interest;

(c) Provide for one (1) or more series under Subchapter 4 of this chapter;

(d) To the extent that voting rights are granted to the beneficial owners or trustees under the governing instrument, include terms relating to:

1. Notice of the date, time, place, or purpose of any meeting at which any matter is to be voted on;

2. Waiver of notice;

3. Action by consent without a meeting;

4. Establishment of record dates;

5. Quorum requirements;

6. Voting:

a. In person;

b. By proxy;

c. By any form of communication that creates a record, telephone, or video conference; or

d. In any other manner; or

7. Any other matter with respect to the exercise of the right to vote;

(e) Provide for the creation of one (1) or more classes of trustees, beneficial owners, or beneficial interests having separate rights, powers, or duties;

(f) Provide for any action to be taken without the vote or approval of any particular trustee or beneficial owner, or classes of trustees, beneficial owners, or beneficial interests, including:

1. Amendment of the governing instrument;

2. Merger, conversion, or reorganization;

3. Appointment of trustees;

4. Sale, lease, exchange, transfer, pledge, or other disposition of all or any part of the property of the statutory trust or the property of any series thereof; and

5. Dissolution of the statutory trust;

(g) Provide for the creation of a statutory trust, including the creation of a statutory trust to which all or any part of the property, liabilities, profits, or losses of a statutory trust may be transferred or exchanged, and for the conversion of beneficial interests in a statutory trust, or series thereof, into beneficial interests in the new statutory trust or series thereof;

(h) Provide for the appointment, election, or engagement of agents or independent contractors of the statutory trust or delegates of the trustees, or agents, officers, employees, managers, committees, or other persons that may manage the business and affairs of the statutory trust, designate their titles, and specify their rights, powers, and duties;

(i) Provide rights to any person, including a person who is not a beneficial owner or not otherwise a party to the governing instrument, to the extent set forth therein;

(j) Subject to paragraph (k) of this subsection, specify the manner in which the governing instrument may be amended, including, unless waived by all persons for whose benefit the condition or requirement was intended:

1. A condition that a person that is not a party to the instrument must approve the amendment for it to be effective; and

2. A requirement that the governing instrument may be amended only as provided in the governing instrument or as otherwise permitted by law;

(k) Provide that a person may comply with paragraph (j) of this subsection by a representative authorized by the person orally, in a record, or by conduct;

(l) Provide that a person becomes a beneficial owner, acquires a beneficial interest, and is bound by the governing instrument if the person complies with the conditions for becoming a beneficial owner set forth in the governing instrument;

(m) Provide that the beneficial interest of any beneficial owner who fails to make any contribution that the beneficial owner is obligated to make or who otherwise violates an obligation undertaken in the governing instrument shall be subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting beneficial owner's proportionate interest in the statutory trust, subordinating the beneficial owner's interest to that of nondefaulting beneficial owners, a forced sale of that beneficial interest, forfeiture of his or her beneficial interest, the lending by other beneficial owners of the amount necessary to meet the defaulting beneficial owner's commitment, a fixing of the value of his or her beneficial interest by appraisal or by formula and redemption or sale of the beneficial interest at such value, or other penalty or consequence;

(n) Provide that the statutory trust or the trustees, acting for the statutory trust, hold beneficial ownership of any income earned on securities held by the statutory trust that are issued by any business entity formed, organized, or existing under the laws of any jurisdiction;

(o) Provide for the establishment of record dates;

(p) Grant to, or withhold from, a trustee or beneficial owner, or class of trustees or beneficial owners, the right to vote, separately or with any or all other trustees or beneficial owners, or class of trustees or beneficial owners, on any matter;~~[ and]~~

(q) Provide that neither the power to direct a trustee or other person nor the exercise of the power by any person, including a beneficial owner, causes the person to be a trustee or imposes on the person duties, including fiduciary duties, or liabilities relating to these duties, to a statutory trust or beneficial owner***;***

***(r) Provide that the statutory trust is to act as a beneficial owner associated with a series thereof; or***

***(s) Provide that each beneficial owner shall be the owner of an undivided beneficial interest in all property of the statutory trust in addition to or including an undivided beneficial interest in all***

***property of or associated with a series of the statutory trust with which the beneficial owner is associated***.

➔Section 61. KRS 386A.4-010 is amended to read as follows:

(1) If a statutory trust complies with KRS 386A.4-020(2), a governing instrument may establish or provide for the establishment of one (1) or more designated series that:

(a) Has separate rights, powers, or duties with respect to specified property or obligations or profits and losses associated with specified property or obligations; or

(b) Has a separate purpose or investment objective.

(2) A series of a statutory trust is to the degree provided in subsection (4) of this section an entity separate from the statutory trust.

(3) A series of a statutory trust may have a separate purpose from the trust or any other series thereof if the purpose of the series is:

(a) Permitted by KRS 386A.3-030; and

(b) Not outside the purpose of the trust.

(4) Unless otherwise provided in the governing instrument, a series established in accordance with subsection (1) of this section shall have the power and capacity to, in its own name, contract, hold title to real, personal, and intangible assets, grant liens and security interests, and sue and be sued.

(5) The registered agent and registered office of a statutory trust that is a series trust shall be the registered agent and registered office of each series thereof.

(6) The governing instrument may provide that one (1) or more trustees shall be associated with a series, in which case they shall be the trustees discharging the obligations of Subchapter 5 of this chapter as to that series. In the absence of such an association, all trustees of the statutory trust shall be trustees associated with a series.

***(7) The governing instrument may provide for the means by which beneficial owners are associated with a series. The statutory trust may be associated with a series thereof. In the absence of association as provided in the governing instrument, all beneficial owners of the statutory trust shall be deemed associated with each series.***

➔Section 62. KRS 369.102 is amended to read as follows:

As used in KRS 369.101 to 369.120, unless the context requires otherwise:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction;

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts of records of one (1) or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction;

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result;

(4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by KRS 369.101 to 369.120 and other applicable law;

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual;

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means;

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state;

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like;

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information;

(12) "Person" means an individual, corporation, business ***or statutory*** trust, estate, trust, partnership, ***limited partnership,*** limited liability company, association, ***limited cooperative association,*** joint venture, governmental agency, public corporation, or any other legal or commercial entity;

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state; and

(16) "Transaction" means an action or set of actions occurring between two (2) or more persons relating to the conduct of business, commercial, or governmental affairs.

➔Section 63. KRS 386A.4-020 is amended to read as follows:

(1) Subject to subsection (2) of this section:

(a) A debt, liability, obligation, and expense incurred, contracted for, or otherwise existing with respect to a series, whether in its name or as to the property of or associated therewith, shall be enforceable against the assets of or associated with that series only, and shall not be enforceable against the assets of the statutory trust generally or any assets of or associated with other series thereof; and

(b) None of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the statutory trust generally or any other series thereof shall be enforceable against the assets of or associated with a series.

(2) Subsection (1) of this section applies only if:

(a) The records maintained by the statutory trust account for the assets of or associated with that series separately from the other assets of the statutory trust or of or associated with any other series;

(b) The governing instrument contains a statement to the effect of the limitations provided in subsection (1) of this section; and

(c) The statutory trust's certificate of trust contains a statement that the statutory trust may have one (1) or more series subject to the limitations provided in subsection (1) of this section.

(3) The statement of limitation on liabilities of a series required by subsection (2)(c) of this section is sufficient regardless of whether:

(a) The statutory trust has established any series under this subchapter when the statement of limitations is contained in the certificate of formation; and

(b) The statement of limitations makes reference to any specific series of the statutory trust.

(4) If the records are maintained in a manner such that the assets of or associated with a series can be reasonably identified by specific listing, category, type, quantity, or computational or allocational formula or procedure, including a percentage or share of any assets, or by any other method in which the identity of the assets can be objectively determined, the records are considered to satisfy the requirements of subsection (2)(a) of this section.

(5) The association, disassociation, or reassociation of property of a statutory trust or a series thereof to or with the trust or a series thereof is deemed to be a transfer between separate persons under the laws of Kentucky

governing fraudulent transfers.

(6) A distribution by a series shall be made to the beneficial ***owners***~~[owner]~~ associated with the series.

➔Section 64. KRS 362.2-935 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section:

(a) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, belong to the limited partnership and not to the derivative plaintiff;

(b) If the derivative plaintiff receives any of those proceeds, then the derivative plaintiff shall immediately remit them to the limited partnership.

(2) If a derivative action is successful in whole or in part, then the court may award the plaintiff reasonable expenses, including reasonable attorney's fees, from the recovery of the limited partnership.

***(3) On termination of the proceeding brought pursuant to this section, the court may require the plaintiff to pay any defendant's reasonable expenses, including counsel fees, incurred in defending the proceeding to the extent it finds that the proceeding or any portion thereof was commenced without reasonable cause or for an improper purpose.***

➔Section 65. KRS 360.027 is amended to read as follows:

(1) No limited partnership, limited liability company, or business ***or statutory*** trust shall hereafter plead or set up the taking of more than the legal rate of interest, as a defense to any action brought against it to recover damages on, or enforce payment of, or other remedy on, any mortgage, bond, note or other obligation, executed or assumed by such limited partnership, limited liability, or business ***or statutory*** trust; provided, that this section shall not apply to any action instituted subsequent to June 16, 1972, upon any mortgage, bond, note or other obligation executed or assumed by such limited partnership or business trust prior to June 16, 1972.

(2) The provisions of subsection (1) of this section shall not apply to a limited partnership, limited liability company, or business ***or statutory*** trust, the principal asset of which shall be the ownership of a one (1) or two (2) family dwelling.

➔SECTION 66. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

***(1) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.***

***(2) Notice may be communicated in person, by mail or other method of delivery, or by telephone, voice mail, or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.***

***(3) Written notice by a corporation to a member, if in a comprehensible form, shall be effective:***

***(a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the member's address shown in the corporation's current record of members; or***

***(b) When electronically transmitted to the member in a manner authorized and in accordance with the member's instructions, if any.***

***(4) Written notice to a domestic or foreign corporation authorized to transact business in this Commonwealth may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office address of record with the Secretary of State.***

***(5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:***

***(a) When received;***

***(b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed; or***

***(c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.***

***(6) Oral notice shall be effective when communicated, if communicated in a comprehensible manner.***

***(7) If KRS 273.161 to 273.390 prescribe notice requirements for particular circumstances, those requirements shall govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of KRS 273.161 to 273.390, those requirements shall govern.***

➔SECTION 67. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

***(1) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by KRS 273.161 to 273.390 as amended by Sections 66 through 85 of this Act to be taken at a board of directors meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one (1) or more written consents describing the action taken, signed by each director, and included in the minutes or filed with the corporate records reflecting the action taken.***

***(2) Action taken under this section shall be effective when the last director signs the consent, unless the consent specifies a different effective date.***

***(3) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.***

➔Section 68. KRS 273.161 is amended to read as follows:

As used in KRS ***273.161***~~[273.163]~~ to ***273.390***~~[273.387]~~, unless the context otherwise requires~~[, the term]~~:

(1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS ***273.161***~~[273.163]~~ to ***273.390***~~[273.387]~~, except a foreign corporation;

(2) "Disaster" means any natural, technological, or civil emergency that causes damage of sufficient severity and magnitude to result in a declaration of a state of emergency by a county, the Governor, or the President of the United States;

(3) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state;

(4) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;

(5) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(7) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;

(8) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated;

(9) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;

(10) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located;

(11) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation;

(12) "Individual" includes the estate of an incompetent or deceased individual;

(13) "Entity" includes a domestic or foreign corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business or statutory trust, estate, partnership, limited partnership, limited liability company, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government;

(14) "Person" includes individual and entity.

(15) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity;~~[ and]~~

(16) "Real name" shall have the meaning set forth in KRS 365.015***;***

***(17) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;***

***(18) "Effective date of notice" means notice when effective under subsection (3) of Section 66 of this Act;***

***(19) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;***

***(20) "Notice" means notice as described in Section 66 of this Act; and***

***(21) "Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature***.

➔Section 69. KRS 273.197 is amended to read as follows:

Unless otherwise provided in the articles of incorporation or the bylaws,~~[ written]~~ notice stating the place, day and hour of meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be ***given***~~[delivered ]~~not less than ten (10) nor more than thirty-five (35) days before the date of the meeting,~~[ either personally or by mail,]~~ by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting.~~[ If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.]~~

➔Section 70. KRS 273.217 is amended to read as follows:

***(1)*** A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws.~~[ ]~~

***(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during this meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.***

***(3)*** The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by KRS 273.161 to 273.390, the articles of incorporation or the bylaws.

***(4) Irrespective of whether or not the corporation has members, a director may not vote by proxy.***

➔Section 71. KRS 273.223 is amended to read as follows:

(1) Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. ***If the bylaws are silent as to the required notice of a meeting of the board of directors, meetings of the board of directors shall be preceded by at least two (2) days notice of the time, date, and place of the meeting.***~~[ ]~~

***(2) Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors needs to be specified in the notice or waiver of notice of such meeting.***

***(3)*** Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.~~[ Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors need be specified in the notice or waiver of notice of such meeting.]~~

***(4)***~~[(2)]~~ The Circuit Court for the county where a corporation's principal office or, if there is none in this state, its registered office is located may order a special meeting of the board of directors on the application of one-third (1/3) or more of the incumbent directors. The court may fix the time and place of the meeting, prescribe the form and content of the meeting notice, and enter such other orders as are necessary to accomplish the purpose of the meeting.

➔Section 72. KRS 273.313 is amended to read as follows:

***(1) At any time after dissolution is authorized and***~~[If voluntary dissolution]~~ proceedings have not been revoked,~~[ then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provisions shall have been made therefor, and all of the remaining property and assets of the~~

~~corporation shall have been transferred, conveyed, or distributed in accordance with the provisions of KRS 273.161 to 273.390,~~] articles of dissolution shall be delivered to the Secretary of State for filing and shall set forth:

***(a)*** ~~[(1)]~~ The name of the corporation***;*** ~~[.]~~

***(b) The date dissolution was authorized;***

***(c)*** ~~[(2)]~~ If there are members entitled to vote thereon:

***1. The number of votes entitled to be cast on the proposal to dissolve;***

***2. Either the total number of votes cast for and against dissolution or the total number of undisputed votes cast for dissolution and a statement that the number cast for dissolution was sufficient for approval; and***

***3. If voting by voting groups was required, the information required by this paragraph shall be separately provided for each voting group entitled to vote separately on the plan to dissolve;***

~~[(a) A statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds (2/3) of the votes which members present at such meeting or represented by proxy were entitled to cast; or~~

~~(b) A statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.]~~

***(d)*** ~~[(3)]~~ If there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office***; and*** ~~[.]~~

~~[(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.]~~

***(e)*** ~~[(5)]~~ A copy of the plan of distribution~~[, if any,]~~ as adopted by the corporation~~[, or a statement that no plan was so adopted]~~.

~~[(6) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of KRS 273.161 to 273.390.~~

~~(7) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit.~~

~~(8) Upon the filing of articles of dissolution with the Secretary of State, the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided by law.]~~

***(2) The Secretary of State shall immediately forward one (1) of the exact or conformed copies of the articles of dissolution to the secretary of revenue.***

***(3) A corporation shall be dissolved upon the effective date of its articles of dissolution.***

➔SECTION 73. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

***(1) A dissolved corporation shall continue its corporate existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:***

***(a) Collecting its assets;***

***(b) Disposing of its properties in accordance with KRS 273.303;***

***(c) Discharging or making provision for discharging its liabilities including, as appropriate, entering into agreements with creditors for the satisfaction thereof; and***

***(d) Doing every other act necessary to wind up and liquidate its business and affairs.***

***(2) Dissolution of a corporation shall not:***

***(a) Transfer title to the corporation's property;***

***(b) Subject its directors or officers to standards of conduct different from those prescribed in KRS***

***273.161 to 273.390;***

***(c) Change quorum or voting requirements for its board of directors or members; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;***

***(d) Prevent commencement of a proceeding by or against the corporation in its corporate name;***

***(e) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution;***

***(f) Terminate the authority of the registered agent of the corporation;***

***(g) Alter the obligations and responsibilities of the corporation as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns; or***

***(h) Abate or suspend KRS 273.187(2).***

➔SECTION 74. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

***(1) If the board of directors is authorized to determine the place of an annual or special meeting of members, the board of directors, in its sole discretion, may determine that the meeting shall not be held at any place but shall instead be held solely by means of remote communication under subsection (2) of this section.***

***(2) If authorized by the board of directors in its sole discretion, and subject to such guidelines and procedures as the board of directors may adopt, members and proxy holders not physically present at a meeting of members may by means of remote communication:***

***(a) Participate in a meeting of members; and***

***(b) Be deemed present in person and vote at a meeting of members, whether such meeting is to be held at a designated place or solely by means of remote communication, if:***

***1. The corporation implements reasonable measures to verify that each person deemed present and permitted to vote at the meeting by means of remote communication is a member or proxy holder;***

***2. The corporation implements reasonable measures to provide members and proxy holders referred to in subparagraph 1. of this paragraph a reasonable opportunity to participate in the meeting and to vote on matters submitted to the members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings; and***

***3. The corporation records any vote or other action taken at the meeting by a member or proxy holder by means of remote communication. The corporation shall maintain as a record the recorded vote or other action taken.***

➔Section 75. KRS 273.377 is amended to read as follows:

(1) Any action required by KRS 273.161 to 273.390 to be taken at a meeting of the members~~[ or directors]~~ of a corporation, or any action which may be taken at a meeting of the members~~[ or directors]~~, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof~~[, or all of the directors, as the case may be]~~.

***(2) The action taken under this section shall be evidenced by one (1) or more written consents describing the action taken, signed by the members taking the action, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.***

***(3) Action taken under this section shall be effective when consents representing the votes necessary to take the action under this section are delivered to the corporation, or upon delivery of the consents representing the necessary votes, as of a different date if specified in the consent.***

***(4) Any member giving a consent may revoke the consent by a writing received by the corporation prior to the time that consents representing the votes required to take the action under this section have been delivered to the corporation but may not do so thereafter.***

***(5) A consent signed under this section shall have the effect of a meeting vote and may be described as such in any document.***

~~[(2) Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the Secretary of State under KRS 273.161 to 273.390.]~~

➔Section 76. KRS 275.290 is amended to read as follows:

(1) The Circuit Court for the county in which the principal office of the limited liability company is located, or, if none, in the county of the registered office, may dissolve a limited liability company in a proceeding by a member if it is established that it is not reasonably practicable to carry on the business of the limited liability company in conformity with the operating agreement.

(2) If after a hearing the court determines that one (1) or more grounds for judicial dissolution exist, it may enter a decree of dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Secretary of State, who shall file it. The dissolution shall be effective upon the filing of the decree by the Secretary of State or a later date as is specified in the decree.

(3) After entering the decree of dissolution, the court shall direct the winding up and liquidation of the limited liability company's business and affairs in accordance with KRS 275.300 and the notification of claimants in accordance with KRS 275.320 and 275.325.

(4) The effect of dissolution under this section shall be as provided in KRS 275.300(2) and (3).

***(5) After dissolution pursuant to Section 46 of this Act or otherwise, upon application of a limited liability company, a member, or a creditor of the company, the appropriate court may order judicial supervision of the winding up of the company, including the appointment of a person to wind up the company's activities, if:***

***(a) After a reasonable time, the company has not wound up its activities; or***

***(b) The applicant establishes other good cause.***

➔Section 77. KRS 286.3-065 is amended to read as follows:

***(1)*** Each ***officer and*** director shall ***discharge the duties and responsibilities of his or her respective office or position in good faith and with such ordinary care and diligence as necessary and reasonable to administer the affairs of the bank in a safe and sound manner. No officer or director, including a former officer or director, shall be personally liable to the bank or any person for monetary damages for any action taken, or failure to act as such officer or director, in the absence of conduct that constitutes gross negligence; willful or reckless misconduct; a knowing violation of the law; or unless the action or claim arises out of a transaction or matter from which the officer or director receives an improper personal benefit. In discharging his or her duties an officer or director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by.***

***(a) One (1) or more officers, or directors, or employees of the bank whom the officer or director reasonably believes to be reliable and competent in the matters presented;***

***(b) Legal counsel, public accountants, or other persons as to matters the officer or director reasonably believes are within the person's professional or expert competence; or***

***(c) A committee of the board of directors upon which the officer or director does not serve, duly designated in accordance with a provision of the articles of incorporation or the bylaws of the bank, or otherwise by resolution of the board, as to matters within that committee's designated authority, which committee the officer or director reasonably believes to merit confidence***~~[exercise such ordinary care and diligence as necessary and reasonable to administer the affairs of the bank in a safe and sound manner. In this regard, the bank shall furnish each director with a copy of an appropriate publication outlining the duties of a bank director and an updated copy of the Kentucky banking law, and maintain in the bank updated copies of federal banking laws, as determined by administrative regulations]~~.

***(2) An officer or director shall not be considered to be acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by this section unreasonable.***

***(3) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence that the officer or director has breached or failed to perform his or her duties under this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the bank.***

***(4) Nothing in this section shall eliminate or limit the liability of any officer or director for any act or omission***

***occurring prior to the effective date of this Act.***

**Signed by Governor March 20, 2015.**

## CHAPTER 35

**( SB 55 )**

AN ACT relating to the donation of game meat.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section:***

***(a) "Not-for-profit organization" means an organization duly organized and validly existing as a not-for-profit organization under the laws of the Commonwealth and exempt under Section 501(c)(3) of the Internal Revenue Code;***

***(b) "Take" has the same meaning as in KRS 150.010; and***

***(c) "Wildlife" has the same meaning as in KRS 150.010.***

***(2) Notwithstanding any provision of law to the contrary, no state or local government entity, including any local health department, shall restrict the donation of game meat to or from a not-for-profit organization for the purpose of free meal distribution to individuals in need if the game meat came from fish or wildlife that was:***

***(a) Taken within the Commonwealth;***

***(b) Properly field dressed and processed; and***

***(c) Apparently disease-free when taken and unspoiled when processed.***

**Signed by Governor March 20, 2015.**

## CHAPTER 36

**( SB 117 )**

AN ACT relating to county attorney operated traffic safety programs.

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

➔Section 1. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court. The Transportation Cabinet shall not assess points against a person who satisfactorily completes state traffic school. However, if the person referred to state traffic school holds or is required to hold a commercial driver's license, the

underlying offense shall appear on the person's driving history record.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990(28), a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.

(6) (a) Except as provided in paragraph (b) of this subsection, a county attorney may operate a traffic safety program for traffic offenders prior to the adjudication of the offense.

(b) Offenders alleged to have violated KRS 189A.010 or 304.39-080, offenders holding a commercial driver's license under KRS Chapter 281A, or offenders coming within the provisions of subsection (5)(b) or (c) of this section shall be excluded from participation in a county attorney-operated program.

(c) A county attorney that operates a traffic safety program:

1. May charge a reasonable fee to program participants, which shall only be used for payment of county attorney office operating expenses; and

2. Shall, by October 1 of each year, report to the Prosecutors Advisory Council the fee charged for the county attorney-operated traffic safety program and the total number of traffic offenders diverted into the county attorney-operated traffic safety program for the preceding fiscal year categorized by traffic offense.

(d) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney, pay a twenty-five dollar ($25) fee to the court clerk, which shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries.

***(e) Each participant in a county attorney-operated traffic safety program shall, in addition to the fee payable to the county attorney and the fee required by paragraph (d) of this subsection, pay a thirty dollar ($30) fee to the county attorney in lieu of court costs. On a monthly basis, the county attorney***

***shall forward the fees collected pursuant to this paragraph to the Finance and Administration Cabinet to be distributed as follows:***

***1. Ten and eight tenths percent (10.8%) to the spinal cord and head injury research trust fund created in KRS 211.504;***

***2. Nine and one tenth percent (9.1%) to the traumatic brain injury trust fund created in KRS 211.476;***

***3. Five and eight tenths percent (5.8%) to the special trust and agency account set forth in KRS 42.320(2)(f) for the Department of Public Advocacy;***

***4. Five and seven tenths percent (5.7%) to the crime victims compensation fund created in KRS 346.185;***

***5. One and two tenths percent (1.2%) to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;***

***6. Sixteen and eight tenths percent (16.8%) to the county sheriff in the county from which the fee was received;***

***7. Nine and one tenth percent (9.1%) to the county treasurer in the county from which the fee was received to be used by the fiscal court for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners;***

***8. Thirty-three and two tenths percent (33.2%) to local governments in accordance with the formula set forth in KRS 24A.176(5); and***

***9. Eight and three tenths percent (8.3%) to the Cabinet for Health and Family Services for the implementation and operation of a telephonic behavioral health jail triage system as provided in KRS 210.365 and 441.048.***

**Signed by Governor March 20, 2015.**

## CHAPTER 37

**( SB 204 )**

AN ACT relating to fraudulent transfers.

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

➔SECTION 1. KRS CHAPTER 378A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***As used in this chapter:***

***(1) "Affiliate" means:***

***(a) A person that directly or indirectly owns, controls, or holds with power to vote, twenty percent (20%) or more of the outstanding voting securities of the debtor, other than a person that holds the securities:***

***1. As a fiduciary or agent without sole discretionary power to vote the securities; or***

***2. Solely to secure a debt, if the person has not in fact exercised the power to vote;***

***(b) A corporation twenty percent (20%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person that directly or indirectly owns, controls, or holds, with power to vote, twenty percent (20%) or more of the outstanding voting securities of the debtor, other than a person that holds the securities:***

***1. As a fiduciary or agent without sole discretionary power to vote the securities; or***

***2. Solely to secure a debt, if the person has not in fact exercised the power to vote;***

*(c) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or*

*(d) A person that operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets;*

*(2) "Asset" means property of a debtor, but the term does not include:*

*(a) Property to the extent it is encumbered by a valid lien;*

*(b) Property to the extent it is generally exempt under nonbankruptcy law; or*

*(c) An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one (1) tenant.*

*(3) "Claim," except as used in "claim for relief," means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, undisputed, legal, equitable, secure, or unsecured;*

*(4) "Creditor" means a person that has a claim;*

*(5) "Debt" means liability on a claim;*

*(6) "Debtor" means a person that is liable on a claim;*

*(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;*

*(8) "Insider" includes:*

*(a) If the debtor is an individual:*

*1. A relative of the debtor or of a general partner of the debtor;*

*2. A partnership in which the debtor is a general partner;*

*3. A general partner in a partnership described in subparagraph 2. of this paragraph; or*

*4. A corporation of which the debtor is a director, officer, or person in control;*

*(b) If the debtor is a corporation:*

*1. A director of the debtor;*

*2. An officer of the debtor;*

*3. A person in control of the debtor;*

*4. A partnership in which the debtor is a general partner;*

*5. A general partner in a partnership described in subparagraph 4. of this paragraph; or*

*6. A relative of a general partner, director, officer, or person in control of the debtor;*

*(c) If the debtor is a partnership:*

*1. A general partner in the debtor;*

*2. A relative of a general partner in, a general partner of, or a person in control of the debtor;*

*3. Another partnership in which the debtor is a general partner;*

*4. A general partner in a partnership described in subparagraph 3. of this paragraph; or*

*5. A person in control of the debtor;*

*(d) An affiliate, or an insider of an affiliate as if the affiliate were the debtor; and*

*(e) A managing agent of the debtor;*

*(9) "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien;*

*(10) "Organization" means a person other than an individual;*

***(11) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity;***

***(12) "Property" means anything that may be the subject of ownership;***

***(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;***

***(14) "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree;***

***(15) "Sign" means, with present intent to authenticate or adopt a record:***

***(a) To execute or adopt a tangible symbol; or***

***(b) To attach to or logically associate with the record an electronic symbol, sound, or process;***

***(16) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, license, and creation of a lien or other encumbrance; and***

***(17) "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) A debtor is insolvent if, at a fair valuation, the sum of the debtor's debts is greater than the sum of the debtor's assets.***

***(2) A debtor that is generally not paying the debtor's debts as they become due other than as a result of a bona fide dispute is presumed to be insolvent. The presumption imposes on the party against which the presumption is directed the burden of proving that the nonexistence of insolvency is more probable than its existence.***

***(3) Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter.***

***(4) Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.***

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.***

***(2) For the purposes of subsection (1)(b) of Section 4 of this Act and Section 5 of this Act, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.***

***(3) A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.***

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) A transfer made or obligation incurred by a debtor is voidable as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation:***

***(a) With actual intent to hinder, delay, or defraud any creditor of the debtor; or***

***(b) Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor:***

***1. Was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or***

***2. Intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.***

***(2) In determining actual intent under subsection (1)(a) of this section, consideration may be given, among other factors, to whether:***

***(a) The transfer or obligation was to an insider;***

***(b) The debtor retained possession or control of the property transferred after the transfer;***

***(c) The transfer or obligation was disclosed or concealed;***

***(d) Before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;***

***(e) The transfer was of substantially all the debtor's assets;***

***(f) The debtor absconded;***

***(g) The debtor removed or concealed assets;***

***(h) The value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;***

***(i) The debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;***

***(j) The transfer occurred shortly before or shortly after a substantial debt was incurred; and***

***(k) The debtor transferred the essential assets of the business to a lienor that transferred the assets to an insider of the debtor.***

***(3) A creditor making a claim for relief under subsection (1) of this section has the burden of proving the elements of the claim for relief by a preponderance of the evidence.***

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) A transfer made or obligation incurred by a debtor is voidable as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.***

***(2) A transfer made by a debtor is voidable as to a creditor whose claim arose before the transfer was made, if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.***

***(3) Subjection to subsection (2) of Section 2 of this Act, a creditor making a claim for relief under subsection (1) or (2) of this section has the burden of proving the elements of the claim for relief by a preponderance of the evidence.***

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***For the purposes of this chapter:***

***(1) A transfer is made:***

***(a) With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against which applicable laws permit the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee; and***

***(b) With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this chapter that is superior to the interest of the transferee.***

***(2) If applicable law permits the transfer to be perfected as provided in subsection (1) of this section, and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer is deemed made immediately before the commencement of the action.***

***(3) If applicable law does not permit the transfer to be perfected as provided in subsection (1) of this section,***

***the transfer is made when it becomes effective between the debtor and the transferee.***

***(4) A transfer is not made until the debtor has acquired rights in the asset transferred.***

***(5) An obligation is incurred:***

***(a) If oral, when it becomes effective between the parties; or***

***(b) If evidenced by a record, when the record, signed by the obligor, is delivered to or for the benefit of the obligee.***

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in Section 8 of this Act, may obtain:***

***(a) Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim;***

***(b) An attachment or other provisional remedy against the asset transferred or other property of the transferee if available under applicable law; and***

***(c) Subject to applicable principles of equity and in accordance with applicable Rules of Civil Procedure:***

***1. An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property;***

***2. Appointment of a receiver to take charge of the asset transferred or of the other property of the transferee; or***

***3. Any other relief the circumstances may require.***

***(2) If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.***

➔SECTION 8. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) A transfer or obligation is not voidable under subsection (1)(a) of Section 4 of this Act against a person that took in good faith and for a reasonably equivalent value given the debtor or against any subsequent transferee or obligee.***

***(2) To the extent a transfer is avoidable in an action by a creditor under subsection (1)(a) of Section 7 of this Act, the following rules apply:***

***(a) Except as otherwise provided in this section, the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection (3) of this section, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against:***

***1. The first transferee of the asset or the person for whose benefit the transfer was made; or***

***2. An immediate or mediate transferee of the first transferee, other than:***

***a. A good-faith transferee that took for value; or***

***b. An immediate or mediate good-faith transferee of a person described in subdivision a. of this subparagraph; and***

***(b) Recovery pursuant to subsection (1)(a) or (b) of Section 7 of this Act of or from the asset transferred or its proceeds, by levy or otherwise, is available only against a person described in subsection (2)(a)1. or 2. of this section.***

***(3) If the judgment under subsection (2) of this section is based upon the value of the asset transferred, the judgment shall be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.***

***(4) Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to:***

***(a) A lien on or a right to retain an interest in the asset transferred;***

***(b) Enforcement of an obligation incurred; or***

***(c) A reduction in the amount of the liability on the judgment.***

***(5) A transfer is not voidable under subsection (1)(b) of Section 4 of this Act or Section 5 of this Act if the transfer results from:***

***(a) Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or***

***(b) Enforcement of a security interest in compliance with Subtitle 9 of KRS Chapter 355, other than acceptance of collateral in full or partial satisfaction of the obligation it secures.***

***(6) A transfer is not voidable under subsection (2) of Section 5 of this Act:***

***(a) To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made, except to the extent the new value was secured by a valid lien;***

***(b) If made in the ordinary course of business or financial affairs of the debtor and the insider; or***

***(c) If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.***

***(7) The following rules determine the burden of proving matters referred to in this section:***

***(a) A party that seeks to invoke subsection (1), (4), (5) or (6) of this section has the burden of proving the applicability of the subsection invoked;***

***(b) Except as otherwise provided in paragraphs (c) and (d) of this subsection, the creditor has the burden of proving each applicable element of subsections (2) or (3) of this section;***

***(c) The transferee has the burden of proving the applicability to the transferee of subsection (2)(a)2.a. or b. of this section; and***

***(d) A party that seeks adjustment under subsection (3) of this section has the burden of proving the adjustment.***

***(8) The standard of proof required to establish matters referred to in this section is preponderance of the evidence.***

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***A claim for relief with respect to a transfer or obligation under this chapter is extinguished unless action is brought:***

***(1) Under subsection (1)(a) of Section 4 of this Act, not later than four (4) years after the transfer was made or the obligation was incurred or, if later, not later than one (1) year after the transfer or obligation was or could reasonably have been discovered by the claimant;***

***(2) Under subsection (1)(b) of Section 4 of this Act or subsection (1) of Section 5 of this Act, not later than four (4) years after the transfer was made or the obligation was incurred; or***

***(3) Under subsection (2) of Section 5 of this Act, no later than one (1) year after the transfer was made.***

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) In this section, the following rules determine a debtor's location:***

***(a) A debtor who is an individual is located at the individual's principal residence;***

***(b) A debtor that is an organization and has only one (1) place of business is located at its place of business; and***

***(c) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.***

***(2) A claim for relief in the nature of a claim for relief under this chapter is governed by the local laws of the jurisdiction in which the debtor is located when the transfer is made or the obligation is incurred.***

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***(1) In this section:***

***(a) "Protected series" means an arrangement, however denominated, created by a series organization***

***that, pursuant to the law under which the series organization is organized, has the characteristics set forth in paragraph (b) of this subsection; and***

***(b) "Series organization" means an organization that, pursuant to the law under which it is organized, has the following characteristics:***

***1. The organic record of the organization provides for creation by the organization of one (1) or more protected series, however denominated, with respect to specified property of the organization, and for records to be maintained for each protected series that identify the property of, or associated with, the protected series;***

***2. Debt incurred or existing with respect to the activities of, or property of, or associated with, a particular protected series is enforceable against the property of, or associated with, the protected series only, and not against the property of, or associated with, the organization or other protected series of the organization; and***

***3. Debt incurred or existing with respect to the activities or property of the organization is enforceable against the property of the organization only, and not against the property of, or associated with, a protected series of the organization.***

***(2) A series organization and each protected series of the organization is a separate person for purposes of this chapter, even if for other purposes a protected series is not a person separate from the organization or other protected series of the organization.***

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***Unless displaced by the provisions of this chapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.***

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.***

➔SECTION 14. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(B) of that act, 15 U.S.C. sec. 7003(b).***

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 378A IS CREATED TO READ AS FOLLOWS:

***This chapter may be cited as the Kentucky Uniform Voidable Transactions Act.***

➔Section 16. The following KRS sections are repealed:

378.010 Fraudulent conveyances and encumbrances -- Void as to whom -- Exception.

378.020 Conveyance or encumbrance without consideration -- Effect.

378.030 Action on fraudulent conveyance or encumbrance of real property -- Proceedings.

378.050 Loan of personal property with possession for five years or reservation -- Effect in absence of recorded evidence or will.

378.060 Preferential conveyance, encumbrance or other act in contemplation of insolvency -- Effect -- Exception.

378.070 Action on transfer by preferential act -- Limitation and extension of limitation -- Parties -- Proceedings.

378.080 Property to be surrendered to receiver -- Disclosure -- Writ of ne exeat may be granted.

378.090 Distribution of assets by the court -- Appeal -- Preferred claims.

378.100 Provisions concerning actions for settlements applicable to proceedings for sale of property held in trust or preferentially assigned.

➔Section 17. This Act takes effect January 1, 2016.

➔Section 18. The repeals in Section 16 of this Act shall not apply to:

(1) A transfer made or obligation incurred before the effective date of this Act; or

(2) A right of action that has accrued before January 1, 2016, as determined pursuant to Section 6 of this Act.

**Signed by Governor March 20, 2015.**

## CHAPTER 38

**( SB 39 )**

AN ACT relating to school safety.

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

➔Section 1. KRS 158.162 is amended to read as follows:

(1) As used in this section:

(a) "Emergency management response plan" or "emergency plan" means a written document to prevent, mitigate, prepare for, respond to, and recover from emergencies; and

(b) "First responders" means local fire, police, and emergency medical personnel.

(2) (a) Each local board of education shall require the school council or, if none exists, the principal in each public school building in its jurisdiction to adopt an emergency plan to include procedures to be followed in case of fire, severe weather, or earthquake, or if a building lockdown as defined in KRS 158.164 is required.

(b) Following adoption, the emergency plan, along with a diagram of the facility, shall be provided to appropriate first responders.

(c) The emergency plan shall be reviewed following the end of each school year by the school council, the principal, and first responders and shall be revised as needed.

(d) The principal shall discuss the emergency plan with all school staff prior to the first instructional day of each school year and shall document the time and date of any discussion.

(e) The emergency plan and diagram of the facility shall be excluded from the application of KRS 61.870 to 61.884.

(3) Each local board of education shall require the school council or, if none exists, the principal in each public school building to:

(a) Establish primary and secondary evacuation routes for all rooms located within the school and shall post the routes in each room by any doorway used for evacuation;

(b) Identify ***the best available*** severe weather safe zones ***, in consultation with local and state safety officials and informed by guiding principles set forth by the National Weather Service and the Federal Emergency Management Agency,*** ~~[to be reviewed by the local fire marshal or fire chief]~~ and post the location of safe zones in each room of the school;

(c) Develop practices for students to follow during an earthquake; and

(d) Develop and adhere to practices to control the access to each school building. Practices may include but not be limited to:

1. Controlling outside access to exterior doors during the school day;

2. Controlling the front entrance of the school electronically or with a greeter;

3. Controlling access to individual classrooms. If a classroom is equipped with hardware that allows the door to be locked from the outside but opened from the inside, the door should remain locked during instructional time;

4. Requiring all visitors to report to the front office of the building, provide valid identification, and

state the purpose of the visit; and

5. Providing a visitor's badge to be visibly displayed on a visitor's outer garment.

(4) Each local board of education shall require the principal in each public school building in its jurisdiction to conduct, at a minimum, emergency response drills to include one (1) severe weather drill, one (1) earthquake drill, and one (1) lockdown drill within the first thirty (30) instructional days of each school year and again during the month of January. Required fire drills shall be conducted according to administrative regulations promulgated by the Department of Housing, Buildings and Construction. Whenever possible, first responders shall be invited to observe emergency response drills.

(5) No later than November 1 of each school year, a local district superintendent shall send verification to the Kentucky Department of Education that all schools within the district are in compliance with the requirements of this section.

**Signed by Governor March 20, 2015.**

## CHAPTER 39

**( SB 44 )**

AN ACT relating to synchronization of prescription refills.

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

➔Section 1. KRS 304.17A-165 is amended to read as follows:

(1) Any health benefit plan that provides benefits for prescription drugs shall include an exceptions policy or an override policy that provides coverage for the refill of a covered drug dispensed prior to the expiration of the insured's supply of the drug. The insurer shall provide notice in existing written or electronic communications to pharmacies doing business with the insurer, the pharmacy benefit manager if applicable, and to the insured regarding the exceptions policy or override policy. This subsection shall not apply to controlled substances as classified by KRS Chapter 218A.

(2) Nothing in this section shall prohibit an insurer from limiting payment to no more than three (3) refills of a covered drug in a ninety (90) day period.

***(3) Any individual or group health benefit plan that provides benefits for prescription drugs shall provide a program for synchronization of medications when it is agreed among the insured, a provider, and a pharmacist that synchronization of multiple prescriptions for the treatment of a chronic illness is in the best interest of the patient for the management or treatment of a chronic illness provided that the medications:***

***(a) Are covered by the individual or group health benefit plan:***

***(b) Are used for treatment and management of chronic conditions that are subject to refills;***

***(c) Are not a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone;***

***(d) Meet all prior authorization criteria specific to the medications at the time of the synchronization request;***

***(e) Are of a formulation that can be effectively split over required short fill periods to achieve synchronization; and***

***(f) Do not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling synchronization.***

***(4) To permit synchronization, an individual or group health benefit plan shall apply a prorated daily cost-sharing rate to any medication dispensed by a network pharmacy pursuant to this section.***

***(5) Any dispensing fee shall not be prorated and shall be based on an individual prescription filled or refilled.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) The Department for Medicaid Services or a managed care organization contracted to provide services pursuant to this chapter shall provide a program for synchronization of medications when it is agreed among the member, a provider, and a pharmacist that synchronization of multiple prescriptions for the treatment of a chronic illness is in the best interest of the patient for the management or treatment of a chronic illness provided that the medications:***

***(a) Are covered by the Department for Medicaid Services or a managed care organization contracted to provide services pursuant to this chapter;***

***(b) Are used for treatment and management of chronic conditions that are subject to refills;***

***(c) Are not a Schedule II controlled substance or a Schedule III controlled substance containing hydrocodone;***

***(d) Meet all prior authorization criteria specific to the medications at the time of the synchronization request;***

***(e) Are of a formulation that can be effectively split over required short fill periods to achieve synchronization; and***

***(f) Do not have quantity limits or dose optimization criteria or requirements that would be violated in fulfilling synchronization.***

***(2) When applicable to permit synchronization, the Department for Medicaid Services or a managed care organization contracted to provide services pursuant to this chapter shall apply a prorated daily cost-sharing rate to any medication dispensed by a network pharmacy pursuant to this section.***

***(3) Any dispensing fee shall not be prorated and shall be based on an individual prescription filled or refilled.***

➔Section 3. This Act takes effect January 1, 2016.

**Signed by Governor March 20, 2015.**

## CHAPTER 40

**( SB 47 )**

AN ACT relating to persons with disabilities.

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

➔Section 1. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice other than a discriminatory housing practice, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (referred to as the respondent in this section, KRS 344.210, 344.230, and 344.240). ***The commission shall make reasonable accommodations to assist persons with disabilities in filing a written sworn complaint.*** The commission staff or a person designated pursuant to its administrative regulations shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission or an individual designated pursuant to its administrative regulations shall determine within thirty (30) days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(3) The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon receiving a reconsideration

application, the commission or an individual designated pursuant to administrative regulation shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and any other public officers and persons that the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) of this section that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation, and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make any further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and any other public officers and persons that the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take whatever action it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant temporary relief or a restraining order as it deems just and proper.

(7) Nothing in this section shall apply to any discriminatory housing practice.

**Signed by Governor March 20, 2015.**

## CHAPTER 41

**( SB 92 )**

AN ACT relating to timber harvesting.

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

➔Section 1. KRS 149.330 is amended to read as follows:

As used in KRS 149.330 to 149.355, unless the context requires otherwise:

(1) "Best management practices" means effective, practical, economical, structural, or nonstructural methods that prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from the land to surface or groundwater, or that otherwise protect water quality from potential adverse effects of timber harvesting operations as developed by the Division of Forestry and approved by the Agriculture Water Quality Authority;

(2) "Cabinet" means the Energy and Environment Cabinet;

(3) "Director" means the director of the Division of Forestry;

(4) "Division" means the Division of Forestry;

(5) "Logger" means any person who conducts timber harvesting operations for commercial purposes;

(6) "Operator" means any person who operates or exercises control over any timber harvesting operations;

(7) "Person" means any ***natural person or any director, officer, or agent of a***~~[individual,]~~ partnership, corporation, association, society, joint stock company, firm, company, or business organization**.** ***"Person" also means***~~[, and]~~ any agency or instrumentality of federal, state, or local government, including any publicly-owned utility or any publicly-owned corporation of federal, state, or local government;

(8) "Timber harvesting operations" means activities directly related to the cutting or removal of trees from the forest as a raw material for commercial processes or purposes, including timber preharvesting and postharvesting activities associated with the implementation of appropriate best management practices. "Timber harvesting operations" does not include:

(a) The cutting of firewood;

(b) The cutting of evergreens grown for and cut for the traditional Christmas holiday season;

(c) The removal of trees incidental to clearing for coal mining or farm purposes or incidental to ground-disturbing construction activities, including well sites, and access roads and gathering lines for oil and natural gas operations;

(d) The cutting of trees for maintaining existing, or during construction of, rights-of-way for public highways or public utilities, unless those trees are being sold or provided as raw material for commercial wood product purposes; or

(e) The cutting of trees by an individual, nonindustrial landowner on his own property, if the cutting is performed by the individual, nonindustrial landowner; and

(9) "Water pollution" has the same meaning as in KRS 224.1-010.

➔Section 2. KRS 149.344 is amended to read as follows:

(1) ~~[Two (2) years from July 15, 1998, ]~~Any logger or operator engaged in the conduct of any timber harvesting operations shall use appropriate best management practices.

(2) No logger or operator shall conduct any timber harvesting operations in a manner that is causing or will likely cause water pollution.

(3) If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices or is causing water pollution, the cabinet shall give the logger or operator a written warning of the facts alleged to constitute the failure to use the best management practice or the water pollution, and a reasonable period for abatement and compliance.

(4) If, after the time for abatement in the written warning, the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the logger or operator will be provided an opportunity for an informal conference with the ***regional***~~[district]~~ forester. After the opportunity for an informal conference, if the cabinet determines that the logger or operator has failed to implement the appropriate best management practices or has failed to abate the water pollution, the cabinet shall issue a notice of violation stating the best management practice that the logger or operator has failed to implement or the facts alleged to constitute the water pollution, and order the logger or operator to implement corrective measures within a specified period of time.

(5) If, after the issuance of a notice of violation, the logger or operator fails to implement the best management practice or corrective measures, the cabinet shall issue a special order mandating the logger or operator to immediately implement the best management practice or the corrective measures. The cabinet may also order the logger or operator to cease all or a portion of the timber harvesting operation constituting the violation, and if the cabinet does so, the logger or operator shall cease all or a portion of the timber harvesting operation, until an inspection determines that the violation has been abated. At the time the special order is issued, the cabinet shall notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2), to be held within five (5) working days of the receipt of a written request made by the logger or operator.

(6) If the cabinet finds that any logger or operator is conducting any timber harvesting operations in violation of KRS 149.342(1) or in a manner that is causing or is likely to cause water pollution that is presenting or will likely present an imminent and substantial danger to the public health, safety, or welfare, or to the health of animals, fish, or aquatic life, or to a public water supply, or to recreational, commercial, agricultural, or industrial uses, the cabinet may issue an emergency order directing the logger or operator to immediately cease

the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2) to be held within five (5) working days of the receipt of a written request. The commencement of proceedings by the cabinet under subsection (3), (4), (5), or (10) of this section shall not preclude the cabinet from issuing an emergency order under this subsection.

(7) Notification under this section shall be by certified mail, return receipt requested, sent to the last known address of the logger or operator, or by hand delivery by the cabinet.

(8) If the logger or operator fails or refuses to cease activity or comply with and implement the best management practices or corrective measures in a special order issued under subsection (5) of this section or fails to cease activity and implement corrective measures in an emergency order under subsection (6) of this section, unless extended by the cabinet, the logger or operator shall be deemed a bad actor and shall be subject to civil penalties under KRS 149.348 after an opportunity for a hearing under KRS 149.346. The cabinet shall have the authority to remove or terminate bad actor designations from loggers or operators that demonstrate adherence to implementing best management practices, have paid all fines and penalties imposed by the cabinet, and have completed corrective action on sites with violations.

(9) The cabinet may promulgate administrative regulations to establish rules and procedures to remove or terminate the bad actor designation from a logger or operator that was previously designated a bad actor under subsection (8) of this section.

(10) If the cabinet determines that a logger or operator engaged in timber harvesting operations has failed to use the appropriate best management practices in violation of this section, and the logger or operator has been issued two (2) or more bad actor designations under KRS 149.346, the cabinet shall immediately issue a warning and, if the violations are not corrected after a period defined by the warning but no longer than one (1) week, shall issue an order directing the logger or operator to immediately cease the activity and implement corrective measures within a reasonable time, and the logger or operator shall immediately cease the activity and implement corrective measures. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under KRS 149.346(2) to be held within five (5) working days of the receipt of a written request.

***(11) (a) Any logger or operator who has been designated a bad actor under subsection (8) of this section shall provide prior notice to the appropriate regional office or offices of the division before engaging in any timber harvesting operation regulated by the cabinet until he or she has paid all civil penalties and performed all of the site remediation required by the cabinet.***

***(b) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to set forth the form and manner of the notification required by this subsection. The notification requirements of this subsection shall take effect on the effective date of the administrative regulations required by this paragraph.***

***(12) Beginning on January 1, 2016, if the cabinet finds that any logger or operator has three (3) or more bad actor designations under subsection (8) of this section, the cabinet shall issue an emergency order directing the logger or operator to immediately cease all timber harvesting operations in the Commonwealth. Upon receiving the emergency order, the logger or operator shall cease all timber harvesting operations in the Commonwealth until he or she has performed all of the site remediation required by the cabinet and has either paid all civil penalties or remains up-to-date on a payment plan for civil penalties with the cabinet. At the time the order is issued, the cabinet shall also notify the logger or operator of the opportunity for an administrative hearing under subsection (2) of Section 3 of this Act to be held within five (5) working days of the receipt of a written request. The commencement of proceedings by the cabinet under subsection (3), (4), (5), or (10) of this section shall not preclude the cabinet from issuing an emergency order under this subsection. A logger or operator who otherwise complies with the requirements of this subsection shall not be required to remove any of his or her bad actor designations as a condition of being allowed to restart timber harvesting operations in the Commonwealth.***

***(13) All bad actor designations issued under subsection (8) of this section, including those issued prior to the effective date of this Act, shall be included in determining the applicability of this section to any logger or operator.***

➔Section 3. KRS 149.346 is amended to read as follows:

(1) If the cabinet has evidence that a violation of KRS 149.342(1) ***or subsection (11) of Section 2 of this Act*** has

occurred, or has deemed a logger or operator to be a bad actor under KRS 149.344(8), the cabinet shall serve written notice of the determination and the provision alleged to have been violated, and the cabinet shall require the person complained against to answer the charges at an administrative hearing to be held not less than twenty-one (21) days after the date of the notice, unless the person complained against waives the twenty-one (21) day period.

(2) Any person not previously heard who considers himself aggrieved by any determination of the cabinet under KRS 149.330 to 149.355 may file a petition alleging that the determination is contrary to law or fact and is injurious to him, citing the grounds and reasons therefor, and demanding an administrative hearing. Unless the cabinet considers the petition frivolous, it shall schedule an administrative hearing before the cabinet not less than ninety (90) days after the date of the notice, unless the person complained against waives the ninety (90) day period, except that hearings requested under KRS 149.344(5) and (6) shall be held within five (5) working days of receipt of a petition. The right to demand a hearing under this subsection shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could have had notice. The cabinet shall be represented at the administrative hearing by the Office of ***General Counsel*** ~~[Legal Services]~~.

(3) All hearings under KRS 149.330 to 149.355 shall be conducted under KRS 224.10-440. Appeals may be taken from all final orders under KRS 224.10-470.

➔Section 4. KRS 149.348 is amended to read as follows:

***(1)*** Any operator or logger who is deemed by the ***cabinet*** ~~[division]~~ to be a bad actor under KRS 149.344(8) or who violates KRS 149.342(1) ***or subsection (11) of Section 2 of this Act,*** may, after an opportunity for an administrative hearing, be assessed a civil penalty not to exceed one thousand dollars ($1,000) for each violation. In determining the amount of the penalty, consideration shall be given to the operator's or logger's history of noncompliance; the seriousness of the violation and any damage caused, including any irreparable harm to the environment or hazard to public health or safety or the health and safety of animals, fish, or aquatic life; the degree of fault and whether the conduct was intentional or negligent; and the demonstrated good faith in remedying the pollution. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Office of ***General Counsel*** ~~[Legal Services]~~. All sums recovered shall be deposited in the Forest Stewardship Incentives Fund. The Circuit Court in the county in which the violation occurred shall have concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of KRS 149.330 to 149.355 or the orders and administrative regulations promulgated by the cabinet.

***(2) Notwithstanding KRS Chapters 271B to 275 or any other provision of law to the contrary, any director, officer, or agent of an operator or logger doing business as a partnership, corporation, association, society, joint stock company, firm, company, or business organization shall be personally liable, jointly and severally, for the civil penalties incurred by the operator or logger under this section.***

**Signed by Governor March 20, 2015.**

## CHAPTER 42

**( SB 159 )**

AN ACT relating to the provision of information relative to spina bifida.

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

➔Section 1. KRS 211.192 is amended to read as follows:

(1) For the purposes of this section***:*** ~~[,]~~

***(a)*** "Down syndrome" means a chromosomal condition caused by cell division that results in the presence of an extra whole or partial copy of chromosome 21***; and***

***(b) "Spina bifida" means a neural tube defect, the most common of which is the open neural tube defect Myelomeningocele***.

(2) A health facility as defined in KRS 216B.015(13), physician, health care provider, nurse midwife, or genetic

counselor who renders prenatal care, postnatal care, or genetic counseling, upon receipt of a positive test result from a test for Down syndrome ***or spina bifida***, shall provide the expectant or new parent with information provided by the Cabinet for Health and Family Services under subsection (3) of this section.

(3) The Cabinet for Health and Family Services shall make available to any person who renders prenatal care, postnatal care, or genetic counseling to parents who receive a prenatal or postnatal diagnosis of Down syndrome ***or spina bifida*** and to any person who has received a positive test result from a test for Down syndrome ***or spina bifida*** the following:

(a) Up-to-date, evidence-based, written information about Down syndrome ***or spina bifida*** that has been reviewed by medical experts and Down syndrome ***or spina bifida*** organizations and includes information on physical, developmental, educational, and psychosocial outcomes, life expectancy, clinical course, intellectual and functional development, and treatment options; and

(b) Contact information regarding support programs and services for expectant and new parents of children with Down syndrome ***or spina bifida***, including information hotlines specific to Down syndrome ***or spina bifida***, resource centers or clearinghouses, national and local Down syndrome ***or spina bifida*** organizations such as Down Syndrome of Louisville, Down Syndrome Association of Central Kentucky, Down Syndrome Association of South Central Kentucky, Green River Area Down Syndrome Association, Down Syndrome Association of Greater Cincinnati Serving Northern Kentucky, Council on Developmental Disabilities, ***the Spina Bifida Association of Kentucky,*** and other education and support programs.

**Signed by Governor March 20, 2015.**

## CHAPTER 43

**( SB 161 )**

AN ACT relating to the display of the United States flag.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

***The Governor is authorized and requested to issue a proclamation calling upon state officials to display the United States flag at half-staff on all state buildings from sunrise to sunset for not less than one (1) day in the event of the death of Kentucky emergency response personnel in the line of duty.***

**Signed by Governor March 20, 2015.**

## CHAPTER 44

**( SCR 97 )**

A CONCURRENT RESOLUTION recognizing Kentucky's aluminum industry as a vital, signature component of the Commonwealth's manufacturing base.

WHEREAS, the aluminum industry represents over $2 billion in Kentucky's gross domestic product, unequivocally demonstrating its significance and importance in our economic profile; and

WHEREAS, the production capacity of Kentucky's aluminum smelters exceeds the capacity of any state in the Union; and

WHEREAS, Kentucky's manufacturing base has created an experienced workforce whose productivity is beyond the national average, which has allowed the aluminum industry to employ approximately 20,000 Kentuckians from all areas of the state, paying an average annual wage in excess of $86,000; and

WHEREAS, the aluminum industry continues to grow at a pace that has surpassed all expectations, most

recently from the increased demand created by the automobile industry's push for ever lighter and stronger component body sheets and parts, and

WHEREAS, Kentucky's central location places it at the center of a thirty-four state distribution area in the eastern United States, allowing Kentucky-made aluminum products to reach an enormous geographic range within twenty-four hours by road or rail; and

WHEREAS, the combination of low-cost electricity, high-quality labor, a centralized location, and easily accessed highways, rail lines, and river ports has created an environment in which aluminum production is one of Kentucky's signature industries;

NOW, THEREFORE,

***Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:***

➔Section 1. The General Assembly recognizes the vital contributions of the aluminum industry to the economic strength and health of the Commonwealth. The aluminum industry is commended for its efforts to create a vital, signature industrial sector that provides high-paying, stable employment opportunities to tens of thousands of our citizens, and helps to support the expansion of other manufacturing businesses that rely heavily upon the reliable supply of high-quality, low-cost aluminum.

➔Section 2. The Clerk of the Senate shall send a copy of this Resolution to the Governor; the secretary of the Cabinet for Economic Development; David Adkisson, President, Kentucky Chamber of Commerce, 464 Chenault Road, Frankfort, KY, 40601; and Greg Higdon, President, Kentucky Association of Manufacturers, 609 Chamberlin Avenue, Frankfort, KY, 40601.

**Signed by Governor March 20, 2015.**

## CHAPTER 45

**( HB 91 )**

AN ACT relating to charitable gaming.

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

➔Section 1. KRS 238.505 is amended to read as follows:

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

(1) "Department" means the Department of Charitable Gaming within the Public Protection Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. "Charitable gaming" shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. "Charity game ticket" shall include pulltabs;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means an activity of limited duration at which games of chance approved by the department are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions,~~[ and]~~ bazaars***, and banquets. For the purposes of this subsection, banquet shall mean a formal meal or feast held by a charitable organization for community, social, or entertainment purposes apart from charitable gaming***;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

(a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

(b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:

(a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and

(b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the department.

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the department;

(18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses;

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;

(22) "Secretary" means the secretary of the Public Protection Cabinet;

(23) "Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection Cabinet;

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);

(25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year; and

(26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device.

➔Section 2. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the department. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the department in writing, on a simple form issued by the department, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

(a) Payment of the fee imposed under the provisions of KRS 238.570; and

(b) The quarterly reporting requirements imposed under the provisions of KRS 238.550(7), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the department a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the department. Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a

retroactive license in accordance with subsection (3) of this section.

(3) If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the department; and

(b) Apply for a retroactive charitable gaming license.

(4) Upon receipt of a report and application for a retroactive charitable gaming license, the department shall investigate to determine if the organization is otherwise qualified to hold the license.

(5) If the department determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

(6) If the department determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

(7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.

(8) ***(a)*** In order to qualify for licensure, a charitable organization shall:

~~[(a)~~ 1. ***a.*** Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

***b.*** ~~[2.]~~ Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

***2.*** ~~[(b)]~~ Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:

***a.*** ~~[1.]~~ Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph ***(a)3.*** ~~[(c)]~~ of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and

***b.*** ~~[2.]~~ Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with ***paragraphs (a)4. and (c)*** ~~[paragraph (d)]~~ of this subsection;

***3.*** ~~[(c)]~~ Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the department, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

***4.***~~[(d)]~~ Have maintained an office or place of business, other than for the conduct of charitable gaming, for ***at least*** one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Department of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space.

***(b)*** ~~[For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However,]~~

***1.*** A charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing or a charity fundraising event, including special limited charity fundraising events, in a Kentucky county other than that in which the organization's office or place of business is located.

***2.*** For raffles, the organization shall notify the Department of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification***:***

***a.*** May be transmitted in any commercially reasonable means, authorized by the department, including facsimile and electronic mail***; and***~~[. The notification]~~

***b.*** Shall set out the place and the county in which the drawing will take place.

Approval by the department shall be received prior to the conduct of the raffle drawing at the new location.

***(c)*** Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy ***the***~~[this]~~ requirement ***contained in paragraph (a)4. of this subsection*** if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered.~~[ Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fundraising event.]~~

(9) In applying for a license, the information to be submitted shall include but not be limited to the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county ***or counties*** in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the department; and

(l) Any other information the department deems appropriate.

(10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.

(11) The department may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

(12) The department shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

(13) (a) A licensed charitable organization may place its charitable gaming license in escrow if:

1. The licensee notifies the department in writing that it desires to place its license in escrow; and

2. The license is in good standing and the department has not initiated disciplinary action against the licensee.

(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.

(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:

1. The charitable organization continues to qualify for licensure;

2. The charitable organization has not engaged in charitable gaming during the escrow period; and

3. The charitable organization pays a reinstatement fee established by the department.

➔Section 3. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week***:*** ~~[.]~~

***1.*** No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period***;*** ~~[.]~~

***2.*** No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes***; and*** ~~[.]~~

***3.*** No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo ***unless he or she is playing*** ~~[. A charitable organization may permit persons under age eighteen (18) to play bingo]~~ for noncash prizes ***and is*** ~~[if they are]~~ accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) ***1.*** A licensed charitable organization may provide card-minding devices for use by players of bingo games.

***2.*** If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times.

***3.*** The department shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them;

(c) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(d) Charity game tickets may be sold, with prior approval of the department:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(e) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the department, only at the address of the location designated on the license to conduct charitable gaming~~[, and only during bingo sessions]~~. The department shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) ***(a)*** No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games.

***(b)*** Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).

***(c)*** Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.

***(d)*** Any unclaimed money or prize shall return to the charitable organization.

***(e)*** No charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the department.

***(f)*** No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) ***(a)*** Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win.

***(b)*** All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle.

***(c) Raffle tickets and tickets for charity fundraising raffle games approved by the department which are offered exclusively at charity fundraising events and special limited charity fundraising events are not required to be sold separately and may be sold at discounted package rates.***

***(d)*** Raffle tickets shall have a unique identifier ***on each ticket***~~[for the ticket holder]~~.

***(e)*** Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket.

***(f)*** All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the department;

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100);

(c) The department may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed five thousand dollars ($5,000) for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian;

(d) The department may grant approval for a licensed charitable organization to play special limited

charitable games at a charity fundraising event authorized under this section. The department shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with KRS 238.505(8);~~[ and]~~

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than ***eight (8)***~~[four (4)]~~ total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The department shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547***; and***

***(f) Charity fundraising events may be held:***

***1. On or in the premises of a licensed charitable organization;***

***2. In a licensed charitable gaming facility, subject to restrictions contained in KRS 238.555(7); or***

***3. At an unlicensed facility which shall be subject to the requirements stipulated in KRS 238.555(3), and subject to the restrictions contained in KRS 238.547(2). Charity fundraising events at an unlicensed facility shall be limited to:***

***a. No more than one (1) such event per week; and***

***b. No more than seven (7) such events per year, with no more than five (5) licensed charitable organizations conducting such events at an unlicensed facility per year***.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

➔Section 4. KRS 238.540 is amended to read as follows:

(1) ~~[Except as provided in KRS 238.535(8)(d), ]~~Charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The department shall process this request and issue or deny a license within ten (10) days.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the department, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.

(6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

(8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars ($5,000) per twenty-four (24) hour period set forth in KRS 238.545(1).

**Signed by Governor March 23, 2015.**

## CHAPTER 46

**( HB 153 )**

AN ACT relating to solicitation of a person involved in a motor vehicle accident for healthcare services.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

***As used in Sections 1 to 3 of this Act:***

***(1) "Healthcare provider" means an individual licensed by any of the following:***

***(a) The Kentucky Board of Medical Licensure, pursuant to KRS Chapter 311;***

***(b) The Kentucky Board of Chiropractic Examiners, pursuant to KRS Chapter 312;***

***(c) The Kentucky Board of Nursing, pursuant to KRS Chapter 314;***

***(d) The Kentucky Board of Physical Therapy, pursuant to KRS Chapter 327;***

***(e) The Kentucky Board of Occupational Therapy, pursuant to KRS Chapter 319A; or***

***(f) The Kentucky Board for Massage Therapy, pursuant to KRS 309.350 to 309.364;***

***(2) "Intermediary" means an individual, including but not limited to a telemarketer, agent, employee, or contractor, who solicits a person, on behalf of a healthcare provider, for the provision of reparation benefits, as defined by KRS 304.39-020(2);***

***(3) "Person" means an individual who was involved in an automobile accident; and***

***(4) (a) "Solicit" means the initiation of communication with a person involved in a motor vehicle accident, including but not limited to any face-to-face contact with the person, in writing, electronically, or by any form of telephonic communication, in anticipation of financial gain or remuneration for the communication itself or for prospective charges for healthcare services.***

***(b) "Solicit" does not mean:***

***1. Advertising directed to the general public;***

***2. Telemarketing, which is;***

***a. Taken from a general list of phone numbers;***

***b. Not targeted at motor vehicle accident victims; and***

***c. Not in violation of the state's prohibition on telephone solicitation under KRS 367.46951 to 367.46999 and 367.990; or***

***3. Contact between a healthcare provider and an individual with whom the healthcare provider had a preexisting provider-patient relationship.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

***(1) During the first thirty (30) days following a motor vehicle accident a healthcare provider or an intermediary, at the request or direction of a healthcare provider, shall not solicit or knowingly permit another individual to solicit a person involved in a motor vehicle accident for the provision of reparation benefits, as defined by KRS 304.39-020(2).***

***(2) A healthcare provider shall not:***

***(a) Pay or receive compensation for the referral or solicitation of reparation benefits for a person involved in a motor vehicle accident;***

***(b) Provide monetary compensation or other consideration to any individual for the purpose of inducing, enticing, or directing the provision of reparation benefits for a person involved in a motor vehicle accident; or***

***(c) Contact, request, or direct an intermediary to contact, for the purpose of solicitation, a person involved in a motor vehicle accident during the first thirty (30) days following a motor vehicle accident.***

***(3) A healthcare provider shall be responsible for the content of any contact, made at the direction or request of the healthcare provider, by an intermediary with a person involved in a motor vehicle accident within the first thirty (30) days following the motor vehicle accident involving a person.***

***(4) Any healthcare provider having knowledge of facts, actual or direct, of a violation of this section by another healthcare provider, an intermediary, or on behalf of the healthcare provider within their scope of practice, shall report the suspected violation to the appropriate board listed in subsection (1) of Section 1 of this Act.***

***(5) An individual licensed or certified as a healthcare provider, who violates this section, shall be subject to the disciplinary process of the respective licensing or regulatory authority.***

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

***(1) Any charges owed by, or on behalf of, a person involved in a motor vehicle accident for health services rendered by a healthcare provider to the person, in violation of Section 2 of this Act, shall be void.***

***(2) Any charges billed and paid by, or on behalf of, a person of a motor vehicle accident for health services rendered by a healthcare provider to the person, in violation of Section 2 of this Act, shall be returned to the reparations obligor or other payor. The healthcare provider who violates Section 2 of this Act shall not pursue collection from the person.***

➔Section 4. KRS 21A.310 is amended to read as follows:

(1) Notwithstanding KRS 21A.160, any person violating any provision of KRS 21A.300 shall, upon conviction, be guilty of a Class A misdemeanor.

(2) The Kentucky Supreme Court may discipline any attorney who violates any provision of KRS 21A.300.

(3) A penalty may be imposed on an attorney pursuant to subsection (1) of this section, subsection (2) of this section, or both subsections.

~~[(4) In addition to any penalties imposed pursuant to subsections (1) and (2) of this section, the penalties provided under KRS 367.409(4)(b) and (c) shall be imposed.]~~

➔Section 5. The following KRS section is repealed:

367.409 Business solicitation following motor vehicle accident prohibited -- Exceptions -- Penalty -- Additional sanctions by state regulating authority.

**Signed by Governor March 23, 2015.**

## CHAPTER 47

**( HB 165 )**

AN ACT relating to Paint horses.

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

➔Section 1. KRS 230.210 is amended to read as follows:

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

(1) "Advance deposit account wagering" means a form of pari-mutuel wagering in which an individual may establish an account with a person or entity licensed by the racing commission, and may place a pari-mutuel wager through that account that is permitted by law;

(2) "Advance deposit account wagering licensee" means a person or entity licensed by the racing commission to conduct advance deposit account wagering and accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts;

(3) "Appaloosa race" or "Appaloosa racing" means that form of horse racing in which each horse participating in the race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey;

(4) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(5) "Association" means any person licensed by the Kentucky Horse Racing Commission under KRS 230.300 and engaged in the conduct of a recognized horse race meeting;

(6) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(7) "Horse race meeting" means horse racing run at an association licensed and regulated by the Kentucky Horse Racing Commission, and may include Thoroughbred, harness, Appaloosa, Arabian, ***Paint,*** and quarter horse racing;

(8) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(9) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(10) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(11) "Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian purse fund" means a purse fund established to receive funds as specified in ***Section 6 of this Act***~~[KRS 230.3771]~~ for purse programs established in ***Section 3 of this Act***~~[KRS 230.446]~~ to supplement purses for quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse races. The purse program shall be administered by the Kentucky Horse Racing Commission;

(12) "Kentucky resident" means:

(a) An individual domiciled within this state;

(b) An individual who maintains a place of abode in this state and spends, in the aggregate, more than one hundred eighty-three (183) days of the calendar year in this state; or

(c) An individual who lists a Kentucky address as his or her principal place of residence when applying for an account to participate in advance deposit account wagering;

(13) ***"Paint horse" means a horse registered with the American Paint Horse Association of Fort Worth, Texas;***

***(14)*** "Principal" means any of the following individuals associated with a partnership, trust, association, limited liability company, or corporation that is licensed to conduct a horse race meeting or an applicant for a license to conduct a horse race meeting:

(a) The chairman and all members of the board of directors of a corporation;

(b) All partners of a partnership and all participating members of a limited liability company;

(c) All trustees and trust beneficiaries of an association;

(d) The president or chief executive officer and all other officers, managers, and employees who have policy-making or fiduciary responsibility within the organization;

(e) All stockholders or other individuals who own, hold, or control, either directly or indirectly, five percent (5%) or more of stock or financial interest in the collective organization; and

(f) Any other employee, agent, guardian, personal representative, or lender or holder of indebtedness who has the power to exercise a significant influence over the applicant's or licensee's operation;

***(15)*** ~~[(14)]~~ "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

***(16)*** ~~[(15)]~~ "Racing commission" means the Kentucky Horse Racing Commission;

***(17)*** ~~[(16)]~~ "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track that submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility that meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year;

***(18)*** ~~[(17)]~~ "Simulcast facility" means any facility approved pursuant to the provisions of KRS 230.380 to simulcast racing and conduct pari-mutuel wagering;

***(19)*** ~~[(18)]~~ "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

***(20)*** ~~[(19)]~~ "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track;

***(21)*** ~~[(20)]~~ "Thoroughbred race" or "Thoroughbred racing" means a form of horse racing in which each horse participating in the race is a Thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey; and

***(22)*** ~~[(21)]~~ "Track" means any association duly licensed by the Kentucky Horse Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned, leased, or purchased by a track within the same geographic area within a sixty (60) mile radius of a track but not contiguous to track premises, upon racing commission approval, and provided the noncontiguous property is not within a sixty (60) mile radius of another licensed track premise where live racing is conducted and not within a forty (40) mile radius of a simulcast facility, unless any affected track or simulcast facility agrees in writing to permit a noncontiguous facility within the protected geographic area.

➔Section 2. KRS 230.445 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky Horse Racing Commission designated the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian development fund, consisting of money allocated to the fund under ***Section 6 of this Act*** ~~[KRS 230.3771]~~ together with any other money contributed to or allocated to the fund from all other sources. For the purposes of this section, "development fund" or "fund" means the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian development fund. Money to the credit of the development fund shall be distributed by the Treasurer for the purposes provided in this section, upon authorization of the Kentucky Horse Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Notwithstanding KRS 45.229, money to the credit of the fund at the end of the fiscal year shall not lapse but shall be carried forward in the fund to the succeeding fiscal year. Interest earnings of the fund shall become a part of the fund and shall not lapse. Moneys in the fund shall be used and are hereby appropriated for purposes specified in this section.

(2) The Kentucky Horse Racing Commission shall use the development fund to promote races and to provide purses for races for horses bred and foaled in the Commonwealth. The commission shall provide for distribution of money to the credit of the development fund to persons, corporations, or associations operating licensed tracks within Kentucky conducting quarter horse, ***Paint horse,*** Appaloosa, or Arabian horse racing, on an equitable basis as determined by the commission and in conformance with subsection (3) of this section.

(3) The Kentucky Horse Racing Commission shall:

(a) Fix the amount of money to be paid from the development fund to be added to the purse provided for each race by the licensed operator of the track;

(b) Fix the dates and conditions of races to be held by licensed tracks; and

(c) Promulgate administrative regulations necessary to carry out the provisions of this section.

Money from the fund shall be allocated to each breed of horse represented in the fund in an amount equal to

the amount the breed has contributed to the fund.

(4) The Kentucky Horse Racing Commission shall appoint qualified personnel as necessary to:

(a) Supervise registration of, or determine the eligibility of, horses entitled to entry in races which receive a portion of purse money from the development fund; and

(b) Assist the commission in determining the conditions, class, and quality of the fund-supported race program established to carry out the purposes of this section.

The personnel shall serve at the pleasure of the commission and compensation shall be fixed by the commission with the compensation and necessary expenses of the personnel paid from the development fund.

(5) The commission shall promulgate administrative regulations to carry out the provisions of this section and shall administer the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian development fund in a manner designed to:

(a) Promote and aid in the development of the horse industry in Kentucky;

(b) Upgrade the quality of racing in Kentucky; and

(c) Improve the quality of horses bred in Kentucky.

➔Section 3. KRS 230.446 is amended to read as follows:

(1) The Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian purse fund is created as a trust and agency fund to be administered by the Kentucky Horse Racing Commission and shall consist of moneys allocated to the fund under ***Section 6 of this Act***~~[KRS 230.3771]~~ together with any other moneys contributed to or allocated to the fund from all other sources. For the purposes of this section, "purse fund" or" fund" means the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian purse fund.

(2) Notwithstanding KRS 45.229, money to the credit of the fund at the end of the fiscal year shall not lapse but shall be carried forward in the fund to the succeeding fiscal year. Interest earnings of the fund shall become a part of the fund and shall not lapse.

(3) Moneys in the fund shall be used and are hereby appropriated for purposes specified in this section.

(4) The Kentucky Horse Racing Commission shall use the purse fund to promote racing and to provide purses for races conducted in the Commonwealth as follows:

(a) The Kentucky Horse Racing Commission shall provide for distribution of money from the fund to persons, corporations, or associations operating licensed tracks within the Commonwealth conducting quarter horse, ***Paint horse,*** Appaloosa, or Arabian horse racing;

(b) Moneys from the purse fund shall be allocated to each breed of horse represented in the fund in proportion to the amount each breed has contributed to the fund; and

(c) The Kentucky Horse Racing Commission shall consult with the Kentucky Quarter Horse Racing Association or its successor, the Kentucky Appaloosa Owners Association or its successor, ***the Kentucky Paint Horse Club or its successor,*** and the Kentucky Arabian Horse Association or its successor, to designate the races and the amount of purse money to be provided for designated races for each breed respectively.

(5) The Kentucky Horse Racing Commission shall:

(a) Fix the dates and conditions of races to be held by licensed tracks;

(b) Fix the amount of money to be paid from the fund to be added to the purse provided for each race by the licensed operator of the track; and

(c) Promulgate administrative regulations necessary to carry out the provisions of this section.

(6) The Kentucky Horse Racing Commission shall carry out the provisions of this section and administer the purse fund in a manner designed to promote and aid in the development of the horse industry in Kentucky and upgrade the quality of horse racing in Kentucky.

➔Section 4. KRS 230.804 is amended to read as follows:

(1) There is hereby created in the State Treasury a trust and revolving fund designated as the "Kentucky horse breeders incentive fund." The fund shall be administered by the Kentucky Horse Racing Commission. For tax

periods beginning on or after June 1, 2005, seven percent (7%) of all receipts collected under KRS 139.531(1)(a) from the sales and use tax on the fees paid for breeding a stallion to a mare in Kentucky shall be deposited in the fund together with any other money contributed, appropriated or allocated to the fund from all other sources. The money deposited in the fund is hereby appropriated for the uses set forth in this section. ***Notwithstanding KRS 45.229,*** any money remaining in the fund at the close of any calendar year shall not lapse but shall be carried forward to the next calendar year. The fund may also receive additional state appropriations, gifts, grants, and federal funds. All interest earned on money in the fund shall be credited to the fund.

(2) (a) The Kentucky Horse Racing Commission shall use moneys deposited in the Kentucky horse breeders incentive fund to administer the fund and provide rewards for breeders or owners of horses bred and foaled in Kentucky.

(b) The Kentucky Horse Racing Commission shall promulgate administrative regulations establishing the conditions and criteria for the distribution of moneys from the fund.

(c) The Department of Revenue may promulgate administrative regulations establishing the procedures necessary to determine the correct allocation of sales tax receipts described in subsection (1) of this section.

(d) As soon as practicable after the close of each calendar year, the racing commission shall disburse to breeders of horses moneys in the Kentucky horse breeders incentive fund to be used to promote, enhance, improve, and encourage the further and continued development of the horse industry in Kentucky, under the administrative regulations promulgated pursuant to paragraph (b) of this subsection.

➔Section 5. KRS 138.510 is amended to read as follows:

(1) (a) Except as provided in paragraph (d) of this subsection, an excise tax is imposed on all tracks conducting pari-mutuel wagering on live racing under the jurisdiction of the commission as follows:

1. For each track with a daily average live handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered on live races at the track during the fiscal year; and

2. For each track with a daily average live handle under one million two hundred thousand dollars ($1,200,000), the tax shall be one and one-half percent (1.5%) of all money wagered on live races at the track during the fiscal year.

(b) Beginning on April 1, 2014, an excise tax is imposed on all tracks conducting pari-mutuel wagering on historical horse races under the jurisdiction of the commission at a rate of one and one-half percent (1.5%) of all money wagered on historical horse races at the track during the fiscal year.

(c) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection and deposited as follows:

1. An amount equal to three-quarters of one percent (0.75%) of all money wagered on live races and historical horse races at the track for Thoroughbred racing shall be deposited in the Thoroughbred development fund established in KRS 230.400;

2. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for harness racing shall be deposited in the Kentucky standardbred development fund established in KRS 230.770;

3. An amount equal to one percent (1%) of all money wagered on live races and historical horse races at the track for quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse racing shall be deposited in the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian development fund established by ***Section 2 of this Act***~~[KRS 230.445]~~;

4. An amount equal to two-tenths of one percent (0.2%) of all money wagered on live races and historical horse races at the track shall be deposited in the equine industry program trust and revolving fund established by KRS 230.550 to support the Equine Industry Program at the University of Louisville, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed six hundred fifty thousand dollars ($650,000);

5. a. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races

and historical horse races at the track shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars ($320,000).

b. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subparagraph shall not replace other funds for capital purposes or operation of equine programs at state universities.

c. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds.

d. The Kentucky Council on Postsecondary Education may promulgate administrative regulations to establish procedures for administering the program and criteria for evaluating and awarding grants; and

6. An amount equal to one-tenth of one percent (0.1%) of all money wagered on live races and historical horse races shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3), except that the amount deposited from money wagered on historical horse races in any fiscal year shall not exceed three hundred twenty thousand dollars ($320,000).

(d) The excise tax imposed by paragraph (a) of this subsection shall not apply to pari-mutuel wagering on live harness racing at a county fair.

(e) The excise tax imposed by paragraph (a) of this subsection, and the distributions provided for in paragraph (c) of this subsection, shall apply to money wagered on historical horse races beginning September 1, 2011, through March 31, 2014, and historical horse races shall be considered live racing for purposes of determining the daily average live handle. Beginning April 1, 2014, the tax imposed by paragraph (b) of this subsection shall apply to money wagered on historical horse races.

(2) (a) Except as provided in paragraph (c) of this subsection, an excise tax is imposed on:

1. All tracks conducting telephone account wagering;

2. All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the commission; and

3. All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(b) The tax shall be three percent (3%) of all money wagered on races as provided in paragraph (a) of this subsection during the fiscal year.

(c) A noncontiguous track facility approved by the commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this paragraph shall be retained by the noncontiguous track facility, ***Section 6 of this Act***~~[KRS 230.3771]~~ and 230.378 notwithstanding.

(d) Money shall be deducted from the tax paid under paragraphs (a) and (b) of this subsection as follows:

1. An amount equal to two percent (2%) of the amount wagered shall be deposited as follows:

a. In the Thoroughbred development fund established in KRS 230.400 if the host track is conducting a Thoroughbred race meeting or the interstate wagering is conducted on a Thoroughbred race meeting;

b. In the Kentucky standardbred development fund established in KRS 230.770, if the host track is conducting a harness race meeting or the interstate wagering is conducted on a harness race meeting; or

c. In the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian development fund established by ***Section 2 of this Act***~~[KRS 230.445]~~, if the host track is conducting a

quarter horse, ***Paint horse,*** Appaloosa, or Arabian horse race meeting or the interstate wagering is conducted on a quarter horse, ***Paint horse,*** Appaloosa, or Arabian horse race meeting;

2. An amount equal to one-twentieth of one percent (0.05%) of the amount wagered shall be allocated to the equine industry program trust and revolving fund established by KRS 230.550 to be used to support the Equine Industry Program at the University of Louisville;

3. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be deposited in a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities, as detailed in subsection (1)(c)5. of this section; and

4. An amount equal to one-tenth of one percent (0.1%) of the amount wagered shall be distributed to the commission to support equine drug testing as provided in KRS 230.265(3).

(3) The taxes imposed by this section shall be paid, collected, and administered as provided in KRS 138.530.

➔Section 6. KRS 230.3771 is amended to read as follows:

(1) A Thoroughbred track licensed to conduct Thoroughbred racing may receive interstate simulcasts of Thoroughbred, quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse races, and conduct interstate wagering thereon, subject to the following limitations:

(a) A Thoroughbred receiving track may receive interstate simulcasts of Thoroughbred races and conduct interstate wagering thereon at any time of day and during any live Thoroughbred horse race meet conducted in the Commonwealth of Kentucky so long as the Thoroughbred receiving track conducting interstate wagering remits to the Thoroughbred host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A Thoroughbred host track which receives interstate simulcasts and conducts interstate wagering thereon during the period of time from the first awarded day of its live meet through the last awarded day of its live meet shall offer the simulcasts to all Thoroughbred receiving tracks, all harness tracks not subject to the provisions of KRS 230.377(2), and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a receiving track shall conduct intertrack wagering on all live races of all Thoroughbred host tracks on any day on which it receives an interstate simulcast for the purpose of conducting interstate wagering.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) Thoroughbred track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast of Thoroughbred races unless all Thoroughbred tracks conducting live racing at the same time of day agree upon all interstate simulcasts to be received and the division of the Thoroughbred host track's commission. If more than one (1) Thoroughbred track conducts live racing at different times on the same day, the Thoroughbred host track with the highest average daily handle, based on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and concludes ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each Thoroughbred track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the racing commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding paragraph (f) of this subsection, any Thoroughbred track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Horsemen's Benevolent and Protective Association and the Kentucky

Thoroughbred Owners and Breeders Association, Inc.

(h) A separate accounting on all interstate simulcasting shall be submitted to the racing commission. The accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a host track makes available for interstate wagering through this state's intertrack wagering system on any race day are Thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a Thoroughbred host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the Thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;

3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and

4. Twenty-five percent (25%) to the purse program of the Thoroughbred host track designated by paragraphs (a) and (e) of this subsection. However, if the race does not occur between the first awarded day of a live meet and the last awarded day of the same live meet, then an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on Thoroughbred racing, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(2) A harness track licensed to conduct harness racing may receive interstate simulcasts of harness horse, quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse races and conduct interstate wagering thereon subject to the following limitations:

(a) A harness receiving track may receive interstate simulcasts of harness races, quarter horse races, ***Paint horse races,*** Appaloosa races, and Arabian horse races, and conduct interstate wagering thereon at any time of day and during the course of any live harness horse race meet conducted in the Commonwealth of Kentucky so long as the harness receiving track conducting interstate wagering remits to the harness host track conducting a live meet, from the first awarded day of its live meet through the last awarded day of the same live meet, the amounts provided in paragraph (j) of this subsection.

(b) A harness host track which receives an interstate simulcast and conducts interstate wagering thereon during its live race meet shall offer the simulcasts to all Thoroughbred receiving tracks not subject to the provisions of KRS 230.377(2), all harness tracks, and all simulcast facilities through the intertrack wagering system.

(c) Except as otherwise prohibited by law, a harness receiving track or a simulcast facility shall conduct intertrack wagering on all live races of a harness host track on any day it receives an interstate simulcast from a harness host track.

(d) No host track shall require that any receiving track or simulcast facility receive the interstate simulcast.

(e) If more than one (1) harness track conducts live racing at the same time on the same day, no track or simulcast facility may receive an interstate simulcast on harness races unless all harness tracks conducting live racing at that time of day agree upon the interstate simulcast to be received and the division of the harness host track's commission. If more than one (1) harness track conducts live racing at different times on the same day, the harness host track with the highest average daily handle, based

on the preceding year, shall be the host track for purposes of splitting the commissions earned on interstate wagering at receiving tracks within the Commonwealth. For purposes of this subsection, average daily handle includes live handle, intertrack wagering handle, and simulcast facility handle. Also for purposes of this subsection, the time of day during which a host track conducts live racing commences with its first published post time and conclude ten (10) minutes after the published post time of its last race of the day, regardless of actual post times.

(f) Each harness track which desires to conduct interstate wagering pursuant to the provisions of this subsection shall during each year make application to the racing commission for no less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 and one hundred percent (100%) of the number of races scheduled to be run by the track in 1993.

(g) Notwithstanding paragraph (f) of this subsection, any harness track may apply for less than one hundred percent (100%) of the number of racing days awarded to the track in 1994 or one hundred percent (100%) of the number of races scheduled to be run by the track in 1993, if written approval is obtained from the Kentucky Harness Horsemen's Association, or its successor.

(h) A separate accounting on all interstate simulcasting shall be submitted to the racing commission. This accounting shall be submitted in the same format and at the same time that the report for intertrack wagering is submitted.

(i) If the only simulcast or simulcasts a track participating as a harness host track makes available for interstate wagering through this state's intertrack wagering system on any race day are harness horse races (both final and elimination) having a final purse in excess of seventy-five thousand dollars ($75,000), then the commission of the receiving track on these interstate wagers shall be split as prescribed by KRS 230.378(3); otherwise, the commission of the receiving track shall be split as prescribed by paragraph (j) of this subsection. Interstate simulcasts received by a harness host track under the conditions set forth in this paragraph shall not be subject to the conditions set forth in paragraphs (b), (c), (e), and (f) of this subsection.

(j) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be retained by the receiving track where the interstate wagering occurs;

3. Twenty-five percent (25%) to the purse program of the receiving track where the interstate wagering occurs; and

4. Twenty-five percent (25%) to the purse program of the harness host track designated by paragraphs (a) and (e) of this subsection. However, if no live meet is occurring, an additional twenty-five percent (25%) shall be paid to the purse program of the receiving track where the interstate wagering occurs.

(k) A simulcast facility's commission on interstate wagering on harness races, after deduction of applicable taxes and any amount required to be paid by contract to the track from which the interstate simulcast originated, shall be split as provided in KRS 230.380(9).

(3) A harness track may only receive interstate simulcasts of Thoroughbred horse races and conduct interstate wagering thereon as provided in subsection (1)(b) of this section. A Thoroughbred track may only receive interstate simulcasts of harness horse races and conduct interstate wagering thereon as provided in subsection (2)(b) of this section. A simulcast facility may only receive interstate simulcasts of Thoroughbred and harness horse races and conduct interstate wagering thereon as provided in subsections (1)(b) and (2)(b) of this section.

(4) (a) A Thoroughbred track licensed to conduct horse racing may receive interstate simulcasts of quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraph (b) of this subsection.

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the receiving track where the interstate wagering occurs;

2. Twenty-five percent (25%) to the host track; and

3. Fifty percent (50%) to the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian purse fund established by ***Section 3 of this Act***~~[KRS 230.446]~~ to supplement purses for quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse races in this state.

(5) (a) A harness track licensed to conduct horse racing may receive interstate simulcasts of quarter horse, ***Paint horse,*** Appaloosa, and Arabian horse races and conduct interstate wagering thereon, subject to the limitations stated in paragraphs (b) and (c) of this subsection.

(b) A receiving track's commission on interstate wagering, after deduction of applicable taxes and any amounts required to be paid by contract to the track from which the interstate simulcast originated, shall be split as follows:

1. Twenty-five percent (25%) to the purse program of the receiving track;

2. Twenty-five percent (25%) to the purse program of the host track;

3. Twenty-five percent (25%) to the receiving track; and

4. Twenty-five percent (25%) to the host track.

(c) When a quarter horse, ***Paint horse,*** Appaloosa, or Arabian horse race is run at a Kentucky race track, the commission to the Kentucky quarter horse, ***Paint horse,*** Appaloosa, and Arabian purse fund established by ***Section 3 of this Act***~~[KRS 230.446]~~ shall be twenty-two percent (22%) from the host track's purse share.

(6) Other provisions of the Kentucky Revised Statutes notwithstanding, any track in a geographic area that contains more than one (1) track within a fifty (50) mile radius of any other track may only receive interstate simulcasts on racing of the same breed of horse as the track was licensed to race on or before July 15, 1998, except any track may receive interstate simulcasts on quarter horse, ***Paint horse,*** Appaloosa, or Arabian horse races.

➔Section 7. KRS 230.750 is amended to read as follows:

The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation, or association which operates a harness horse track under the jurisdiction of the racing commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime. Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta, and other types of exotic betting. An amount equal to three percent (3%) of the total amount wagered and included in the commission of a harness host track shall be allocated by the harness host track in the following manner. Two percent (2%) shall be allocated to the host for capital improvements, promotions, including advertising, or purses, as the host track shall elect. Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses. One-quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred~~[, quarterhorse, Appaloosa, and Arabian]~~ development fund. This allocation shall be made after deduction from the commission of the pari-mutuel tax but prior to any other deduction, allocation or division of the commission.

➔Section 8. KRS 230.443 is amended to read as follows:

Quarter horses, ***Paint horses,*** Appaloosas, and Arabian horses conceived by artificial insemination or other means shall be eligible to race under the provisions of this chapter.

**Signed by Governor March 23, 2015.**

## CHAPTER 48

**( HB 201 )**

AN ACT relating to loans secured by a real estate mortgage.

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

➔Section 1. KRS 382.520 is amended to read as follows:

(1) In all cases where a loan is secured by a real estate mortgage, the mortgage originally executed and delivered by the borrower to the lender shall secure payment of all renewals, extensions, or interest rate ***modifications***~~[reductions]~~ of the loan and the note evidencing it, whether so provided in the mortgage or not.

(2) The mortgage referred to in subsection (1) of this section may secure any additional indebtedness, whether direct, indirect, existing, future, contingent, or otherwise, to the extent expressly authorized by the mortgage, if the mortgage by its terms stipulates the maximum additional indebtedness which may be secured thereby. Except as provided in subsection (3) of this section, the mortgage lien authorized by this subsection shall be superior to any liens or encumbrances of any kind created after recordation of such mortgage, even to the extent of sums advanced by a lender with actual or constructive notice of a subsequently created lien, provided, however, any mortgagee upon receipt of a written request of a mortgagor must release of record the lien to secure additional indebtedness as exceeds the balance of such additional indebtedness at the time of the request.

(3) (a) The written request referred to in subsection (2) of this section shall be signed by the mortgagor or his agent or attorney, and shall set forth a description of the real property to which the request relates, the date, parties to, the volume and initial page of the record of the mortgage referred to in subsection (1) of this section, and a description of the nature, amount, and holder of the lien or encumbrance which the mortgagor intends to place upon such real property. The request shall be deemed to have been received by the holder of the mortgage referred to in subsection (1) of this section only when delivered to the holder by certified mail, return receipt requested, at the address of the holder appearing of record on the mortgage or an assignment thereof;

(b) If within ten (10) business days after receipt of the written request referred to in this subsection, the holder of the mortgage referred to in subsection (1) of this section fails to release that amount of the lien to secure additional indebtedness to the extent described in the request, the mortgagor may record in the office of the county clerk in which the mortgage referred to in subsection (1) of this section is recorded a copy of the written request upon payment of the same filing fee as provided for a release of a mortgage;

(c) If, after a copy of the written request is recorded, an advance is made by the holder of the mortgage referred to in subsection (1) of this section, then the lien of the mortgage for the unpaid balance of the advance so made shall be subordinate to the lien or encumbrance described in the request.

**Signed by Governor March 23, 2015.**

## CHAPTER 49

**( HB 429 )**

AN ACT relating to the Kentucky Child Care Advisory Council.

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

➔SECTION 1. A NEW SECTION OF KRS 199.892 TO 199.8996 IS CREATED TO READ AS FOLLOWS:

***(1) There is hereby created the Kentucky Child Care Advisory Council to be composed of eighteen (18) members. The members appointed by the Governor shall serve a term of three (3) years. The appointed members of the council shall be geographically and culturally representative of the population of the Commonwealth. For administrative purposes, the council shall be attached to the department. The members shall be as follows:***

***(a) The commissioner of the department, or designee;***

***(b) Four (4) members appointed by the Governor representing child-care center providers licensed pursuant to this chapter;***

***(c) Two (2) members appointed by the Governor representing family child-care home providers licensed pursuant to this chapter;***

***(d) Three (3) members appointed by the Governor who are parents, de facto custodians, guardians, or legal custodians of children receiving services from child-care centers or family child-care homes licensed pursuant to this chapter;***

***(e) Three (3) members appointed by the Governor from the private sector who are knowledgeable about education, health, and development of children;***

***(f) The director of the Division of Child Care within the department, or designee, as a nonvoting ex officio member;***

***(g) The commissioner of education, Education and Workforce Development Cabinet, or designee, as a nonvoting ex officio member;***

***(h) The executive director of the Governor's Office of Early Childhood, or designee, as a nonvoting ex officio member;***

***(i) The commissioner of the Department for Public Health within the cabinet, or designee, as a nonvoting ex officio member; and***

***(j) The state fire marshal, Public Protection Cabinet, or designee, as a nonvoting ex officio member;***

***(2) The council shall have two (2) co-chairpersons. One co-chairperson shall be the commissioner of the department, or designee, and one co-chairperson shall be elected by the voting members of the council.***

***(3) Members shall serve until a successor has been appointed. If a vacancy on the council occurs, the Governor shall appoint a replacement for the remainder of the unexpired term.***

***(4) Members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses in accordance with state travel expenses and reimbursement administrative regulations.***

***(5) The council shall meet at least quarterly and at other times upon call of the co-chairpersons.***

***(6) The council shall advise the cabinet on matters affecting the operations, funding, and licensing of child-care centers and family child-care homes. The council shall provide input and recommendations for ways to improve quality, access, and outcomes.***

***(7) The council shall make an annual report by December 1 that provides summaries and recommendations to address the availability, affordability, accessibility, and quality of child care in the Commonwealth. A copy of the annual report shall be provided to the secretary, the Governor, the Legislative Research Commission, and the Interim Joint Committee on Health and Welfare.***

**Signed by Governor March 23, 2015.**

## CHAPTER 50

**( HCR 89 )**

A CONCURRENT RESOLUTION establishing the Government Nonprofit Contracting Task Force to increase accountability and efficiency in the government contracting process.

WHEREAS, both the Commonwealth and nonprofit sector exist to meet community needs and improve the quality of life for all citizens; and

WHEREAS, often sharing similar goals and objectives, a significant number of nonprofit organizations accomplish their missions through contractual or grant agreements with the Commonwealth, and the Commonwealth regularly contracts with nonprofit organizations. In 2012 alone, the Commonwealth contracted with over 550 nonprofits, totaling over $1.3 billion in contracts and grants; and

WHEREAS, a partnership between the Commonwealth and nonprofits is often beneficial to the public. Nonprofits can fill gaps in services that the Commonwealth cannot provide on its own, often at lower costs than government and private sectors. Because nonprofits often can provide essential services at lower costs, they often can

provide services more efficiently for less money and at lower costs to taxpayers, while increasing services to constituents; and

WHEREAS, the mission and objectives of nonprofits have often been frustrated by late payments, duplicative rules and regulations, and delays in the contracting process. Because of financial and procedural hurdles, unnecessary costs increase for governments and nonprofits, decreasing the level and quality of services. In 2012, approximately 30 percent of nonprofits reduced their number of employees, 14 percent reduced the number of people served, and 11 percent reduced the number of programs and services; and

WHEREAS, to address the obstacles nonprofits encounter when contracting with government agencies, recent national studies have identified ways to streamline government contracting practices, reduce duplicative efforts, save money, and maintain accountability and transparency in government and nonprofit contracting; and

WHEREAS, improvements to the contracting and grant process can best be made by government and nonprofits collaborating to find solutions that benefit the citizens of the Commonwealth;

NOW, THEREFORE,

***Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:***

➔Section 1. The Legislative Research Commission is hereby directed to create a Government Nonprofit Contracting Task Force that shall study government contract laws and procedures of the Commonwealth relating to nonprofit entities.

➔Section 2. The Government Nonprofit Contracting Task Force shall study and report on the following issues:

(1) The effect of current laws, regulations, and policies on government funding and procurement opportunities for nonprofit entities that contract with the Commonwealth;

(2) Any procedures that have been adopted in other states to facilitate a more timely, cost-effective, streamlined, and accountable process for nonprofits that contract with those state governments; and

(3) The feasibility of eliminating any redundant, unreasonable, or unnecessary laws, regulations, or policies that negatively affect nonprofit government contracting or funding.

➔Section 3. (1) The Government Nonprofit Contracting Improvement Task Force shall consist of the following members, with final membership of the task force being subject to the consideration and approval of the Legislative Research Commission:

(a) A member of the House of Representatives, to be selected by the Speaker of the House;

(b) A member of the Senate, to be selected by the President of the Senate;

(c) A member of the Government Contract Review Committee, to be selected by the Speaker of the House;

(d) A member of the Government Contract Review Committee, to be selected by the President of the Senate;

(e) A member of the Program Review and Investigations Committee, to be selected by the Speaker of the House;

(f) A member of the Program Review and Investigations Committee, to be selected by the President of the Senate;

(g) The Secretary of the Finance and Administration Cabinet, or designee;

(h) The Secretary of the Cabinet for Health and Family Services, or designee;

(i) The Secretary of the Transportation Cabinet, or designee;

(j) The commissioner of the Department of Education, or designee;

(k) The executive director of the Kentucky Nonprofit Network, or designee;

(l) Two Cabinet secretaries approved by the Legislative Research Commission; and

(m) Four representatives of 501(c)(3) human services organizations, to be selected from a list of eight candidates recommended by the Kentucky Nonprofit Network, approved by the Legislative Research Commission.

(2) The Speaker of the House of Representatives and the Senate President shall each select a co-chair of the task force from the task force legislative members of their respective chambers.

➔Section 4. The Legislative Research Commission shall staff the task force.

➔Section 5. The task force shall submit a preliminary report to the Legislative Research Commission and the Governor, and a final report, along with recommendations and any proposed legislation, to the Legislative Research Commission and the Governor by October 31, 2016. The task force shall cease to exist upon submission of its final report by October 31, 2016.

➔Section 6. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

**Signed by Governor March 23, 2015.**

## CHAPTER 51

**( SJR 20 )**

A JOINT RESOLUTION directing the Auditor of Public Accounts to report on the number of untested sexual assault examination kits in the possession of Kentucky law enforcement and prosecutorial agencies.

WHEREAS, the successful prosecution of sexual offenses and serial sexual offenders is vital to public safety; and

WHEREAS, the United States Department of Justice estimates that there are approximately 100,000 backlogged sexual assault examination kits awaiting testing throughout the country; and

WHEREAS, preventing a backlog of untested sexual assault examination kits is essential to the administration of justice in the Commonwealth of Kentucky;

NOW, THEREFORE,

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

➔Section 1. The Auditor of Public Accounts is directed to study the number of sexual assault examination kits collected pursuant to KRS 216B.400 that have not been sent to the Department of Kentucky State Police forensic laboratory for either serology or deoxyribonucleic acid testing and deliver a report to the Legislative Research Commission on that subject no later than November 1, 2015. Every Kentucky law enforcement and prosecutorial agency responsible for the collection, storage, and maintenance of sexual assault examination kits pursuant to KRS 216B.400 shall report to the Auditor of Public Accounts the number of all such kits in their custody that have not been sent to the Department of Kentucky State Police forensic laboratory for either serology or deoxyribonucleic acid testing and include in the report the date each kit was collected by September 1, 2015. No report generated pursuant to this section shall contain any personal or indentifying information of any victim.

**Signed by Governor March 23, 2015.**

## CHAPTER 52

**( SJR 78 )**

A JOINT RESOLUTION designating honorary names for various roads and bridges and directing the placement of honorary roadside signs.

WHEREAS, James Martin Simon was born on December 30, 1950, and was raised in the Daviess County community of West Louisville; and

WHEREAS, after graduating from high school, James Martin Simon enlisted in the United States Army,

where he served in Vietnam as an infantryman with the Third Infantry Regiment; and

WHEREAS, on February 16, 1971, in the Vietnamese town of Quant Tri, SP4 James Martin Simon was killed in a firefight with the enemy; and

WHEREAS, James Martin Simon was the last man from Daviess County to sacrifice his life during the Vietnam War, a sobering reminder to this day that the cost of freedom is high, and borne on a deeply personal level by the families of those soldiers who give their last full measure of devotion; and

WHEREAS, the surviving family of James Martin Simon, including his brother Billy, who still lives in West Louisville, would be deeply honored by some tangible memorial to the service of James Martin Simon, however insignificant it might be; and

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by naming portions of state highways and erecting commemorative roadway signs in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of accomplishments that made them deserving of the honor; and

WHEREAS, these individuals have included former Governors, former members of the General Assembly, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, every citizen of the Commonwealth owes a great debt of gratitude to the patriotic men and women killed and wounded in service to their country in times of great need; and

WHEREAS, the General Assembly has often honored the veterans of this state by naming portions of several roads, from interstates to small two-lane country roads, in their honor; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The Transportation Cabinet shall designate Kentucky Route 56 in Daviess County, from the intersection with Kentucky Route 1554 near the town of Sorgho, to Cummings Road near Mount Saint Joseph's, as the "SP4 James Martin Simon Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 2. The Transportation Cabinet shall designate the bridge on Kentucky Route 476, located between mile points 18 and 19, in Perry County as the "Mitchell Allen Memorial Bridge," and shall within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 3. The Transportation Cabinet shall designate the portion of Kentucky Route 20 in Boone County, from Kentucky Route 237 to Conner Road, as the "Robert A. 'Bob' Flick Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 4. The Transportation Cabinet shall designate the bridge on Interstate 69 in the city of Hanson in Hopkins County, at exit 49, as the "Sgt. William Michael Coomes Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 5. The Transportation Cabinet shall designate United States Highway 23 in Pike County, from Robinson Creek to Esco, as the "Pvt. Amos Damron Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 6. The Transportation Cabinet shall designate Bridge Number 098B00194N on Kentucky Route 122, just past the intersection of United States Route 460 and Kentucky Route 122 at Shelbiana in Pike County, the "Elmer 'Kebo' Keathley Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 7. The Transportation Cabinet shall designate the new replacement bridge on Kentucky Route 191 in Morgan County as the "PFC Ralph Paul Terry Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 8. The Transportation Cabinet shall designate the new replacement bridge on Kentucky Route 451 at Glomawr in Perry County as the "Jack Adams Memorial Bridge," and shall, within 30 days of the effective date of

this Resolution, erect the appropriate signage.

➔Section 9. The Transportation Cabinet shall honor the accomplishments of Marlow Tackett by including him upon the Country Music Highway on United States Route 23 in Pike County, and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 10. The Transportation Cabinet shall designate Kentucky Route 55 in Taylor and Adair Counties, from the intersection with Kentucky Route 2972 in Adair County to the intersection with Kentucky Route 565 in Taylor County, as the "Captain Tony Grider Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 11. The Transportation Cabinet shall designate the Kentucky Route 80 Connector in Floyd County, between Davis Road and Rebel Lane, as the "Hewen Spencer Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 12. The Transportation Cabinet is hereby directed to honor the Pulaski County Maroons, the 2014 KHSAA Class 5A state football champions, by erecting signs entering Pulaski County, at the Pulaski County/Laurel County line on Kentucky Route 80 and at the Pulaski County/Lincoln County line on United States Highway 27, that read "Home of the Pulaski County Maroons 2014 KHSAA Class 5A State Football Champions." The sign shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of its placement.

➔Section 13. The Transportation Cabinet is hereby directed to honor the Southwestern High School Cheerleading Team, by erecting signs entering Pulaski County, at the Pulaski County/Russell County Line on the Cumberland Parkway and at the Pulaski County/McCreary County line on United States Highway 27, that read "Home of Southwestern High School 2013 & 2015 UCA National High School Cheerleading Champions." The sign shall be erected within 30 days of the effective date of this Resolution and shall remain in place for at least one year from the date of its placement.

➔Section 14. The Transportation Cabinet shall add an indication on the sign naming the "Joe C. Paul Memorial Highway," enacted by 2012 Ky. Acts ch. 153, sec. 54, to indicate that Mr. Paul was a posthumous recipient of the Medal of Honor.

➔Section 15. The Transportation Cabinet shall designate the bridge located on Kentucky Route 550 at its intersection with Kentucky Route 476 near Hilton School Road in Perry County as the "CMSgt Merton Grigsby Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 16. The Transportation Cabinet shall designate Kentucky Route 36 in Nicholas County as the "Nicholas County Veterans Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 17. The Transportation Cabinet shall designate Kentucky Route 36 in Bath County as the "Bath County Veterans Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 18. The Transportation Cabinet shall designate the Four Seam Bridge on Kentucky Route 15 in Perry County, as the "Dr. Eli C. Boggs Bridge." The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect the appropriate signage denoting this designation.

➔Section 19. The Transportation Cabinet shall honor the Gatton Academy by erecting signs on Interstate 65 in both directions at the Warren County line that read, "Home of the Carol Martin Gatton Academy, Newsweek Magazine's #1 Public School in America, 2012-2014." The signs erected under this section shall remain in place for at least one year from the date of their placement.

➔Section 20. The Transportation Cabinet shall designate Kentucky Route 152 in Mercer County, from Bruners Chapel Road (mile point 4.942) to the Salt River Park (mile point 8.866) as the "Hospital Corpsman Steve Bechtel Memorial Highway", and shall, within 30 days of the effective date of this resolution, erect appropriate signs denoting this designation.

➔Section 21. The Transportation Cabinet shall designate Kentucky Route 1722 in Rowan County, from mile marker 4 to mile marker 6, as the "Sgt. Ralph R. Swim Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 22. The Transportation Cabinet shall designate Kentucky Route 69 in Ohio County, through the city of Centertown, from mile-point 6.79 to mile-point 7.556, as the "F3C Welborn Lee Ashby Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 23. The Transportation Cabinet shall designate Kentucky Route 144 in Daviess County, from mile marker 8 to mile marker 16.2, as the "SP5 Charles Francis Millay Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 24. The Transportation Cabinet shall designate the portion of United States Route 127 in Mercer County from the Anderson County line to the northern city limits of Harrodsburg as the "Officer Regina Nickles Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 25. The Transportation Cabinet shall designate the bridge on United States Route 421 north of Hyden over Rockhouse Creek as the "SP-4 Kenneth Mosley Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 26. The Transportation Cabinet shall designate the new bridge on Kentucky Route 163 in Monroe County, heading north out of Tompkinsville, as the "Mount Gilead Community Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 27. The Transportation Cabinet shall designate Kentucky Route 7 South from mile marker 4 to mile marker 5.1 in Knott County as the "World War II Veteran Claude Hall, Sr. Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 28. The Transportation Cabinet shall designate Kentucky Route 30 in Jackson County, from the Laurel County line to the community of Tyner, as the "Jackson County Veterans Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signage denoting this designation.

➔Section 29. The Transportation Cabinet shall honor Emmaleigh Bargo by erecting signs on United States Highway 25E at the Knox County/Laurel County line and at the Knox County/Bell County line that read, "Home of the 2014 U.S.T.A. National Trampoline Champion, Emmaleigh Bargo." The signs erected under this section shall remain in place at least one year from the date of their placement.

➔Section 30. The Transportation Cabinet shall honor Zachary Dixon by erecting signs on United States Highway 25E at the Knox County/Laurel County line and at the Knox County/Bell County line that read "Home of the 2014 4-H Barrel Racing Champion, Zachary Dixon." The signs erected under this section shall remain in place for at least one year from the date of their placement.

➔Section 31. The Transportation Cabinet shall honor Connor Patterson by erecting signs on United States Route 150 entering Lincoln County, at the Boyle County line and the Rockastle County line, that read "Home of Connor Patterson 2014 National Archery Champion." The sign shall be erected within 30 days of the effective date of this Resolution, and shall remain in place for at least one year from the date of its placement.

➔Section 32. The Transportation Cabinet shall designate Kentucky Route 61 in Adair County, from mile-point 11.8 to mile-point 13, as the "Dr. Martin Luther King Jr., Memorial Highway" and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 33. The Transportation Cabinet shall designate Kentucky Route 351 in Henderson County between mile point 4.7 and mile point 5.3 as the "Chase Ryan Trent Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 34. The Transportation Cabinet shall designate the bridge on Kentucky Route 699 in Leslie County, north of Coon Creek Road, as the "Pvt. Frank Baker Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 35. The Transportation Cabinet shall designate Kentucky Route 52 in Estill County, from the Madison/Estill County line to the bridge in Irvine, as the "SFC William Myron Williams Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 36. The Transportation Cabinet shall honor Zetta Morgan by erecting signs on Kentucky Route 192 Bypass in Laurel County that read, "Zetta Morgan, 4-H Foods Demonstration, KY State Champion, 2014-15." The signs erected under this section shall remain in place for at least one year from the date of their placement.

➔Section 37. The Transportation Cabinet shall honor Bailey Vigeant by erecting signs on Kentucky Route 192 Bypass in Laurel County that read, "Home of Bailey Vigeant, 2013-2014 4-H Barrel Racing Champion." The signs erected under this section shall remain in place for at least one year from the date of their placement.

➔Section 38. The Transportation Cabinet shall designate the bridge on Kentucky Route 67 in Greenup County, near Interstate 64, south of East Park Drive, as the "World War II Veterans Memorial Bridge," and shall,

within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 39. The Transportation Cabinet shall designate the bridge on United States Highway 23 in Greenup County, over Tygart Creek near South Shore, as the "Vietnam Veterans Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 40. The Transportation Cabinet shall designate Kentucky Route 8 in Greenup County, from the Carl D. Perkins Bridge to the U.S. Grant Bridge, as the "Veterans Memorial Mile," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 41. The Transportation Cabinet shall add an honorary designation for Sterling Orlando Neal Jr. onto the exiting designation of the Sterling Orlando Neal, Sr., Memorial Overpass enacted by 2012 Ky. Acts ch. 153, sec. 41.

➔Section 42. The Transportation Cabinet shall designate the newly constructed section of Kentucky Route 90W in Cumberland County, also known as the Leslie Curve portion, as the "R. Fred Capps Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 43. The Transportation Cabinet shall designate the bridge on Kentucky Route 40 in Johnson County, east of Paintsville over the Big Sandy River, as the "KSP Trooper Alex Rubado Memorial Bridge," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

➔Section 44. The Transportation Cabinet shall designate Kentucky Route 611 in Pike County as the "Willie, Ferbie, and Larry Belcher Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect appropriate signs denoting this designation.

➔Section 45. The Transportation Cabinet shall designate Kentucky Route 965 in Bath County as the "PFC Roscoe R. Cassidy Memorial Highway," and shall, within 30 days of the effective date of this Resolution, erect the appropriate signage.

**Signed by Governor March 23, 2015.**

## CHAPTER 53

**( SCR 109 )**

A CONCURRENT RESOLUTION designating *Blood Song: The Story of the Hatfields and the McCoys* as the official play on the Hatfield/McCoy feud in the Commonwealth of Kentucky.

WHEREAS, the Hatfields and the McCoys were two families who lived in the Tug River Valley on the border of West Virginia and Kentucky in the middle of the 19th century and who carried on a bitter, violent feud for more than 25 years; and

WHEREAS, the Hatfield and McCoy feud has been reenacted many times over the years through various popular culture mediums, and has maintained a hold on the public's imagination not only because of its inherent tragedy but also because of the colorful Appalachian region where the feud played out; and

WHEREAS, the Hatfield and McCoy Arts Council, in association with the University of Kentucky's Cooperative Extension Office in Pike County and the Artists Collaborative Theater, Inc., commissioned *Blood Song: The Story of the Hatfields and the McCoys*, a stage play written by award-winning playwright Chelsea Marcantel and performed at the Hatfield-McCoy Outdoor Theater in McCarr, Kentucky; and

WHEREAS, the play encompasses not only the feud itself but serves as both an educational and cultural touchpoint that highlights the history and natural beauty of the very location where the feud took place more than 125 years ago; and

WHEREAS, the play also illuminates the profoundly important place community theater plays in the lives of Kentuckians, and through its unflinching drama and its deep look at an important historical moment, it showcases the artistic integrity of its players, the talent of the playwright who adapted the story, and the fierce violence and division that marked the Hatfield and McCoy feud;

NOW, THEREFORE,

***Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:***

➔Section 1. *Blood Song: The Story of the Hatfields and the McCoys* is hereby designated as the official play on the Hatfield/McCoy feud in the Commonwealth of Kentucky.

➔Section 2. The Clerk of the Senate is directed to transmit a copy of this Resolution to Stephanie Richards, Pike County Extension Agent for Fine Arts, 148 Trivette Drive, Pikeville, Kentucky 41501, for herself and for her distribution to the Artists Collaborative Theater, Inc.; the Hatfield and McCoy Arts Council, Inc.; and the Pike County Tourism, Convention, and Visitors Bureau.

**Signed by Governor March 23, 2015.**

## CHAPTER 54

**( HB 100 )**

AN ACT relating to energy project assessment districts or EPAD.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

***As used in Sections 1 to 5 of this Act:***

***(1) "Energy improvement" means any permanent improvement fixed to real property and intended to increase the efficiency of energy use or decrease water or energy consumption or demand, generate electricity, provide thermal energy, or regulate temperature, including but not limited to a product, device, technology, or interacting group of products, devices, or technologies on the customer's side of an electric, gas, water, or other energy meter;***

***(2) "Energy project" means the installation or modification of an energy improvement, including any associated project or financing costs;***

***(3) "Energy project assessment district" or "EPAD" means a geographic area designated by a local government pursuant to Section 2 of this Act, within which energy projects may be undertaken and financed through the imposition of an assessment pursuant to Sections 1 to 5 of this Act;***

***(4) "Local government" means any city, county, consolidated local government, urban-county government, charter county government, or unified local government of the Commonwealth;***

***(5) "Program" means an EPAD program established by a local government pursuant to Section 2 of this Act; and***

***(6) "Real property" excludes residential property consisting of fewer than five (5) units.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

***(1) Pursuant to Sections 1 to 5 of this Act, the governing body of a local government may establish a program to advance the conservation and efficient use of energy and water resources within its jurisdiction, which program is hereby declared to be a valid exercise of the powers of local government and is in the best interest of the people of the Commonwealth, by allowing for energy projects to be financed by assessments imposed upon the real property being improved through the energy project. Nothing in Sections 1 to 5 of this Act shall be interpreted to:***

***(a) Expand the powers of eminent domain for a local government, state agency, or private entity or to allow a local government, state agency, or private entity to use the powers of eminent domain under this program; or***

***(b) Disregard or allow contravention of any net metering ordinance or policy, any generator interconnection ordinance or policy, or any rate ordinance duly adopted by the governing body.***

***(2) (a) To establish a program, the governing body of a local government shall adopt a resolution or ordinance providing the terms and conditions of the program, including but not limited to:***

*1. A statement that the local government intends to utilize assessments on relevant real property to support private sector energy projects;*

*2. The designation of an EPAD, and a description of the boundaries thereof; and*

*3. A procedure for the owners of record of real property located within an EPAD to petition the local government for participation in the program.*

*(b) Once a program is established, the governing body of a local government may amend the terms and conditions of the program by resolution or ordinance; except that no amendment shall be adopted to retroactively change the conditions under which an existing assessment was imposed, unless the owner of record of the affected real property consents to the amendment in writing.*

*(c) A local government may:*

*1. Hire program staff, or contract with a third-party entity to administer a program;*

*2. Impose fees on participating property owners to offset the costs of administering the program, including assessment and collection functions of various county offices; except that these fees shall not exceed the cost of services performed; and*

*3. Engage financing for the purpose of administering the program from financial institutions with a physical presence in Kentucky whose deposits are insured by the Federal Deposit Insurance Corporation.*

*(d) Any combination of local governments may agree to jointly implement or administer a program.*

*(3) (a) The geographic area designated by the governing body of a local government as the EPAD:*

*1. May include the entire local government or any portion thereof; and*

*2. Shall be wholly within the boundaries of the local government.*

*(b) A local government may designate more than one (1) separate EPAD within its boundaries.*

*(4) An authorized official of a local government that has established a program may approve a request from the owner of record of real property located within an EPAD to impose an assessment upon the property, which shall be used to repay the owner's financing of an energy project on that property and the costs of any upgrades to the electrical or gas distribution system connected to that property necessary to accommodate the energy improvement. The upgrade costs shall be paid to the owner of the electrical distribution system. The financing may be provided by a third party or, if authorized by the local government, by any local government.*

*(5) Each energy project approved for participation in the program shall include a review of the property's baseline energy or water usage conditions and the energy or water savings projected to be achieved as a result of the energy project.*

*(6) A program may authorize a participating property owner to:*

*(a) Directly purchase; or*

*(b) Acquire by contract, through a lease, power purchase agreement, or other service contract;*

*the equipment and materials necessary for the installation or modification of an energy improvement.*

*(7) In addition to the authority provided in the Kentucky Revised Statutes for local governments to levy special assessments with the same lien status as a property tax, the governing body of a local government that establishes a program pursuant to this section may exercise powers granted under Sections 1 to 5 of this Act.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

*(1) An assessment may be imposed by a local government upon real property located in an EPAD and undergoing an approved energy project, pursuant to Sections 1 to 5 of this Act, to repay the financing and associated costs of the energy project.*

*(2) (a) A local government may impose an assessment only after:*

*1. A petition to participate in the program and to be assessed is filed by the owner of record of the real property to be assessed; and*

*2. A written contract is signed between the local government and the owner of record of the real property to be assessed accepting the energy project into the program and establishing the terms and conditions of the energy project and the assessment to be imposed.*

*(b) The petition filed by the owner of record shall include the written consent of the holder of each existing mortgage lien on the relevant property stating that the lien holder does not object to the imposition of the assessment.*

*(3) A local government that authorizes financing through assessments as part of a program established pursuant to Sections 1 to 5 of this Act shall file written notice of each assessment in the real property records of the county in which the property is located. This notice shall include:*

*(a) The amount of the assessment;*

*(b) The legal description of the real property;*

*(c) The name of each owner of record of the real property; and*

*(d) A reference to the statutory assessment lien provided under this section.*

*(4) Upon the imposition of an assessment, the assessment:*

*(a) Shall be added to the property tax bill for the relevant property;*

*(b) Shall be collected and distributed by the sheriff, or other designated local official or department, to the imposing local government in the same manner as the other taxes on the bill, and unpaid assessments shall bear the same penalty as general state and local ad valorem taxes; and*

*(c) Shall, together with any interest and penalties, constitute a first and prior lien against the real property on which the assessment is imposed from the date on which the notice of assessment is recorded pursuant to this section until paid. This lien shall have the same priority status as a lien for any other state or local ad valorem tax upon the property.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

*(1) A local government may issue bonds or notes to finance energy projects through assessments imposed pursuant to Sections 1 to 5 of this Act.*

*(2) Bonds or notes issued under this section shall not be general obligations of the local government. The bonds or notes shall be secured solely by one (1) or more of the following, as provided by the governing body of the local government in the resolution or ordinance approving the issuance of the bonds or notes:*

*(a) Payments of assessments on relevant real properties in one (1) or more specified energy project assessment districts;*

*(b) Reserves established by the local government from grants, bonds, or other available funds;*

*(c) Municipal bond insurance, lines of credit, public or private guaranties, standby bond purchase agreements, collateral assignments, mortgages, or other available means of providing credit support or liquidity; and*

*(d) Any other funds available for the purposes of Sections 1 to 5 of this Act.*

*(3) A local government pledge of assessments, funds, or contractual rights in connection with the issuance of bonds or notes by the local government under this section constitutes a first lien on the assessments, funds, or contractual rights pledged in favor of the person to whom the pledge is given, without further action by the local government. The lien is valid and binding against any other person, with or without notice.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

*The imposition of an assessment pursuant to Sections 1 to 5 of this Act is to be made solely at the request of the owner of record of real property within an EPAD. A local government shall not compel a person who owns real property in an EPAD to enter into a contract to repay the financing of an energy project through assessments under Sections 1 to 5 of this Act.*

➔Section 6. This Act may be cited as the EPAD Act of 2015.

**Signed by Governor March 23, 2015.**

## CHAPTER 55

**( HB 512 )**

AN ACT relating to the Tobacco Master Settlement Agreement.

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

➔Section 1. KRS 131.600 is amended to read as follows:

As used in ***KRS 131.600 to 131.630***~~[this section and KRS 131.602]~~:

(1) "Adjusted for inflation" means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the master settlement agreement***;***~~[.]~~

(2) "Affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms "owns," "is owned," and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, partnership, committee, association, corporation, or any other organization or group of persons***;***~~[.]~~

(3) "Allocable share" means allocable share as that term is defined in the master settlement agreement***;***~~[.]~~

(4) ***"Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including but not limited to menthol, kings, and 100's, and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;***

***(5)*** "Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

(c) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection.

The term "cigarette" includes "roll-your-own", i.e., any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," nine-hundredths (0.09) ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette***";***~~[."]~~

***(6)***~~[(5)]~~ ***"Commissioner" means the commissioner of the department;***

***(7) "Department" means the Department of Revenue;***

***(8) "Directory" means the directory as provided in Section 4 of this Act;***

***(9) "Distributor" means a person, wherever residing or located, who purchases nontax-paid cigarettes and stores, sells, or otherwise disposes of the cigarettes. This includes resident wholesalers, nonresident wholesalers, and unclassified acquirers as defined in KRS 138.130;***

***(10) "Financial instrument" has the same meaning as in KRS 138.210;***

***(11) "Importer" has the same meaning as in Section 13 of this Act;***

***(12)*** "Master settlement agreement" means the settlement agreement and related documents entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers***;***~~[.]~~

***(13) "Nonparticipating manufacturer" means any tobacco product manufacturer that is not a participating manufacturer;***

***(14) "Participating manufacturer" has the meaning given the term in Section II(jj) of the master settlement agreement and all amendments thereto;***

***(15)*** ~~[(6)]~~ "Qualified escrow fund" means an escrow arrangement with a federally or state-chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of at least one billion dollars ($1,000,000,000) where such arrangement requires that such financial institution hold the escrowed funds' principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing, or directing the use of the funds' principal except as consistent with KRS 131.602***(3);*** ~~[(2).]~~

***(16)*** ~~[(7)]~~ "Released claims" means released claims as that term is defined in the master settlement agreement***;*** ~~[.]~~

***(17)*** ~~[(8)]~~ "Releasing parties" means releasing parties as that term is defined in the master settlement agreement***;*** ~~[.]~~

***(18) "Stamping agent" means a person, including a distributor, that is authorized to affix tax stamps to packages or other containers of cigarettes pursuant to KRS 138.146 or any person that is required to pay the excise tax imposed pursuant to KRS 138.155;***

***(19)*** ~~[(9)]~~ "Tobacco product manufacturer" means an entity that after June 30, 2000, directly and not exclusively through any affiliate:

(a) Manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, except where such importer is an original participating manufacturer, as that term is defined in the master settlement agreement, that will be responsible for the payments under the master settlement agreement with respect to such cigarettes as a result of the provisions of subsection II(mm) of the master settlement agreement and that pays the taxes specified in subsection II(z) of the master settlement agreement, and provided that the manufacturer of such cigarettes does not market or advertise such cigarettes in the United States;

(b) Is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does not intend to be sold in the United States; or

(c) Becomes a successor of an entity described in paragraph (a) or (b) of this subsection.

The term "tobacco product manufacturer" shall not include an affiliate of a tobacco product manufacturer unless such affiliate itself falls within any of the definitions described in paragraph (a), (b), or (c) of this subsection***; and*** ~~[.]~~

***(20)*** ~~[(10)]~~ "Units sold" means the number of individual cigarettes sold in Kentucky by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by Kentucky on packs or "roll-your-own" tobacco. The department~~[ of Revenue]~~ shall promulgate ***administrative*** ~~[ such]~~ regulations as are necessary to ascertain the amount of state excise tax paid on the cigarettes of ***the*** ~~[such]~~ tobacco product manufacturer for each year.

➔Section 2. KRS 131.602 is amended to read as follows:

(1) Any tobacco product manufacturer selling cigarettes to consumers within this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, after June 30, 2000, shall do one (1) of the following:

(a) Become a participating manufacturer, as that term is defined in section II(jj) of the master settlement agreement, and generally perform its financial obligations under the master settlement agreement; or

(b) Place into a qualified escrow fund~~[ by April 15 of the year following the year in question]~~ the following amounts, as~~[ such amounts are]~~ adjusted for inflation:

***a.*** ~~[1.]~~ For 2000: $0.0104712 per unit sold after June 30, 2000;

***b.*** ~~[2.]~~ For each of 2001 and 2002: $0.0136125 per unit sold;

***c.*** ~~[3.]~~ For each of 2003 through 2006: $0.0167539 per unit sold; and

***d.*** ~~[4.]~~ For 2007 and each year thereafter: $0.0188482 per unit sold***; and***

***2. Post a financial instrument with the Attorney General as provided in subsection (10) of this***

***section***.

(2) ***The nonparticipating manufacturer shall place the amount required under this section into the qualified escrow fund on a quarterly basis.***

***(3)*** A ***nonparticipating***~~[tobacco product]~~ manufacturer that places funds into escrow pursuant to~~[ subsection (1)(b) of]~~ this section shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

(a) To pay a judgment or settlement on any released claim brought against ***the nonparticipating***~~[such tobacco product]~~ manufacturer by Kentucky or any releasing party located or residing in Kentucky. Funds shall be released from escrow under this paragraph in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under ***the***~~[such]~~ judgment or settlement;

(b) To the extent that a ***nonparticipating***~~[tobacco product]~~ manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the master settlement agreement payments, as determined pursuant to section IX(i) of that agreement, including after final determination of all adjustments, that ***the nonparticipating***~~[such]~~ manufacturer would have been required to make on account of ***the***~~[such]~~ units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to ***the nonparticipating***~~[such tobacco product]~~ manufacturer; or

(c) To the extent not released from escrow under paragraph (a) or (b) of this subsection, funds shall be released from escrow and revert back to ***the nonparticipating***~~[such tobacco product]~~ manufacturer twenty-five (25) years after the date on which they were placed into escrow.

***(4)***~~[(3)]~~ Each ***nonparticipating***~~[tobacco product]~~ manufacturer~~[ that elects to place funds into escrow pursuant to subsection (1)(b) of this section]~~ shall annually certify to the Attorney General that it is in compliance with ***KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, and 248.754, and any administrative regulations promulgated thereunder***~~[subsections (1)(b) and (2) of this section]~~.

***(5)*** ***In addition to subsection (10)(g) of this section,*** the Attorney General may bring a civil action on behalf of Kentucky against any ***nonparticipating***~~[tobacco product]~~ manufacturer that fails ***in any quarter*** to place into escrow the funds required under this section. Any ***nonparticipating***~~[tobacco product]~~ manufacturer that fails in any ***quarter***~~[year]~~ to place into escrow the funds required under this section shall:

(a) Be required within fifteen (15) days to place ***sufficient***~~[such]~~ funds into escrow ***to***~~[ as shall]~~ bring it into compliance with this section. The court, upon a finding of a violation of~~[ subsection (1)(b) or (2) of]~~ this section, may impose a civil penalty, to be paid to the general fund of Kentucky, in an amount not to exceed five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed one hundred percent (100%) of the original amount improperly withheld from escrow;

(b) In the case of a knowing violation, be required within fifteen (15) days to place ***sufficient***~~[such]~~ funds into escrow ***to***~~[as shall]~~ bring it into compliance with this section. The court, upon a finding of a knowing violation of~~[ subsection (1)(b) or (2) of]~~ this section, may impose a civil penalty, to be paid to the general fund of Kentucky, in an amount not to exceed fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation and in a total amount not to exceed three hundred percent (300%) of the original amount improperly withheld from escrow; and

(c) In the case of a second knowing violation, be prohibited from selling cigarettes to consumers within Kentucky, whether directly or through a distributor, retailer, or similar intermediary, for a period not to exceed two (2) years***, or, if later, until fully compliant with KRS 131.600 to 131.630, 138.130 to 138.205, 248.752, 248.754, and any administrative regulations promulgated thereunder***.

Each failure to ***place sufficient funds into escrow as***~~[make an annual deposit]~~ required under this section ***on a quarterly basis as required by subsection (2) of this section*** shall constitute a separate violation.

***(6)***~~[(4)]~~ Notwithstanding the provisions of subsection (2) of this section, a ***nonparticipating***~~[tobacco product]~~ manufacturer that elects to place funds into escrow pursuant to~~[ subsection (1)(b) of]~~ this section may make an irrevocable assignment of its interest in the funds to the benefit of the Commonwealth of Kentucky. Such assignment shall be permanent and apply to all funds in the subject ***qualified*** escrow ***fund***~~[account]~~ or that may subsequently come into ***the fund***~~[such account]~~, including those deposited into the ***qualified*** escrow ***fund***~~[account]~~ prior to the assignment being executed, those deposited into the ***qualified*** escrow ***fund***~~[account]~~

after the assignment is executed, and interest or other appreciation on ***the*** ~~[such]~~ funds. The ***nonparticipating*** ~~[tobacco product]~~ manufacturer, the Attorney General, and the financial institution where the ***qualified*** escrow ***fund*** ~~[account]~~ is maintained may make ~~[ such]~~ amendments to the qualified escrow ***fund*** ~~[account]~~ agreement as may be necessary to effectuate an assignment of rights executed pursuant to this subsection or a withdrawal of funds from the ***qualified*** escrow ***fund*** ~~[account]~~ pursuant to subsection ***(7)*** ~~[(5)]~~ of this section. An assignment of rights executed pursuant to this subsection shall be in writing, signed by a duly authorized representative of the ***nonparticipating*** ~~[tobacco product]~~ manufacturer making the assignment, and shall become effective upon delivery of the assignment to the Attorney General and the financial institution where the ***qualified*** escrow ***fund*** ~~[account]~~ is maintained.

***(7)*** ~~[(5)]~~ Notwithstanding the provisions of subsection ***(3)*** ~~[(2)]~~ of this section, any escrow funds assigned to the Commonwealth pursuant to subsection ***(6)*** ~~[(4)]~~ of this section shall be withdrawn by the Commonwealth upon request by the Treasurer of the Commonwealth and approval of the Attorney General. Any funds withdrawn pursuant to this subsection shall be deposited in the general fund and shall be calculated on a dollar-for-dollar basis as a credit against any judgment or settlement described in subsection ***(3)*** ~~[(2)]~~(a) of this section which may be obtained against the ***nonparticipating*** ~~[tobacco product]~~ manufacturer who has assigned the funds in the subject ***qualified*** escrow ***fund*** ~~[account]~~. Nothing in this subsection or in subsection ***(6)*** ~~[(4)]~~ of this section shall be construed to relieve a ***nonparticipating*** ~~[tobacco product]~~ manufacturer from any past, current, or future obligations the manufacturer may have pursuant to this chapter.

***(8)*** ~~[(6)]~~ Notwithstanding subsections ***(6)*** ~~[(4)]~~ and ***(7)*** ~~[(5)]~~ of this section, no assignment of escrows created pursuant to ~~[ subsection (1)(b) of]~~ this section shall be made by a ***nonparticipating*** ~~[tobacco product]~~ manufacturer, or shall be accepted by the Treasurer of the Commonwealth, unless and until the Attorney General has provided an opinion to the Treasurer, with a copy of the opinion provided to the Governor and the Legislative Research Commission, that amendments to KRS 131.600 and subsections ***(6)*** ~~[(4)]~~ and ***(7)*** ~~[(5)]~~ of this section ***shall*** ~~[will]~~ not ***substantially*** jeopardize the Commonwealth's payments under the master settlement agreement ~~[ in the form of a nonparticipating manufacturer adjustment]~~.

***(9) For any nonparticipating manufacturer that is located outside the United States, each importer of the nonparticipating manufacturer's cigarettes shall be jointly and severally liable with the nonparticipating manufacturer for the deposit of all escrow amounts due under subsection (1) of this section, and the payment of all civil penalties imposed under subsection (5) of this section for the units sold in this state.***

***(10) (a) A nonparticipating manufacturer shall post a financial instrument with the Attorney General as a condition of the nonparticipating manufacturer and its brand families being included in the state directory for that quarter.***

***(b) The amount of the financial instrument shall be the greater of fifty thousand dollars ($50,000) or the greatest required escrow amount due from the nonparticipating manufacturer or its predecessor for the immediately preceding twelve (12) calendar quarters.***

***(c) The financial instrument shall be posted at least ten (10) days in advance of each calendar quarter.***

***(d) The nonparticipating manufacturer shall be the obligor.***

***(e) The State Treasurer shall be the obligee.***

***(f) The financial instrument shall be conditioned on the performance by the nonparticipating manufacturer of all of its escrow deposit and other financial obligations under Kentucky law.***

***(g) In addition to subsection (5) of this section, if:***

***1. The nonparticipating manufacturer fails to make its escrow deposits equal to the full amount owed for the quarter within thirty (30) days following the end of the quarter, the Attorney General may execute the financial instrument in the amount equal to any remaining amount of escrow due. The amount collected shall be deposited in the general fund and shall reduce the amount of escrow due from the nonparticipating manufacturer by the dollar amount collected. Escrow obligations that remain after the collection on the financial instrument shall remain due from the nonparticipating manufacturer and each of its importers; and***

***2. If the Attorney General obtains a judgment against the nonparticipating manufacturer for its failure to make the required escrow deposit, the Attorney General may also execute on the financial instrument to recover the amount of the costs of investigation, expert witness fees, costs of action, civil penalties, and attorneys' fees obtained in that judgment. Funds collected from the financial instrument shall be counted first toward the amount of escrow due but not***

***deposited into escrow by the nonparticipating manufacturer.***

➔Section 3. KRS 131.608 is amended to read as follows:

(1) Prior to selling cigarettes in Kentucky, directly or through a distributor, retailer, or similar intermediary or intermediaries, every tobacco product manufacturer shall certify as true under penalty of perjury that, as of the date of certification, the tobacco product manufacturer is a***:***

***(a)*** Participating manufacturer***;*** or

***(b)*** Nonparticipating manufacturer***;***

in full compliance with the provisions of KRS ***131.600 to 131.630, 138.130 to 138.205, 248.752, 248.754, and any administrative regulations promulgated thereunder***~~[131.602 and 131.620]~~. The ***participating***~~[tobacco product]~~ manufacturer ***and the nonparticipating manufacturer*** shall execute and deliver ***an annual***~~[the]~~ certification to the Attorney General on a form prescribed by the Attorney General no later than April 30 of each year. ***The nonparticipating manufacturer shall also submit a quarterly certification at the time and on a form prescribed by the Attorney General.***

(2) A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update the list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.

(3) A nonparticipating manufacturer shall include in its certification***:***

***(a)*** A complete list of~~[ all of]~~ its brand families***;***~~[ and provide the following:]~~

***(b)***~~[(a)]~~ A separate list of its brand families~~[ of cigarettes]~~ and the number of units sold ***in Kentucky*** for each brand family~~[ that were sold in Kentucky]~~ during the preceding calendar year;

***(c)***~~[(b)]~~ A separate list of all of its brand families that have been sold in Kentucky at any time during the current calendar year including:

1. Indicating by an asterisk any brand family sold in Kentucky during the preceding calendar year that is no longer being sold in Kentucky as of the date of the certification; and

2. Identifying by name and address any other manufacturer of such brand families in the preceding or current calendar year;~~[ and]~~

***(d) A full disclosure of any removals or notices of removal from other state directories, which may be used as a basis to deny certification;***

***(e) A listing of and a declaration from each of its importers of any of its brand families. The declaration shall state the following:***

***1. The importer accepts joint and several liability with the nonparticipating manufacturer for all obligations to place funds into a qualified escrow fund, for payment of all civil penalties, and for payment of all reasonable costs and expenses of investigation and prosecution, including attorneys' fees, as provided in Section 2 of this Act;***

***2. The importer consents to personal jurisdiction in this state for the purpose of claims by the state for any obligation to place funds into a qualified escrow fund, for payment of all civil penalties, and for payment of any reasonable costs and expenses of investigation or prosecution, including attorneys' fees, as provided in Section 2 of this Act;***

***3. The importer has appointed a registered agent for service of process in this state according to the same requirements established for the nonparticipating manufacturer as provided in Section 6 of this Act;***

***4. The importer holds a valid permit under 26 U.S.C. sec. 5713;***

***5. The importer is in compliance with the federal Jenkins Act, 15 U.S.C. secs. 375 et seq., as amended by the Prevent All Cigarette Trafficking (Pact) Act, Pub. L. No. 111-154, 124 Stat. 108; and***

***6. The importer has complied with KRS 138.130 to 138.205, 248.752, and 248.754, and any administrative regulations promulgated thereunder; and***

***(f)***~~[(c)]~~ Verification that the nonparticipating manufacturer has provided the following:

1. The name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established a qualified escrow fund required under KRS 131.602 and all ***administrative*** regulations promulgated thereunder***;*** ~~[.]~~

2. The account number of the qualified escrow fund and any subaccount number for the state of Kentucky***;*** ~~[.]~~

3. The amount the nonparticipating manufacturer placed in the fund for cigarettes sold in Kentucky during the preceding calendar year, the date and amount of each deposit and evidence or verification, as may be deemed necessary, by the Attorney General to confirm the foregoing***;*** ~~[.]~~

4. The amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the fund, or from any other qualified escrow fund into which it ever made escrow payments pursuant to KRS 131.602 and all administrative regulations promulgated ***thereunder*** ~~[thereto]~~.

(4) ~~[In the case of ]~~A nonparticipating manufacturer~~[, the]~~ ***requesting*** certification shall further certify ***that it***:

(a) ~~[That the nonparticipating manufacturer ]~~Is registered to do business in Kentucky or has appointed a resident agent for service of process and provided notice as required by ***Section 6 of this Act;*** ~~[ KRS 131.614]~~.

***(b) Holds a valid permit under 26 U.S.C. sec. 5713;***

***(c)*** ~~[(b)]~~ ~~[That the nonparticipating manufacturer ]~~Has established and continues to maintain a qualified escrow fund pursuant to KRS 131.602 and has executed a qualified escrow agreement that governs the qualified escrow fund and that has been reviewed and approved by the Attorney General***;*** ~~[.]~~

***(d)*** ~~[(c)]~~ ~~[That the nonparticipating manufacturer ]~~Is in full compliance with KRS ***131.600*** ~~[131.602, 131.604]~~ to 131.630, ***138.130 to 138.205,*** and any administrative regulations promulgated ***thereunder;*** ~~[pursuant thereto.]~~

***(e) Is in compliance with the federal Jenkins Act, 15 U.S.C. secs. 375 et seq., as amended by the Prevent All Cigarette Trafficking (Pact) Act, Pub. L. No. 111-154, 124 Stat. 108; and***

***(f) Whether acting as an individual, entity, or any other group or combination acting as a unit, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit, has not been convicted of, or entered a plea of guilty or nolo contendere to:***

***1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes or tobacco products; or***

***2. A crime involving fraud, falsification of records, improper business transactions, or reporting;***

***for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.***

(5) A tobacco product manufacturer may not include a brand family in its certification unless:

(a) In the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the master settlement agreement for the relevant year, in the volume and shares determined pursuant to the master settlement agreement***; and*** ~~[.]~~

(b) In the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes pursuant to KRS 131.602.

(6) The nonparticipating manufacturer shall update all lists thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General.

(7) Nothing in this section shall be construed as limiting or otherwise affecting the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of KRS 131.602.

(8) The tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for a certification for a period of five (5) years.

➔Section 4. KRS 131.610 is amended to read as follows:

(1) The Attorney General shall develop and make available to the department for public inspection, to include publishing on the department's Web site, a listing of all tobacco product manufacturers that have provided current and accurate certifications pursuant to KRS 131.608 and all brand families that are listed in the certifications. The listing shall be referred to as the "directory" and completed no later than July 1 of each certification year.

(2) The department shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with KRS 131.608, unless the Attorney General has determined that such violation has been satisfactorily cured.

(3) Neither a ***nonparticipating***~~[tobacco product]~~ manufacturer nor a brand family shall be included or retained in the directory if the Attorney General determines~~[, in the case of a nonparticipating manufacturer,]~~ that:

(a) Any escrow payment required pursuant to KRS 131.602 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General;~~[ or]~~

(b) Any outstanding final judgment, including interest thereon, for a violation of KRS 131.602 has not been fully satisfied for the brand family or the manufacturer***;***

***(c) The requirements for certification under Section 3 of this Act have not been met; or***

***(d) The financial instrument required by subsection (10) of Section 2 of this Act has not been posted***.

(4) Upon receipt of information from the Attorney General, the department shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this section and KRS 131.608 and 131.620.

(5) (a) The department shall transmit, by electronic mail or other practicable means, notice to each stamping agent and distributor of any addition to or removal from the directory of any tobacco product manufacturer or brand family.

(b) Within seven (7) days of receiving a removal notice from the department, each stamping agent or distributor shall forward:

1. A copy of the removal notice to each of the stamping agent's or distributor's retail customers; and

2. To the department, a list of the ***retail***~~[retailer]~~ customers ***and any other person*** to whom the removal notices were sent.

(c) ~~[1. The retailer shall have sixty (60) days from the effective date of the removal notice to sell the affected cigarettes before the cigarettes are deemed contraband and become subject to seizure and destruction under KRS 131.622.~~

~~2. On and after the sixty first day from the effective date of the removal notice, ]~~The retailer shall not sell any cigarettes of a tobacco product manufacturer or brand family that ***have***~~[has]~~ been removed from the directory.

***(d) The department shall work cooperatively with the stamping agents and distributors to develop an electronic system which will be used to notify, as soon as possible, all retail customers and any other person to whom the nonparticipating manufacturer's products were sold that:***

***1. A notice of intent to remove the nonparticipating manufacturer from the directory has been issued by the Attorney General; and***

***2. A subsequent change in that status has occurred as a result of the nonparticipating manufacturer coming into compliance prior to being removed from the directory.***

(6) Every stamping agent and distributor shall provide and update as necessary an electronic mail address to the department for the purpose of receiving any notifications that may be required by this section and KRS 131.608, 131.616, 131.620, and 131.624.

(7) Notwithstanding the provisions of subsections (2) and (3) of this section, in the case of any nonparticipating manufacturer who has established a qualified escrow ***fund***~~[account]~~ pursuant to KRS 131.602 that has been approved by the Attorney General, the Attorney General may not remove the ***nonparticipating*** manufacturer or its brand families from the directory unless the ***nonparticipating*** manufacturer has been given at least thirty (30) days' notice of the intended action. For the purposes of this section, notice shall be deemed sufficient if it

is sent either electronically to an electronic-mail address or by first class to a postal mailing address provided by the ***nonparticipating*** manufacturer in its most recent certification filed pursuant to KRS 131.608. The notified nonparticipating manufacturer shall have thirty (30) days from receipt of the notice to comply. At the time that the Attorney General sends notice of his or her intent to remove the ***nonparticipating*** manufacturer from the directory, the Attorney General shall post the notice in the directory.

(8) Beginning on the day after the Attorney General posts a notice in the directory of the Attorney General's intent to remove the nonparticipating manufacturer from the directory as provided in subsection (7) of this section, a stamping agent or distributor shall not purchase cigarettes from the nonparticipating manufacturer ***or any of its importers*** unless and until the Attorney General determines that the nonparticipating manufacturer is in compliance with ***Section 3 of this Act***~~[KRS 131.608]~~ and posts the notification of compliance in the directory.

➔Section 5. KRS 131.612 is amended to read as follows:

It shall be unlawful for:

(1) Any stamping agent~~,[ or]~~ distributor***, or any other person*** to affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; or

(2) Any retailer ***or any other person*** to sell cigarettes from a tobacco product manufacturer or brand family~~[ sixty-one (61) days or more]~~ after the effective date of the removal of the tobacco product manufacturer or brand family from the directory.

➔Section 6. KRS 131.614 is amended to read as follows:

(1) Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in the state as a foreign corporation or business entity shall, as a condition precedent to having its brand families included or retained in the directory***:***~~[,]~~

***(a)*** Appoint and continually engage without interruption the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of KRS ***131.600***~~[131.602 and 131.604]~~ to 131.630, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent to the Attorney General***; and***

***(b) Cause each of its importers of each of its brand families to be sold in the state to appoint and continually engage without interruption the services of an agent in this state for the purposes outlined in paragraph (a) of this subsection***.

(2) The nonparticipating manufacturer ***and each of its importers*** shall provide notice to the Attorney General thirty (30) calendar days prior to termination of the authority of an agent and shall further provide proof of the appointment of a new agent no less than five (5) calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer ***and each of its importers*** shall notify the ***Secretary of State***~~[secretary]~~ and the Attorney General of the termination within five (5) calendar days and shall include proof of the appointment of a new agent.

(3) ***If a***~~[Any]~~ nonparticipating manufacturer ***or any of its importers do not appoint or designate***~~[whose products are sold in this state without appointing or designating]~~ an agent as required by this section~~,[ shall be deemed to have appointed]~~ the Secretary of State ***shall serve*** as its agent and ***the nonparticipating manufacturer or its importers, as the case may be,*** may be proceeded against in courts of this state by service of process upon the Secretary of State. The appointment of the Secretary of State as its agent shall not satisfy the condition precedent to having ***the nonparticipating manufacturer's***~~[its]~~ brand families listed or retained in the directory.

(4) The Attorney General may by administrative regulation establish criteria for validating the appointment of an agent for the purposes of this section.

➔Section 7. KRS 131.618 is amended to read as follows:

(1) Notwithstanding KRS 131.190, the commissioner is authorized to disclose to the Attorney General the name and address of a stamping agent or distributor and the number of sticks by brand name that have been purchased from a nonparticipating manufacturer and have been stamped with Kentucky stamps by that agent or distributor. The Attorney General may share this information with~~[ other]~~ federal, ***other*** state, or local agencies only for the purposes of enforcement of KRS ***131.600***~~[131.602 and 131.604]~~ to 131.630 or corresponding laws of other states. The Attorney General is further authorized to disclose to a nonparticipating~~[ tobacco product]~~ manufacturer ***or its importers*** this information that has been provided by a

stamping agent regarding the purchases from that ***nonparticipating*** manufacturer ***or its importers***. This information provided by a stamping agent may be used in any enforcement action against the nonparticipating manufacturer ***or its importers*** by the Attorney General.

(2) In addition to the information required to be submitted pursuant to KRS 131.608, 131.614, and 131.620, the Attorney General or the commissioner may require a stamping agent, distributor, ***participating manufacturer, nonparticipating*** ~~[or tobacco product]~~ manufacturer***, or a nonparticipating manufacturer's importers*** to submit any additional information including but not limited to samples of the packaging or labeling of each brand family as is necessary to enable the Attorney General to determine whether ***the participating*** ~~[a tobacco product]~~ manufacturer ***or the nonparticipating manufacturer and its importers are*** ~~[is]~~ in compliance with KRS ***131.600*** ~~[131.604]~~ to 131.630.

➔Section 8. KRS 131.622 is amended to read as follows:

(1) (a) The following shall be contraband and subject to seizure and destruction:

1. Any cigarettes that have been affixed with a stamp in this state in violation of KRS 131.612; or

2. Any cigarettes in the possession of a retailer ~~[ after the sixty (60) day grace period as provided in KRS 131.610(5)(c)]~~ from a tobacco product manufacturer or brand family that ***have*** ~~[has]~~ been removed from the directory.

(b) Whenever any peace officer of this state, or any representative of the department, finds any contraband cigarettes, the cigarettes shall be immediately seized and stored in a depository to be selected by the officer or representative.

(c) The seized cigarettes shall be held for a period of twenty (20) days to allow the owner or any person having an interest in the cigarettes to protest the seizure.

(d) At the time of seizure, the officer or representative shall:

1. Notify the department of the nature and quantity of the cigarettes seized; and

2. Deliver to the person in whose custody the cigarettes are found a receipt for the cigarettes. The receipt shall state on its face the date of seizure, and a notice that the cigarettes shall be destroyed if the seizure is not protested in writing to the Department of Revenue, Frankfort, Kentucky, within twenty (20) days from the seizure.

(e) The owner or any person having an interest in the seized cigarettes may appeal to the Kentucky Board of Tax Appeals a final determination made by the department pursuant to KRS 131.340.

(f) If the owner or any person having an interest in the seized cigarettes fails to protest the seizure before the end of the twenty (20) day holding period, the department shall destroy the seized cigarettes.

(2) The Attorney General may seek an injunction to restrain a violation of KRS 131.612 or 131.616 by a distributor or stamping agent and to compel the distributor or stamping agent to comply with KRS 131.612 and 131.616. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and ***attorneys'*** ~~[ reasonable attorney]~~ fees from any distributor or stamping agent found to be in violation of KRS 131.612 or 131.616.

(3) No stamping agent~~[ or]~~ distributor***, retailer, or any other person*** shall sell or distribute cigarettes, or acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the stamping agent***, distributor, retailer, or person*** knows are intended for distribution or sale in the state in violation of KRS 131.612. A violation of this section is a Class A misdemeanor.

(4) Nothing in this section shall prohibit a stamping agent or distributor from possessing unstamped containers of cigarettes held in inventory for delivery to, or for sale in, another state ***if in possession of proof that the cigarettes are intended for sale in another state***.

(5) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated KRS 131.612 or any ***administrative*** regulation ***promulgated*** ~~[adopted]~~ pursuant to KRS ***131.600*** ~~[131.604]~~ to 131.630, the commissioner may suspend the sale of cigarette stamps to the stamping agent or distributor for failure to comply with the provisions of KRS ***131.600*** ~~[131.604]~~ to 131.630.

➔Section 9. KRS 131.624 is amended to read as follows:

(1) Any person aggrieved by a determination of the Attorney General to not include or to remove from the

directory created in KRS 131.610 a brand family or tobacco product manufacturer may appeal the determination to the Franklin Circuit Court, or to the Circuit Court of the county in which the aggrieved party resides or conducts his place of business. For the purposes of a temporary injunction sought pursuant to this subsection, loss of the ability to sell tobacco products as a result of removal from the directory may be deemed to constitute irreparable harm.

(2) No person shall be issued a license or granted a renewal of a license to act as a distributor or stamping agent unless the person is in compliance with the provisions of KRS ***131.600***~~[131.604]~~ to 131.630.

(3) The Attorney General or the department may promulgate administrative regulations necessary to effect the purposes of KRS ***131.600***~~[131.604]~~ to 131.630.

➔Section 10. KRS 131.626 is amended to read as follows:

(1) In any action brought by the state to enforce KRS ***131.600***~~[131.604]~~ to 131.630, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and ***attorneys'***~~[ reasonable attorney]~~ fees from any entity or person found to be in violation of KRS ***131.600***~~[131.604]~~ to 131.630.

(2) If a court determines that a person has violated KRS ***131.600***~~[131.604]~~ to 131.630, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be relinquished and paid to the State Treasurer for deposit in the tobacco control special fund, which is hereby created. Moneys in the fund shall be used for the sole purpose of enforcement of KRS ***131.600***~~[131.604]~~ to 131.630.

***(3)*** Unless otherwise expressly provided, the remedies or penalties provided by KRS ***131.600***~~[131.604]~~ to 131.630 are cumulative to each other and to the remedies or penalties available under all other laws of this state.

➔Section 11. KRS 131.628 is amended to read as follows:

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of KRS 131.600~~[, 131.602, or 131.604]~~ to 131.630 causes KRS 131.600 and 131.602 to no longer constitute a model statute, as it is set out in Exhibit T to the master settlement agreement, then that portion of KRS 131.600~~[, 131.602, or 131.604]~~ to 131.630 shall not be valid.

➔Section 12. KRS 131.630 is amended to read as follows:

(1) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent or distributor has violated any provision of KRS ***131.600***~~[131.604]~~ to 131.630 or any administrative ***regulations***~~[regulation]~~ promulgated thereunder, the commissioner may revoke or suspend the license of any stamping agent or distributor pursuant to KRS 138.195 and 138.205.

(2) Each stamp affixed in violation of KRS 131.612 shall constitute a separate violation.

***(3)*** The commissioner may impose a civil penalty ***of twenty-five dollars ($25) per violation***~~[ in an amount]~~ not to exceed~~[ the greater of five hundred percent (500%) of the retail value of the cigarettes sold or]~~ five thousand dollars ($5,000) upon a determination of a violation of KRS 131.612 or any administrative regulations promulgated thereunder. The penalty shall be imposed in the manner provided by KRS 138.195 and 138.205.

➔Section 13. KRS 248.750 is amended to read as follows:

As used in KRS~~[ 138.146 and]~~ 248.750 to 248.769:

(1) "Department" means the Department of Revenue;

(2) "Cigarettes" ***has the same meaning***~~[means cigarettes]~~ as~~[ defined]~~ in KRS 138.130;

(3) "Importer" ***has the same meaning***~~[ means an importer]~~ as~~[ defined]~~ in 26 U.S.C. sec. 5702***(k)***~~[(l)]~~;

(4) "Manufacturer" means any person who manufactures or produces cigarettes within or without the Commonwealth;

(5) "Master settlement agreement" means the settlement agreement (and related documents) entered into on November 23, 1998, by Kentucky and leading United States tobacco product manufacturers;

(6) ***"Nonparticipating manufacturer" has the same meaning as in Section 1 of this Act;***

***(7)*** "Package" ***has the same meaning***~~[means package]~~ as~~[ is defined]~~ in 15 U.S.C. sec. 1332(4); and

***(8)***~~[(7)]~~ "Person" ***has the same meaning***~~[means person]~~ as~~[ defined]~~ in KRS 446.010.

➔Section 14. KRS 248.754 is amended to read as follows:

On or before the fifteenth business day of each month, each***:***

***(1)*** Person licensed to affix the stamp required by KRS 138.146 or make other evidence of tax payment as provided in KRS 138.155 shall file with the ***department***~~[cabinet]~~, for all cigarettes imported into the United States to which the person has affixed the stamp required by KRS 138.146 or made other evidence of tax payment as provided in KRS 138.155 in the preceding month, a copy of the ***current*** customs certificates required by 19 U.S.C. sec. 1681a(c) for the entry of cigarettes into the United States***; and***

***(2) A nonparticipating manufacturer and each of its importers shall file with the Attorney General for all cigarettes imported into the United States, a copy of the current customs certificates required by 19 U.S.C. sec. 1681a(c) for the entry of cigarettes into the United States***.

➔Section 15. KRS 248.756 is amended to read as follows:

(1) The ***department***~~[cabinet]~~ may revoke~~[ or suspend]~~ the license issued in accordance with KRS 138.195 of any licensee and impose a civil penalty ***of twenty-five dollars ($25) per violation***~~[ in an amount]~~ not to exceed~~[ the greater of five hundred percent (500%) of the retail value of the cigarettes involved or]~~ five thousand dollars ($5,000) upon finding a violation by the licensee of KRS 248.752 or 248.754***, as applicable***.

(2) Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in this Commonwealth in violation of KRS 248.752 or 248.754 shall be treated as contraband under KRS 138.165 and be subject to seizure and forfeiture. Notwithstanding the provisions of KRS 138.165, all cigarettes seized and forfeited shall be destroyed. Cigarettes shall be treated as contraband whether the violation of KRS 248.752 or 248.754 is knowing or otherwise.

➔Section 16. KRS 138.195 is amended to read as follows:

(1) (a) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the department as set out in this section.

(b) No person shall act as a distributor of tobacco products without first obtaining a license from the department as set out in this section.

***(c) For licenses effective for periods beginning on or after July 1, 2015, no individual, entity, or any other group or combination acting as a unit may be eligible to obtain a license under this section if the individual, or any partner, director, principal officer, or manager of the entity or any other group or combination acting as a unit has been convicted of, or entered a plea of guilty or nolo contendere to:***

***1. A crime relating to the reporting, distribution, sale, or taxation of cigarettes or tobacco products; or***

***2. A crime involving fraud, falsification of records, improper business transactions or reporting;***

***for ten (10) years from the expiration of probation or final discharge from parole or maximum expiration of sentence.***

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the department. The department shall prescribe by ***administrative*** regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the department.

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) (a) 1. Each distributor shall secure a license for the privilege of selling tobacco products in this state. Each license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each year or portion thereof for which the license is secured.

2. a. A resident wholesaler, nonresident wholesaler, or subjobber licensed under this section may also obtain and maintain a distributor's license at each place of business at no additional cost each year.

b. An unclassified acquirer licensed under this section may also obtain and maintain a distributor's license for the privilege of selling tobacco products in this state. The license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of four hundred fifty dollars ($450) for each year or portion thereof for which the license is secured.

3. The department may, upon application, grant a distributor's license to a person other than a retailer and who is not otherwise required to hold a distributor's license under this paragraph. If the department grants the license, the licensee shall pay the sum of five hundred dollars ($500) for each year or portion thereof for which the license is secured, and the licensee shall be subject to the excise tax in the same manner and subject to the same requirements as a distributor required to be licensed under this paragraph.

(b) The department may, upon application, grant a retail distributor's license to a retailer for the privilege of purchasing tobacco products from a distributor not licensed by the department. If the department grants the license, the licensee shall pay the sum of one hundred dollars ($100) for each year or portion thereof for which the license is secured.

(8) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the department from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(9) (a) The department may by ***administrative*** regulation require any person ***requesting a license or holding a license***~~[licensed]~~ under~~[ the provisions of]~~ this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state.

(b) Failure on the part of ***the applicant or***~~[such]~~ licensee to comply with~~[ the provisions of]~~ KRS ***131.600 to 131.630,*** 138.130 to 138.205***, 248.752, 248.754,*** or any ***administrative*** regulations promulgated thereunder, or to permit an inspection of premises, machines**,** or vehicles by an authorized agent of the department at any reasonable time shall be grounds for the ***denial or*** revocation of any license issued by the department, after due notice and a hearing by the department.

(c) The commissioner~~[ of the department]~~ may assign a time and place for ***the***~~[such]~~ hearing and may appoint a conferee who shall conduct a hearing, receive evidence**,** and hear arguments.

(d) The conferee shall thereupon file a report with the commissioner together with a recommendation as to the ***denial or*** revocation of ***the***~~[such]~~ license.

(e) From any ***denial or*** revocation made by the commissioner~~[ of the department]~~ on ***the***~~[such]~~ report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law.

(f) Any person whose license has been revoked for the willful violation of any provision of KRS ***131.600***

***to 131.630,*** 138.130 to 138.205***, 248.752, 248.754, or any administrative regulations promulgated thereunder*** shall not be entitled to any license provided for in this section, or have any interest in any~~[ such]~~ license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of ***two (2) years***~~[one (1) year]~~ after ***the***~~[such]~~ revocation.

(10) No license issued pursuant to~~[ the provisions of]~~ this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(11) Every manufacturer located or doing business in this state and the first person to import cigarettes ***into this state***~~[from a foreign manufacturer]~~ shall keep written records of all shipments of cigarettes to persons within this state, and shall submit to the department monthly reports of such shipments. All books, records, invoices, and documents required by this section shall be preserved in a form prescribed by the department for not less than four (4) years from the making of the records unless the department authorizes, in writing, the destruction of the records.

(12) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such licensee untax-paid cigarettes.

(13) (a) Licensed distributors of tobacco products shall pay and report the tax levied by KRS 138.140(4)(a) on or before the twentieth day of the calendar month following the month in which the possession or title of the tobacco products are transferred from the licensed distributor to retailers or consumers in this state, as the case may be.

(b) Retailers who have applied for and been granted a retail distributor's license for the privilege of purchasing tobacco products from a person who is not a distributor licensed under KRS 138.195(7)(a) shall report and pay the tax levied by KRS 138.140(4)(c)2. on or before the twentieth day of the calendar month following the month in which the products are acquired by the licensed retail distributors.

(c) If the distributor or retail distributor timely reports and pays the tax due, the distributor or retail distributor may deduct an amount equal to one percent (1%) of the tax due.

(d) The department shall promulgate administrative regulations setting forth the details of the reporting requirements.

(14) A tax return shall be filed for each reporting period whether or not tax is due.

***(15) Any license issued by the department under this section shall not be construed to waive or condone any violation that occurred or may have occurred prior to the issuance of the license and shall not prevent subsequent proceedings against the licensee.***

***(16) (a) The department may deny the issuance of a license under this section if:***

***1. The applicant has made any material false statement on the application for the license; or***

***2. The applicant has violated any provision of KRS 131.600 to 131.630, 138.130 to 138.205, 248.754, 248.756 or any administrative regulations promulgated thereunder.***

***(b) If the department denies the applicant a license under this section, the department shall notify the applicant of the grounds for the denial, and the applicant may request a hearing and appeal the denial as provided in subsection (9) of this section.***

➔Section 17. KRS 227.774 is amended to read as follows:

(1) Each manufacturer shall submit to the state fire marshal a written certification attesting that:

(a) Each cigarette listed in the certification has been tested in accordance with KRS 227.772; and

(b) Each cigarette listed in the certification meets the performance standard set forth under KRS 227.772(1)(d).

(2) Each cigarette listed in the certification shall be described with the following information:

(a) Brand or trade name on the package;

(b) Style, such as light or ultra light;

(c) Length in millimeters;

(d) Circumference in millimeters;

(e) Flavor, such as menthol or chocolate, if applicable;

(f) Filter or nonfilter;

(g) Package description, such as soft pack or box;

(h) Marking approved in accordance with KRS 227.776;

(i) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and

(j) The date that the testing occurred.

(3) The certifications shall be made available to the Attorney General for purposes consistent with KRS 227.770 to 227.784 and the Department of Revenue for the purposes of ensuring compliance with this section.

(4) Each cigarette certified under this section shall be recertified every three (3) years.

(5) For cigarettes certified in compliance with this section, a manufacturer shall pay to the state fire marshal a fee of one thousand dollars ($1,000) per brand family. "Brand family" shall have the same meaning as in ***Section 1 of this Act***~~[KRS 131.604]~~.

(6) The Reduced Cigarette Ignition Propensity and Firefighter Protection Act enforcement fund is established in the Finance and Administration Cabinet for use by the state fire marshal solely for processing, testing, enforcement, and oversight activities set out in KRS 227.770 to 227.784. The fund shall consist of certification fees required under subsection (5) of this section, and any other moneys made available for such purpose from any source. Moneys credited to the fund may be invested until needed. All interest earned in the fund shall be retained in the fund. Notwithstanding KRS 45.229, moneys in the fund shall not lapse but shall carry forward at the end of the fiscal year.

(7) If a manufacturer has certified a cigarette pursuant to this section, and afterward makes any change to the cigarette that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by KRS 227.770 to 227.784, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in KRS 227.772(1)(b) and maintains records of that retesting as required by KRS 227.772. Any altered cigarette which does not meet the performance standard set forth in KRS 227.772(1)(d) shall not be sold in this state.

➔Section 18. The following KRS section is repealed:

131.604 Definitions for KRS 131.604 to 131.630.

➔Section 19. This Act takes effect July 1, 2015.

**Signed by Governor March 23, 2015.**

## CHAPTER 56

**( HB 69 )**

AN ACT relating to health benefit plans.

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

➔Section 1. KRS 304.17A-257 is amended to read as follows:

(1) A health benefit plan issued or renewed on or after ***the effective date of this Act***~~[January 1, 2009]~~, shall provide coverage for all colorectal cancer examinations and laboratory tests specified in current American Cancer Society guidelines for ***complete*** colorectal cancer screening of asymptomatic individuals as follows:

(a) Coverage or benefits shall be provided for all colorectal screening examinations and tests that are administered at a frequency identified in the most recent version of the American Cancer Society guidelines for ***complete*** colorectal cancer screening; and

(b) The covered individual shall be:

1. Fifty (50) years of age or older; or

2. Less than fifty (50) years of age and at high risk for colorectal cancer according to current colorectal cancer screening guidelines of the American Cancer Society.

(2) Coverage under this section shall not be subject to a~~[ separate]~~ deductible or~~[ separate]~~ coinsurance ***for services received from participating providers***~~[ but may be subject to the same deductible or coinsurance established for other laboratory testing]~~ under the health benefit plan.

➔Section 2. KRS 315.522 is amended to read as follows:

(1) ***(a)*** The board may ***grant a license on the basis of reciprocity to a home medical equipment and services provider located in one (1) of Kentucky's seven (7) contiguous bordering states that license***~~[permit an out-of-state ]~~home medical equipment and services ***providers***~~[provider to obtain a license on the basis of reciprocity]~~ if:

***1.***~~[(a)]~~ The out-of-state provider physically located in one (1) of ***Kentucky's seven (7) contiguous***~~[the]~~ bordering states possesses a valid license from ***a***~~[another]~~ jurisdiction that grants the same privileges to persons licensed by the Commonwealth as the Commonwealth grants to persons licensed by the other jurisdiction;

***2.***~~[(b)]~~ The requirements for licensure in the ***contiguous*** bordering state***, including but not limited to a requirement for a physical location in the state as a condition of issuing or renewing a license,*** are substantially similar to the requirements under KRS 315.510 to 315.524; and

***3.***~~[(c)]~~ The out-of-state provider seeking licensure states that he or she has studied, is familiar with, and shall abide by KRS 315.510 to 315.524 and the administrative regulations promulgated thereunder.

***(b) 1. Notwithstanding subsection (2) of this section, the board may grant a license on the basis of reciprocity to a home medical equipment and services provider physically located in one (1) of Kentucky's seven (7) contiguous bordering states that does not license home medical equipment and services providers if the out-of-state provider seeking to operate in Kentucky states by affidavit that he or she has studied, is familiar with, and shall abide by KRS 315.510 to 315.524 and the administrative regulations promulgated thereunder; and***

***2. The contiguous bordering state grants the same privileges to persons licensed in the Commonwealth as the Commonwealth grants to providers from the state described in paragraph (b)1. of this subsection.***

(2) If the requirements for licensure under KRS 315.510 to 315.524 and the administrative regulations promulgated thereunder are more restrictive than the standards of ***a contiguous***~~[the other]~~ jurisdiction, then the out-of-state provider shall comply with the additional requirements of KRS 315.510 to 315.524 to obtain a reciprocal license.

➔Section 3. KRS 315.191 is amended to read as follows:

(1) The board is authorized to:

(a) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters set forth in this chapter relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, manufacturers, and home medical equipment and services providers, to the extent that regulation and control of same have not been delegated to some other agency of the Commonwealth, but administrative regulations relating to drugs and home medical equipment and services shall be limited to the regulation and control of drugs sold pursuant to a prescription drug order or home medical equipment sold pursuant to a medical order. However, nothing contained in this chapter shall be construed as authorizing the board to promulgate any administrative regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services;

(b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board;

(c) Prescribe the time, place, method, manner, scope, and subjects of examinations, with at least two (2) examinations to be held annually;

(d) Issue and renew all:

1. Licenses for home medical equipment and services providers engaged in providing home medical equipment and services; and

2. Licenses, certificates, and permits for all pharmacists, pharmacist interns, pharmacies, pharmacy technicians, wholesale distributors, and manufacturers engaged in the manufacture, distribution, or dispensation of drugs;

(e) Investigate all complaints or violations of the state pharmacy and home medical equipment laws and the administrative regulations promulgated by the board, and bring all these cases to the notice of the proper law enforcement authorities;

(f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are necessary and to control the storage, retrieval, dispensing, refilling, and transfer of prescription drug orders within and between pharmacists and pharmacies licensed or issued a permit by it;

(g) Perform all other functions necessary to carry out the provisions of law and the administrative regulations promulgated by the board relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, manufacturers, and home medical equipment and services providers;

(h) Establish or approve programs for training, qualifications, and registration of pharmacist interns;

(i) Assess reasonable fees, in addition to the fees specifically provided for in this chapter and consistent with KRS 61.870 to 61.884, for services rendered to perform its duties and responsibilities, including, but not limited to, the following:

1. Issuance of duplicate certificates;

2. Mailing lists or reports of data maintained by the board;

3. Copies of documents; or

4. Notices of meetings;

(j) Seize any drug or device found by the board to constitute an imminent danger to public health and welfare;

(k) Establish an advisory council to advise the board on administrative regulations and other matters, within the discretion of the board, pertinent to the regulation of pharmacists, pharmacist interns, pharmacy technicians, pharmacies, drug distribution, drug manufacturing, and home medical equipment and services. The council shall consist of nine (9) members selected by the board for terms of up to four (4) years. No member shall serve on the council for more than eight (8) years. Membership of the council shall include ***seven (7)*** ~~[nine (9)]~~ individuals broadly representative of the profession of pharmacy~~[, the profession of providing home medical equipment and services,]~~ and the general public***, and two (2) individuals representative of the home medical equipment and services profession licensed in accordance with KRS 315.518***. Members shall be selected by the board from a list of qualified candidates submitted by the association, society, or other interested parties;

(l) Promulgate administrative regulations establishing the qualifications that pharmacy technicians are required to attain prior to engaging in pharmacy practice activities outside the immediate supervision of a pharmacist; and

(m) Oversee and administer the licensure of home medical equipment and services providers pursuant to KRS 315.510 to 315.524.

(2) The board shall have other authority as may be necessary to enforce pharmacy and home medical equipment laws and administrative regulations of the board including, but not limited to:

(a) Joining or participating in professional organizations and associations organized exclusively to promote improvement of the standards of practice of pharmacy and of providing home medical equipment and services for the protection of public health and welfare or facilitate the activities of the board; and

(b) Receiving and expending funds, in addition to its biennial appropriation, received from parties other than the state, if:

1. The funds are awarded for the pursuit of a specific objective which the board is authorized to enforce through this chapter, or which the board is qualified to pursue by reason of its jurisdiction or professional expertise;

2. The funds are expended for the objective for which they were awarded;

3. The activities connected with or occasioned by the expenditure of the funds do not interfere with the performance of the board's responsibilities and do not conflict with the exercise of its statutory powers;

4. The funds are kept in a separate account and not commingled with funds received from the state; and

5. Periodic accountings of the funds are maintained at the board office for inspection or review.

(3) In addition to the sanctions provided in KRS 315.121, the board or its hearing officer may direct any licensee, permit holder, or certificate holder found guilty of a charge involving home medical equipment, pharmacy, or drug laws, rules, or administrative regulations of the state, any other state, or federal government, to pay to the board a sum not to exceed the reasonable costs of investigation and prosecution of the case, not to exceed twenty-five thousand dollars ($25,000).

(4) In an action for recovery of costs, proof of the board's order shall be conclusive proof of the validity of the order of payment and any terms for payment.

➔Section 4. KRS 315.514 is amended to read as follows:

(1) No person shall provide home medical equipment and services, or use the title "home medical equipment and services provider" in connection with his or her profession or business, without a license issued by the board.

(2) Unless home medical equipment and services are provided through a separate legal entity, nothing in KRS 315.510 to 315.524 or any administrative regulations promulgated thereunder shall be construed as preventing or restricting the practices, services, or activities of the following:

(a) A person licensed or registered in this state under any other law who is engaging in the profession or occupation for which he or she is licensed or registered;

(b) Health care practitioners who lawfully prescribe or order home medical equipment and services, or who use home medical equipment and services to treat their patients;

(c) Home health agencies that do not engage in the provision of home medical equipment and services;

(d) Hospitals that provide home medical equipment and services only as an integral part of patient care;

(e) Manufacturers and wholesale distributors of home medical equipment who do not sell, lease, or rent home medical equipment directly to a patient;

(f) Pharmacies that are engaged in the sale, lease, or rental of home medical equipment and services;

(g) An employee of a person licensed under KRS 315.510 to 315.524;

(h) Hospice programs that do not involve the sale, lease, or rental of home medical equipment and services;

(i) Skilled nursing facilities that do not involve the sale, lease, or rental of home medical equipment and services;~~[ and]~~

(j) Government agencies, including fire districts which provide emergency medical services***; and***

***(k) Notwithstanding subsection (1) of this section, an out-of-state provider whose primary business is the manufacture, distribution, or both, of highly specialized equipment who ships that equipment into this state if that equipment is not provided by a licensed Kentucky home medical equipment and services provider***.

➔Section 5. (1) Any cost-savings demonstration projects provided for the state employee health plan shall:

(a) Center on process improvement and patient empowerment with door-to-door engagement through use of interactive technology, known as telehealth, to capture the potential for improved medical outcomes at reduced cost;

(b) Include established patients who have, within twenty-four (24) months of telehealth services, visited established providers and maintained a clinical relationship with a qualified health professional licensed in Kentucky through an in-office and in-person evaluation, including a medical history and a physical examination;

(c) Not increase premiums nor reduce benefits; and

(d) Be a proof of concept to confirm the ability to capture an annualized savings of up to ten percent (10%).

(2) The cabinet shall enter into an agreement with one (1) or both of the university teaching hospitals in the Commonwealth to leverage the substantial return on investment of the demonstration projects.

(3) The demonstration projects shall be implemented as provided in this section under the contracts used for the purpose of administering the state employee health plan.

(4) The demonstration projects shall:

(a) Be based on a competitive procurement process through a formal request for information; and

(b) Be completed with a report regarding the proof of concept submitted to the Legislative Program Review and Investigations Committee and the cabinet by December 1, 2015.

(5) If the proof of concept demonstrates an annual savings, the cabinet shall implement the final project on a larger scale. If implemented, the large scale project shall be awarded via a formal request for proposal process under KRS Chapter 45A to capture the mandated annualized savings of up to ten percent (10%) in the state employee health plan. The cost of implementing a large scale project shall be paid via a shared savings model wherein the contractor shall be compensated by a percentage of the savings captured by the project.

➔Section 6. (1) Any cost savings demonstration projects provided for the state Medicaid plan shall:

(a) Center on process improvement and patient empowerment with door-to-door engagement via use of interactive technology, known as telehealth, to capture the potential for improved medical outcomes at reduced cost;

(b) Include established patients who have, within twenty-four (24) months of the telehealth services, visited established providers and maintained a clinical relationship with a qualified health professional licensed in Kentucky through an in-office and in-person evaluation, including a medical history and a physical examination;

(c) Not increase premiums nor reduce benefits; and

(d) Be a proof of concept to confirm the ability to capture an annualized savings of up to five percent (5%).

(2) The cabinet shall enter into an agreement with one (1) or both of the university teaching hospitals in the Commonwealth to leverage the substantial return on investment of the demonstration projects.

(3) The demonstration projects shall be implemented as provided in this section under the contracts used for the purpose of administering the state Medicaid plan.

(4) The demonstration projects shall:

(a) Be based on a competitive procurement process through a formal request for information; and

(b) Be completed with a report regarding the proof of concept submitted to the Legislative Program Review and Investigations Committee and the cabinet by December 1, 2015.

(5) If the proof of concept demonstrates an annual savings, the cabinet shall implement the final project on a larger scale. If implemented, the large scale project shall be awarded through a formal request for proposal process under KRS Chapter 45A to capture the mandated annualized savings of up to five percent (5%) in the state Medicaid plan. The cost of implementing a large scale project shall be paid via a shared savings model wherein the contractor shall be compensated by a percentage of the savings captured by the project.

➔Section 7. Section 1 of this Act takes effect January 1, 2016.

**Signed by Governor March 23, 2015.**

## CHAPTER 57

**( HB 117 )**

AN ACT relating to insurance.

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

➔Section 1. KRS 304.3-400 is amended to read as follows:

As used in KRS 304.3-400 to 304.3-430, unless the context requires otherwise:

(1) "Accredited state" means a state in which the insurance regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners;

(2) "Control" or "controlled" has the meaning set forth in KRS 304.37-010(8);

(3) "Controlled insurer" means an authorized insurer which is controlled, directly or indirectly, by a producer;

(4) "Controlling producer" means a producer who directly or indirectly, controls an insurer;

(5) "Authorized insurer" or "insurer" means an insurer holding a certificate of authority from the commissioner to transact property or casualty insurance business in Kentucky. The following, among others, are not authorized insurers for the purposes of KRS 304.3-400 to 304.3-430:

(a) ~~[All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, (P.L. 99-499, 100 Stat. 1613, and the Liability Risk Retention Act, 15 U.S.C. secs. 3901 et seq.) and Subtitle 45 of this chapter;~~

~~(b) ]~~All residual market mechanisms and joint underwriting authorities or associations; and

***(b)*** ~~[(c)]~~ All captive insurers, ***other than risk retention groups as defined in 15 U.S.C. secs. 3901 et seq. and 42 U.S.C. sec. 9671, including*** ~~[that is,]~~ insurers owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members and their affiliates; and

(6) "Producer" means a person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association, or corporation.

➔Section 2. KRS 304.37-050 is amended to read as follows:

***(1)*** ***(a)*** All ***documents, materials, or other*** information ~~[, documents, and copies thereof]~~ ***in the possession or control of the department that are*** obtained by or disclosed to the commissioner by any other person in the course of an examination***, analysis,*** or investigation made pursuant to KRS 304.37-040 and all information reported pursuant to KRS 304.37-020, shall***:***

***1. Be confidential by law and privileged; and***

***2. Not be subject to:***

***a. The Kentucky Open Records Act, KRS 61.872 to 61.884;***

***b Subpoena;***

***c. Discovery; or***

***d. Admission in evidence in any private civil action.*** ~~[ be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states,]~~

***(b) The commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.***

***(c) The commissioner shall not otherwise make the documents, materials, or other information public*** without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate.

***(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared, pursuant to this subtitle, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or other information subject to subsection (1) of this section.***

***(3) The commissioner:***

***(a) May share documents, materials, or other information, including confidential and privileged documents, materials, or other information subject to subsection (1) of this section, with other state, federal, and international regulatory agencies, the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal and international law enforcement authorities, including members of any supervisory college described in KRS 304.37-055, if the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information, and has verified in writing the legal authority to maintain confidentiality;***

***(b) May only share confidential and privileged documents, materials, or other information reported pursuant to KRS 304.37-020(13), notwithstanding paragraph (a) of this subsection, with commissioners of states having statutes or regulations substantially similar to subsection (1) of this section, and who have agreed in writing not to disclose such information;***

***(c) 1. May receive documents, materials, or other information, including confidential and privileged documents, materials, or other information from the National Association of Insurance Commissioners and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdiction; and***

***2. Shall maintain as confidential or privileged any documents, materials, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or other information; and***

***(d) Shall enter into written agreements with the National Association of Insurance Commissioners governing sharing and use of information provided pursuant to this subtitle, consistent with this subsection that:***

***1. Specify procedures and protocols regarding the confidentiality and security of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries, pursuant to this subtitle, including procedures and protocols for sharing the National Association of Insurance Commissioners with other state, federal, or international regulators;***

***2. Specify that ownership of information shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries, pursuant to this subsection, remains with the commissioner, and the National Association of Insurance Commissioners' use of the information is subject to the direction of the commissioner;***

***3. Require prompt notice be given to an insurer whose confidential information, in the possession of the National Association of Insurance Commissioners, pursuant to this subtitle, is subject to a request or subpoena to the National Association of Insurance Commissioners, pursuant to this subtitle, for disclosure or production; and***

***4. Require the National Association of Insurance Commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the National Association of Insurance Commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the National Association of Insurance Commissioners and its affiliates and subsidiaries.***

***(4) The sharing of information by the commissioner shall not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for administration, execution, and enforcement of this subtitle.***

***(5) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.***

***(6) Documents, materials, or information in the possession or control of the National Association of Insurance Commissioners and its affiliates and subsidiaries, pursuant to this subtitle, shall:***

***(a) Be confidential by law and privileged; and***

***(b) Not be subject to:***

***1. The Kentucky Open Records Act, KRS 61.872 to 61.884;***

***2. Subpoena;***

***3. Discovery; or***

***4. Admission in evidence in any private civil action.***

➔SECTION 3. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***As used in KRS 304.6-130 to 304.6-180, unless the context requires otherwise, the following definitions shall apply on or after the operative date of the valuation manual, as defined in subsection (11) of this section:***

***(1) "Accident and health insurance" means contracts that incorporate morbidity risk and provide protection against economic loss resulting from accident, sickness, or medical conditions and as may be specified in the valuation manual;***

***(2) "Appointed actuary" means a qualified actuary who is appointed in accordance with the valuation manual to prepare the actuarial opinion required by subsections (6) to (10) of Section 14 of this Act;***

***(3) "Company" means an entity which has written, issued, or reissued life insurance, accident and health insurance, or deposit-type contracts:***

***(a) In Kentucky and has at least one (1) policy in force or a claim; or***

***(b) In any state and is required to hold a certificate of authority to write life insurance, accident and health insurance, or deposit-type contracts in this state;***

***(4) "Deposit-type contract" means a contract that does not incorporate mortality or morbidity risks and as may be specified in the valuation manual;***

***(5) "Life insurance" means contracts that incorporate mortality risk, including annuity and pure endowment contracts, and as may be specified in the valuation manual;***

***(6) "NAIC" means the National Association of Insurance Commissioners;***

***(7) "Policyholder behavior" means any action a policyholder, contract holder, or any other person with the right to elect options may take under a policy or contract subject to KRS 304.6-130 to 304.6-180, excluding events of mortality that result in benefits prescribed in their essential aspects by the terms of the policy or contract, including but not limited to:***

***(a) Lapse;***

***(b) Withdrawal;***

***(c) Transfer;***

***(d) Deposit;***

***(e) Premium payment;***

***(f) Loan;***

***(g) Annuitization; or***

***(h) Benefit elections;***

***(8) "Principle-based valuation" means a reserve valuation that uses one (1) or more methods or one (1) or more assumptions determined by the company and is required to comply with Section 6 of this Act as specified in the valuation manual;***

***(9) "Qualified actuary" means an individual who is qualified to sign the applicable statement of actuarial opinion in accordance with the American Academy of Actuaries qualification standards for actuaries signing the statements and who meets the requirements specified in the valuation manual;***

***(10) "Tail risk" means a risk that occurs either where the frequency of low-probability events is higher than expected under a normal probability distribution or when there are observed events of very significant size or magnitude; and***

***(11) "Valuation manual" means the manual of valuation instructions adopted by the NAIC and any subsequent amendments.***

➔SECTION 4. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***(1) For accident and health insurance contracts issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual is the minimum standard of valuation required by subsection (2) of Section 10 of this Act.***

***(2) For disability, accident and sickness, and accident and health insurance contracts issued on or after June 18, 1970, but prior to the operative date of the valuation manual, the minimum standard of valuation shall be the standard adopted by the commissioner through administrative regulation.***

➔SECTION 5. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***(1) For policies issued on or after the operative date of the valuation manual, the standard prescribed in the valuation manual shall be the minimum standard of valuation required under subsection (2) of Section 10 of this Act, except as provided by subsection (5) or (7) of this section.***

***(2) The operative date of the valuation manual shall be January 1 of the first calendar year following the first July 1, at which time all of the following have occurred:***

***(a) The valuation manual has been adopted by the NAIC by an affirmative vote of at least forty-two (42) members, or three-fourths (3/4) of the members voting, whichever is greater;***

***(b) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements submitted for 2008:***

***1. Life, accident and health insurance;***

***2. Health insurance; or***

***3. Fraternal benefit societies, as defined in KRS 304.29-011, insurance; and***

***(c) The Standard Valuation Law, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted in by at least forty-two (42) of the fifty-five (55) jurisdictions, including:***

***1. The fifty (50) states of the United States;***

***2. American Samoa;***

***3. The American Virgin Islands;***

***4. The District of Columbia;***

***5. Guam; and***

***6. Puerto Rico.***

***(3) (a) Unless a change in the valuation manual specifies a later effective date, changes to the valuation manual shall be effective on January 1 following the date when all of the following have occurred:***

***1. The change to the valuation manual has been adopted by the NAIC by an affirmative vote representing:***

***a. At least three-fourths (3/4) of the members of the NAIC voting, but not less than a majority of the total membership; and***

***b. Members of the NAIC representing jurisdictions totaling greater than seventy-five percent (75%) of the direct premiums written as reported in the following annual statements most recently available prior to the vote required by subparagraph 1. of this paragraph:***

***i. Life, accident and health insurance;***

***ii. Health insurance; or***

***iii. Fraternal benefit societies, as defined in KRS 304.29-011, insurance; or***

***(b) The valuation manual becomes effective pursuant to an order by the commissioner.***

***(4) The valuation manual shall specify the following:***

***(a) Minimum valuation standards for and definitions of the policies or contracts subject to subsection (2) of Section 10 of this Act. The minimum valuation standards shall be:***

***1. The commissioner's reserve valuation method for life insurance contracts, other than annuity contracts;***

***2. The commissioner's annuity valuation method for annuity contracts; and***

***3. Minimum reserves for all other policies or contracts.***

***(b) Which policies or contracts or types of policies or contracts that are subject to the requirements of a principle-based valuation, required by subsection (1) of Section 6 of this Act, and the minimum valuation standards consistent with those requirements;***

***(c) For policies and contracts subject to a principle-based valuation under subsection (2)(c) of Section 6 of this Act:***

***1. Requirements for the format of the reports to the commissioner, including information necessary to determine if the valuation is appropriate and in compliance with KRS 304.6-130 to 304.6-180;***

***2. Assumptions to be prescribed for risks over which the company does not have significant control or influence; and***

***3. Procedures for corporate governance and oversight of the actuarial function, and a process for appropriate waiver or modification of the procedures;***

***(d) For policies not subject to a principle-based valuation under Section 6 of this Act, the minimum valuation standard shall either:***

***1. Be consistent with the minimum standard of valuation prior to the operative date of the valuation manual; or***

***2. Develop reserves that quantify the benefits and guarantees, and the funding associated with the contracts and their risks at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring;***

***(e) Other requirements, including but not limited to:***

***1. Those relating to reserve methods;***

***2. Models for measuring risk;***

***3. Generation of economic scenarios;***

***4. Assumptions;***

***5. Margins;***

***6. Use of company experience;***

***7. Risk measurement;***

***8. Disclosure;***

***9. Certifications;***

***10. Reports;***

***11. Actuarial opinions and memorandums;***

***12. Transition rules; and***

***13. Internal controls; and***

***(f) The data and form of the data required by Section 7 of this Act and with whom the data shall be submitted, and may specify other requirements including data analyses and reporting of analyses.***

***(5) In the absence of a specific valuation requirement or if a specific valuation requirement in the valuation***

***manual is not, in the opinion of the commissioner, in compliance with Section 6 of this Act, the company shall, with respect to the requirements, comply with minimum valuation standards prescribed by the commissioner by administrative regulation.***

***(6) The commissioner may engage a qualified actuary, at the expense of the company, to perform an actuarial examination of the company and to opine on the appropriateness of a reserve assumption or method used by the company, or to review and opine on a company's compliance with any requirement set forth in KRS 304.6-130 to 304.6-180. The commissioner may rely upon the opinion of a qualified actuary, regarding KRS 304.6-130 to 304.6-180, who is engaged by the commissioner of another state, district, or territory of the United States. As used in this subsection, the term "engage" includes employment or contracting.***

***(7) The commissioner may require a company to change any assumption or method that in the opinion of the commissioner is necessary to comply with the requirement of the valuation manual or KRS 304.6-130 to 304.6-180. The company shall adjust the reserves as required by the commissioner. The commissioner may take other disciplinary action as permitted under this subtitle.***

➔SECTION 6. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***(1) A company shall establish reserves using a principle-based valuation as specified in the valuation manual that meets the following conditions for policies or contracts:***

***(a) Quantification of the benefits and guarantees, and the funding associated with the contracts and their risks, at a level of conservatism that reflects conditions that include unfavorable events that have a reasonable probability of occurring during the lifetime of the contracts. For policies or contracts with significant tail risk, the valuation shall also reflect conditions appropriately adverse to quantify the tail risk;***

***(b) Incorporation of assumptions, risk analysis methods, financial models, and management techniques that are consistent with but not necessarily identical to those utilized within the company's overall risk assessment process, while recognizing potential differences in financial reporting structures and any prescribed assumptions or methods;***

***(c) Incorporation of assumptions that are derived in one (1) of the following manners:***

***1. The assumption is prescribed in the valuation manual;***

***2. For assumptions that are not prescribed, the assumptions shall:***

***a. Be established utilizing the company's available experience, to the extent it is relevant and statistically credible; or***

***b. To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience; and***

***(d) Provision of margins for uncertainty, including adverse deviation and estimation error, to ensure that the greater the uncertainty the larger the margin and resulting reserve.***

***(2) A company using a principle-based valuation for one (1) or more policies or contracts subject to this section, as specified in the valuation manual, shall:***

***(a) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual;***

***(b) Provide to the commissioner and the company's board of directors, an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. The controls shall be designed to ensure that all material risks inherent in the liabilities and associated assets, subject to the valuation, are included in the valuation and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year; and***

***(c) Develop and file with the commissioner, upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.***

***(3) A principle-based valuation may include a prescribed formulaic reserve component.***

➔SECTION 7. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***A company shall submit mortality, morbidity, policyholder behavior, or expense experience, and other data as prescribed in the valuation manual.***

➔SECTION 8. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***(1) For purposes of this section:***

***(a) "Confidential information" means:***

***1. A memorandum in support of an opinion, submitted pursuant to Section 14 of this Act, and any other documents, materials, and other information, including but not limited to all working papers and copies created, produced, obtained by, or disclosed to the commissioner or any other person in connection with the memorandum;***

***2. All documents, materials, and other information, including but not limited to all working papers and copies created, produced, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under subsection (6) of Section 5 of this Act; except that if an examination report or other material prepared in connection with an examination made under KRS 304.2-250 is not held as private and confidential, an examination report or other material prepared in connection with an examination under subsection (6) of Section 5 of this Act shall not be confidential information to the same extent as if the examination report or other material had been prepared under KRS 304.2-250;***

***3. Any reports, documents, materials, and other information developed by a company in support of, or in connection with an annual certification by the company under subsection (2)(b) of Section 6 of this Act evaluating the effectiveness of the company's internal controls with respect to a principle-based valuation and any other documents, materials, and other information, including but not limited to all working papers and copies created, produced, obtained by, or disclosed to the commissioner or any other person in connection with reports, documents, materials, and other information;***

***4. Any principle-based valuation report developed under subsection (2)(c) of Section 6 of this Act and any other documents, materials, and other information, including but not limited to all working papers and copies created, produced, obtained by, or disclosed to the commissioner or any other person in connection with the report; and***

***5. Any documents, materials, data and other information submitted by a company under Section 7 of this Act, collectively referred to as experience data, and any other documents, materials, data, and other information, including but not limited to all working papers and copies created or produced in connection with the experience data, in each case that includes any potential company-identifying or personal identifiable information that is provided to or obtained by the commissioner, with any experience data referred to as the experience materials, and any other documents, materials, data, and other information, including but not limited to all working papers and copies created, produced, obtained by, or disclosed to the commissioner or any other person in connection with the experience materials; and***

***(b) "Regulatory agency," "law enforcement agency," and "NAIC" include, but are not limited to their employees, agents, or consultants.***

***(2) (a) Except as provided in this section, a company's confidential information:***

***1. Shall be confidential by law and privileged; and***

***2. Shall not be subject to:***

***a. The Kentucky Open Records Act, KRS 61.872 to 61.884;***

***b. Subpoena;***

***c. Discovery; or***

***d. Admission in evidence in any private civil action, except that the commissioner is authorized to use the confidential information in the furtherance of any regulatory or legal action brought against the company as part of the commissioner's official duties.***

***(b) Neither the commissioner nor any person who received confidential information, while acting under***

***the authority of the commissioner, shall be permitted or required to testify in any private civil action concerning any confidential information.***

***(c) In order to assist in the performance of the commissioner's duties, the commissioner may share confidential information if the recipient agrees, and has the legal authority to agree, to maintain the confidentiality and privileged status of the documents, materials, data, and other information in the same manner and to the same extent as required for the commissioner with:***

***1. Other state, federal, and international regulatory agencies and with the NAIC and its affiliates and subsidiaries; and***

***2. In the case of confidential information, defined in subsection (1)(a)1. and 4. of this section, the Actuarial Board for Counseling and Discipline or its successor upon request stating that the confidential information is required for the purpose of professional disciplinary proceedings and with state, federal, and international law enforcement officials.***

***(d) The commissioner may receive documents, materials, data, and other information, including otherwise confidential and privileged documents, materials, data, and other information from the NAIC and its affiliates and subsidiaries, from regulatory or law enforcement officials of other foreign or domestic jurisdictions, and from the Actuarial Board for Counseling and Discipline, or its successor, and shall maintain as confidential or privileged any documents, materials, data, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.***

***(e) The commissioner may enter into agreements governing sharing and use of information consistent with this subsection.***

***(f) No waiver of any applicable privilege or claim of confidentiality of confidential information shall occur as a result of disclosure to the commissioner under this section, or as a result of sharing the information as authorized by paragraph (c) of this subsection.***

***(g) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this subsection shall be available and enforced in any proceeding and in any court of this state.***

***(3) (a) Notwithstanding subsection (2) of this section, any confidential information specified in subsection (1)(a)1. and 4. of this section:***

***1. May be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary submitting the related memorandum in support of an opinion submitted under Section 14 of this Act, or the principle-based valuation report developed under subsection (2)(c) of Section 6 of this Act, by reason of an action required by KRS 304.6-130 to 304.6-180, or by administrative regulation.***

***2. May otherwise be released by the commissioner with the written consent of the company; and***

***(b) All portions of a memorandum or report shall no longer be confidential if any portion of a memorandum in support of an opinion, submitted under Section 14 of this Act, or a principle-based valuation report, developed under subsection (2)(c) of Section 6 of this Act, is cited by the company in its marketing, is publicly volunteered to or before a governmental agency, other than a state insurance department, or is released by the company to the news media.***

➔SECTION 9. A NEW SECTION OF KRS 304.6-130 TO 304.6-180 IS CREATED TO READ AS FOLLOWS:

***(1) The commissioner may exempt specific product forms or product lines of a domestic company, that is licensed and doing business only in Kentucky, from the requirements of Section 5 of this Act if:***

***(a) The commissioner has issued an exemption in writing to the company and has not subsequently revoked the exemption in writing; and***

***(b) The company computes reserves using assumptions and methods used prior to the operative date of the valuation manual and any requirements established by the commissioner and promulgated by administrative regulation.***

***(2) A domestic company that has less than three hundred million dollars ($300,000,000) of ordinary life premiums or a company that is a member of a group of life insurers that has combined ordinary life***

***premiums of less than six hundred million dollars ($600,000,000) and that is licensed and doing business in Kentucky is exempt from the requirements of Sections 5 and 6 of this Act if:***

***(a) The company reported total adjusted capital of at least four hundred fifty percent (450%) of authorized control level risk-based capital in the risk-based capital report for the prior calendar year;***

***(b) The appointed actuary has provided an unqualified opinion on the reserves in accordance with Section 14 of this Act for the prior calendar year; and***

***(c) The company has provided a certification by a qualified actuary that any universal life policy with a secondary guarantee, issued or assumed by the company after the operative date of the valuation manual, meets the definition of a nonmaterial secondary guarantee universal life product as defined in the valuation manual.***

***(3) For purposes of subsection (2) of this section, ordinary life premiums are measured as direct, plus reinsurance assumed from an unaffiliated company, from the prior calendar year annual statement.***

***(4) A domestic company that meets the requirements of subsection (2) of this section shall file a statement with the commissioner certifying that these requirements have been met for the current calendar year based on premiums and other values from the prior calendar year's financial statements prior to July 1 of the current calendar year.***

***(5) For a domestic company that files a statement under subsection (4) of this section, Sections 4, 7, 8, 10, 11, 12, 13, and 14 of this Act, KRS 304.6-140, 304.6-145, 304.6-155, 304.6-170, 304.6-180, and 304.15-410 shall be applicable; however any references to Sections 5 and 6 of this Act shall not apply.***

➔Section 10. KRS 304.6-130 is amended to read as follows:

(1) ***(a) For policies and contracts issued prior to the operative date of the valuation manual,*** the commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurer transacting business in this state, except that in the case of an alien insurer, such valuation shall be limited to its United States business; and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, net leveled premium method or other, used in the calculation of such reserves. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves required of any foreign or alien insurer, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard~~[ herein]~~ provided ***in KRS 304.6-130 to 304.6-180*** and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by law of that state or jurisdiction. Where any such valuation is made by the commissioner, the commissioner may use the actuary of the department or employ an actuary for the purpose, and the reasonable compensation and expenses of the actuary, at a rate approved by the commissioner, upon demand by the commissioner supported by an itemized statement of such compensation and expenses, shall be paid by the insurer. When a domestic insurer furnishes the commissioner with a valuation of its outstanding policies as computed by its own actuary or by an actuary deemed satisfactory for the purpose by the commissioner, the valuation shall be verified by the actuary of the department without cost to the insurer.

***(b)***~~[(2)]~~ Any such insurer which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

***(c) The provisions of Sections 4, 11, 12, and 13 of this Act, and KRS 304.6-140, 304.6-145, 304.6-155, 304.6-170, 304.6-180, and 304.15-410 shall apply to all policies and contracts as appropriate, issued on or after June 18, 1970, and prior to the operative date of the valuation manual. The provisions of Sections 5 and 6 of this Act shall not apply to the policies and contracts issued on or after June 18, 1970, and prior to the operative date of the valuation manual.***

***(2) (a) Except for a company that is exempt under Section 9 of this Act, for policies and contracts issued on or after the operative date of the valuation manual, the commissioner shall annually value or cause***

***to be valued the reserve liabilities, hereinafter called reserves, for all outstanding life insurance contracts, annuity and pure endowment contracts, accident and health contracts, and deposit-type contracts of every company issued on or after the operative date of the valuation manual. In lieu of the valuation of the reserves required of a foreign or alien company, the commissioner may accept a valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when the valuation complies with the minimum standard provided in KRS 304.6-130 to 304.6-180.***

***(b) Except for a company that is exempt under Section 9 of this Act, Sections 5 and 6 of this Act shall apply to all policies and contracts issued on or after the operative date of the valuation manual.***

➔Section 11. KRS 304.6-150 is amended to read as follows:

(1) Except as otherwise provided in KRS 304.6-155**,**~~[ and]~~ 304.6-180, ***and Section 4 of this Act,*** reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) Net level annual premium. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. Such net level annual premium shall not exceed the net level annual premium on the nineteen (19) year premium whole life plan for insurance of the same amount at an age one (1) year higher than the age at issue of such policy.

(b) Net one (1) year term premium. A net one (1) year term premium for such benefits provided for in the first policy year.

Provided that for any life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in KRS 304.6-180, be the greater of the reserve as of such policy anniversary calculated as described in the preceding subsection and the reserve as of such policy anniversary calculated as described in that subsection, but with the value defined in paragraph (a) of that subsection being reduced by fifteen percent (15%) of the amount of such excess first year premium, all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, the policy being assumed to mature on such date as an endowment, and the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in KRS 304.6-140 and 304.6-145 shall be used.

(2) Reserves according to the commissioners reserve valuation method for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

(b) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended,

(c) Disability and accidental death benefits in all policies and contracts, and

(d) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent

with the provisions of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

➔Section 12. KRS 304.6-160 is amended to read as follows:

(1) In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, which are subject to subsection (2) of KRS 304.6-140, be less than the aggregate reserves calculated in accordance with the methods set forth in KRS 304.6-150, 304.6-155, 304.6-180 and 304.15-410, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(2) In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the ***appointed*** ~~[qualified]~~ actuary to be necessary to render the opinion required by KRS 304.6-171.

➔Section 13. KRS 304.6-170 is amended to read as follows:

(1) Reserves for any category of policies, contracts, or benefits as established by the commissioner, which are subject to subsection (2) of KRS 304.6-140, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be ***greater*** ~~[higher]~~ than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(2) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum ***required by this subtitle, except*** ~~[herein provided; provided, however,]~~ that for the purposes of this section, the holding of additional reserves previously determined by ***the appointed*** ~~[a qualified]~~ actuary to be necessary to render the opinion requested by KRS 304.6-171 shall not be deemed to be the adoption of a higher standard of valuation.

➔Section 14. KRS 304.6-171 is amended to read as follows:

(1) ***Subsections (2) to (5) of*** this section shall become operative at the end of the first full calendar year following the year of enactment ***and shall be applicable prior to the operative date of the valuation manual***.

(2) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by administrative regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by administrative regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(3) (a) Every life insurance company, except as exempted by or pursuant to administrative regulation, shall also annually include in the opinion required by subsection (2) of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by administrative regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by administrative regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

(4) Each opinion required by subsection (2) of this section shall be governed by the following provisions:

(a) A memorandum, in form and substance acceptable to the commissioner as specified by administrative regulation, shall be prepared to support each actuarial opinion; and

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by administrative regulation or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by

the administrative regulations or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum as is required by the commissioner.

(5) Every opinion shall be governed by the following provisions:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1996;

(b) The opinion shall apply to business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by administrative regulation;

(c) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by administrative regulation prescribe;

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in administrative regulations;

(f) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion;

(g) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in administrative regulations by the commissioner; and

(h) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection therewith, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by administrative regulations promulgated hereunder. The memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing, or is cited before any governmental agency other than a state insurance department or office, or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

***(6) Unless a company is exempt under Section 9 of this Act, subsections (7) to (10) of this section shall become operative after the operative date of the valuation manual.***

***(7) Every company with outstanding life insurance, accident and health insurance, or deposit-type contracts in this state, subject to regulation by the commissioner, shall annually submit the opinion of the appointed actuary stating whether the reserves and related actuarial items held in support of the policies and contracts are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The valuation manual shall prescribe the specifics of this opinion, including any items deemed necessary to its scope.***

***(8) Every company with outstanding life insurance, accident and health insurance, or deposit-type contracts in this state, subject to regulation by the commissioner, except as exempted in the valuation manual, shall also annually include in the opinion required by subsection (7) of this section an opinion of the same appointed actuary stating whether the reserves and related actuarial items held in support of the policies and contracts specified in the valuation manual, when considered with respect to the assets held by the company, the reserves, and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, making adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under, and expenses associated with, the policies and contracts.***

***(9) Each opinion required by subsection (8) of this section shall be governed by the following provisions:***

***(a) A memorandum, in the form and substance specified in the valuation manual, and acceptable to the***

***commissioner, shall be prepared to support each actuarial opinion; and***

***(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified in the valuation manual, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the valuation manual, or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary, at the expense of the company, to review the opinion and the basis for the opinion, and prepare the supporting memorandum required by the commissioner.***

***(10) Every opinion required by subsections (7) and (8) of this section shall be governed by the following provisions:***

***(a) The opinion shall be in the form and contain the substance specified in the valuation manual and acceptable to the commissioner;***

***(b) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liability for each year ending on or after the operative date of the valuation manual;***

***(c) The opinion shall apply to all policies and contracts subject to subsection (8) of this section, plus other actuarial liabilities as may be specified in the valuation manual;***

***(d) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board or its successor, and on such additional standards as may be prescribed in the valuation manual;***

***(e) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state;***

***(f) Except in cases of fraud or willful misconduct, the appointed actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the appointed actuary's opinion; and***

***(g) Disciplinary action by the commissioner against the company or the appointed actuary shall be established by administrative regulation, promulgated by the commissioner.***

➔SECTION 15. A NEW SECTION OF KRS 304.15-310 TO 304.15-360 IS CREATED TO READ AS FOLLOWS:

***The term "operative date of the valuation manual" means January 1 of the first calendar year that the valuation manual is operative, as defined in subsection (11) of Section 3 of this Act.***

➔Section 16. KRS 304.15-342 is amended to read as follows:

(1) This section shall apply to all policies issued on or after the effective date of this section as defined in subsection (11) of this section. Except as provided in subsection (7) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) One percent (1%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years; and

(c) One hundred twenty-five percent (125%) of the nonforfeiture net level premium as hereinafter defined.

Provided, however, that in applying the percentage specified in (c) above, no nonforfeiture net level premium shall be deemed to exceed four percent (4%) of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten (10) policy years. This date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(2) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the

guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one (1) per annum payable on the date of issue of the policy and on each anniversary of such policy on which a premium falls due.

(3) In the case of policies which cause, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provide an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of any such change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(4) Except as otherwise provided in subsection (7) of this section, the recalculated future adjusted premiums for any such policy shall be such uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid-up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all such future adjusted premiums shall be equal to the excess of (a) the sum of the then present value of the then future guaranteed benefits provided for by the policy and the additional expense allowance, if any, over (b) the then cash surrender value, if any, or present value of any paid-up nonforfeiture benefit under the policy.

(5) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of:

(a) One percent (1%) of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten (10) policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten (10) policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and

(b) One hundred twenty-five percent (125%) of the increase, if positive, in the nonforfeiture net level premium.

(6) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing (a) by (b) where:

(a) Equals the sum of:

1. The nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and

2. The present value of the increase in future guaranteed benefits provided for by the policy, and

(b) Equals the present value of an annuity of one (1) per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(7) Notwithstanding any other provisions of this section to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, such policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for such substandard policy may be calculated as if it were issued to provide such higher uniform amounts of insurance on the standard basis.

(8) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1980 standard ordinary mortality table or at the election of the insurer for any one (1) or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors; shall for all policies of industrial insurance be calculated on the basis of the commissioners 1961 standard industrial mortality table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. Provided, however, that:

(a) At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this section, for policies issued in the immediately preceding calendar year;

(b) Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by KRS 304.15-310, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any;

(c) Any insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit including any paid-up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values;

(d) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 extended term insurance table for policies of ordinary insurance and not more than the commissioners 1961 industrial extended term insurance table for policies of industrial insurance;

(e) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables;

(f) ***For policies issued prior to the operative date of the valuation manual, any Commissioner's Standard***~~[Any]~~ ordinary mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1980 standard ordinary mortality table with or without ten-year select mortality factors or for the commissioners 1980 extended term insurance table;~~[ and]~~

(g) ***For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners' Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners' 1980 Standard Ordinary Mortality Table, with or without Ten-Year Select Mortality Factors, or for the Commissioners' 1980 Extended Term Insurance Table. If the commissioner promulgates an administrative regulation adopting any Commissioners' Standard ordinary mortality table, adopted by the NAIC, for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual;***

***(h) For policies issued prior to the operative date of the valuation manual, any Commissioners' Standard***~~[Any]~~ industrial mortality tables, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the commissioners 1961 standard industrial mortality table or the commissioners 1961 industrial extended term insurance table***; and***

***(i) For policies issued on or after the operative date of the valuation manual, the valuation manual shall provide the Commissioners' Standard mortality table for use in determining the minimum nonforfeiture standard that may be substituted for the Commissioners' 1961 Standard Industrial Mortality Table or the Commissioners' 1961 Industrial Extended Term Insurance Table. If the commissioner promulgates an administrative regulation adopting the Commissioners' Standard industrial mortality table as adopted by the NAIC, for use in determining the minimum nonforfeiture standard for policies issued on or after the operative date of the valuation manual, then that minimum nonforfeiture standard supersedes the minimum nonforfeiture standard provided by the valuation manual***.

(9) ***(a) For policies issued prior to the operative date of the valuation manual,*** the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be equal to one hundred twenty-five percent (125%) of the calendar year statutory valuation interest rate for such policy as defined in KRS 304.6-130 to 304.6-180, inclusive to the nearer one quarter of one percent (0.25%)***, except that the nonforfeiture interest rate shall not be less than four percent (4%).***

***(b) For policies issued on or after the operative date of the valuation manual, the nonforfeiture interest rate per annum for any policy issued in a particular calendar year shall be provided by the valuation manual***.

(10) Notwithstanding any other provision in this code to the contrary, any refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest

rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(11) Any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before January 1, 1989, which shall be the effective date of this section for such insurer. If an insurer makes no such election, the effective date of this section for such insurer shall be January 1, 1989.

➔Section 17. KRS 160.310 is amended to read as follows:

***(1)*** Each board of education may set aside funds to provide for liability and indemnity insurance against the negligence of the drivers or operators of school buses, other motor vehicles, and mobile equipment owned or operated by the board. If the transportation of pupils is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case, the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment, not to exceed the limits of the policy, rendered against the insured for loss or damage to property of any school child or death or injury of any school child or other person***;and***

***(2) Each board of education may set aside funds to provide for basic reparation benefits and purchase such limits as the board of education shall direct, but shall only be required to purchase such basic reparation benefits as defined in KRS 304.39-020 and as provided in KRS 304.39-010 to 304.39-080***.

**Signed by Governor March 23, 2015.**

## CHAPTER 58

**( SB 168 )**

AN ACT relating to economic development.

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

➔Section 1. KRS 154.33-510 is amended to read as follows:

As used in KRS 154.33-501 to 154.33-585, unless the context otherwise requires:

(1) "Area" or "region" means the geographical area~~[ represented by the East Kentucky Corporation, including that part]~~ of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended~~[, except that the counties of Clark, Garrard, Lincoln, and Madison shall not be included as part of the "area" or "region," as defined herein, for the purposes of KRS 154.33-501 to 154.33-585]~~;

(2) "Board" means the ***executive*** board of ***Shaping our Appalachian Region, Inc., a Kentucky nonprofit 501(c)(3) corporation created and organized, as of the effective date of this Act, to advance and promote a resilient and diverse eastern Kentucky by providing leadership, vision, and collaborative partnerships to support innovative regional practices and enhance public and private investments in areas such as job creation, entrepreneurship, tourism, education and lifelong learning, health and wellness, arts and heritage, and sustainable agricultural practices and food systems***~~[directors of the corporation]~~;

(3) "***Commissioner"***~~[Bonds" or "notes"]~~ means ***the commissioner of the Department for Local Government***~~[revenue bonds, commercial paper revenue bonds, refunding revenue bonds, variable rate revenue bonds, notes, or other obligations issued by the corporation under the authority of KRS 154.33-501 to 154.33-585]~~;

(4) ~~["Committee" means the executive committee of the board of directors of the corporation, possessing all powers, duties, and responsibilities as provided in KRS 154.33-540, and as may be otherwise provided by the board;~~

~~(5) ]~~"Commonwealth" means the Commonwealth of Kentucky;

~~[(6) "Corporation" means the East Kentucky Corporation;]~~

***(5)***~~[(7)]~~ "Executive director" means the chief administrator of ***Shaping our Appalachian Region, Inc.***~~[the corporation]~~ having responsibility for its day-to-day operations, and possessing all duties, responsibilities, and authorities as specified by the board~~[ or executive committee]~~;

***(6)***~~[(8)]~~ "Fund" means the ~~[East ]~~Kentucky ***Appalachian regional development fund***~~[economic development fund]~~ as provided by KRS 154.33-550~~[;~~

~~(9) "Local governing body" means the fiscal court of any county within the area or the legislative body of any city represented on the board of the corporation; and~~

~~(10) "Project" means any economic or job development activity or program or facility or undertaking located within the area which is planned, developed, implemented, operated, financed, or otherwise assisted by the corporation pursuant to KRS 154.33-501 to 154.33-585]~~.

➔Section 2. KRS 154.33-550 is amended to read as follows:

(1) There is created and established a~~[ loan]~~ fund to be known as the~~[ East]~~ Kentucky ***Appalachian regional development fund***~~[economic development fund]~~ to be administered by the ***Department for Local Government***~~[corporation as a trust fund separate and distinct from all other moneys, funds, and assets administered by the corporation]~~.

(2) The ~~[East ]~~Kentucky ***Appalachian regional development fund***~~[economic development fund]~~ shall be comprised of~~[, and the corporation is hereby authorized to receive and accept for this fund, the proceeds of grants, contributions,]~~ state appropriations, repayment of loans ***and interest*** made from the funds, and ***interest earnings generated for the fund***~~[any other moneys which may be made available[ to the corporation] for the purposes of the fund from any other source]~~.

(3) The purpose of this fund is to provide a source from which the ***Department for Local Government***~~[corporation]~~ may make loans, grants, and investments ***in accordance with the purposes and procedures established in Sections 3 and 4 of this Act***, ~~[and the corporation is authorized to make loans, grants, and investments from this fund ]~~at such interest rates and for such terms as may be determined by the ***commissioner or his or her designee***~~[corporation's executive committee]~~, with security for repayment as ***deemed***~~[the executive committee deems]~~ necessary and reasonable.

(4) The proceeds of any loan***, grant, or investment*** shall be used solely for the purposes ***identified in Section 3 of this Act***~~[for which the loan is made]~~ ***and*** as ***may be further*** provided in the~~[ loan]~~ agreement; however, no moneys from this fund shall be used to carry on propaganda or otherwise used to influence legislation.

(5) ***Any unallotted or unencumbered balances in the fund shall be invested pursuant to KRS 42.500. Interest earned from the investment of these funds shall accrue to the Kentucky Appalachian regional development fund***~~[Any loan made from this fund shall be consistent with and supportive of the corporation's strategic planning initiatives]~~.

***(6) The balance in the Kentucky Appalachian regional development fund shall be treated as a continuing appropriation and shall not lapse at the end of the fiscal year.***

➔SECTION 3. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***(1) The Kentucky Appalachian regional development fund shall be used only to support job creation and retention, entrepreneurship, tourism, broadband deployment, education and lifelong learning, workforce training, leadership development, public engagement, health and wellness, arts and heritage, infrastructure, economic diversity, and sustainable agricultural practices and food systems within and across counties in the region.***

***(2) The following entities may apply for loans, grants, or investments from the fund:***

***(a) Nonprofit corporations that have or are actively seeking 501(c)(3) status, are registered to do business in the Commonwealth, are established to conduct business in accordance with the purposes of the Shaping our Appalachian Region initiative, and that have a physical presence within the region;***

***(b) Working groups or other formally designated entities representing Shaping our Appalachian Region, Inc. as documented by resolution of the board or the board itself; and***

***(c) Departments, divisions, or offices of a county or city within the region.***

***(3) Applications shall be submitted to the executive director who shall confirm completeness and shall then submit applications to the board for consideration.***

***(4) The board shall consider whether and to what extent the applications are consistent with the purposes specified in subsection (1) of this section. It shall then forward the applications to the commissioner with recommendations for approval or disapproval, giving priority to initiatives that present the greatest likelihood of regionwide economic impact.***

***(5) The criteria to be used by the board in recommending applications to the commissioner shall include:***

***(a) The unemployment level in each community where the project will be located;***

***(b) The likelihood that the project will generate future revenue for the community or the Commonwealth;***

***(c) The number of new direct or indirect jobs to be provided for the residents of the Commonwealth and the wages to be paid;***

***(d) The degree to which the project will benefit the economies and communities in multiple jurisdictions within the region;***

***(e) Funding match from the local community and private sector persons or foundations; and***

***(f) The likelihood of the economic success of the project, including the ability of the project to sustain itself in the future.***

***(6) The commissioner shall have authority to approve the application and shall, in consultation with the secretary of the Cabinet for Economic Development, determine reasonable terms and conditions for the loan, grant, or investment.***

***(7) Money in the Kentucky Appalachian regional development fund may be disbursed by the applicant to any person or entity, public or private, organized for profit or not for profit, or any combination thereof with a geographical presence in the region as set forth in the application and approved by the commissioner, but the applicant shall be responsible for appropriate monitoring and reporting of the use of funds by the recipient.***

***(8) The Department for Local Government may promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section and Sections 4 and 5 of this Act.***

➔SECTION 4. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***Applications for loans, grants, or investments submitted under Section 3 of this Act shall include the following:***

***(1) The name of the applicant and identification of all parties contributing to or taking a leadership role with regard to the development project;***

***(2) A detailed description of the project, including its location and the total project cost;***

***(3) The projected number of jobs, if any, to be created as a result of the project and a description of the types of jobs;***

***(4) If the applicant is an entity other than a city or county, a letter of support from all local governmental entities affected by the project;***

***(5) A detailed description of any other funding sources that will be used to pay for the project;***

***(6) A plan for making the project self-sustaining if it is expected or intended that the initiative will have recurring expenses, and an explanation of the stream of revenue or other resources that will cover future costs, including operational costs, administrative costs, and upkeep on any property, buildings, equipment, or other capital assets funded; and***

***(7) Any other information that the commissioner may require.***

➔SECTION 5. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

***The Department for Local Government shall prepare and submit to the Office of the Governor and the Legislative Research Commission a report by November 1 of each year on the status of the Kentucky Appalachian regional development fund. The report shall include the operation and financial status of the fund, the initiatives supported***

***by the fund, and the status of the measures of success identified for each funded initiative.***

➔Section 6. KRS 154.33-530 is amended to read as follows:

If any member, officer or employee of the ***board*** ~~[corporation]~~ shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any ***grant, loan, or investment from the Kentucky Appalachian regional development fund*** ~~[contract with the corporation]~~, including any loan to any sponsor, builder, or developer, the interest shall be disclosed ***clearly in the application*** ~~[to the corporation]~~ and shall be set forth in the minutes of the ***board*** ~~[corporation]~~, and the member, officer, or employee having an interest therein shall not participate ***in the application process*** ~~[on behalf of the corporation in the authorization of the contract]~~.

➔Section 7. The following KRS sections are repealed:

154.33-501 Short title for KRS 154.33-501 to 154.33-585.

154.33-515 East Kentucky Corporation -- Purpose -- Change in name -- Continuation of rights and obligations.

154.33-520 Corporation membership.

154.33-525 Board of directors -- Terms of office -- Vacancies.

154.33-527 Removal of members -- Meetings -- Officers.

154.33-533 Limitation of liability of corporate members or officers.

154.33-535 Powers and authority of corporation.

154.33-540 Executive committee -- Membership -- Powers and duties -- Meetings -- Expenses.

154.33-545 Bonds.

154.33-555 Construction of KRS 154.33-501 to 154.33-585.

154.33-560 Bonds payable from revenues and assets only.

154.33-565 Negotiability of obligations of the corporation.

154.33-570 Obligations are authorized investments.

154.33-575 Tax-exempt status.

154.33-580 Disposition of corporation assets upon termination or dissolution.

154.33-585 Annual report -- Annual audit.

**Signed by Governor March 23, 2015.**

## CHAPTER 59

**( SB 33 )**

AN ACT relating to charitable gaming.

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

➔Section 1. KRS 238.505 is amended to read as follows:

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

(1) "Department" means the Department of Charitable Gaming within the Public Protection Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. "Charitable gaming" shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary,

civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, ***or electronic pulltab device representations thereof,*** the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. "Charity game ticket" shall include pulltabs***, both paper and electronic representations thereof***;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means an activity of limited duration at which games of chance approved by the department are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions, and bazaars;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

(a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

(b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:

(a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and

(b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the department.

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations***, other than itself,*** during a one (1) year period for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the

purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the department;

(18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses;

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;

(22) "Secretary" means the secretary of the Public Protection Cabinet;

(23) "Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection Cabinet;

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535***(13)***~~[(9)]~~(g);

(25) "Year" means calendar year***,*** except as used in KRS ***238.505(11), 238.535(11),*** 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year;~~[ and]~~

(26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device***;***

***(27) "Electronic pulltab device" means an electronic device used only for charitable gaming to facilitate the play of an electronic pulltab. An electronic pulltab device shall be a tablet or other personal computing device, other than a mobile phone or similar handheld device, as approved by the department. An electronic pulltab device may only operate on a closed network or intranet that is confined to the licensee's premises, and shall not be Internet accessible by patrons, but shall be connected to a central server system solely for the purposes of monitoring, reporting, accounting, and software maintenance. An electronic pulltab device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device; and***

***(28) "Electronic video gaming device," as used in this chapter and the related administrative regulations, means any device that possesses a video display and computer mechanism for playing a game. Electronic video gaming device shall not mean any electronic representation of charitable gaming games identified, defined, and approved by statute or administrative regulation of the department***.

➔Section 2. KRS 238.535 is amended to read as follows:

(1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the department. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:

(a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars ($25,000) per

year;

(b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars ($25,000) per year; and

(c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars ($25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars ($25,000).

(2) ***(a)*** Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the department in writing, on a simple form issued by the department, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

***1.***~~[((a))]~~ Payment of the fee imposed under the provisions of KRS 238.570; and

***2.***~~[((b))]~~ The quarterly reporting requirements imposed under the provisions of KRS 238.550(7), unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

***(b)*** Before ***January 31 of the year immediately following the year of exemption***~~[ the last day of each year]~~, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file ***a financial report*** with the department***, on a form issued by the department, that contains the following information:***

***1.*** ~~[A financial report detailing ]~~The type of gaming activity in which it engaged during that year***;***~~[,]~~

***2.*** The total gross receipts derived from gaming***;***~~[,]~~

***3.*** The amount of charitable gaming expenses paid***;***~~[, ]~~

***4.*** The amount of net receipts derived***;***~~[,]~~ and

***5.*** The disposition of those net receipts~~[. This report shall be filed on a form issued by the department]~~.

***(3) An exemption that has been granted to a charitable organization for the preceding calendar year shall be automatically renewed on January 1 of the following year.***

***(4) If upon receipt of the financial report the department determines that the information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall notify the charitable organization that its exemption is rescinded. The organization may request an appeal of this rescission pursuant to KRS 238.565.***

***(5) If the annual financial report is not received by January 31, the exemption is automatically rescinded unless an extension of no more than thirty (30) days is granted by the department. The organization may request an appeal of this rescission pursuant to KRS 238.565***~~[Upon receipt of the yearly financial report, the department shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the department determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the department shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565]~~.

***(6)*** If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection ***(7)***~~[(3)]~~ of this section.

***(7)***~~[(3)]~~ If an organization exceeds the limit imposed by any subsection of this section it shall:

(a) Report the amount to the department; and

(b) Apply for a retroactive charitable gaming license.

***(8)***~~[(4)]~~ Upon receipt of a report and application for a retroactive charitable gaming license, the department shall investigate to determine if the organization is otherwise qualified to hold the license.

***(9)*** ~~[(5)]~~ If the department determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.

***(10)*** ~~[(6)]~~ If the department determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.

***(11)*** ~~[(7)]~~ Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.

***(12)*** ~~[(8)]~~ In order to qualify for licensure, a charitable organization shall:

(a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;

(b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:

1. Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph (c) of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and

2. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with paragraph (d) of this subsection;

(c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the department, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the department a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

(d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Department of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing or a charity fundraising event, including special limited charity fundraising events, in a Kentucky county other than that in which the organization's office or place of business is located. For raffles, the organization shall notify the Department of Charitable Gaming in writing of the organization's intent to change the drawing's

location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the department, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the department shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fundraising event.

***(13)*** ~~[(9)]~~ In applying for a license, the information to be submitted shall include but not be limited to the following:

(a) The name and address of the charitable organization;

(b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;

(c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;

(d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;

(e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

(f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;

(g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;

(h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;

(i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;

(j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;

(k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the department; and

(l) Any other information the department deems appropriate.

***(14)*** ~~[(10)]~~ An organization or a group of individuals that does not meet the licensing requirements of subsection ***(12)*** ~~[(8)]~~ of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars ($150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and ***(13)*** ~~[(9)]~~ of this section.

***(15)*** ~~[(11)]~~ The department may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.

***(16)*** ~~[(12)]~~ The department shall charge a fee for each license issued and renewed, not to exceed three hundred dollars ($300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

***(17)*** ~~[(13)]~~ (a) A licensed charitable organization may place its charitable gaming license in escrow if:

1. The licensee notifies the department in writing that it desires to place its license in escrow; and
2. The license is in good standing and the department has not initiated disciplinary action against the licensee.

(b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.

(c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:

1. The charitable organization continues to qualify for licensure;
2. The charitable organization has not engaged in charitable gaming during the escrow period; and
3. The charitable organization pays a reinstatement fee established by the department.

➔Section 3. KRS 238.540 is amended to read as follows:

(1) Except as provided in KRS 238.535***(12)*** ~~[(8)]~~(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The department shall process this request and issue or deny a license within ten (10) days.

(2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.

(3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the department, law enforcement officials, and other interested officials.

(4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

(5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.

(6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.

(7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.

***(8) (a) Each organization's gaming supplies shall be maintained in a location separate from another organization's gaming supplies.***

***(b) This location shall also be locked and access shall be controlled.***

***(c) Unless otherwise directed by the department, an organization's supplies and equipment remain the property of the organization regardless of where they are stored and must be accessible to the organization at all reasonable times upon request.***

***(9)*** ~~[(8)]~~ Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo

session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars ($5,000) per twenty-four (24) hour period set forth in KRS 238.545(1).

➔Section 4. KRS 238.545 is amended to read as follows:

(1) A licensed charitable organization shall be limited by the following:

(a) In the conduct of bingo, to one (1) session per day, two (2) sessions per week, for a period not to exceed five (5) consecutive hours in any day and not to exceed ten (10) total hours per week. No licensed charitable organization shall conduct bingo at more than one (1) location during the same twenty-four (24) hour period. No licensed charitable organization shall award prizes for bingo that exceed five thousand dollars ($5,000) in fair market value per twenty-four (24) hour period, including the value of door prizes. No person under the age of eighteen (18) shall be permitted to purchase bingo supplies or play bingo. A charitable organization may permit persons under age eighteen (18) to play bingo for noncash prizes if they are accompanied by a parent or legal guardian and only if the value of any noncash prize awarded does not exceed ten dollars ($10);

(b) A licensed charitable organization may provide card-minding devices for use by players of bingo games. If a licensed charitable organization offers card-minding devices for use by players, the devices shall be capable of being used in conjunction with bingo cards or paper sheets at all times. The department shall have broad authority to define and regulate the use of card-minding devices and shall promulgate an administrative regulation concerning use and control of them;

(c) Charity game tickets shall be sold only at the address of the location designated on the license to conduct charitable gaming;

(d) Charity game tickets may be sold, with prior approval of the department:

1. At any authorized special charity fundraising event conducted by a licensed charitable organization at any off-site location; or

2. By a licensed charitable organization possessing a special limited charitable gaming license at any off-site location; and

(e) An automated charity game ticket dispenser may be utilized by a licensed charitable organization, with the prior approval of the department, only at the address of the location designated on the license to conduct charitable gaming, and only during bingo sessions. The department shall promulgate administrative regulations regulating the use and control of approved automated charity game ticket dispensers.

(2) ***(a)*** No prize for an individual charity game ticket shall exceed five hundred ninety-nine dollars ($599) in value, not including the value of cumulative or carryover prizes awarded in seal card games.

***(b)*** Cumulative or carryover prizes in seal card games shall not exceed two thousand four hundred dollars ($2,400).

***(c)*** Information concerning rules of the particular game and prizes that are to be awarded in excess of fifty dollars ($50) in each separate package or series of packages with the same serial number and all rules governing the handling of cumulative or carryover prizes in seal card games shall be posted prominently in an area where charity game tickets are sold. A legible poster that lists prizes to be awarded, and on which prizes actually awarded are posted at the completion of the sale of each separate package shall satisfy this requirement.

***(d)*** Any unclaimed money or prize shall return to the charitable organization.

***(e)*** No ***paper*** charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the standards for opacity, randomization, minimum information, winner protection, color, and cutting established by the department.

***(f)*** ***No electronic pulltab device representation of a charity game ticket shall be sold in the Commonwealth of Kentucky that does not conform to the construction standards set forth in an administrative regulation promulgated by the department. Electronic pulltab devices shall only be used for charitable gaming.***

***(g)*** No person under the age of eighteen (18) shall be permitted to purchase, or open in any manner, a charity game ticket.

(3) ***(a)*** Tickets for a raffle shall be sold separately, and each ticket shall constitute a separate and equal chance to win.

***(b)*** All raffle tickets shall be sold for the price stated on the ticket, and no person shall be required to purchase more than one (1) ticket or to pay for anything other than a ticket to enter a raffle.

***(c)*** Raffle tickets shall have a unique identifier for the ticket holder.

***(d)*** Winners shall be drawn at random at a date, time, and place announced in advance or printed on the ticket.

***(e)*** All prizes for a raffle shall be identified in advance of the drawing and all prizes identified shall be awarded.

(4) With respect to charity fundraising events, a licensed charitable organization shall be limited as follows:

(a) No licensed charitable organization shall conduct a charity fundraising event or a special limited charity fundraising event unless they have a license for the respective event issued by the department;

(b) No special license shall be required for any wheel game, such as a cake wheel, that awards only noncash prizes the value of which does not exceed one hundred dollars ($100);

(c) The department may grant approval for a licensed charitable organization to play bingo games at a charity fundraising event. Cash prizes for bingo games played during a charity fundraising event may not exceed five thousand dollars ($5,000) for the entire event. No person under the age of eighteen (18) shall be permitted to play bingo at a charity fundraising event unless accompanied by a parent or legal guardian;

(d) The department may grant approval for a licensed charitable organization to play special limited charitable games at a charity fundraising event authorized under this section. The department shall not grant approval for the playing of special limited charitable games under the provisions of a charity fundraising event license unless the proposed event meets the definition of a charity fundraising event held for community, social, or entertainment purposes apart from charitable gaming in accordance with KRS 238.505(8); and

(e) Except for state, county, city fairs, and special limited charity fundraising events, a charity fundraising event license issued under this section shall not exceed seventy-two (72) consecutive hours. A licensed charitable organization shall not be eligible for more than four (4) total charity fundraising event licenses per year, including two (2) special limited charity fundraising event licenses. No person under eighteen (18) years of age shall be allowed to play or conduct any special limited charitable game. The department shall have broad authority to regulate the conduct of special limited charity fundraising events in accordance with the provisions of KRS 238.547.

(5) Presentation of false, fraudulent, or altered identification by a minor shall be an affirmative defense in any disciplinary action or prosecution that may result from a violation of age restrictions contained in this section, if the appearance and character of the minor were such that his or her age could not be reasonably ascertained by other means.

**Signed by Governor March 23, 2015.**

## CHAPTER 60

**( SB 67 )**

AN ACT relating to concealed carry licenses.

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

➔Section 1. KRS 237.110 is amended to read as follows:

(1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.

(2) An original or renewal license issued pursuant to this section shall:

(a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;

(b) Unless revoked or suspended as provided by law, be valid for a period of five (5) years from the date of issuance;

(c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and

(d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.

(3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police, upon receipt of a completed application, applicable fees, and any documentation required by this section or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:

(a) A state records check covering the items specified in this subsection, together with any other requirements of this section;

(b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;

(c) A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and

(d) In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.

(4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:

(a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;

(b) 1. Is a citizen of the United States who is a resident of this Commonwealth;

2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky;

3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, and is a resident of this Commonwealth; or

4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth;

(c) Is twenty-one (21) years of age or older;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;

(g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;

(h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law;~~[ and]~~

(i) Demonstrates competence with a firearm by successful completion of ***a firearms safety or training course that is conducted by a firearms instructor who is certified by a national organization that certifies firearms instructors and includes the use of written tests, in person instruction, and a component of live-fire training or*** a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course ***offered or approved by the Department of Criminal Justice Training*** shall:

1. Be not more than eight (8) hours in length;

2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;

3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and

4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503***; and***

***(j) Demonstrates knowledge of the law regarding the justifiable use of force by including with the application a copy of the concealed carry deadly weapons legal handout made available by the Department of Criminal Justice Training and a signed statement that indicates that applicant has read and understands the handout***.

(5) (a) A legible photocopy or electronic copy of ***a***~~[the]~~ certificate of completion issued by ***a firearms instructor certified by a national organization or*** the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.

(b) Persons qualifying under subsection (6)(d) of this section may submit with their application:

1. At least one (1) of the following paper or electronic forms or their successor forms showing evidence of handgun training or handgun qualifications:

a. Department of Defense Form DD 2586;

b. Department of Defense Form DD 214;

c. Coast Guard Form CG 3029;

d. Department of the Army Form DA 88-R;

e. Department of the Army Form DA 5704-R;

f. Department of the Navy Form OPNAV 3591-1; or

g. Department of the Air Force Form AF 522; or

2. a. Documentary evidence of an honorable discharge; and

b. A notarized affidavit on a form provided by the Department of Kentucky State Police, signed under penalty of perjury, stating the person has met the training requirements of subsection (6)(d) of this section.

(6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.

(b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:

1. Any peace officer employed by a federal agency specified in KRS 61.365;

2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;

3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army National Guard or Air National Guard who has successfully completed the military law enforcement training course required by that branch of the military; and

4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.

(c) Corrections officers who are currently employed by a county containing a consolidated local government or an urban-county government who have successfully completed a basic firearms training course required for their employment, and corrections officers who were formerly employed by a county containing a consolidated local government or an urban-county government who are retired, and who successfully completed a basic firearms training course required for their employment, and are members of a state-administered retirement system or other retirement system operated by or for a city, county, or urban-county government in Kentucky shall be deemed to have met the training requirement.

(d) Active or honorably discharged service members in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard shall be deemed to have met the training requirement if these persons:

1. Successfully completed handgun training which was conducted by the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard; or

2. Successfully completed handgun qualification within the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army Guard or Air Force National Guard.

(7) (a) 1. A paper application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from and submitted to the office of the sheriff in the county in which the person resides.

2. An applicant, in lieu of a paper application, may submit an electronic application for a license, or renewal of a license, to carry a concealed deadly weapon to the Department of Kentucky State Police.

3. Persons qualifying under subsection (6)(d) of this section shall be supplied the information in subsection (4)(i)4. of this section upon obtaining an application.

(b) 1. The completed paper application and any documentation required by this section plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides.

2. The sheriff shall transmit the paper application and accompanying material to the Department of Kentucky State Police within five (5) working days.

3. Twenty dollars ($20) of the paper application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons.

(c) 1. A completed electronic application submitted in lieu of a paper application, any documentation required by this section, and an application fee or renewal fee, as appropriate, of seventy dollars ($70) shall be presented to the Department of Kentucky State Police.

2. If an electronic application is submitted in lieu of a paper application, thirty dollars ($30) of the electronic application fee shall be retained by the Department of Kentucky State Police. Twenty dollars ($20) shall be sent to the office of the sheriff of the applicant's county of residence for official expenses of the office. Ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapon carry permits.

(d) A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council and who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020, or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county government in Kentucky, shall be exempt from paying the paper or electronic application or renewal fees.

(e) The application, whether paper or electronic, shall be completed, under oath, on a form or in a manner promulgated by the Department of Kentucky State Police by administrative regulation which shall include:

1. a. The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and

b. If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;

2. A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;

3. A statement that the applicant, if qualifying under subsection (6)(c) of this section, has provided:

a. At least one (1) of the forms listed in subsection (5) of this section; or

b. i. Documentary evidence of an honorable discharge; and

ii. A notarized affidavit on a form provided by the Department of Kentucky State Police stating the person has met the training requirements of subsection (6)(c) of this section;

4. A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

5. A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

6. A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(8) The applicant shall submit to the sheriff of the applicant's county of residence or county of military posting if submitting a paper application, or to the Department of Kentucky State Police if submitting an electronic application:

(a) A completed application as described in subsection (7) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation;

(c) A paper or electronic certificate or an affidavit or document as described in subsection (5) of this section;

(d) A paper or electronic document establishing the training exemption as described in subsection (6) of this section; and

(e) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, an affidavit as prescribed by administrative regulation concerning his or her immigration status and his or her United States

government issued:

1. Permanent Resident Card I-551 or its equivalent successor identification;

2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and

3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

(9) The Department of Kentucky State Police shall, within sixty (60) days after the date of receipt of the items listed in subsection (8) of this section if the applicant submitted a paper application, or within fifteen (15) business days after the date of receipt of the items listed in subsection (8) of this section if the applicant applied electronically, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available to law enforcement agencies. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information to any requester not entitled to it by law.

(11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) for a paper request, or twenty-five dollars ($25) for an electronic request submitted in lieu of a paper request, to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.

(13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a

license renewed under the criteria set forth in this section.

(b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.

(c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:

1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or

2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.

(d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.

(e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.

(f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.

(g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.

(h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.

(i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.

(j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.

(k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the paper renewal form, or by filing with the Department of Kentucky State Police an electronic renewal form in lieu of a paper renewal form, stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee set forth in subsection (7) of this section. The sheriff shall issue to the applicant a receipt for the paper application for renewal of the license and shall date the receipt. The Department of Kentucky State Police shall issue to the applicant a receipt for an electronic application for renewal of the license submitted in lieu of a paper application for renewal and shall date the receipt.

(b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to

the sheriff in exchange for a renewal license.

(c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.

(15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court, but no court costs shall be assessed.

(16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.

(19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(20) (a) A person who is not a resident of Kentucky and who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.

(b) If a person with a valid license to carry a concealed deadly weapon issued from another state that has entered into a reciprocity agreement with the Department of Kentucky State Police becomes a resident of Kentucky, the license issued by the other state shall be considered as valid for the first one hundred twenty (120) days of the person's residence in Kentucky, if within sixty (60) days of moving to Kentucky, the person completes a form promulgated by the Department of Kentucky State Police which shall include:

1. A signed and notarized statement averring that to the best of his or her knowledge the person's license to carry a concealed deadly weapon is valid and in compliance with applicable out-of-state law, and has not been revoked or suspended for any reason except for valid forfeiture due to departure from the issuing state;

2. The person's name, date of birth, citizenship, gender, Social Security number if applicable, proof that he or she is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, former out-of-state address, current address within the state of Kentucky, date on which Kentucky residence began, state which issued the concealed carry license, the issuing state's concealed carry license number, and the state of issuance of license; and

3. A photocopy of the person's out-of-state license to carry a concealed deadly weapon.

(c) Within sixty (60) days of moving to Kentucky, the person shall deliver the form and accompanying documents by registered or certified mail, return receipt requested, to the address indicated on the form provided by the Department of Kentucky State Police pursuant to this subsection.

(d) The out-of-state concealed carry license shall become invalid in Kentucky upon the earlier of:

1. The out-of-state person having resided in Kentucky for more than one hundred twenty (120) days; or

2. The person being issued a Kentucky concealed deadly weapon license pursuant to this section.

(e) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every twelve (12) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to

permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each twelve (12) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the

conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;

2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and

3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The following shall be in effect:

1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;

2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

**Signed by Governor March 23, 2015.**

## CHAPTER 61

**( SB 51 )**

AN ACT relating to mental health.

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

➔Section 1. KRS 202A.400 is amended to read as follows:

(1) No monetary liability and no cause of action shall arise against any mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has communicated to the mental health professional an actual threat of some specific violent act.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.

(3) No monetary liability and no cause of action shall arise against any mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

(4) For purposes of this section***:*** ~~[,]~~

***(a)*** "Mental health professional" means:

***1.*** ~~[(a)]~~ A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in conducting mental health services;

***2.*** ~~[(b)]~~ A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States engaged in conducting mental health services;

***3.*** ~~[(c)]~~ A psychologist, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

***4.*** ~~[(d)]~~ A registered nurse licensed under the provisions of KRS Chapter 314 engaged in providing mental health services;

***5.*** ~~[(e)]~~ A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 engaged in providing mental health services;

***6.*** ~~[(f)]~~ A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 engaged in providing mental health services;

***7.*** ~~[(g)]~~ A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 engaged in providing mental health services;

***8.*** ~~[(h)]~~ An art therapist certified under KRS 309.130 engaged in providing mental health services; or

***9.*** ~~[(i]~~) A pastoral counselor licensed under the provisions of KRS 335.600 to 335.699 engaged in providing mental health services***; and***

***(b) "Patient" has the same meaning as in KRS 202A.011, except that it also includes a person currently under the outpatient care or treatment of a mental health professional***.

➔Section 2. KRS 202A.028 is amended to read as follows:

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, the qualified mental health professional shall be***:***

***(a)*** A staff member of a regional community program for mental health or individuals with an intellectual disability***;***

***(b) An individual qualified and licensed to perform the examination through the use of telehealth services; or***

***(c)*** ~~[, unless the person to be examined is hospitalized and under the care of a licensed psychiatrist, in which case the qualified mental health professional shall be the psychiatrist if ]~~The psychiatrist ~~[is ]~~ordered, subject to the court's discretion, to perform the required examination.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the

hospital within seventy-two (72) hours, excluding weekends and holidays, unless further held under the applicable provisions of this chapter.

(3) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet, pursuant to KRS Chapter 13A.

(4) Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person. The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation issued by the cabinet pursuant to KRS Chapter 13A.

(5) No person who has been held under subsection (1) of this section shall be held in jail pending evaluation and transportation to the hospital.

**Signed by Governor March 23, 2015.**

## CHAPTER 62

**( SB 201 )**

AN ACT relating to school entrance age.

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

➔Section 1. KRS 158.030 is amended to read as follows:

(1) "Common school" means an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a certified teacher for a minimum school term as defined by KRS 158.070 and every child residing in the district who satisfies the age requirements of this section has had the privilege of attending it. Provided, however, that any child who is six (6) years of age, or who may become six (6) years of age by October 1, shall attend public school or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by October 1, may enter a primary school program, as defined in KRS 158.031, and may advance through the primary program without regard to age in accordance with KRS 158.031(6).

(2) Beginning with the 2017-2018 school year, any child who is six (6) years of age, or who may become six (6) years of age by August 1, shall attend public school or qualify for an exemption as provided by KRS 159.030. Any child who is five (5) years of age, or who may become five (5) years of age by August 1, may enter a primary school program, as defined in KRS 158.031, and may advance through the primary program without regard to age in accordance with KRS 158.031(6).

(3) Each local school board shall adopt a policy to permit a parent or guardian to petition the board to allow a student to attend public school who does not meet the age requirements of subsection (1) or (2) of this section. The policy shall include an evaluation process that will help determine a student's readiness for school ***and shall ensure that any tuition amount charged under this policy is the same amount charged to a student who meets the age requirements of subsection (1) or (2) of this section. Students enrolled under this policy shall be included in a school's average daily attendance for purposes of funding as provided in KRS 157.310 to 157.440***.

**Signed by Governor March 23, 2015.**

## CHAPTER 63

**( SB 140 )**

AN ACT relating to foster care review boards.

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

➔Section 1. KRS 620.270 is amended to read as follows:

(1) Subject to the provisions of KRS 620.230, the local citizen foster care review board shall review the case of each child placed in the custody of the cabinet by an order of temporary custody or commitment by the court in the county or counties which the local board serves. The review shall occur at least once every six (6) months until the child is no longer in the custody of the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen foster care review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, case progress reports submitted by the cabinet, and other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board determine to be explored with regard to the best interests of the state or of the child.

(3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for Community Based Services and approved by the state review board in regard to child sexual abuse, the local citizen foster care review board may review, at the discretion of the board, a sample of all petitions filed in the District Court of the county served by the board alleging sexual abuse of any child, not to exceed two hundred (200) petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, medical professionals, and law enforcement agencies pertaining to these cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.

***(4) Notice of this review and the right to attend and participate in the review shall be provided to the child's parents, if parental rights have not been terminated or surrendered; the parent's attorney; the guardian ad litem, the attorney for the child, or both; the foster parents; the prospective adoptive parent; the relative providing care for the child; and the child who is a party to the proceeding. The cabinet and the court shall develop adequate procedures to provide notice of the review to these persons.***

**Signed by Governor March 23, 2015.**

## CHAPTER 64

**( SB 102 )**

AN ACT relating to criminal homicide.

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

➔Section 1. KRS 507.010 is amended to read as follows:

***As used in this chapter:***

***(1) "Abuse" has the same meaning as in KRS 508.090;***

***(2) "Criminal homicide" means that*** a person is guilty ***of causing***~~[of criminal homicide when he causes]~~ the death of another human being under circumstances which constitute murder, manslaughter in the first degree, manslaughter in the second degree, or reckless homicide***; and***

***(3) "Physically helpless" and "mentally helpless" have the same meaning as in KRS 508.090***.

➔Section 2. KRS 507.030 is amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person;~~[ or]~~

(b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020***; or***

***(c) Through circumstances not otherwise constituting the offense of murder, he or she intentionally abuses another person or knowingly permits another person of whom he or she has actual custody to be abused and thereby causes death to a person twelve (12) years of age or less, or who is physically helpless or mentally helpless***.

(2) Manslaughter in the first degree is a Class B felony.

➔Section 3. This Act may be cited as Conner's Law.

**Signed by Governor March 23, 2015.**

## CHAPTER 65

**( SB 148 )**

AN ACT relating to recording requirements for mortgages and deeds with retained liens.

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

➔Section 1. KRS 382.290 is amended to read as follows:

(1) In recording mortgages and deeds in which liens are retained (except railroad mortgages securing bonds payable to bearer), there shall be left a blank space immediately after the record of the deed or mortgage of at least two (2) full lines for each note or obligation named in the deed or mortgage, or in the alternative, at the option of the county clerk, a marginal entry record may be kept for the same purposes as the blank space. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instruments.

(2) ***No county clerk or deputy county clerk shall admit to record any mortgage or deed in which liens are retained unless the mortgage or deed in which a lien is retained plainly specifies and refers to the next immediate source from which the mortgagor or grantor derived title to the property or the interest encumbered therein.***

***(3)*** When any note named in any deed or mortgage is assigned to any other person, the assignor may, over his own hand, attested by the clerk, note such assignment in the blank space, or in a marginal entry record, beside a listing of the book and page of the document being assigned, and when any one (1) or more of the notes named in any deed or mortgage is paid, or otherwise released or satisfied, the holder of the note, and who appears from the record to be such holder, may release the lien, so far as such note is concerned, by release, over his own hand, attested by the clerk. Each entry in the marginal entry record shall be linked to its respective referenced instrument in the indexing system for the referenced instrument.

***(4)***~~[(3)]~~ No person who does not, from such record or assignment of record, appear at the time to be the legal holder of any note secured by lien in any deed or mortgage, shall be permitted to release the lien securing any such note, and any release made in contravention of this section shall be void; but this section does not change the existing law if no such entry is made.

***(5)***~~[(4)]~~ For each assignment and release so made and attested by the clerk, he may charge a fee pursuant to KRS 64.012 to be paid by the person executing the release or noting the assignment.

***(6)***~~[(5)]~~ If such assignment of a note is made by separate instrument or by deed assigning the note, or in a marginal entry record, the instrument of writing or deed or marginal entry record shall set forth the date of notes assigned, a brief description of notes, the name and post office address of assignee, and the deed book and page of the instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk receiving such instrument of writing or deed of assignment for record shall at the option of the county clerk immediately either link the assignment and its filing location to its respective referenced instrument in the indexing system for the referenced instrument, or endorse at the foot of the record in the space provided in subsection (1), "The notes mentioned herein (giving a brief description of notes assigned) have been transferred and assigned to (insert name and address of assignee) by deed of assignment (or describe instrument) dated and recorded in deed book .... page ...," and attest such certificate. For making such notation on the record the clerk shall be allowed a fee pursuant to KRS 64.012 for each notation so made, to be paid by the party filing the instrument of writing or deed of assignment.

***(7)***~~[(6)]~~ No holder of a note secured by lien retained in either deed or mortgage shall lodge for record, and no clerk or deputy clerk shall receive and permit to be lodged for record, any deed or instrument of writing that does not comply with the provisions of this section.

➔Section 2. KRS 382.297 is amended to read as follows:

A recorded mortgage may be amended by an affidavit of amendment prepared by an attorney to correct clerical errors or omitted information. An amendment may not change any term, dollar amount, or interest rate in the mortgage, unless signed by the mortgagor and secured party. ***An amendment shall not alter the parties or the collateral of a recorded mortgage.*** The attorney preparing the affidavit shall certify in the affidavit that notice of filing the amendment has been given to the mortgagor by mailing a copy of the amendment to the mortgagor at the address shown on the original mortgage. A subsequent release of the mortgage releases any amendments to the original mortgage.

**Signed by Governor March 23, 2015.**

## CHAPTER 66

**( SB 192 )**

AN ACT relating to controlled substances and declaring an emergency.

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

➔Section 1. KRS 72.026 is amended to read as follows:

(1) ~~[Unless another cause of death is clearly established, ]~~In cases requiring a post-mortem examination under KRS 72.025**,** the coroner or medical examiner shall take a ***biological***~~[blood]~~ sample and have it tested for the presence of any controlled substances which were in the body at the time of death ***and which at the scene may have contributed to the cause of death***.

(2) If a coroner or medical examiner determines that a drug overdose is the cause of death of a person, he or she shall provide notice of the death to:

(a) The state registrar of vital statistics and the Department of Kentucky State Police. The notice shall include any information relating to the drug that resulted in the overdose. The state registrar of vital statistics shall not enter the information on the deceased person's death certificate unless the information is already on the death certificate;~~[ and]~~

(b) The licensing board for the individual who prescribed or dispensed the medication, if known. The notice shall include any information relating to the drug that resulted in the overdose, including the

individual authorized by law to prescribe or dispense drugs who dispensed or prescribed the drug to the decedent***; and***

***(c) For coroners only, the Commonwealth's attorney and a local law enforcement agency in the circuit where the death occurred, if the death resulted from the use of a Schedule I controlled substance. The notice shall include all information as to the types and concentrations of Schedule I drugs detected***.

This subsection shall not apply to reporting the name of a pharmacist who dispensed a drug based on a prescription.

(3) The state registrar of vital statistics shall report, within five (5) business days of the receipt of a certified death certificate or amended death certificate, to the Division of Kentucky State Medical Examiners Office, any death which has resulted from the use of drugs or a drug overdose.

(4) The Justice and Public Safety Cabinet in consultation with the Kentucky State Medical Examiners Office shall promulgate administrative regulations necessary to administer this section.

➔Section 2. KRS 100.982 is amended to read as follows:

As used in KRS 100.982 to 100.984, unless the context otherwise requires:

(1) "Person with a disability" means a person with a physical, emotional, or mental disability, including, but not limited to, an intellectual disability, cerebral palsy, epilepsy, autism, deafness or hard of hearing, sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Person with a disability" does not include persons with current, illegal use of ~~[or addiction to ]~~alcohol or any controlled substance as regulated under KRS Chapter 218A.

(2) "Residential care facility" means a residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for persons with disabilities.

(3) "Services" means, but is not limited to, supervision, shelter, protection, rehabilitation, personal development, and attendant care.

➔Section 3. KRS 196.288 is amended to read as follows:

(1) The department shall measure and document cost savings resulting from amendments to or creation of statutes in KRS Chapters 27A, 196, 197, 431, 439, 532, 533, and 534 contained in 2011 Ky. Acts ch. 2. Measured and documented savings shall be reinvested or distributed as provided in this section.

(2) The department shall establish a baseline for measurement using the average number of inmates incarcerated at each type of penitentiary as defined in KRS 197.010 and at local jails in fiscal year 2010-2011.

(3) The department shall determine the average cost of:

(a) Incarceration for each type of penitentiary as defined in KRS 197.010 and for local jails, including health care costs, transportation costs, and other related costs, for one (1) inmate for one (1) year for the immediately preceding fiscal year;~~[ and]~~

(b) Providing probation and parole services for one (1) parolee for one (1) year for the immediately preceding fiscal year***; and***

***(c) Reentry services and peer support as a condition of parole for those with opiate addiction and other substance abuse disorders***.

(4) Beginning with the budget request for the 2012-2014 fiscal biennium, savings shall be estimated from the baseline established in subsection (2) of this section as follows:

(a) The estimated average reduction of inmates due to mandatory reentry supervision as required by KRS 439.3406 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;

(b) The estimated average reduction of inmates due to accelerated parole hearings as required by KRS 439.340 multiplied by the appropriate average cost as determined in subsection (3)(a) of this section;

(c) The estimated average increase of parolees due to paragraphs (a) and (b) of this subsection multiplied by the average cost as determined in subsection (3)(b) of this section; and

(d) The estimated average reduction of parolees due to parole credit for good behavior as provided in KRS 439.345 multiplied by the average cost as determined in subsection (3)(b) of this section.

(5) The following amounts shall be allocated or distributed from the estimated amount of savings that would otherwise remain in the general fund:

(a) Twenty-five percent (25%) shall be distributed to the local corrections assistance fund established by KRS 441.207;~~[ and]~~

(b) ***Fifty percent (50%) shall be distributed for the following purposes:***

***1. To the department to provide or to contract for the provision of substance abuse treatment in county jails, regional jails, or other local detention centers that employ evidence-based practices in behavioral health treatment or medically assisted treatment for nonstate inmates with opiate addiction or other substance abuse disorders;***

***2. For KY-ASAP programs operating under KRS Chapter 15A in county jails or in facilities under the supervision of county jails that employ evidence-based behavioral health treatment or medically assisted treatment for inmates with opiate addiction or other substance abuse disorders;***

***3. To KY-ASAP to provide supplemental grant funding to community mental health centers for the purpose of offering additional substance abuse treatment resources through programs that employ evidence-based behavioral health treatment or medically assisted treatment;***

***4. To KY-ASAP to address neonatal abstinence syndrome by providing supplemental grant funding to community substance abuse treatment providers to offer residential treatment services to pregnant women through programs that employ evidence-based behavioral health treatment or medically assisted treatment;***

***5. To provide supplemental funding for traditional KY-ASAP substance abuse programming under KRS Chapter 15A;***

***6. To the department for the purchase of an FDA-approved extended-release treatment for the prevention of relapse to opiate dependence with a minimum of fourteen (14) days effectiveness with an opioid antagonist function for use as a component of evidence-based medically assisted treatment for inmates with opiate addiction or substance abuse disorders participating in a substance abuse treatment program operated or supervised by the department;***

***7. To the Department for Public Advocacy to provide supplemental funding to the Social Worker Program for the purpose of creating additional social worker positions to develop individualized alternative sentencing plans; and***

***8. To the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases; and***

***(c)*** In enacting the budget for the department and the judicial branch, beginning in the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the General Assembly shall:

1. Determine the estimated amount necessary for reinvestment in:

   a. Expanded treatment programs and expanded probation and parole services provided by or through the department; and

   b. Additional pretrial services and drug court case specialists provided by or through the Administrative Office of the Courts; and

2. Shall allocate and appropriate sufficient amounts to fully fund these reinvestment programs.

(6) The amount of savings shall be estimated each year of the 2012-2014 fiscal biennium, and for each year of each fiscal biennium thereafter, as specified in subsection (4) of this section.

(7) (a) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the department shall estimate the amount of savings measured under this section and shall request the amount necessary to distribute or allocate those savings as provided in subsection (5) of this section.

(b) In submitting its budget request for the 2012-2014 fiscal biennium and each fiscal biennium thereafter, the judicial branch shall request the amount necessary to distribute or allocate those savings as provided

in subsection (5) of this section.

➔Section 4. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including but not limited to the following categories, except where the aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include products for the treatment of inborn errors of metabolism or genetic conditions, consisting of therapeutic food, formulas, supplements, or low-protein modified food products that are medically indicated for therapeutic treatment and are administered under the direction of a physician, and include but are not limited to the following conditions:

1. Phenylketonuria;
2. Hyperphenylalaninemia;
3. Tyrosinemia (types I, II, and III);
4. Maple syrup urine disease;
5. A-ketoacid dehydrogenase deficiency;
6. Isovaleryl-CoA dehydrogenase deficiency;
7. 3-methylcrotonyl-CoA carboxylase deficiency;
8. 3-methylglutaconyl-CoA hydratase deficiency;
9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
10. B-ketothiolase deficiency;
11. Homocystinuria;
12. Glutaric aciduria (types I and II);
13. Lysinuric protein intolerance;
14. Non-ketotic hyperglycinemia;
15. Propionic acidemia;
16. Gyrate atrophy;
17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
18. Carbamoyl phosphate synthetase deficiency;
19. Ornithine carbamoyl transferase deficiency;
20. Citrullinemia;
21. Arginosuccinic aciduria;

22. Methylmalonic acidemia; and

23. Argininemia;

(d) Physician, podiatric, and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;

(h) Services provided by health-care delivery networks as defined in KRS 216.900;

(i) Services provided by midlevel health-care practitioners as defined in KRS 216.900; and

(j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced practice registered nurse, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over-the-counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation.

(2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are

deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced practice registered nurse licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the intellectually disabled exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the intellectually disabled through community mental health centers.

(9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.

(11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.

(12) ***(a)*** The Medical Assistance Program shall use the ***appropriate*** form and guidelines ~~[established pursuant to KRS 304.17A-545(5) ]~~for ***enrolling***~~[assessing the credentials of]~~ those ***providers*** applying for

participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A. ***A Medicaid managed care organization shall use the forms and guidelines established under KRS 304.17A-545(5) to credential a provider.*** For any provider who ***contracts with and*** is credentialed by a Medicaid managed care organization ***prior to enrollment,*** the cabinet shall complete the enrollment ~~[and credentialing]~~ process and deny, or approve and issue a ***Provider Identification Number (PID)*** ~~[Medical Assistance Identification Number (MAID)]~~ within fifteen (15) business days from the time all necessary completed ***enrollment*** ~~[credentialing]~~ forms have been submitted and all outstanding accounts receivable have been satisfied.

***(b) Within forty-five (45) days of receiving a correct and complete provider application, the Department for Medicaid Services shall complete the enrollment process by either denying or approving and issuing a Provider Identification Number (PID) for a behavioral health provider who provides substance use disorder services, unless the department notifies the provider that additional time is needed to render a decision for resolution of an issue or dispute.***

***(c) Within forty-five (45) days of receipt of a correct and complete application for credentialing by a behavioral health provider providing substance use disorder services, a Medicaid managed care organization shall complete its contracting and credentialing process, unless the Medicaid managed care organization notifies the provider that additional time is needed to render a decision. If additional time is needed, the Medicaid managed care organization shall not take any longer than ninety (90) days from receipt of the credentialing application to deny or approve and contract with the provider.***

***(d) A Medicaid managed care organization shall adjudicate any clean claims submitted for a substance use disorder service from an enrolled and credentialed behavioral health provider who provides substance use disorder services in accordance with KRS 304.17A-700 to 304.17A-730.***

***(e) The Department of Insurance may impose a civil penalty of one hundred dollars ($100) per violation when a Medicaid managed care organization fails to comply with this section. Each day that a Medicaid managed care organization fails to pay a claim may count as a separate violation.***

(13) Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) The Department for Medicaid Services shall provide a substance use disorder benefit consistent with federal laws and regulations which shall include a broad array of treatment options for those with heroin and other substance use disorders.***

***(2) The department shall promulgate administrative regulations to implement this section and to expand the behavioral health network to allow providers to provide services within their licensure category.***

***(3) Providers of peer-mediated, recovery-oriented, therapeutic community models of care shall have the opportunity to contract with managed care organizations to be reimbursed for any portion of those services that are provided by licensed or certified providers in accordance with approved billing codes.***

***(4) A Medicaid managed care organization shall:***

***(a) Authorize treatment for each diagnosis related to substance use disorder and co-occurring mental health and substance use disorder covered by Medicaid that is identified within the most updated edition of the Diagnostic and Statistical Manual of Mental Disorders issued by the American Psychiatric Association that meets the criteria for medical necessity and level of care; and***

***(b) Approve coverage and payment for continuing care at the appropriate level of care.***

***(5) Beginning January 1, 2016, the Department for Medicaid Services shall provide an annual report to the Legislative Research Commission detailing the number of providers of substance use disorder treatment, the type of services offered by each provider, the geographic distribution of providers, and a summary of expenditures on substance use disorder treatment services provided by Medicaid.***

➔Section 6. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to abortion facilities as defined in KRS 216B.015; any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; ***licensed residential crisis stabilization units, which may be part of a licensed psychiatric hospital; licensed free-standing residential substance use disorder treatment programs with sixteen (16) or fewer beds, but not including Levels I and II psychiatric residential treatment facilities or licensed psychiatric inpatient beds; outpatient behavioral health treatment, but not including partial hospitalization programs;*** end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including but not limited to wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically related expenditures; nursing home beds that shall be exclusively limited to on-campus residents of a certified continuing care retirement community; home health services provided by a continuing care retirement community to its on-campus residents; the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital; residential hospice facilities established by licensed hospice programs; or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts, except any physician's office that meets the criteria set forth in KRS 216B.015(5) or that meets the definition of an ambulatory surgical center as set out in KRS 216B.015;

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(5), or unless the physician's office is also an abortion facility as defined in KRS 216B.015, except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of

December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

(8) Notwithstanding any other provision of law, a continuing care retirement community's nursing home beds shall not be certified as Medicaid eligible unless a certificate of need has been issued authorizing applications for Medicaid certification. The provisions of subsection (3) of this section notwithstanding, a continuing care retirement community shall not change the level of care licensure status of its beds without first obtaining a certificate of need.

➔SECTION 7. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

***When a person is admitted to a hospital emergency department or hospital emergency room for treatment of a drug overdose:***

***(1) The person shall be informed of available substance use disorder treatment services known to the hospital that are provided by that hospital, other local hospitals, the local community mental health center, and any other local treatment programs licensed pursuant to KRS 222.231;***

***(2) The hospital may obtain permission from the person when stabilized, or the person's legal representative, to contact any available substance use disorder treatment programs offered by that hospital, other local hospitals, the local community mental health center, or any other local treatment programs licensed pursuant to KRS 222.231, on behalf of the person to connect him or her to treatment; and***

***(3) The local community mental health center may provide an on-call service in the hospital emergency department or hospital emergency room for the person who was treated for a drug overdose to provide information about services and connect the person to substance use disorder treatment, as funds are available. These services, when provided on the grounds of a hospital, shall be coordinated with appropriate hospital staff.***

➔Section 8. KRS 217.186 is amended to read as follows:

(1) A licensed health-care provider who, acting in good faith, directly or by standing order, prescribes or dispenses the drug naloxone to a ***person or agency***~~[patient]~~ who, in the judgment of the health-care provider, is capable of administering the drug for an emergency opioid overdose, shall not, as a result of his or her acts or omissions, be subject to disciplinary or other adverse action under KRS Chapter 311, 311A, 314, or 315 or any other professional licensing statute***. As used in this subsection, "licensed health-care provider" includes a pharmacist as defined in KRS 315.010 who holds a separate certification issued by the Kentucky Board of Pharmacy authorizing the initiation of the dispensing of naloxone under subsection (5) of this section***.

(2) A prescription for naloxone may include authorization for administration of the drug to the person for whom it is prescribed by a third party if the prescribing instructions indicate the need for the third party upon administering the drug to immediately notify a local public safety answering point of the situation necessitating the administration.

***(3) A person or agency, including a peace officer, jailer, firefighter, paramedic, or emergency medical technician or a school employee authorized to administer medication under KRS 156.502, may:***

***(a) Receive a prescription for the drug naloxone;***

***(b) Possess naloxone pursuant to this subsection and any equipment needed for its administration; and***

***(c) Administer naloxone to an individual suffering from an apparent opiate-related overdose.***

***(4)*** A person acting in good faith who administers naloxone ***received*** ~~[as the third party]~~ under this section shall be immune from criminal and civil liability for the administration, unless personal injury results from the gross negligence or willful or wanton misconduct of the person administering the drug.

***(5) (a) The Board of Pharmacy, in consultation with the Kentucky Board of Medical Licensure, shall promulgate administrative regulations to establish certification, educational, operational, and protocol requirements to implement this section.***

***(b) Administrative regulations promulgated under this subsection shall:***

***1. Require that any dispensing under this section be done only in accordance with a physician-approved protocol and specify the minimum required components of any such protocol;***

***2. Include a required mandatory education requirement as to the mechanism and circumstances for the administration of naloxone for the person to whom the naloxone is dispensed; and***

***3. Require that a record of the dispensing be made available to a physician signing a protocol under this subsection, if desired by the physician.***

***(c) Administrative regulations promulgated under this subsection may include:***

***1. A supplemental educational or training component for a pharmacist seeking certification under this subsection; and***

***2. A limitation on the forms of naloxone and means of its administration that may be dispensed pursuant to this subsection.***

***(6) (a) The board of each local public school district and the governing body of each private and parochial school or school district may permit a school to keep naloxone on the premises and regulate the administration of naloxone to any individual suffering from an apparent opiate-related overdose.***

***(b) In collaboration with local health departments, local health providers, and local schools and school districts, the Kentucky Department for Public Health shall develop clinical protocols to address supplies of naloxone kept by schools under this section and to advise on the clinical administration of naloxone.***

➔SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) For the purposes of this section:***

***(a) "Analyze" means to apply scientific and mathematical measures to determine meaningful patterns and associations in data. "Analyze" includes descriptive analysis to examine historical data, predictive analysis to examine future probabilities and trends, and prescriptive analysis to examine how future decisions may impact the population and trends; and***

***(b) "Pilot program" means a program in a county or set of counties, or a subset or subsets of the population, as designated by the Cabinet for Health and Family Services and the Office of Drug Control Policy for analyzing the effectiveness of substance abuse treatment services in Kentucky.***

***(2) The general purpose of this section is to assist in the development of a pilot program to analyze the outcomes and effectiveness of substance abuse treatment programs in order to ensure that the Commonwealth is:***

***(a) Addressing appropriate risk and protective factors for substance abuse in a defined population;***

***(b) Using approaches that have been shown to be effective;***

***(c) Intervening early at important stages and transitions;***

***(d) Intervening in appropriate settings and domains; and***

***(e) Managing programs effectively.***

***(3) Sources of data for the pilot program shall include, at a minimum, claims under the Kentucky Department for Medicaid Services, the electronic monitoring system for controlled substances established under KRS 218A.202, and the Department of Workers' Claims within the Labor Cabinet.***

***(4) As funds are available, the Cabinet for Health and Family Services and the Office of Drug Control Policy shall initiate a pilot program to determine, collect, and analyze performance measurement data for substance abuse treatment services to determine practices that reduce frequency of relapse, provide better outcomes for patients, hold patients accountable, and control health costs related to substance abuse.***

***(5) By December 31, 2016, the Cabinet for Health and Family Services and the Office of Drug Control Policy shall issue a joint report to the Legislative Research Commission and the Office of the Governor that:***

***(a) Details the findings of the pilot program;***

***(b) Includes recommendations based on the pilot program's results for optimizing substance abuse treatment services; and***

***(c) Includes recommendations for the continued application of analytics to further augment Kentucky's approach to fighting substance abuse in the future.***

➔Section 10. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, or salts is possible within the specific chemical designation: ***Acetylfentanyl;*** Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine;

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4, 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic drugs; or salvia;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid; and

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);

(b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);

(c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or

(d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).

➔SECTION 11. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section:***

***(a) "Drug overdose" means an acute condition of physical illness, coma, mania, hysteria, seizure, cardiac arrest, cessation of breathing, or death which reasonably appears to be the result of consumption or use of a controlled substance, or another substance with which a controlled substance was combined, and that a layperson would reasonably believe requires medical assistance; and***

***(b) "Good faith" does not include seeking medical assistance during the course of the execution of an arrest warrant, or search warrant, or a lawful search.***

***(2) A person shall not be charged with or prosecuted for a criminal offense prohibiting the possession of a controlled substance or the possession of drug paraphernalia if:***

***(a) In good faith, medical assistance with a drug overdose is sought from a public safety answering point, emergency medical services, a law enforcement officer, or a health practitioner because the person:***

***1. Requests emergency medical assistance for himself or herself or another person; or***

***2. Acts in concert with another person who requests emergency medical assistance; or***

***3. Appears to be in need of emergency medical assistance and is the individual for whom the request was made;***

***(b) The person remains with, or is, the individual who appears to be experiencing a drug overdose until the requested assistance is provided; and***

***(c) The evidence for the charge or prosecution is obtained as a result of the drug overdose and the need for medical assistance.***

***(3) The provisions of subsection (2) of this section shall not extend to the investigation and prosecution of any other crimes committed by a person who otherwise qualifies under this section.***

***(4) When contact information is available for the person who requested emergency medical assistance, it shall be reported to the local health department. Health department personnel shall make contact with the person who requested emergency medical assistance in order to offer referrals regarding substance abuse treatment, if appropriate.***

***(5) A law enforcement officer who makes an arrest in contravention of this section shall not be criminally or civilly liable for false arrest or false imprisonment if the arrest was based on probable cause.***

➔SECTION 12. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***Substance abuse treatment or recovery service providers that receive state funding shall give pregnant women priority in accessing services and shall not refuse access to services solely due to pregnancy as long as the provider's services are appropriate for pregnant women.***

➔SECTION 13. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) A person is guilty of importing heroin when he or she knowingly and unlawfully transports any quantity of heroin into the Commonwealth by any means with the intent to sell or distribute the heroin.***

***(2) The provisions of this section are intended to be a separate offense from others in this chapter, and shall be punished in addition to violations of this chapter occurring during the same course of conduct.***

***(3) Importing heroin is a Class C felony, and the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed.***

➔Section 14. KRS 218A.1412 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in:

(a) Four (4) grams or more of cocaine;

(b) Two (2) grams or more of heroin***, fentanyl,*** or methamphetamine;

(c) Ten (10) or more dosage units of a controlled substance that is classified in Schedules I or II and is a

narcotic drug, or a controlled substance analogue;

(d) Any quantity of lysergic acid diethylamide; phencyclidine; gamma hydroxybutyric acid (GHB), including its salts, isomers, salts of isomers, and analogues; or flunitrazepam, including its salts, isomers, and salts of isomers; or

(e) Any quantity of a controlled substance specified in paragraph (a), (b), or (c) of this subsection in an amount less than the amounts specified in those paragraphs.

(2) The amounts specified in subsection (1) of this section may occur in a single transaction or may occur in a series of transactions over a period of time not to exceed ninety (90) days that cumulatively result in the quantities specified in this section.

(3) (a) ~~[Except as provided in paragraph (b) of this subsection, ]~~Any person who violates the provisions of ***subsection (1)(a), (b), (c), or (d) of*** this section shall be guilty of a Class C felony for the first offense and a Class B felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(e) of this section***:***

***1.*** Shall be guilty of a Class D felony for the first offense and a Class C felony for a second~~[ offense]~~ or subsequent offense***; and***

***2. a. Except as provided in subdivision b. of this subparagraph, where the trafficked substance was heroin and the defendant committed the offense while possessing more than one (1) items of paraphernalia, including but not limited to scales, ledgers, instruments and material to cut, package, or mix the final product, excess cash, multiple subscriber identity modules in excess of the number of communication devices possessed by the person at the time of arrest, or weapons, which given the totality of the circumstances, indicate the trafficking to have been a commercial activity, shall not be released on parole until he or she has served at least fifty percent (50%) of the sentence imposed.***

***b. This subparagraph shall not apply to a person who has been determined by a court to have had a substance use disorder relating to a controlled substance at the time of the offense. "Substance use disorder" shall have the same meaning as in the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.***

***(c) Any person convicted of a Class C felony offense or higher under this section shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed in cases where the trafficked substance was heroin***.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) A person is guilty of aggravated trafficking in a controlled substance in the first degree when he or she knowingly and unlawfully traffics in one hundred (100) grams or more of heroin.***

***(2) Aggravated trafficking in a controlled substance in the first degree is a Class B felony, and the defendant shall not be released on probation, shock probation, conditional discharge, or parole until he or she has served at least fifty percent (50%) of the sentence imposed.***

➔Section 16. KRS 218A.1414 is amended to read as follows:

(1) A person is guilty of trafficking in a controlled substance in the third degree when he or she knowingly and unlawfully traffics in:

(a) Twenty (20) or more dosage units of a controlled substance classified in Schedules IV or V; or

(b) Any quantity of a controlled substance specified in paragraph (a) of this subsection in an amount less than the amount specified in that paragraph.

(2) (a) Any person who violates the provisions of subsection (1)(a) of this section shall be guilty of***:***

***1.*** A Class A misdemeanor for ***a***~~[the]~~ first offense ***involving one hundred twenty (120) or fewer dosage units;***

***2. A Class D felony for a first offense involving more than one hundred twenty (120) dosage***

***units;*** and

***3.*** A Class D felony for a second or subsequent offense.

(b) Any person who violates the provisions of subsection (1)(b) of this section shall be guilty of:

1. A Class A misdemeanor for the first offense, subject to the imposition of presumptive probation; and

2. A Class D felony for a second or subsequent offense, except that KRS Chapter 532 to the contrary notwithstanding, the maximum sentence to be imposed shall be no greater than three (3) years.

➔SECTION 17. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***(1) An offender charged with a felony pursuant to this chapter who is not charged with a violent offense, who is eligible for diversion or deferred prosecution of his or her sentence, and whose diversion or deferred prosecution plan involves substance use disorder treatment may be afforded the opportunity to utilize a faith-based residential treatment program.***

***(2) If an offender and judge support this faith-based residential treatment program, and the cost of the program is less than that of the substance use disorder treatment that would otherwise be provided, then the court may approve the faith-based residential treatment program for a specified period of time. An offender shall sign a commitment to comply by the terms of the faith-based residential treatment program.***

***(3) If an offender violates the terms of the commitment he or she has signed with the faith-based residential treatment program, then the offender shall be returned to the court for additional proceedings.***

➔Section 18. KRS 218A.500 is amended to read as follows:

As used in this section and KRS 218A.510:

(1) "Drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter. It includes but is not limited to:

(a) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(b) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(c) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(d) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

(g) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Blenders, bowls, containers, spoons, and mixing devices used, intended for use, or designed for use in compounding controlled substances;

(i) Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

(j) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

(k) Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in

parenterally injecting controlled substances into the human body; and

(l) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as: metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls; water pipes; carburetion tubes and devices; smoking and carburetion masks; roach clips which mean objects used to hold burning material, such as marijuana cigarettes, that have become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.

(2) It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia for the purpose of planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packing, repacking, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of this chapter.

(3) It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter.

(4) It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(5) ***(a) This section shall not prohibit a local health department from operating a substance abuse treatment outreach program which allows participants to exchange hypodermic needles and syringes.***

***(b) To operate a substance abuse treatment outreach program under this subsection, the local health department shall have the consent, which may be revoked at any time, of the local board of health and:***

***1. The legislative body of the first or home rule class city in which the program would operate if located in such a city; and***

***2. The legislative body of the county, urban-county government, or consolidated local government in which the program would operate.***

***(c) Items exchanged at the program shall not be deemed drug paraphernalia under this section while located at the program.***

***(6) (a) Prior to searching a person, a person's premises, or a person's vehicle, a peace officer may inquire as to the presence of needles or other sharp objects in the areas to be searched that may cut or puncture the officer and offer to not charge a person with possession of drug paraphernalia if the person declares to the officer the presence of the needle or other sharp object. If, in response to the offer, the person admits to the presence of the needle or other sharp object prior to the search, the person shall not be charged with or prosecuted for possession of drug paraphernalia for the needle or sharp object or for possession of a controlled substance for residual or trace drug amounts present on the needle or sharp object.***

***(b) The exemption under this subsection shall not apply to any other drug paraphernalia that may be present and found during the search or to controlled substances present in other than residual or trace amounts.***

***(7)*** Any person who violates any provision of this section shall be guilty of a Class A misdemeanor.

➔Section 19. KRS 439.3401 is amended to read as follows:

(1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:

(a) A capital offense;

(b) A Class A felony;

(c) A Class B felony involving the death of the victim or serious physical injury to a victim;

(d) An offense described in KRS 507.040 or 507.050 where the offense involves the killing of a peace officer or firefighter while the officer or firefighter was acting in the line of duty;

(e) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;

(f) Use of a minor in a sexual performance as described in KRS 531.310;

(g) Promoting a sexual performance by a minor as described in KRS 531.320;

(h) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);

(i) Human trafficking under KRS 529.100 involving commercial sexual activity where the victim is a minor;

(j) Criminal abuse in the first degree as described in KRS 508.100;

(k) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;

(l) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or

(m) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

(2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his or her sentence is commuted to a life sentence shall not be released on probation or parole until he or she has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.

(3) (a) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.

(b) A violent offender who has been convicted of a violation of KRS 507.040 where the victim of the offense was clearly identifiable as a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least eighty-five percent (85%) of the sentence imposed.

(c) A violent offender who has been convicted of a violation of KRS 507.040 or 507.050 where the victim of the offense was a peace officer or a firefighter and the victim was acting in the line of duty shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed.

***(d) Any offender who has been convicted of a homicide or fetal homicide offense under KRS Chapter 507 or 507A in which the victim of the offense died as the result of an overdose of a Schedule I controlled substance and who is not otherwise subject to paragraph (a), (b), or (c) of this subsection shall not be released on probation, shock probation, parole, conditional discharge, or other form of early release until he or she has served at least fifty percent (50%) of the sentence imposed.***

(4) A violent offender shall not be awarded any credit on his sentence authorized by KRS 197.045(1)(b)1. In no event shall a violent offender be given credit on his or her sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.

(5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.

(6) This section shall apply only to those persons who commit offenses after July 15, 1998.

(7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.

(8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

➔Section 20. KRS 625.050 is amended to read as follows:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ..., a child."

(2) The petition shall be filed in the Circuit Court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(3) Proceedings for involuntary termination of parental rights may be initiated upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or Commonwealth's attorney or parent.

(4) The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and mailing address of each petitioner;

(b) Name, sex, date of birth and place of residence of the child;

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of the person, cabinet or agency having custody of the child;

(g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred;

(h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(5) No petition may be filed under this section prior to five (5) days after the birth of the child.

***(6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a nonprescribed controlled substance during pregnancy if she enrolls in and maintains substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy. Upon certified completion of the treatment or recovery program, or six (6) months after giving birth during which time substantial compliance with a substance abuse treatment or recovery program has occurred, whichever is earlier, any records maintained by a court or by the cabinet relating to a positive test for a nonprescribed controlled substance shall be sealed by the court and may not be used in any future criminal prosecution or future petition to terminate the woman's parental rights.***

➔Section 21. The Cabinet for Health and Family Services is encouraged to:

(1) Study the advantages and disadvantages of:

(a) Requiring the Medicaid program and private insurers to pay for one year postpartum medication-assisted treatment for women with heroin and other opioid addiction;

(b) Continuing medication-assisted treatment indefinitely and only discontinuing at the discretion of the patient, physician, and treatment team; and

(c) Establishing a mechanism to direct heroin and other opioid-addicted postpartum women into treatment facilities instead of the judicial system unless the patient is already incarcerated;

(2) Study the feasibility of and, if warranted, establish a physician-led committee composed of diverse regional, state, and national experts to assist in the development of evidence-based medical management standards to treat the disease of addiction in the Commonwealth and assist in developing overdose prevention and reaction protocols;

(3) Study and develop guidelines for the development and implementation of county and regional level wraparound teams for heroin and other opioid addiction that utilize physicians, social workers, and treatment and recovery professionals. The cabinet is encouraged to include the use of state qualified mental health facilities; treatment plans that utilize nonaddictive and nondivertible medication-assisted treatment to be continued indefinitely, and only discontinued at the discretion of the patient, physician, and treatment team; peer support services as necessary to overcome barriers to treatment; and cognitive and behavioral therapy;

(4) Collaborate with all medical schools and medical-related post-graduate training programs in Kentucky, including nursing schools, to include a minimum of ten hours of coursework on the disease of addiction for all medical professionals providing direct patient care, including but not limited to physicians, registered nurse practitioners, registered nurses, and physical therapists;

(5) Work with the licensing boards for medical and allied health professionals in Kentucky to increase continuing education units, at least to two units every two years, that focus on the disease of addiction; and

(6) Make any recommendations for legislation to the Interim Joint Committee on Health and Welfare by November 30, 2015.

➔Section 22. The Department of Criminal Justice Training shall offer voluntary regionalized in-service training on the topic of heroin for law enforcement officers employed by agencies that utilize Department of Criminal Justice Training basic training for their recruits, including instructional material on the detection and interdiction of heroin trafficking, the dynamics of heroin abuse, and available treatment options for addicts. There shall be at least one course offered in each area development district by December 31, 2015, with the courses being designed to qualify as in-service training under KRS 15.404.

➔Section 23. The Legislative Research Commission is requested to appoint a Senate Bill 192 Implementation Oversight Committee consisting of three senators and three representatives to monitor the implementation of this Act during the 2015 legislative interim.

➔Section 24. The following shall be necessary government expenses up to $10,000,000 in fiscal year 2015-2016 and shall be paid from the General Fund Surplus Account, KRS 48.700, or the Budget Reserve Trust Fund Account, KRS 48.705:

(1) Substance abuse treatment as outlined in Section 3(5)(b)1. and 2. of this Act;

(2) Supplemental grant funding to community mental health centers as outlined in Section 3(5)(b)3. of this Act;

(3) Funding to address neonatal abstinence syndrome as outlined in Section 3(5)(b)4. of this Act;

(4) Supplemental funding for traditional KY-ASAP substance abuse programming as outlined in Section 3(5)(b)5. of this Act;

(5) Purchase of an FDA-approved extended-release treatment as outlined in Section 3(5)(b)6. of this Act;

(6) Supplemental funding to the Social Worker Program as outlined in Section 3(5)(b)7. of this Act; and

(7) Funding for the Prosecutors Advisory Council to enhance the use of rocket docket prosecutions in controlled substance cases as outlined in Section 3(5)(b)8. of this Act.

The secretary of the Justice and Public Safety Cabinet shall have the authority to determine the distribution of the aforementioned funds. If the secretary provides funding for the Department for Public Advocacy under this section, he or she shall enter into a Memorandum of Agreement with the Prosecutors Advisory Council to receive equal funding to that distributed to the Department for Public Advocacy.

➔Section 25. Whereas the illegal substances addressed in this Act pose a clear and present danger to the health and safety of Kentucky's citizens and no just cause exists for delay, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 25, 2015.**

## CHAPTER 67

**( HB 299 )**

AN ACT relating to taxation and declaring an emergency.

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

➔Section 1. KRS 132.380 is amended to read as follows:

(1) ***(a)*** Before any person's name shall appear before the voters on election day as a candidate for the office of property valuation administrator in any primary or general election, except a current property valuation administrator already qualified as a candidate to succeed himself ***or herself*** in office, or before ***that person***~~[he]~~ may be appointed property valuation administrator, except as an interim appointee as provided by KRS 132.375, ***that person***~~[he]~~ shall hold a certificate issued by the department, showing that he ***or she*** has been examined by ***the department***~~[it]~~ and~~[ that he]~~ is qualified for the office.

***(b)*** All certificates issued shall expire one (1) year from the date of issuance.

***(c)*** The examinations shall be written and formulated so as to test fairly the ability and fitness of the applicant to serve as property valuation administrator.

***(d)*** The department shall hold the examination at a central location during the month of November of each year immediately preceding each year in which property valuation administrators are to be elected.

***(e)*** The department shall, at least thirty (30) days prior to the examination, issue a statewide press release announcing the examination and post the announcement on the department's Web site.

***(f)*** Any person desiring to take an examination shall appear at the time and place designated.

(2) ***(a)*** If, after the giving of the examination, as provided in subsection (1) of this section, there is no person qualified to be a candidate in the county, the department shall hold a second examination.

***(b)*** Applicants from only those counties having no person qualified shall be eligible to take the examination.

***(c)*** Notice of the second examination shall be made ***by issuing a press release in those counties and posting an announcement for the examination on the department's Web site***~~[in the manner provided in subsection (1) of this section, except that the notice shall be provided]~~ at least fourteen (14) days prior to the second examination.

(3) ***(a)*** If no qualified candidate files for the office, a special examination shall be given at a time determined by the department.

***(b)*** Notice of and registration for the special examination shall be provided in the same manner as provided in subsection (2) of this section.

(4) ***(a)*** Whenever there is a vacancy in the office of property valuation administrator to be filled by appointment or by election, and there is not more than one (1) person holding a valid certificate and eligible for appointment or election, the department shall hold a special examination for applicants seeking a certificate for the office.

***(b)*** If, after the giving of a special examination, only one (1) person is qualified, the county judge/executive may request a second examination.

***(c)*** Notice of and registration for the special examination shall be provided in the same manner as provided by subsection (2) of this section.

(5) ***(a)*** Examinations shall be given and graded in accordance with rules of the department published at the time of the examination.

***(b)*** Within ten (10) days after the examination, a certificate of fitness and qualification to fill the office of property valuation administrator shall be issued by the department~~[ of Revenue]~~ to each person passing the examination.

(6) Examination records shall be preserved by the department for twelve (12) months after the examination, and

the record of any person who took the examination may be seen by him ***or her*** at the office of the department~~[ of Revenue]~~ in Frankfort, Kentucky.

➔Section 2. KRS 133.020 is amended to read as follows:

(1) ***(a)*** The county board of assessment appeals shall be composed of reputable real property owners residing in the county at least five (5) years.

***(b)*** The appointing authorities may appoint qualified property owners residing in adjacent counties when qualified members cannot be secured within the county.

***(c)*** ***1.*** The board shall consist of three (3) members, one (1) to be appointed by the county judge/executive, one (1) to be appointed by the fiscal court, and one (1) to be appointed by the mayor of the city with the largest assessment using the county tax roll or appointed as otherwise provided by the comprehensive plan of an urban-county government.

***2.*** ~~[Beginning with the 1995 appeals, ]~~The mayor's appointment shall serve for four (4) years, the county judge/executive's appointment shall serve for three (3) years, and the fiscal court's appointment shall serve for two (2) years. Each person appointed thereafter shall serve for three (3) years.

***3.*** If no city in the county uses the county assessment, the county judge/executive shall appoint two (2) members.

***(d)*** A board member who has served for a full term shall not be eligible for reappointment. However, he ***or she*** shall be eligible for appointment after a hiatus of three (3) years.

***(e)*** ***1.*** If the number of appeals to the board of assessment appeals filed with the county clerk exceeds one hundred (100), temporary panels of the board may be appointed with approval of the department~~[ of Revenue]~~.

***2.*** Each temporary panel shall consist of three (3) members having the same qualifications and appointed in the same manner as the board members.

***3.*** The number of additional panels shall not exceed one (1) for each one hundred (100) appeals in excess of the first one hundred (100).

***4.*** The county judge/executive shall designate one (1) of the members of the board of assessment appeals to serve as chairman of the board.

***5.*** If additional panels are appointed, as provided in this ***paragraph***~~[subsection]~~, the chairman of the board of assessment appeals shall designate one (1) member of each additional panel as chairman of the panel.

***(f)*** ***1.*** A majority of the board or of any panel may determine the action of the board or panel respectively and make decisions.

***2.*** Each panel of the board shall have the same powers and duties given the board by KRS 133.120, except the action of any panel shall be subject to review and final approval by the board.

(2) Each member of the board shall have extensive knowledge of real estate values, preferably in real estate appraisal, sales, management, financing, or construction.

(3) The board shall be subject to call by the county judge/executive at any time prescribed by law.

(4) The members of the county board of assessment appeals, and any panel of the board, before undertaking their duties, shall take the following oath, to be administered by the county judge/executive ***or other person authorized by KRS 62.020 to administer official oaths***: "You swear (affirm) that you will, to the best of your ability, discharge the duties required of you as a member of the county board of assessment appeals, and that you will fix at fair cash value all property assessments brought before you for review as prescribed by law."

(5) The department shall prepare and furnish to each property valuation administrator guidelines and materials for an orientation and training program to be presented to the board by the property valuation administrator or his deputy each year.

(6) ***(a)*** A board member shall produce evidence of his qualifications upon request of the department.

***(b)*** A board member shall be replaced by the appointing authority upon proof of the member's failure to meet the qualifications of the position.

***(c)*** Any vacancy on the board shall be filled by the appointing authority that appointed the member to be replaced.

***(d)*** The appointee shall have the qualifications required by statute for the board member appointed by the particular appointing authority and shall hold office only to the end of the unexpired term of the member replaced.

(7) Members of the county board of assessment appeals, and any temporary panel, shall abstain from hearing or ruling on an appeal for any property in which they have any personal or private interests.

➔Section 3. KRS 133.120 is amended to read as follows:

(1) (a) Any taxpayer desiring to appeal an assessment on real property made by the property valuation administrator shall first request a conference with the property valuation administrator or his or her designated deputy. The conference shall be held prior to or during the inspection period provided for in KRS 133.045.

(b) ***1.*** Any person receiving compensation to represent a property owner at a conference with the property valuation administrator for a real property assessment shall be***:***

***a.*** An attorney***;*** ~~[,]~~

***b.*** A certified public accountant***;*** ~~[,]~~

***c.*** A certified real estate broker***;*** ~~[,]~~

***d.*** A Kentucky licensed real estate broker***;*** ~~[,]~~

***e.*** An employee of the property owner***;*** ~~[,]~~

***f. A licensed or certified Kentucky real estate appraiser;***

***g. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice;*** or

***h.*** Any other individual possessing a professional appraisal designation recognized by the department.

***2.*** A person representing a property owner before the property valuation administrator shall present written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the property valuation administrator any personal or private interests he or she may have in the matter, including any contingency fee arrangements***, except that*** ~~[. Provided however,]~~ attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

(c) During this conference, the property valuation administrator or his or her deputy shall provide an explanation to the taxpayer of the constitutional and statutory provisions governing property tax administration, including the appeal process, as well as an explanation of the procedures followed in deriving the assessed value for the taxpayer's property.

(d) The property valuation administrator or his or her deputy shall keep a record of each conference which shall include but not be limited to the initial assessed value, the value claimed by the taxpayer, an explanation of any changes offered or agreed to by each party, and a brief account of the outcome of the conference.

(e) At the request of the taxpayer, the conference may be held by telephone.

(2) (a) Any taxpayer still aggrieved by an assessment on real property made by the property valuation administrator after complying with the provisions of subsection (1) of this section may appeal to the board of assessment appeals.

(b) The taxpayer shall appeal his or her assessment by filing in person or sending a letter or other written petition to the county clerk stating the reasons for appeal, identifying the property for which the appeal is filed, and stating the taxpayer's opinion of the fair cash value of the property.

(c) The appeal shall be filed no later than one (1) workday following the conclusion of the inspection period provided for in KRS 133.045.

(d) The county clerk shall notify the department of all assessment appeals and of the date and times of the hearings.

(e) The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the county judge/executive, mayor of any city using the county assessment, or the superintendent of any school district in which the property is located, if the recommendation is made to the board in writing specifying the individual properties recommended for review and is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045, or upon the written recommendation of the department. If the board of assessment appeals determines that the assessment should be increased, it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he or she so desires, in protest of an increase.

(f) Any real property owner who has listed his or her property with the property valuation administrator at its fair cash value may ask the county board of assessment appeals to review the assessments of real properties he or she believes to be assessed at less than fair cash value, if he or she specifies in writing the individual properties for which the review is sought and factual information upon which his or her request is based, such as comparable sales or cost data and if the request is made no later than one (1) work day following the conclusion of the inspection period provided for in KRS 133.045.

(g) Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(3) (a) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (2) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value.

(b) The department may be present at the hearing and present any pertinent evidence as it pertains to the appeal.

(c) The taxpayer shall provide factual evidence to support his or her appeal. If the taxpayer fails to provide reasonable information pertaining to the value of the property requested by the property valuation administrator, the department, or any member of the board, his or her appeal shall be denied.

(d) This information shall include but not be limited to the physical characteristics of land and improvements, insurance policies, cost of construction, real estate sales listings and contracts, income and expense statements for commercial property, and loans or mortgages.

(e) The board of assessment appeals shall only hear and consider evidence which has been submitted to it in the presence of both the property valuation administrator or his or her designated deputy and the taxpayer or his or her authorized representative.

(4) ***(a)*** Any person receiving compensation to represent a property owner in an appeal before the board shall be***:***

***1.*** An attorney***;*** ~~[,]~~

***2.*** A certified public accountant***;*** ~~[,]~~

***3.*** A certified real estate ***broker;*** ~~[appraiser,]~~

***4.*** A Kentucky licensed real estate broker***;*** ~~[,]~~

***5.*** An employee of the taxpayer***;***

***6 A licensed or certified Kentucky real estate appraiser;***

***7. An appraiser who possesses a temporary practice permit or reciprocal license or certification in Kentucky to perform appraisals and whose license or certification requires him or her to conform to the Uniform Standards of Professional Appraisal Practice;*** ~~[,]~~ or

***8.*** Any other individual possessing a professional appraisal designation recognized by the department.

***(b)*** A person representing a property owner before the county board of assessment appeals shall present a written authorization from the property owner which sets forth his or her professional capacity and shall disclose to the county board of assessment appeals any personal or private interests he or she may have

in the matter, including any contingency fee arrangements***, except that***~~[. Provided however,]~~ attorneys shall not be required to disclose the terms and conditions of any contingency fee arrangement.

(5) The board shall provide a written opinion justifying its action for each assessment either decreased or increased in the record of its proceedings and orders required in KRS 133.125 on forms or in a format provided or approved by the department.

(6) The board shall report to the property valuation administrator any real property omitted from the tax roll. The property valuation administrator shall assess the property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he or she so desires, in protest of the action of the property valuation administrator.

(7) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(8) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(9) No appeal shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which he or she claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

(10) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky Board of Tax Appeals. Any persons aggrieved by a decision of the board, including the property valuation administrator, taxpayer, and department, may appeal the decision to the Kentucky Board of Tax Appeals. Any taxpayer failing to appeal to the county board of assessment appeals, or failing to appear before the board, either in person or by designated representative, shall not be eligible to appeal directly to the Kentucky Board of Tax Appeals.

(11) The county attorney shall represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. If the county attorney is unable to represent the state and county, he or she the fiscal court shall arrange for substitute representation.

(12) Taxpayers shall have the right to make audio recordings of the hearing before the county board of assessment appeals. The property valuation administrator may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of the department's recording as provided in KRS 61.874.

(13) The county board of assessment appeals shall physically inspect a property upon the request of the property owner or property valuation administrator.

➔Section 4. KRS 136.180 is amended to read as follows:

(1) The Department of Revenue shall, immediately after fixing the assessed value of the operating property and other property of a public service corporation for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the department shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the operating property or nonoperating tangible property assessment of the corporation is liable to local taxation, the amount of property liable for county, city, or district tax.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

(3) The Department of Revenue shall compute annually a multiplier for use in establishing the local tax rate for the operating property of railroads or railway companies that operate solely within the Commonwealth. The applicable local tax rates on the operating property shall be adjusted by the multiplier. The multiplier shall be calculated by dividing the statewide locally taxable business tangible personal property by the total statewide business tangible personal property.

(4) The Department of Revenue shall annually calculate an aggregate local rate for each local taxing district to be used in determining local taxes to be collected for railroad carlines. The rate shall be the statewide tangible tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment. Effective January 1, 1994, state and local taxes on railroad carline property shall become due forty-five (45) days from the date of notice and shall be collected directly by the Department of Revenue. The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on railroad carlines based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of subsection ***(5)***~~[(6)]~~ of this section shall be deducted.

(5) ~~[The Department of Revenue shall bill, collect, and distribute all state and local property taxes for common carrier water transportation companies. Any fees owed to the Department of Revenue by any local taxing district shall be deducted before any distribution is made to any local taxing district under the provisions of this subsection.~~

~~(6) ~~]The certification of valuation shall be filed by each county clerk in his office, and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the department shall pay an annual fee to the department which represents an allocation of department operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the department and shall apply to valuations for tax periods beginning on or after December 31, 1981.

➔Section 5. KRS 136.1877 is amended to read as follows:

The provisions of this section shall apply to assessments made prior to January 1, 2007.

(1) The Department of Revenue shall immediately, after fixing the assessed value of the trucks, tractors, trailers, semitrailers, and buses, notify the taxpayer of the valuation determined. Any taxpayer who has been assessed by the department in the manner outlined in KRS 136.1873 shall have forty-five (45) days from the date of the department's notice of the tentative assessment to protest as provided by KRS 131.110.

(2) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.015(6) shall apply to the tax bill.

(3) The state and local taxes on the property are due forty-five (45) days from the date of notice and shall be collected directly by the Department of Revenue.

(4) The Department of Revenue shall annually calculate an aggregate local rate to be used in determining the local taxes to be collected. The rate shall be the statewide average motor vehicle tax rate for each type of local taxing district multiplied by a fraction, the numerator of which is the commercial and industrial tangible personal property assessment subject to full local rates and the denominator of which is the total commercial and industrial tangible personal property assessment.

(5) The local taxes collected by the Department of Revenue shall be distributed to each local taxing district levying a tax on motor vehicles based on the statewide average rate for each type of local taxing district. However, prior to distribution any fees owed to the Department of Revenue by any local taxing district under the provisions of KRS 136.180***(5)***~~[(6)]~~ shall be deducted.

➔Section 6. KRS 136.310 is amended to read as follows:

(1) Every federally or state chartered savings and loan association, savings bank, and other similar institution authorized to transact business in this state, with property and payroll within and without this state, shall, during January of each year, file with the Department of Revenue a report containing information and in such form as the department may require.

(2) The Department of Revenue shall fix the fair cash value, as of January 1 of each year, of the capital attributable to Kentucky in each financial institution included in subsection (1) of this section. The methodology employed by the department shall be a three (3) step process as follows:

(a) ***1.*** The total value of deposits maintained in Kentucky less any amounts where the amount borrowed ***by a member*** equals or exceeds the amount ***deposited*** ~~[paid in]~~ by ***that member shall be determined*** ~~[those members]~~.

***2. The total value of deposits maintained in Kentucky shall be determined by the same method used for filing the summary of deposits report with the Federal Deposit Insurance Corporation;***

(b) ***1.*** The Kentucky apportioned value of capital shall ***be determined by including*** ~~[include]~~ undivided profits, surplus, general reserves, and paid-up stock.

***2.*** For Agricultural Credit Associations chartered by the Farm Credit Administration, capital shall be computed by deducting the book value of the association's investment in any other wholly owned institution chartered by the Farm Credit Administration that is either subject to the tax imposed by KRS 136.300 or this section or that is exempt from state taxation by federal law.

***3.*** The Kentucky value of capital shall be determined by a fraction, the numerator of which is the receipts factor plus the outstanding loan balance factor plus the payroll factor, and the denominator of which is three (3)***; and*** ~~[.]~~

(c) ***1.*** The values determined in steps (a) and (b) of this subsection shall be added together to determine total Kentucky capital and then reduced by the influence of ownership in tax-exempt United States obligations to determine Kentucky taxable capital.

***2.*** The influence of tax-exempt United States obligations is to be determined from the reports of condition filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by total Kentucky capital.

***3.*** The department shall immediately notify each institution of the value so fixed.

(3) The receipts factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is all receipts derived from loans and other sources negotiated through offices or derived from customers in Kentucky, and the denominator of which is total business receipts for the preceding calendar year.

(4) ***(a)*** The outstanding loan balance factor specified in subsection (2)(b) of this section is a fraction, the numerator of which is the average balance of outstanding loans negotiated from offices or made to customers in Kentucky***, and*** ~~[.]~~ the denominator ***of which*** is the average balance of all outstanding loans.

***(b) 1.*** The average outstanding loan balance is determined by adding the outstanding loan balance at the beginning of the preceding calendar year to the outstanding loan balance at the end of the preceding calendar year and dividing by two (2).~~[ However,]~~

***2.*** If the yearly beginning balance and ending balance results in an inequitable factor, the average outstanding loan balance may be computed on a monthly average balance.

(5) The payroll factor specified in subsection (2)(b) of this section shall be determined for the preceding calendar year under the provisions of KRS 141.120(8)(b) and ***administrative*** regulations promulgated ***according to KRS Chapter 13A*** ~~[thereunder]~~.

(6) ***(a)*** By July 1 succeeding the filing of the report as provided in subsection (1) of this section, each financial institution included in subsection (1) of this section shall pay directly into the State Treasury a tax of one dollar ($1) for each one thousand dollars ($1,000) paid in on its Kentucky taxable capital as fixed in subsection (2)(c) of this section.

***(b)*** The institution shall not be required to pay local taxes upon its capital stock, surplus, undivided profits, notes, mortgages, or other credits, and the tax provided by this section shall be in lieu of all taxes for state purposes on intangible property of the institution, nor shall any depositor of the institution be required to list his deposits for taxation under KRS 132.020.

***(c)*** Failure to make reports and pay taxes as provided in this section shall subject the institution to the same penalties imposed for such failure on the part of the other corporations.

(7) If a financial institution included in subsection (1) of this section selects, it may deduct taxes imposed in subsection (6) of this section from the dividends paid or credited to a nonborrowing shareholder.

(8) ***(a)*** Every Agricultural Credit Association chartered by the Farm Credit Administration being authorized to

transact business in Kentucky but having no employees located within or without the state shall be subject to the same tax imposed pursuant to either KRS 136.300 or this section as that imposed upon its wholly owned Production Credit Association subsidiary.

***(b)*** For purposes of computing Kentucky apportioned value of capital pursuant to subsection (2) of this section, those Agricultural Credit Associations subject to the tax imposed by this section shall utilize that Kentucky apportionment fraction computed and utilized by its wholly owned Production Credit Association subsidiary for the same report period.

➔Section 7. KRS 136.555 is amended to read as follows:

***(1)*** Refunds or credits for overpayments of the tax imposed by KRS ***136.505***~~[136.500 to 136.575]~~ shall be obtained in accordance with KRS 134.580.

***(2) Refund or credits for overpayments of the tax imposed by KRS 136.575 shall be obtained in accordance with KRS 134.590.***

➔Section 8. KRS 138.330 is amended to read as follows:

(1) ***(a)*** Every dealer or transporter required to be licensed under KRS 138.310 shall file with the department~~[ of Revenue]~~ a financial instrument in an amount not to exceed three (3) months' estimated liability as computed by the department or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any financial instrument may be reduced to an amount sufficient in the opinion of the department, considering the financial rating and reputation of the company, to insure payment to the department of the amount of tax, penalties and interest for which the dealer or transporter may become liable.

***(b)*** The financial instrument shall be on a form and with a surety approved by the department.

***(c)*** The dealer or transporter shall be the principal obligor and the state the obligee.

***(d)*** The financial instrument shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the State Treasurer of all gasoline and special fuel excise taxes~~[ now or hereafter]~~ imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the financial instrument is discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if in the opinion of the department any surety on the financial instrument has become unsatisfactory or unacceptable, the department may require the licensee to file a new financial instrument with satisfactory sureties in the same amount, failing which the department shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If a new financial instrument is furnished as provided above, the department shall cancel and surrender the financial instrument for which the new financial instrument is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the department decides that the amount of the existing financial instrument is insufficient to insure payment to the state of the amount of tax, penalties, and interest for which the licensee is or may become liable, the licensee shall, upon the written demand of the department, file an additional financial instrument in the same manner and form with a surety thereon approved by the department, in any amount determined by the department to be necessary, failing which the department shall cancel the license of the licensee in accordance with the provisions of KRS 138.340.

(4) Any surety on a financial instrument furnished as required by this section shall be released from all liability to the state accruing on the financial instrument after the expiration of sixty (60) days from the date upon which the surety has lodged with the department a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The department shall promptly, upon receipt of a request, notify the licensee who furnished the financial instrument, and unless the licensee, before the expiration of the sixty (60) day period, files with the department a new financial instrument with a surety satisfactory to the department in the amount and form prescribed in this section, the department shall cancel the license of the licensee in accordance with the provisions of KRS 138.340. If an approved new financial instrument is filed, the department shall cancel and surrender the financial instrument for which the new ***financial instrument***~~[bond]~~ is substituted.

➔Section 9. KRS 138.460 is amended to read as follows:

(1) A tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section.

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be titled or registered:

(a) When the fee for titling or registering a motor vehicle the first time it is offered for titling or registration in this state is collected; or

(b) Upon the transfer of title or registration of any motor vehicle previously titled or registered in this state.

(3) The tax imposed by subsection (1) of this section and collected under subsection (2) of this section shall not be collected if the owner provides to the county clerk a signed affidavit of nonhighway use, on a form provided by the department, attesting that the vehicle will not be used on the highways of the Commonwealth. If this type of affidavit is provided, the clerk shall, in accordance with the provisions of KRS Chapter 139, immediately collect the applicable sales and use tax due on the vehicle.

(4) (a) The tax collected by the county clerk under this section shall be reported and remitted to the department on forms prescribed and provided by the department. The department shall provide each county clerk affidavit forms which the clerk shall provide to the public free of charge to carry out the provisions of KRS 138.450 and subsection (3) of this section. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(b) The sales and use tax collected by the county clerk under subsection (3) of this section shall be reported and remitted to the department on forms which the department shall prescribe and provide at no cost. The county clerk shall, for his or her services in collecting the tax, be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(c) Motor vehicle dealers licensed pursuant to KRS Chapter 190 shall not owe or be responsible for the collection of sales and use tax due under subsection (3) of this section.

(5) A county clerk or other officer shall not title, register or issue any license tags to the owner of any motor vehicle subject to the tax imposed by subsection (1) of this section or the tax imposed by KRS Chapter 139, when the vehicle is being offered for titling or registration for the first time, or transfer the title of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under subsection (1) of this section or the tax imposed by KRS Chapter 139, if applicable, in addition to any title, registration, or license fees.

(6) (a) When a person offers a motor vehicle:

1. For titling on or after July 1, 2005; or

2. For registration;

for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, the person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. A credit shall not be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(b) When a resident of this state offers a motor vehicle for registration for the first time in this state:

1. Upon which the Kentucky sales and use tax was paid by the resident offering the motor vehicle for registration at the time of titling under subsection (3) of this section; and

2. For which the resident provides proof that the tax was paid;

a nonrefundable credit shall be given against the tax imposed by subsection (1) of this section for the sales and use tax paid.

(7) (a) A county clerk or other officer shall not title, register, or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for titling or registration for the first time, unless the seller or his agent delivers to the county clerk a notarized affidavit, if required, and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle.

(b) If a notarized affidavit is not available, the clerk shall follow the procedures under KRS 138.450(12) for new vehicles, and KRS 138.450(14) or (15) for used vehicles.

(c) The clerk shall attach the notarized affidavit, if available, or other documentation attesting to the retail price of the vehicle as the department may prescribe by administrative regulation promulgated under KRS Chapter 13A to the copy of the certificate of registration and application for title mailed to the department.

(8) Notwithstanding the provisions of KRS 138.450, the tax shall not be less than six dollars ($6) upon titling or first registration of a motor vehicle in this state, except where the vehicle is exempt from tax under KRS 138.470 or 154.45-090.

(9) Where a motor vehicle is sold by a dealer~~[ in this state]~~ and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the department as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(10) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department as a result of the first titling or registration. A person shall not be entitled to a refund unless the person has filed with the department a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(11) Notwithstanding the time limitations of subsections (9) and (10) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department as a result of the titling or registration. A person shall not be entitled to a refund unless the person files with the department a report from the dealer or manufacturer identifying the vehicle that was replaced.

(12) (a) An owner who has paid the tax levied under this section on a used motor vehicle or U-Drive-It vehicle based upon the retail price as defined in KRS 138.450(16)(a) shall be entitled to a refund of any tax overpayment, plus applicable interest as provided in KRS 131.183, if the owner:

1. Files for a refund with the department within four (4) years from the date the tax was paid as provided in KRS 134.580; and

2. Documents to the satisfaction of the department that the condition of the vehicle merits a retail price lower than the retail price as defined in KRS 138.450(16)(a).

(b) The department shall promulgate administrative regulations to develop the forms and the procedures by which the owner can apply for a refund and document the condition of the vehicle. The department shall provide the information to each county clerk.

(c) The refund shall be based upon the difference between the tax paid and the tax determined to be due by the department at the time the owner titled or registered the vehicle.

➔Section 10. KRS 138.4603 is amended to read as follows:

(1) (a) Effective for sales on or after July 1, 2014, of:

1. New motor vehicles;

2. Dealer demonstrator vehicles;

3. Previous model year motor vehicles; and

4. U-Drive-It motor vehicles that have been transferred within one hundred eighty (180) days of being registered as a U-Drive-It and that have less than five thousand (5,000) miles;

the retail price shall be determined by reducing the amount of total consideration given by the trade-in allowance of any motor vehicle traded in by the buyer. The value of the purchased motor vehicle and the amount of the trade-in allowance shall be determined as provided in subsection (2) of this section.

(b) The retail price shall not include that portion of the price of the vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate an operator or passenger with physical disabilities.

(2) (a) The value of the purchased motor vehicle offered for registration and the value of the vehicle offered in trade shall be attested to in a notarized affidavit~~[, provided that the retail price established by the notarized affidavit shall not be less than fifty percent (50%) of the difference between the applicable value of the purchased motor vehicle, as determined under the method described in paragraph (b) of this subsection, and the trade-in value of any motor vehicle offered in trade, as established by the reference manual]~~.

(b) If a notarized affidavit is not available:

1. The retail price of the purchased motor vehicle offered for registration shall be determined as follows:

a. Ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges; or

b. Eighty-one percent (81%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges in the case of new trucks of gross weight in excess of ten thousand (10,000) pounds; and

2. The value of the vehicle offered in trade shall be the trade-in value, as established by the reference manual.

➔Section 11. KRS 131.183 is amended to read as follows:

(1) (a) All taxes payable to the Commonwealth not paid at the time prescribed by statute shall accrue interest at the tax interest rate.

(b) The tax interest rate shall be equal to the adjusted prime rate charged by banks rounded to the nearest full percent as adjusted by subsection (2) of this section.

(c) The commissioner of revenue shall adjust the tax interest rate not later than November 15 of each year if the adjusted prime rate charged by banks during ***September***~~[October]~~ of that year, rounded to the nearest full percent, is at least one (1) percentage point more ***or***~~[of]~~ less than the tax interest rate which is then in effect. The adjusted tax interest rate shall become effective on January 1 of the immediately succeeding year.

(2) (a) 1. All taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section until May 1, 2008.

2. Beginning on May 1, 2008, all taxes payable to the Commonwealth that have not been paid at the time prescribed by statute shall accrue interest at the tax interest rate as determined in accordance with subsection (1) of this section plus two percent (2%).

(b) 1. Interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 in respect of any of the taxes provided for in Chapters 131, 132, 134, 136, 137, 138, 139, 140, 141, 142, 143, 143A, and 243 of the Kentucky Revised Statutes and KRS 160.613 and 160.614 at the rate provided in subsection (1) of this section until May 1, 2008.

2. Beginning on May 1, 2008, interest shall be allowed and paid upon any overpayment as defined in KRS 134.580 at the rate provided in subsection (1) of this section minus two percent (2%).

3. Effective for refunds issued after April 24, 2008, except for the provisions of KRS 138.351, 141.044(2), 141.235(3), and subsection (3) of this section, interest authorized under this subsection shall begin to accrue sixty (60) days after the latest of:

a. The due date of the return;

b. The date the return was filed;

c. The date the tax was paid;

d. The last day prescribed by law for filing the return; or

e. The date an amended return claiming a refund is filed.

(c) In no case shall interest be paid in an amount less than five dollars ($5).

(3) Effective for refund claims filed on or after July 15, 1992, if any overpayment of the tax imposed under KRS

Chapter 141 results from a carryback of a net operating loss or a net capital loss, the overpayment shall be deemed to have been made on the date the claim for refund was filed. Interest authorized under subsection (2) of this section shall begin to accrue ninety (90) days from the date the claim for refund was filed.

(4) No interest shall be allowed or paid on any sales tax refund as provided by KRS 139.536.

➔Section 12. KRS 141.180 is amended to read as follows:

(1) For taxable years beginning before January 1, 2005:

(a) Every individual, except as otherwise provided in this subsection, having for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds five thousand dollars ($5,000) shall make to the department a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(b) Any individual who is blind or who has attained the age of sixty-five (65) before the close of the taxable year shall be required to make a return only if the taxpayer has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his or her own return, the return shall be made by a duly authorized agent.

(c) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if the taxpayer has for the taxable year an adjusted gross income which exceeds five thousand dollars ($5,000).

(d) Notwithstanding any other provision of this subsection, an individual, having for the taxable year gross income from self-employment of five thousand dollars ($5,000) or more, shall make a return.

(e) Any nonresident individual with gross income from Kentucky sources and a total gross income of five thousand dollars ($5,000) or over shall make a return.

(2) For taxable years beginning after December 31, 2004:

(a) Except as otherwise provided in this subsection, every individual having for the taxable year a modified gross income exceeding the threshold amount determined under KRS 141.066, and every married couple living together with a combined modified gross income exceeding the threshold amount determined under KRS 141.066, shall file a return with the department stating specifically the items claimed as deductions and tax credits allowed by this chapter. If the individual is unable to file a return, the return shall be made by a duly authorized agent.

(b) Notwithstanding any other provision of this subsection, an individual having, for the taxable year, gross income from self-employment exceeding the threshold amount determined under KRS 141.066 shall file a return.

(c) Any nonresident individual with gross income from Kentucky sources and a total gross income exceeding the threshold amount determined under KRS 141.066 shall file a return.

(3) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. However, if separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.

(4) Notwithstanding any other provisions of KRS Chapters 131 and 141, a husband or a wife who is jointly and severally liable for taxes levied under KRS 141.020, applicable penalties, and interest shall be relieved of liability for tax, interest, penalties, and other amounts if:

(a) The spouse has been relieved of liability for federal income tax, interest, penalties, and other amounts for the same taxable year by the Internal Revenue Service under Section 6015 of the Internal Revenue Code***, to be effective as of the date that the Internal Revenue Service approved the relief***; or

(b) It is shown that the spouse would have qualified for relief under the provisions of Section 6015 of the Internal Revenue Code for the same taxable year if there had been a federal income tax liability***, to be effective as of the date that the department approved the relief***.

(5) ***Notwithstanding KRS 134.580,*** any relief granted pursuant to paragraphs (a) and (b) of subsection (4) of this section shall not result in a tax overpayment to the spouse requesting relief ***for payments made before the relief was approved***.

(6) Each individual return shall be verified by a declaration that it is made under the penalties of perjury.

➔SECTION 13. A NEW SECTION OF KRS 138.210 TO 138.240 IS CREATED TO READ AS FOLLOWS:

***The department shall calculate the average wholesale price as follows:***

***(1) For fiscal years beginning before July 1, 2015, the average wholesale price shall be calculated each quarter, as provided in this subsection. The average wholesale price shall be the quarterly survey value unless the quarterly survey value is:***

***(a) Less than the wholesale floor price, in which case the average wholesale price shall be the wholesale floor price; or***

***(b) Greater than one hundred and ten percent (110%) of the average wholesale price at the close of the previous fiscal year, in which case the average wholesale price shall be one hundred and ten percent (110%) of the average wholesale price in effect at the close of the previous fiscal year.***

***(2) For the fiscal year beginning on July 1, 2015 and ending June 30, 2016, the average wholesale price shall be the wholesale floor price.***

***(3) (a) For fiscal years beginning on or after July 1, 2016, the average wholesale price shall be calculated annually, as provided in this subsection, and shall be effective on the first day of the fiscal year.***

***(b) On or before June 1, 2016, and on or before each June 1 thereafter, the annual survey value shall be calculated for the current fiscal year.***

***(c) 1. The average wholesale price on July 1, 2016, and on July 1 of each fiscal year thereafter, shall be the annual survey value determined pursuant to paragraph (b) of this subsection, unless the annual survey value is:***

***a. Greater than one hundred and ten percent (110%) of the average wholesale price in effect at the close of the previous fiscal year, in which case the average wholesale price shall be one hundred and ten percent (110%) of the average wholesale price in effect at the close of the previous fiscal year; or***

***b. Less than ninety percent (90%) of the average wholesale price in effect at the close of the previous fiscal year, in which case the average wholesale price shall be ninety percent (90%) of the average wholesale price in effect at the close of the previous fiscal year.***

***2. Notwithstanding subparagraph 1. of this paragraph, the average wholesale price shall not be less than the wholesale floor price.***

➔Section 14. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to 138.446, unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the department in a manner and form prescribed by the department, supported by proper evidence which in the sole judgment of the department substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the department. The department may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) ***"Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;***

***(3) "Annual survey value" means the average of the quarterly survey values for a fiscal year, as determined by the department, based upon surveys taken during the first month of each quarter of the fiscal year;***

***(4) "Average wholesale price" means the weighted average per gallon wholesale price of gasoline, based on the quarterly survey value as determined by the department, and as adjusted by Section 13 of this Act;***

*(5) "Bulk storage facility" means gasoline or special fuels storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuels for resale or delivery to retail outlets or consumers;*

*(6) "Dealer" means any person who is:*

*(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;*

*(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;*

*(c) Distributing gasoline from bulk storage in this state;*

*(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;*

*(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the department, the person has sufficient financial rating and reputation to justify the conclusion that he or she will pay all taxes and comply with all other obligations imposed upon a dealer; or*

*(f) Regularly exporting gasoline or special fuels;*

*(7) "Department" means the Department of Revenue;*

*(8) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F-76 Fuel Naval Distillate MILL-F-166884;*

*(9) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;*

*(10) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance;*

*(11) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;*

*(12) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;*

*(13) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;*

*(14) (a) "Quarterly survey value" means a value determined by the department for each calendar quarter of*

***the weighted average per gallon wholesale price of gasoline, determined from information available through independent statistical surveys of gasoline prices or, if requested, from information furnished by licensed gasoline dealers. The department shall determine, within twenty (20) days following the end of the first month of each calendar quarter, the weighted average of per gallon wholesale selling prices of gasoline for the previous month. That value shall be the quarterly survey value for the beginning of the following calendar quarter.***

***(b) "Quarterly survey value" shall be determined exclusive of any federal gasoline tax and any fee on imported oil imposed by the Congress of the United States;***

***(15) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:***

***(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to administrative regulations prescribed by the department; and***

***(b) Gasoline and special fuels acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuels to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In these instances, the licensed bonded dealer purchasing the gasoline or special fuels shall be deemed to have received that fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;***

***(16) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;***

***(17) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle;***

***(18) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;***

***(19) "Storage" means all gasoline and special fuels produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;***

***(20) "Transporter" means any person who transports gasoline or special fuels on which the tax has not been paid or assumed; and***

***(21) "Wholesale floor price" means:***

***(a) Prior to April 1, 2015, one dollar and seventy-eight and six-tenths cents ($1.786) per gallon; and***

***(b) On and after April 1, 2015, two dollars and seventeen and seven-tenths cents ($2.177) per gallon***~~["Gasoline dealer" or "special fuels dealer" means any person who is:~~

~~(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;~~

~~(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;~~

~~(c) Distributing gasoline from bulk storage in this state;~~

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arm's-length transactions;

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the department, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; or

(f) Regularly exporting gasoline or special fuels;

(3) "Department" means the Department of Revenue;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, VM and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xylol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, including diesel fuel, and dyed diesel fuel used exclusively for nonhighway purposes in off-highway equipment and in nonlicensed motor vehicles, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(c) "Diesel fuel" means any liquid other than gasoline that, without further processing or blending, is suitable for use as a fuel in a diesel powered highway vehicle. Diesel fuel does not include unblended kerosene, No. 5, and No. 6 fuel oil as described in ASTM specification D 396 or F 76 Fuel Naval Distillate MILL-F-166884;

(d) "Dyed diesel fuel" means diesel fuel that is required to be dyed under United States Environmental Protection Agency rules for high sulfur diesel fuel, or is dyed under the Internal Revenue Service rules for low sulfur fuel, or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or the Internal Revenue Service;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the department; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload,

~~carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;~~

~~(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;~~

~~(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;~~

~~(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;~~

~~(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;~~

~~(10) "Average wholesale price" means:~~

~~(a) The weighted average per gallon wholesale price of gasoline, as determined by the Department of Revenue from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish to the department, within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month as required by the department. The "average wholesale price" shall be determined exclusive of:~~

~~1. The nine cents ($0.09) per gallon federal tax in effect on January 1, 1984;~~

~~2. Any increase in the federal gasoline tax after July 1, 1984; and~~

~~3. Any fee on imported oil imposed by the Congress of the United States after July 1, 1986; and~~

~~(b) 1. The Department of Revenue shall determine the "average wholesale price" on a quarterly basis, and shall adjust the "average wholesale price" used in determining the tax rate under KRS 138.220 as provided in subparagraph 2. of this paragraph. Notwithstanding the provisions of this subparagraph and the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall the "average wholesale price" be set at less than one dollar and seventy-eight and six-tenths cents ($1.786) per gallon.~~

~~2. The "average wholesale price" adjustment for each fiscal year shall not increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;~~

~~(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;~~

~~(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;~~

~~(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;~~

~~(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle; and~~

~~(15) "Financial instrument" means a bond issued by a corporation authorized to do business in Kentucky, a line of credit, or an account with a financial institution maintaining a compensating balance~~].

➔Section 15. KRS 138.220 is amended to read as follows:

(1) (a) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the nearest one-tenth of one cent ($0.001) shall be paid on all gasoline and special fuel received in this state. The tax shall be paid on a per gallon basis.

(b) The average wholesale price shall be determined and adjusted as provided in ***Section 13 of this***

***Act***~~[KRS 138.210(10)]~~.

(c) For the purposes of the allocations in KRS 177.320(1) and (2) and 177.365, the amount calculated under this subsection shall be reduced by the amount calculated in subsection (3) of this section.

(d) Except as provided by KRS Chapter 138, no other excise or license tax shall be levied or assessed on gasoline or special fuel by the state or any political subdivision of the state.

(e) The tax herein imposed shall be paid by the dealer receiving the gasoline or special fuel to the State Treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline or special fuel sold in this state.

(f) Nothing herein contained shall authorize or require the collection of the tax upon any gasoline or special fuel after it has been once taxed under the provisions of this section, unless such tax was refunded or credited.

(2) (a) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section.

(b) The tax shall be***:***~~[ calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting the tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (4) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (4) of this section.~~

~~(c) If there is a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal.~~

~~(d) In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than ]~~

***1.*** Five cents ($0.05) ***per gallon*** on gasoline***; and***~~[ or ]~~

***2.*** Two cents ($0.02) ***per gallon*** on special fuel~~[ and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter]~~.

***(c)***~~[(e)]~~ The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsections (1) and (3) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) ~~[Effective July 1, 2005, one cent ($0.01), and effective July 1, 2006, ]~~Two and one-tenth cents ($0.021), of the tax collected under subsection (1) of this section shall be excluded from the calculations in KRS 177.320(1) and (2) and 177.365. The funds identified in this subsection shall be deposited into the state road fund.

(4) ~~[Effective with the calendar quarter beginning July 1, 1980, The department shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. ]~~Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

(5) Dealers with a tax-paid gasoline or special fuel inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. The department shall promulgate ***administrative***~~[such rules and]~~ regulations to properly administer this provision.

➔Section 16. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the Department of Revenue an application in such form and containing such information as the department may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the Secretary of State of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a financial instrument ~~[as defined in KRS 138.210(15) and ]~~in the amount provided for in KRS 138.330 shall be filed with the department. No license shall be issued upon any application unless accompanied by this financial instrument.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the department, the department may, after a hearing of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the financial instrument having been accepted and approved, the department shall issue to the applicant a license, subject to cancellation as provided by KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The department shall keep and file all applications and financial instruments, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The department shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

(7) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

➔Section 17. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210~~[(2)]~~, or violates any other provision of this chapter, the license of the dealer or transporter may be revoked by the Department of Revenue. The licensee shall be notified by certified or registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the Rules of Civil Procedure, or it may be served in that manner by an employee of the Department of Revenue. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation by the Department of Revenue to the Kentucky Board of Tax Appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the Department of Revenue to protect the Commonwealth from loss of revenue.

(2) The department may cancel the license:

(a) Upon request in writing from the licensee, the cancellation to become effective sixty (60) days from the date of receipt of the request; or

(b) Upon determination that the licensee has had no reportable activity in Kentucky for at least the immediately preceding six (6) consecutive monthly reporting periods.

➔Section 18. KRS 138.349 is amended to read as follows:

No person shall execute a gasoline or special fuel refund invoice, as described in KRS 138.351, who is not a dealer, as defined in~~[ subsection (2) of]~~ KRS 138.210 or a sub-jobber duly authorized by a licensed dealer, to execute refund invoices as his agent. In no instance shall refund invoices be executed for purchases from retail filling stations.

➔Section 19. KRS 138.655 is amended to read as follows:

As used in KRS 138.660 to 138.7291 and KRS 138.990(14) and (15), unless the context requires otherwise:

(1) "Cabinet" means the Transportation Cabinet;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an

association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction; also including all city streets, alleys, and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any commercial truck or commercial tractor-trailer combination having a total of two (2) or more axles and a declared gross weight above twenty-six thousand (26,000) pounds. The number of axles shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer:

(a) "Axle" means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsections (3) and (4) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus;

(c) "Commercial" refers to any activity for business purposes;

(d) For the purposes of KRS 138.660(3) motor carriers, trailers, and semitrailers shall not mean a farm vehicle as defined in KRS 186.050(4) or under another jurisdiction's law as a farm vehicle;

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.660 to 138.7291 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" ***has the same meaning as***~~[means gasoline as defined]~~ in KRS 138.210~~[(4)]~~;

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline~~[ as defined in KRS 138.210(4)]~~;

(13) "Quarterly" for the purposes of KRS 138.660 to 138.7291 means a ***calendar quarter***~~[three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter]~~;

(14) "Combined licensed weight" shall mean the greater of:

(a) The declared combined maximum gross weight of the vehicle and any towed unit for registration purposes for the current registration period; or

(b) The highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

➔Section 20. KRS 224.60-115 is amended to read as follows:

As used in KRS 224.60-120 to 224.60-150, unless the context otherwise requires:

(1) "Bodily injury and property damage" means only those actual economic losses to an individual or the individual's property resulting from bodily injuries and damages to property caused by a release into the environment from a petroleum storage tank. In this context, property damage includes damage to natural resources;

(2) "Cabinet" means the Energy and Environment Cabinet;

(3) "Claim" means any demand in writing for a certain sum;

(4) "Corrective action" means those actions necessary to protect human health and the environment in the event of a release from a petroleum storage tank. Corrective action includes initial responses taken pursuant to KRS 224.60-135, remedial actions to clean up contaminated groundwater, surface waters, or soil, actions to address residual effects after initial corrective action is taken, and actions taken to restore or replace potable water supplies. Corrective action also includes actions necessary to monitor, assess, and evaluate a release, as well as actions necessary to monitor, assess, and evaluate the effectiveness of remedial action after a release has occurred;

(5) "Dealer" ***has the same meaning as*** ~~[means a person required to be licensed as a gasoline or special fuels dealer as defined]~~ in KRS 138.210~~[(2)]~~;

(6) "Division" means the Division of Waste Management;

(7) "Facility" means, with respect to any owner or operator, all petroleum storage tanks which are owned or operated by an owner or operator and are located on a single parcel of property or on any contiguous or adjacent property;

(8) "Federal regulations" means regulations for underground petroleum storage tanks promulgated by the United States Environmental Protection Agency pursuant to Subtitle I of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act;

(9) "Free product" means a regulated substance that is present as a non-aqueous phase liquid;

(10) "Fund" means the petroleum storage tank environmental assurance fund and its subaccounts, the financial responsibility account and the petroleum storage tank account established pursuant to KRS 224.60-140;

(11) "Gasoline" ***has the same meaning as*** ~~[means gasoline as defined]~~ in KRS 138.210~~[(4)]~~;

(12) "Motor fuel" means petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, No. 1 or No. 2 diesel fuel, or any grade of gasohol, that is typically used in the operation of a motor engine, jet fuel, and any petroleum or petroleum-based substance typically used in the operation of a motor vehicle, including used motor vehicle lubricants and oils;

(13) "Occurrence" means a release, or releases, of an accidental nature, requiring corrective action, from a petroleum storage tank or tanks located at the same facility, due to continuous or repeated exposure to conditions. An additional release or releases at the same facility in which the area requiring remedial action is separate from a previous remediation area or areas shall be considered a separate occurrence;

(14) "Person" means an individual, trust, firm, joint stock company, federal agency, corporation, the state, a municipality, commission, or political subdivision of the state. The term includes a consortium, a joint venture, the United States government, or a commercial entity;

(15) "Petroleum" and "petroleum products" means crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute. The term includes motor gasoline, gasohol, other alcohol-blended fuels, diesel fuel, heating oil, special fuels, lubricants, and used oil;

(16) "Petroleum storage tank" means an underground storage tank, as defined by KRS 224.60-100, which contains petroleum or petroleum products but, for the purpose of participation or eligibility for the fund, shall only include tanks containing motor fuels and shall not include petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel or tanks used exclusively for storage of fuel used for the purposes of powering locomotives or tanks owned by a federal agency or the United States government;

(17) "Petroleum storage tank operator" means any person in control of, or having responsibility for, the daily operation of a petroleum storage tank;

(18) "Petroleum storage tank owner" means the person who owns a petroleum storage tank, except that petroleum

storage tank owner does not include any person who, without participation in the management of a petroleum storage tank, holds indicia of ownership primarily to protect a security interest in the tank;

(19) "Received" ***has the same meaning as***~~[means the same as defined]~~ in KRS 138.210~~[(5)]~~;

(20) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a petroleum storage tank into groundwater, surface water, or surface or subsurface soils. The term shall not include releases that are permitted or authorized by the state or federal law;

(21) "Special fuels" ***has the same meaning as***~~[means special fuels as defined]~~ in KRS 138.210~~[(4)]~~; and

(22) "Third party" means a person other than the owner or operator of a facility, or the agents or employees of the owner or operator, who sustains bodily injury or property damage as a result of a release from that facility.

➔Section 21. Notwithstanding the provisions of subsection (4) of Section 15 of this Act, upon passage of this Act and approval by the Governor or upon its otherwise becoming law, all licensed dealers shall be notified of the average wholesale price by the Department of Revenue.

➔Section 22. Whereas the price of motor fuels has fluctuated significantly and the potential impact on the road fund is significant, an emergency is declared to exist, and Sections 13 to 20 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 25, 2015.**

## CHAPTER 68

**( HB 115 )**

AN ACT relating to the dates of the Korean conflict.

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

➔Section 1. KRS 40.010 is amended to read as follows:

As used in this chapter, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Administrator" means the adjutant general of the Commonwealth;

(2) "Veteran" means a person who served in the active Armed Forces of the United States, during the Spanish American War, World War I, World War II, or the Korean conflict, for a period of ninety (90) days or more (exclusive of time spent AWOL; or in penal confinement as a result of a sentence imposed by court-martial; or in service for which no allowance is made according to KRS 40.040), with some portion of service within the respective hereinafter prescribed dates, who is still in the Armed Forces, or was released, separated, discharged, or retired therefrom under honorable conditions;

(3) "Duty in active Armed Forces" includes active duty, and any period of inactive duty training during which the individual concerned was disabled; and if a person in the active Armed Forces was released, separated, or discharged therefrom by reason of disability incurred in line of duty before serving as much as ninety (90) days, such person shall be qualified for entitlement to a bonus payment under this chapter, notwithstanding failure to remain in service for the minimum time otherwise prescribed;

(4) "Armed Forces" means the United States Army, Navy, Marine Corps, Air Force, and Coast Guard, including the reserve components thereof on active duty;

(5) "Qualified veteran" means a person answering to the specifications set forth in subsections (2) and (3), and who

(a) Was a resident of the Commonwealth at the time of entry into active service in the Armed Forces and for at least six (6) months prior thereto; and

(b) Who has not received a bonus or like compensation from another state; and

(c) Who is not subject to the forfeiture provisions of this chapter;

(6) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his or her place of residence at such time of entry, without regard to the place of enlistment, commission, or induction. Conclusive and exclusive evidence of such giving of place of residence shall be the official records on file in the Department of Defense of the United States, or any official record thereof in the files of the Veterans Administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced, or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(7) "Resident," in any context other than as in subsection (6), means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate;

(8) "Beneficiary" means, in this order, widow, child or children (sharing equally), mother, father, and no other;

(9) (a) "Widow" means a woman who was the wife of a veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female veteran at the time of her death;

(10) "Child" means a person*:*

(a) Who is under the age of eighteen (18); or

(b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-one (21) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a child born in lawful wedlock; a legally adopted child; a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death; or a child born out of wedlock, but, as to the alleged father, only if acknowledged in writing signed by him, or if he had, before his death, been judicially decreed to be the father of such child;

(11) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;

(12) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the Armed Forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the Armed Forces;

(13) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the North American continent, exclusive of Alaska;

(14) "Outside the continental United States" means any place elsewhere than as defined in subsection (13);

(15) "Spanish-American War"

(a) Means the period beginning on April 21, 1898, and ending on July 4, 1902;

(b) Includes the Philippine Insurrection and the Boxer Rebellion; and

(c) In the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903;

(16) "World War I"

(a) Means the period beginning on April 6, 1917, and ending on November 11, 1918; and

(b) In the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920; and

(c) Any service between April 6, 1917, and July 1, 1921, if some part thereof was between April 6, 1917, and November 11, 1918, both dates being inclusive;

(17) "World War II" means the period beginning December 7, 1941, and ending December 31, 1946;

(18) "Korean conflict" means~~[~~

~~(a) ]~~ the period beginning on June 27, 1950, and ending ***January 31, 1955***~~[July 25, 1953; and~~

~~(b) Subsequent service until January 31, 1955, if the veteran was qualified for the Korean medal]~~;

(19) "Bonus" and "veterans' bonus" means the compensation authorized by this chapter;

(20) "Bonus claim" means a claim or potential claim for a veterans' bonus;

(21) "Claimant" means one who seeks to obtain payment of a bonus claim.

**Signed by Governor March 30, 2015.**

## CHAPTER 69

**( HB 147 )**

AN ACT relating to the Kentucky Historical Society.

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

➔Section 1. KRS 171.311 is amended to read as follows:

The Kentucky Historical Society created by Acts 1880, ch. 244, shall have all the powers and liabilities of a corporation and there is hereby granted to the society the following charter:

I

The Kentucky Historical Society shall ***educate and engage the public through Kentucky history in order to confront the issues of the future. To that end, the society shall*** collect, maintain, and preserve authentic records, information, ***and artifacts***~~[facts, and relics]~~ connected with the history of the Commonwealth and the genealogy of her peoples; and promote a wider appreciation of the American heritage, with particular emphasis on the advancement and dissemination of knowledge of the history of Kentucky. The society may receive and hold by donation or devise, real or personal property to any extent and may, by gift, loan, purchase, or otherwise hold books, papers, documents, historical memorials, and any other articles suited to promote the objects of the society in the ***Thomas D. Clark Center for Kentucky History, the*** Old State Capitol Building***, or the Kentucky Military History Museum,*** but all such property shall be held in trust for the Commonwealth of Kentucky according to the terms of acceptance.

II

All ***persons***~~[American citizens]~~, partnerships, corporations, or associations who shall evidence their dedication to the promotion of the objects and purposes of the society may become active members thereof upon their approval under regulations prescribed by the ***governing board***~~[executive committee,]~~ and the payment of annual dues in a sum determined by the ***governing board***~~[executive committee. Any person possessing the qualifications for membership may become a life member on the payment of a sum determined by the executive committee]~~. The ***governing board***~~[executive committee]~~ may determine classes of memberships and establish respective rates of dues. Every member in good standing, including the authorized representative of an institutional member, shall have the right to vote in person or by proxy, hold office, and otherwise take part in the proceedings of the society. Membership may be terminated by resignation or nonpayment of dues.

III

The officers of the society shall be a chancellor, who shall be the Governor of the Commonwealth of Kentucky, a president, first, second, and third vice presidents, who shall be ex officio members of the ***governing board***~~[executive committee]~~. All officers, except the chancellor, shall be elected for a term of one (1) year at the annual meeting of the society in a manner provided by law, and the president shall be ineligible to succeed himself if he has been elected for two (2) successive terms.

IV

There is hereby created ***a governing board*** ~~[an executive committee]~~ which shall consist of sixteen (16) members, the officers of the society**,** and one (1) person designated annually by the State Archives and Records Commission. The sixteen (16) members of the ***governing board*** ~~[executive committee]~~ shall be divided into four (4) equal classes, so arranged that the terms of one (1) class shall expire at each annual meeting of the society. The class whose term expires shall be ineligible to succeed itself.

V

The ***governing board*** ~~[executive committee]~~ shall execute all the powers and duties conferred on the society, except those expressly delegated to the officers. It shall adopt bylaws at any regular or special meeting. It shall supervise and direct the financial concerns of the society, approve an annual budget and provide for and fix the salaries of employees, subject to the approval of the Personnel Cabinet. It shall provide for reimbursement of travel expenses of employees and may provide for reimbursement of expenses of officers and members of the ***governing board*** ~~[executive committee]~~ incurred in performing specific duties assigned to them. It shall appoint ***an*** ~~[a]~~ ***executive*** director, who shall be the ***operating*** management officer of the society under the direction of the president and policies established by the ***governing board*** ~~[executive committee]~~, and ***a*** ~~[an]~~ ***deputy*** ~~[assistant]~~ director, who shall assume the duties of the ***executive*** director in his absence and perform such other duties as may be assigned to him by the ***executive*** director. It shall establish and prescribe the duties of such other positions as are necessary to operate the society, and all persons engaged to fill such positions shall be employed by the ***executive*** director, subject to the approval of the ***governing board*** ~~[executive committee]~~, which approval shall constitute exemption from KRS 18A.005 to 18A.200, and their work shall be under the ***executive*** director's supervision.

The ***governing board*** ~~[committee]~~ shall provide for the publication or preservation of historical documents and manuscripts; publish***, including by electronic means,*** an edition to be known as the "Register"; provide by contract, subject to the approval of the Finance and Administration Cabinet, for all the printing, publication, and distribution of***, including by electronic means,*** reports, books, and other publications calculated to promote and advance the historical interest of Kentucky and augment the society's various collections at all times. It shall supervise and direct the ordinary affairs of the society; appoint a nominating committee; and determine other necessary committees of which the president and the ***executive*** director of the society shall be ex officio members. The ***governing board*** ~~[committee]~~ shall cooperate with, provide assistance to, and coordinate its functions with those of the state Archives and Records Commission. It may designate honorary members of the society and it shall have the power to fill any vacancies until the next annual meeting, including those occurring within its own membership.

VI

The ***governing board*** ~~[executive committee]~~ shall hold regular meetings in January, April, July, and October. Matters to be determined and discussed at ~~[such]~~ meetings shall be furnished ***to*** the ***executive*** director at least ten (10) days prior to ~~[such]~~ meetings in order that he may prepare and distribute an agenda to each member of the ***governing board*** ~~[committee]~~ at least three (3) days before the meeting. Special meetings shall be held at the request of the president or any three (3) members of the ***governing board*** ~~[committee]~~, in which case the ***executive*** director shall give written notice together with the agenda of ***the*** ~~[such]~~ meeting at least ten (10) days in advance. In an emergency, nine (9) members of the committee may waive the provision of notice.

VII

The regular annual meeting of the society shall be held ~~[in the Old State Capitol Building]~~ on the first Friday after the first Monday in November. The meeting shall be open to all members. Special meetings may be called in Frankfort or elsewhere by the president or a majority of the ***governing board*** ~~[executive committee]~~ or by the ***executive*** director upon the written request of twenty (20) members of the society. Members shall have fifteen (15) days written notice of the time, place**,** and ***subject*** ~~[object]~~ of the meeting.

VIII

Twenty-five (25) members shall constitute a quorum for the transaction of all business at any meeting of the society, and one-third (1/3) of the membership of the ***governing board*** ~~[executive committee]~~ shall constitute a quorum at their respective meetings.

IX

The Chancellor of the Society, at his discretion, may preside at any meeting of the society or the ***governing board*** ~~[executive committee]~~, or he may participate otherwise in any meetings.

X

The president of the society shall be the chief executive officer of the society and shall preside over meetings of the society or the ***governing board***~~[executive committee]~~ in the absence of the chancellor or at his request. He shall recommend the appointment of all necessary or desirable committees and he shall name persons to comprise~~[ such]~~ committees, except the nominating committee.

XI

The vice presidents of the society shall preside in the absence of their successive superiors in office at all meetings of the society and the ***governing board***~~[executive committee]~~. They shall attend all regular and special meetings of the society and the ***governing board***~~[executive committee]~~ and endeavor to familiarize themselves with the conduct and operations of the affairs of the society. They shall aid and assist the president in the performance of his duties, counsel and advise the ***governing board***~~[executive committee]~~, and endeavor at all times to advance and promote the public interest in the history of Kentucky and ***its***~~[her]~~ people.

XII

Nominations to membership on the ***governing board***~~[executive committee]~~ and to the offices of president, first vice president, second vice president, and third vice president shall be made by a nominating committee or by any member present at the regular annual meeting. The nominating committee shall consist of five (5) members, shall be appointed at the first regular meeting of the ***governing board***~~[executive committee]~~ after the annual meeting of the society and shall consider candidates to fill vacancies in the ***governing board***~~[executive committee]~~ and offices which will occur at the subsequent annual meeting. The nominating committee shall meet~~[ in the office of the society]~~ forty-five (45) days prior to the annual meeting and nominate candidates to fill vacancies on the ***governing board***~~[executive committee]~~ and at least one (1) candidate for the office of president, first vice president, second vice president, and third vice president, and file same with the president. Upon the call for the election of officers**,** the president shall promptly report the nomination by the nominating committee together with all other nominations. When more than the required number of candidates have been nominated for membership on the ***governing board***~~[executive committee]~~ or more than one (1) candidate for the offices to be filled, the president shall call for an election by the vote of those present, together with the number of votes cast by proxy, and a plurality of all votes cast shall be sufficient to elect. Where no vote count is required**,** the president shall cast one (1) vote for each candidate and he or she shall be declared elected.

XIII

This charter may be amended by a two-thirds (2/3) vote of the members present and voting at any regular meeting or at any special meeting of the society called for the purpose, provided that written notice containing the substance of the proposed amendments shall have been ***distributed by mail or electronically***~~[mailed]~~ to members not less than thirty (30) days in advance of such meeting and the same approved as an amendment by the first General Assembly, meeting after the action of the society.

➔Section 2. KRS 11.026 is amended to read as follows:

(1) As used in this section, "state curator" means the director of the Division of Historic Properties within the Department for Facilities and Support Services in the Finance and Administration Cabinet with responsibilities for the preservation, restoration, acquisition, and conservation of all decorations, objects of art, chandeliers, china, silver, statues, paintings, furnishings, accouterments, and other aesthetic materials that have been acquired, donated, loaned, and otherwise obtained by the Commonwealth of Kentucky for the Executive Mansion, the Old Governor's Mansion, the Vest Lindsey House, the New State Capitol, and other historic properties under the control of the Finance and Administration Cabinet.

(2) The Historic Properties Advisory Commission is established to provide continuing attention to the maintenance, furnishings, and repairs of the Executive Mansion, Old Governor's Mansion, the Vest Lindsey House, and New State Capitol. The commission shall be attached to the Finance and Administration Cabinet for administrative purposes.

(3) The commission shall consist of fourteen (14) members, one (1) of whom shall be the director of the Kentucky Heritage Council. It is recommended that one (1) shall be the state curator, one (1) shall be the ***executive*** director of the Kentucky Historical Society, one (1) shall be a resident of Franklin County with experience in restoration, one (1) shall be the director of the Executive Mansion, one (1) shall be the director of the Old Governor's Mansion, and the remainder of the membership shall be selected from the state-at-large from persons with experience in historical restoration.

(4) The officers of the commission shall consist of a chairman, who shall be appointed by the Governor, and a secretary, who shall be responsible for the keeping of the records and administering the directions of the

commission. The state curator of the Commonwealth of Kentucky shall serve as the secretary of the commission. A member of the Governor's family may serve as an honorary, nonvoting member of the commission. A simple majority of the membership shall constitute a quorum for the transaction of business by the commission.

(5) The public members of the commission shall be appointed by the Governor and shall serve terms of four (4) years except that of the members initially appointed, two (2) members shall serve terms of one (1) year; two (2) members shall serve terms of two (2) years; one (1) member shall serve a term of three (3) years; and one (1) member shall serve a term of four (4) years. The ***executive*** director of the Historical Society and director of the Executive Mansion shall serve on the commission in an ex officio capacity. The persons holding the offices of ***executive*** director of the Historical Society, director of the Executive Mansion, director of the Kentucky Heritage Council, and state curator shall serve terms concurrent with holding their respective offices.

(6) Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

(7) There is established in the State Treasury a historic properties endowment trust fund which shall be administered by the director of the Division of Historic Properties under the supervision of the Commissioner of the Department for Facilities and Support Services. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used for carrying out the functions of the Division of Historic Properties. The Division of Historic Properties may publish written material pertaining to historic properties of the state and charge and collect a reasonable fee for any such publications. The proceeds shall be deposited to the credit of the fund and after paying the costs of publication, the balance of the proceeds shall be used for purposes specified in KRS 11.027.

(8) In addition to the historic properties endowment trust fund, there shall be established in the State Treasury a separate and distinct endowment trust fund known as the Ida Lee Willis-Vest Lindsey House endowment trust fund, which shall be jointly administered by the director of the Kentucky Heritage Council and the director of the Division of Historic Properties under the supervision of the commissioner of the Department for Facilities and Support Services. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon warrant of the secretary of finance and administration. The fund shall be used solely for the benefit of, or related to, the Vest Lindsey House, including but not limited to building maintenance and repairs, structural restoration or renovation, acquisition and maintenance of furnishings or decorations, and the development of interpretative materials regarding the historical and architectural significance of the Vest Lindsey House and its relation to other sites in the North Frankfort area. The creation of the Ida Lee Willis-Vest Lindsey House endowment trust fund is intended to be a supplemental source of funds and in no way restricts the expenditure of funds from the historic properties endowment trust fund or any state fund for the benefit of the Vest Lindsey House.

➔Section 3. KRS 146.652 is amended to read as follows:

(1) To achieve the purposes of KRS 146.650 to 146.666, the Kentucky Natural History Museum is created. The museum shall serve Kentuckians as a focal point of educational resources to:

(a) Support teaching the natural sciences and anthropology in Kentucky and to educate the public about the unique and diverse natural history of the Commonwealth;

(b) Encourage the conservation of the state's natural resources;

(c) Create a stable repository for scientifically valuable and irreplaceable biological, geological, and archeological specimens; and

(d) Encourage the repatriation and preservation of Kentucky specimens that have been or may be sent outside the state because those specimens cannot be financially supported by their owners.

(2) The museum shall be developed and administered by a board of directors comprised of the following:

(a) The director of the Kentucky Geological Survey;

(b) The director of the Kentucky State Nature Preserves Commission;

(c) The executive director of the Kentucky Heritage Council;

(d) The ***executive*** director of the Kentucky Historical Society;

(e) The commissioner of the Kentucky Department of Fish and Wildlife Resources; and

(f) Two (2) members representing the Kentucky Academy of Science, one (1) each from the disciplines of biology and anthropology, who shall be appointed by the Governor from a list of four (4) nominees, two (2) from each discipline, submitted by the Kentucky Academy of Science.

(3) The director of the Kentucky Natural History Museum shall serve as an ex officio member of the board of directors, be counted for purposes of establishing a quorum for conducting business, and be entitled to participate in deliberations of the board, but shall not be entitled to vote when official actions are taken by the board.

(4) The first chair of the Kentucky Natural History Museum Board of Directors shall be the ***executive*** director of the Kentucky Historical Society, who shall call the first meeting of the board. At the first meeting, the board shall elect a chair. Each chair elected by the board shall serve a single term of three (3) years.

(5) The Kentucky Academy of Science's appointees shall serve three (3) year terms, and they may be reappointed for a second term.

(6) Nominees for appointment to the board shall have resided in Kentucky for at least one (1) year immediately prior to their consideration for appointment.

(7) The board may request the Governor to replace an appointed member who fails to attend three (3) consecutive board meetings.

(8) The appointed members of the board shall serve without pay but shall be paid for expenses directly related to attending board meetings and to performing board authorized activities.

(9) The board shall meet at least four (4) times a year.

➔Section 4. KRS 153.380 is amended to read as follows:

(1) There is established the Kentucky Oral History Commission, hereinafter referred to as "the commission," which shall be attached to the Kentucky Historical Society as a branch of the Oral History and Educational Outreach Division.

(2) The commission, through funds made available from the State Treasury and from public or private foundations or other sources, shall coordinate, promote, and assist in the development of oral history programs across the state and shall otherwise implement programs which result in the accumulation of taped interviews and other supporting data which preserve the multifaceted history of the Commonwealth.

(3) The commission shall consist of twelve (12) voting members, ten (10) appointed by the Governor. The commissioner of the Department for Libraries and Archives and the ***executive*** director of the Kentucky Historical Society shall serve as ex officio members. Commission members shall serve without compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) After initial appointments, commission members shall be appointed for a four (4) year term, except that of the members appointed after July 15, 1998, three (3) members appointed to fill the terms expiring July 15, 1999, shall serve until February 15, 2000; two (2) members appointed to fill the terms expiring July 15, 2000, shall serve until February 15, 2001; three (3) members appointed to fill the terms expiring July 15, 2001, shall serve until February 15, 2002; and two (2) members appointed to fill the terms expiring July 2, 2002, and July 15, 2002, shall serve until February 15, 2003; and subsequent appointments shall be for four (4) year staggered terms ending on February 15. Upon the expiration of terms or in case of vacancies, terms shall be filled by the Governor.

(5) The commission shall, upon the appointment of its members, organize and elect officers from its membership. The commission shall choose, by a majority vote, a chairperson and a vice chairperson annually. The commission shall meet upon call of the chairman or by a majority of the members of the commission, but no less than twice each year. A majority of the voting members of the commission shall constitute a quorum for the purpose of conducting the business of the commission.

(6) The commission shall serve in an advisory capacity to oral history activities at the Kentucky Historical Society and shall be the final grant approval authority for all funds collected by or appropriated to the commission.

(7) The Kentucky Historical Society shall hire staff, expend funds, and operate the normal business activities required by the commission, which shall include the duty to provide:

(a) Office space;

(b) Administrative support;

(c) Telephone and other utilities;

(d) Storage or processing of oral history tapes; and

(e) Other activities of a support nature.

➔Section 5. KRS 171.312 is amended to read as follows:

In order to better facilitate the operation and management, the Kentucky Historical Society shall be organized into four (4) separate divisions. These divisions shall include: Research and Publications; Oral History and Educational Outreach; Administration; and Museums. The divisions shall be headed by a director appointed by the ***governing board***~~[Executive Committee]~~ of the Kentucky Historical Society of the Tourism, Arts and Heritage Cabinet pursuant to KRS 171.311.

➔Section 6. KRS 171.315 is amended to read as follows:

(1) The headquarters of the Kentucky Historical Society shall be located in the ***Thomas D. Clark Center for Kentucky History***~~[Old State Capitol Building]~~, and the~~[ said]~~ society shall control in all respects the manner in which the~~[ said capitol]~~ ***grounds surrounding the center, the*** building***,*** and the space therein, shall be used. The~~[ said]~~ society shall exercise the same control over the Old State Capitol Building ~~[Annex]~~, and the society shall use the ***Old State Capitol Building***~~[said annex]~~ for~~[ such]~~ purposes of the society as it shall deem necessary and proper. The grounds around the Old State Capitol Building and its annex, ***the***~~[such]~~ grounds being now bounded by Broadway, Clinton, and Lewis Streets, and adjoining the federal property occupied by the John C. Watts Building, shall be subject to the control of the~~[ said]~~ society and be used by the society, for~~[ such]~~ purposes of the society as it shall deem necessary and proper. Major alterations or other changes concerning the~~[ said]~~ building, annex, or grounds shall be made under the authority of the ***governing board***~~[executive committee]~~ of the Kentucky Historical Society and under the general supervision of the ***executive*** director who shall determine the nature and extent of any work to be done so as to protect the architectural integrity of the original structures. The maintenance and security of the ~~[said ]~~building, annex, and grounds shall be the responsibility of the Finance and Administration Cabinet and shall be of highest priority among the other responsibilities of the state for capital construction, maintenance, or security. At the direction of the ***governing board***~~[executive committee]~~, the ***executive*** director of the society may request the Finance and Administration Cabinet to perform, or cause to be performed, any work he deems necessary for the proper preservation and protection of the properties. ***The***~~[Such]~~ work ***shall***~~[will]~~ either be undertaken within no less than sixty (60) days from the date of notification to the Finance and Administration Cabinet, or the secretary of ***the***~~[said]~~ cabinet shall show cause, in writing, to the ***governing board***~~[executive committee]~~ and the ***executive*** director why such work was not undertaken.

(2) No part of, or interest in, the real property hereinabove specified shall be leased, sold, or otherwise disposed of under any circumstances. ***The***~~[Said]~~ real property, including the building interiors, shall be maintained and preserved in a manner consistent with the best interests of the Commonwealth.

➔Section 7. KRS 171.321 is amended to read as follows:

(1) Receipts by the Kentucky Historical Society of gifts, bequests, and devises from private persons, corporations, and other nongovernmental entities shall be held, deposited, invested, and used by the Kentucky Historical Society under the direction of its ***governing board***~~[executive committee]~~ and shall be exempt from the requirements of KRS 41.070. Such receipts shall be deemed to include gifts, bequests, and devises heretofore made to the society and separately accounted for by the society under the names of donors as well as gifts, bequests, and devises received after July 13, 1984, and shall also include payments to the Boone day fund and to the Kentucky junior historical society fund, neither of which shall accept any governmental appropriations or grants.

(2) Funds held by the Kentucky Historical Society as provided in this section shall be audited by an independent certified public accounting firm, at least once each fiscal year, at the expense of the society, which shall be paid for from the fund being audited unless otherwise provided for. A copy of the audit shall be forwarded promptly to the Governor as chancellor of the society, who shall file it with the Secretary of State.

(3) This section shall not exclude the society from the requirements of KRS 41.070 with respect to any funds received by it which are appropriated from the State Treasury, or received by the society other than as a gift, bequest, devise, or contribution enumerated in subsection (1) of this section or derogate from the status of the society as an independent agency of the Commonwealth otherwise subject to all requirements of state law applicable to such agencies.

➔Section 8. KRS 171.345 is amended to read as follows:

(1) There is established the Kentucky Military History Museum which shall be housed in the State Arsenal, and shall serve as repository of objects relating to the Commonwealth's military history.

(2) The Kentucky Historical Society and its staff shall maintain the museum, receive, store and catalogue all military historical items, and exercise fiduciary responsibility in the preservation and maintenance of the State Arsenal and all objects placed or loaned for display therein.

(3) The Department for Military Affairs and the adjutant general shall provide the State Arsenal as the museum facility, shall maintain and operate the building and grounds, and shall cooperate in contributing items of military history for display within the museum.

(4) There is hereby created the Kentucky Military History Museum Committee which shall establish policies and procedures for operation of the Military History Museum.

(5) (a) The committee shall be composed of the following:

1. The adjutant general, as an ex officio voting member;

2. The commissioner of the Department of Veterans' Affairs, as an ex officio voting member;

3. The executive director of the Commission on Military Affairs, as an ex officio voting member;

4. The ***executive*** director of the Historical Society, as an ex officio voting member; and

5. Twelve (12) members appointed by the Governor under paragraph (b) of this subsection.

(b) 1. Members of the Kentucky Military History Museum Committee shall be appointed under this paragraph. By December 15, 2005, the adjutant general and the ***executive*** director of the Historical Society shall each submit six (6) lists of three (3) nominees each. By December 31, 2005, the Governor shall appoint the twelve (12) new members by selecting one (1) member from each list as provided for in subparagraph 2. of this paragraph. Every list shall include at least one (1) nominee with military service, and the ex officio members and the Governor shall give due consideration to fair representation on the committee from all branches of the military.

2. The Governor shall appoint the first member from a list submitted by the adjutant general, the second from a list submitted by the ***executive*** director of the Historical Society, and the third from a list submitted by the adjutant general. In this manner, the Governor shall alternate until the twelve (12) new members are appointed. The terms of the twelve (12) new members shall begin January 1, 2006.

3. The terms of the twelve (12) new members shall be staggered by one (1) year upon each successive appointment, the first member appointed to serve a term of one (1) year with each successive member to serve one (1) more year than the prior appointed member's term. This cycle shall begin again for every fifth member appointed to a vacancy so that no member shall be appointed to a term that exceeds four (4) years in length.

4. a. Except as provided in subdivision b. of this subparagraph, after the initial round of twelve (12) appointments, the terms for all members shall be four (4) years, and the method of appointment shall continue the practice of the Governor alternating between lists of three (3) nominees submitted by the adjutant general and the ***executive*** director of the Historical Society. A list of nominees shall be submitted by December 15, and the Governor shall make the appointment by December 31. The member's term shall begin January 1.

b. If any person fails to complete his or her term, whether an initial term beginning January 1, 2006, or later, his or her successor shall be appointed to complete the unexpired term. The Governor shall appoint the successor from a list of three (3) nominees submitted by the same official, the adjutant general or the ***executive*** director of the Historical Society, who submitted the list of three (3) nominees from which the predecessor was appointed. The list shall be submitted to the Governor within fifteen (15) days after the vacancy occurs, and the Governor shall make his or her appointment from the list within fifteen (15) days after the submission.

5. No committee member shall serve more than two (2) consecutive terms. A person appointed to finish an unexpired term exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of one (1) term.

(c) A committee member shall be removed for cause only when nine (9) members of the committee vote for removal. Failure to attend at least half of the committee meetings in a calendar year shall be sufficient cause.

(d) 1. In February of every even-numbered year, the committee shall elect a chair, vice chair, and secretary, each to serve two (2) year terms. In the absence of the chair or in the event of a vacancy in that position, the vice chair shall serve as chair.

2. If a chair, vice chair, or secretary fails to complete his or her two (2) year term, the committee, within thirty (30) days of the vacancy, shall appoint a successor to complete the term.

3. A quorum shall consist of eight (8) or more of the fourteen (14) members. Except as provided in paragraph (c) of this subsection, an affirmative vote of a majority of a quorum shall be necessary for committee action.

(6) The Military History Museum and committee shall be attached to the Kentucky Historical Society for administrative and other purposes.

➔Section 9. KRS 171.347 is amended to read as follows:

There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

(1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(2) Two (2) members of the Senate, appointed by the President of the Senate;

(3) The secretary of the Education and Workforce Development Cabinet, or his or her designee;

(4) One (1) member from the Tourism, Arts and Heritage Cabinet, appointed by the secretary of that cabinet;

(5) One (1) member from the Kentucky Historical Society, appointed by the ***executive*** director of that agency;

(6) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;

(7) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;

(8) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;

(9) One (1) member from the Abraham Lincoln Bicentennial Commission established by the United States Congress, appointed by the concurrence of the chairs of that agency;

(10) The Larue County judge/executive, or his or her designee;

(11) One (1) member from the Abraham Lincoln Birthplace, appointed by the superintendent of that national historic site;

(12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the president of that agency;

(13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the head of that agency;

(14) One (1) member from the Farmington Historic Home museum in Louisville, appointed by the head of that agency; and

(15) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission members.

➔Section 10. KRS 171.755 is amended to read as follows:

(1) There is created the Commonwealth of Kentucky War of 1812 Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes.

(2) The Commonwealth of Kentucky War of 1812 Bicentennial Commission shall be composed of eighteen (18) members, as follows:

(a) Two (2) members of the Kentucky House of Representatives, appointed by the Speaker of the House of Representatives;

(b) Two (2) members of the Kentucky Senate, appointed by the President of the Kentucky Senate;

(c) The adjutant general or the adjutant general's designee;

(d) The secretary of the Education and Workforce Development Cabinet or the secretary's designee;

(e) The secretary of the Tourism, Arts and Heritage Cabinet or the secretary's designee;

(f) Two (2) members from the Kentucky Historical Society, appointed by the ***executive*** director of that agency;

(g) Three (3) members from the Kentucky Heritage Council, appointed by the executive director of that agency, including at least one (1) member each from the Kentucky African-American Heritage Commission and the Kentucky Native American Heritage Commission;

(h) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency; and

(i) Five (5) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of the War of 1812, appointed by the Governor.

(3) The chair of the commission shall be elected by the members of the commission.

(4) The first meeting of the commission shall be held no later than July 31, 2010.

(5) The commission may create an advisory board of persons with a demonstrated interest in various aspects of the War of 1812.

(6) Members of the commission shall serve without compensation.

(7) The Commonwealth of Kentucky War of 1812 Bicentennial Commission shall expire on January 31, 2015.

➔Section 11. KRS 171.782 is amended to read as follows:

(1) The Kentucky Military Heritage Commission is hereby established as an independent agency of the Commonwealth of Kentucky which is attached to the Kentucky Heritage Council for administrative and support purposes. The Heritage Council may request and receive additional administrative aid and support from the Kentucky Historical Society, the Department of Military Affairs, the Commission on Military Affairs, and the Department of Veterans' Affairs.

(2) The Kentucky Military Heritage Commission shall consist of the adjutant general, the ***executive*** director of the Kentucky Historical Society, the state historic preservation officer, the executive director of the commission on Military Affairs, and the commissioner of the Department of Veterans' Affairs or their designees, whose names shall be provided in writing.

(3) The commission shall receive requests for designation of a geographic site as a military heritage site and for designation of an object as a military heritage object in accordance with KRS 171.780 to 171.788 and the administrative regulations promulgated thereunder.

(4) The commission shall promulgate administrative regulations necessary to carry out KRS 171.780 to 171.788 and to protect military heritage sites and military heritage objects.

(5) The commission may seek funding from any source, public or private, and may expend funds for the operation of the commission and for the protection of military heritage sites and military heritage objects.

(6) The commission may employ such persons as it deems necessary, consistent with available funding, to carry out the duties of the commission.

➔Section 12. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:

(a) Secretary of the Education and Workforce Development Cabinet, or designee;

(b) Secretary of the Tourism, Arts and Heritage Cabinet, or designee;

(c) Secretary of the Transportation Cabinet, or designee;

(d) ***Executive*** Director of the Kentucky Historical Society, or designee;

(e) State historic preservation officer of the Kentucky Heritage Council, or designee;

(f) Chair of the commission or designee;

(g) Director of the Underground Railroad Institute at Georgetown College, or designee;

(h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;

(i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;

(j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and

(k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:

(a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and

(b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

**Signed by Governor March 30, 2015.**

## CHAPTER 70

**( HB 150 )**

AN ACT relating to elections.

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

➔Section 1. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label for any office, by writing the name of his or her choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city***, county, urban-county, consolidated local government, charter county government, or unified local government*** office who is defeated in a partisan or nonpartisan primary shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his or her choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, on or before the fourth Friday in October preceding the date of the regular election and not later than the second

Friday before the date of a special election. In the case of a special election administered under KRS 118.730, a declaration of intent to be a write-in candidate shall be filed at least twenty-eight (28) days before the day of the election. The declaration of intent shall be filed no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) A person shall not be eligible as a write-in candidate:

(a) For more than one (1) office in a regular or special election; or

(b) If his or her name appears upon the ballot label for any office, except that the candidate may file a notice of withdrawal prior to filing an intent to be a write-in candidate for office when a vacancy in a different office occurs because of:

1. Death;

2. Disqualification to hold the office sought;

3. Severe disabling condition which arose after the nomination; or

4. The nomination of an unopposed candidate.

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State on or before the fourth Friday in October preceding the date of the regular election for those offices. The declaration of intent shall be filed no earlier than the first Wednesday after the first Monday in November of the year preceding the year the office will appear on the ballot, and no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

**Signed by Governor March 30, 2015.**

## CHAPTER 71

**( HB 181 )**

AN ACT relating to reemployment of retired officers.

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

➔Section 1. KRS 70.291 is amended to read as follows:

As used in KRS 70.291 to 70.293, "police officer" shall have the same meaning as ***"police officer"*** in KRS 15.420 ***and as "officer" in KRS 16.010***.

➔Section 2. KRS 70.292 is amended to read as follows:

(1) A county sheriff's office in the Commonwealth of Kentucky may employ police officers who have retired under the ***State Police Retirement System,*** Kentucky Employees Retirement System***,*** or the County Employees Retirement System as provided by KRS 70.291 to 70.293.

(2) An individual employed under KRS 70.291 to 70.293 shall have:

(a) ***1.*** Participated in the Law Enforcement Foundation Program fund under KRS 15.410 to 15.515; ***or***

***2. Retired as a commissioned officer pursuant to KRS Chapter 16;***

(b) Retired with at least twenty (20) years of service credit;

(c) Been separated from service for the period required by KRS 61.637 so that the member's retirement is not voided;

(d) Retired with no administrative charges pending; and

(e) Retired with no pre-existing agreement between the individual and the sheriff's office prior to the individual's retirement for the individual to return to work for the sheriff's office.

➔Section 3. KRS 70.293 is amended to read as follows:

(1) Individuals employed under KRS 70.291 to 70.293 shall:

(a) Serve for a term not to exceed one (1) year. The one (1) year employment term may be renewed annually at the discretion of the employing sheriff's office;

(b) Receive compensation according to the standard procedures applicable to the employing sheriff's office; and

(c) Be employed based upon need as determined by the employing sheriff's office.

(2) Notwithstanding any provisions of KRS ***16.505 to 16.652,*** 18A.225 to 18A.2287, 61.510 to 61.705, or 78.510 to 78.852 to the contrary:

(a) Individuals employed under KRS 70.291 to 70.293 shall continue to receive all retirement and health insurance benefits to which they were entitled upon retiring in the applicable system administered by Kentucky Retirement Systems;

(b) Individuals employed under KRS 70.291 to 70.293 shall not be eligible to receive health insurance coverage through the sheriff's office or the fiscal court of the sheriff's county;

(c) The sheriff's office or fiscal court of the sheriff's office shall not pay any employer contributions or retiree health expense reimbursements to the Kentucky Retirement Systems required by KRS 61.637(17) for individuals employed under KRS 70.291 to 70.293; and

(d) The sheriff's office or fiscal court of the sheriff's office shall not pay any insurance contributions to the state health insurance plan, as provided by KRS 18A.225 to 18A.2287, for individuals employed under KRS 70.291 to 70.293.

(3) Individuals employed under KRS 70.291 to 70.293 shall be subject to any merit system, civil service, or other legislative due process provisions applicable to the sheriff's office. A decision not to renew a one (1) year appointment term under this section shall not be considered a disciplinary action or deprivation subject to due process.

**Signed by Governor March 30, 2015.**

## CHAPTER 72

**( HB 275 )**

AN ACT relating to military affairs.

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

➔Section 1. KRS 36.085 is amended to read as follows:

(1) It is the intent of the General Assembly to provide a local ***installation*** management fund at ***Department of Military Affairs facilities***~~[the Kentucky National Guard armories]~~. The local ***installation*** management fund shall be receipts from the use of ***Department of Military Affairs***~~[National Guard]~~ facilities by ***military and***~~[local]~~ nonmilitary ***individuals and*** organizations.

(2) The General Assembly further recognizes that ***some Department of Military Affairs facilities***~~[the National Guard armories]~~ are not staffed by state employees, but are staffed by members of the Kentucky National Guard, who are on the federal payroll. It is the intent of the General Assembly to authorize the adjutant general

of Kentucky to appoint a member of the Kentucky National Guard as custodian of each of the various local ***installation*** management funds ***when an authorized state employee is not stationed at that location***.

➔Section 2. KRS 36.086 is amended to read as follows:

(1) The Department of Military Affairs may establish an installation management fund account in a local bank for each ***Department of Military Affairs facility***~~[National Guard armory]~~ notwithstanding KRS 41.070 and 45A.655. Funds derived from the use of the buildings and grounds~~[ by local civic and other nonmilitary organizations for receptions, meetings, and other events]~~ shall be deposited in the ***Department of Military Affairs local installation management fund*** account.

(2) The adjutant general shall determine the maximum authorized balance in each ***Department of Military Affairs***~~[armory's]~~ local installation management fund account. The adjutant general or his designated representative shall review at least annually each installation management fund account. If the account balance is excessive, the surplus funds shall be withdrawn from the installation management fund account for deposit in the appropriate Department of Military Affairs trust and agency fund account.

(3) The local installation management fund account shall be used for~~[ miscellaneous maintenance and repairs and other services and equipment]~~ expenses associated with routine ***Department of Military Affairs and Kentucky National Guard functions and***~~[armory]~~ operations. Any expense in excess of ***one hundred and*** fifty dollars ***($150)***~~[($50)]~~ ***but not more than one thousand dollars ($1,000)*** shall have approval from the ***facilities division director. Any expense in excess of one thousand dollars ($1,000) but not more than two thousand five hundred dollars ($2,500) shall have approval from the executive director of the Department of Military Affairs. Any expense in excess of two thousand five hundred dollars ($2,500) but not more than four thousand dollars ($4,000) shall have approval from the*** adjutant general or his designated representative.

(4) The adjutant general shall provide an annual report to the Legislative Research Commission and the secretary of the Finance and Administration Cabinet which identifies the receipts and expenditures of the installation management fund accounts. This report shall be transmitted to the Legislative Research Commission and the secretary of the Finance and Administration Cabinet within sixty (60) days after the close of each fiscal year. In addition, the adjutant general shall also provide information to the Legislative Research Commission and the secretary of the Finance and Administration Cabinet during the preparation of the biennial budget relating to the receipts, expenditures and balances of these accounts.

**Signed by Governor March 30, 2015.**

## CHAPTER 73

**( HB 276 )**

AN ACT relating to wastewater.

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

➔Section 1. KRS 224A.111 is amended to read as follows:

(1) The federally-assisted wastewater revolving fund shall be established in the State Treasury and shall be administered by the authority under an agreement with the Energy and Environment Cabinet to assure compliance with the federal act.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to securing the payment of the principal of, interest on, and premium, if any, of revenue bonds issued by the authority under subsection (5) of this section which are to be secured solely by loan payments made by governmental agencies that have been deposited in the fund, making transfers to the federally-assisted water supply revolving fund, and providing financial assistance to government agencies for the construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(3) The authority may enter into grant agreements with the administrator of the United States Environmental Protection Agency and accept capitalization grants for the revolving fund in accordance with payment

schedules established with the administrator.

(4) All payments from the administrator pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund.

(5) The authority may issue its revenue bonds or seek appropriations for deposit into the revolving fund, including the amounts required to match the capitalization grants from the administrator. An amount not exceeding the amount permitted by the federal act may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.

(6) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans; that annual principal and interest payments will commence no later than when project construction is completed ***or one (1) year after initiation of operations*** and all loans will be fully amortized not later than ***thirty (30)***~~[twenty (20)]~~ years after project construction is completed; that the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and that the fund will be credited with all payments of principal and interest on all loans;

(b) Guaranteeing, or purchasing insurance for obligations of the fund where the action would improve credit market access or reduce interest rates;

(c) Providing moneys with which to carry out the requirements of assistance agreements; and

(d) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund.

(7) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.

(8) The authority shall obligate all payments from the administrator of the United States Environmental Protection Agency as well as the required state match, within one (1) year after the receipt of the payments.

(9) Financial assistance may be provided from the fund only for those infrastructure projects which the Finance and Administration Cabinet has approved from the prioritization schedule prepared by the Energy and Environment Cabinet.

(10) The authority may make and condition loans from the fund as required by state or federal law.

(11) The authority shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period.

(12) The authority or the Energy and Environment Cabinet may make or prepare any necessary or required plan or report.

(13) The authority or the Energy and Environment Cabinet or the loan recipient shall make available to the administrator of the United States Environmental Protection Agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.

(14) The authority may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance.

(15) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

(16) If a loan is made from the federally-assisted wastewater revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly-owned treatment works, the state shall ensure that if the recipient of the loan receives a grant under section 201(g) of the federal act for construction of such treatment works and an allowance under section 201(1)(l) of the federal act for nonfederal funds expended for the planning and preparation, the recipient shall promptly repay the loan to the extent of the allowance.

(17) Financial assistance may be provided from the federally assisted wastewater revolving fund only with respect to a project which is consistent with plans, if any, developed under Sections 205(j), 208, 303(e), 319, and 320

of the federal act, as amended.

(18) The authority shall require as a condition of making a loan or providing other assistance, as described in KRS 224A.100(6), from the fund that the recipient of the assistance shall maintain project accounts in accordance with generally-accepted governmental accounting standards.

(19) Assistance may be provided from the fund, other than under subsection (6)(a) of this section, to a governmental agency with respect to the nonfederal share of the costs of a treatment works project for which the governmental agency is receiving assistance from the administrator of the United States Environmental Protection Agency under any other authority only if the assistance, as determined by the Finance and Administration Cabinet, is necessary to allow the project to proceed.

**Signed by Governor March 30, 2015.**

## CHAPTER 74

**( HB 340 )**

AN ACT relating to the expansion of the film tax credits.

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

➔Section 1. KRS 148.542 is amended to read as follows:

As used in KRS 148.542 to 148.546:

(1) "Above-the-line production crew" means employees involved with the production of a motion picture or entertainment production whose salaries are negotiated prior to commencement of production, such as actors, directors, producers, and writers;

(2) "Animated production" means a nationally distributed feature-length film created with the rapid display of a sequence of images using 2-D or 3-D graphics of artwork or model positions in order to create an illusion of movement;

(3) "Approved company" means an eligible company approved for incentives provided under KRS 141.383 and 148.544;

(4) "Below-the-line production crew" means employees involved with the production of a motion picture or entertainment production except above-the-line production crew. "Below-the-line production crew" includes but is not limited to:

(a) Casting assistants;

(b) Costume design;

(c) Extras;

(d) Gaffers;

(e) Grips;

(f) Location managers;

(g) Production assistants;

(h) Set construction staff; and

(i) Set design staff;

(5) "Cabinet" means the Finance and Administration Cabinet;

(6) "Commercial" means an individual production or series of live-action or animated productions, music videos, infomercials, or interstitials that are:

(a) Less than thirty-one (31) minutes in length;

(b) Made for the purpose of promoting a product, service, or idea; and

(c) Produced for regional or national distribution via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Compensation" means compensation included in adjusted gross income as defined in KRS 141.010(10);

(9) "Documentary" means a production based upon factual information and not subjective interjections;

(10) "Eligible company" means any person that intends to film or produce a motion picture or entertainment production in the Commonwealth;

(11) "Employee" means the same as defined in KRS 141.010(20);

(12) ***"Enhanced incentive county" has the same meaning as in KRS 154.32-010;***

***(13)*** "Feature-length film" means a live-action or animated production that is:

(a) More than thirty (30) minutes in length; and

(b) Produced for distribution in theaters or via digital format, including but not limited to DVD, Internet, or mobile electronic devices;

***(14)*** ~~[(13)]~~ "Industrial film" means a business-to-business film that may be viewed by the public, including but not limited to videos used for training or for viewing at a trade show;

***(15) "Kentucky-based company" has the same meaning as in KRS 164.6011;***

***(16)*** ~~[(14)]~~ (a) "Motion picture or entertainment production" means:

1. The following if filmed in whole or in part, or produced in whole or in part, in the Commonwealth:

a. A feature-length film;

b. A television program;

c. An industrial film;

d. A documentary; or

e. A commercial; or

2. A national touring production of a Broadway show produced in Kentucky;

(b) "Motion picture or entertainment production" does not include the filming or production of obscene material or television coverage of news or athletic events;

***(17)*** ~~[(15)]~~ "Obscene" means the same as defined in KRS 531.010;

***(18)*** ~~[(16)]~~ "Office" means the Kentucky Film Office in the Tourism, Arts and Heritage Cabinet;

***(19)*** ~~[(17)]~~ "Person" means the same as defined in KRS 141.010(15);

***(20)*** ~~[(18)]~~ (a) "Qualifying expenditure" means expenditures made in the Commonwealth for the following if directly used in or for a motion picture or entertainment production:

1. The production script and synopsis;

2. Set construction and operations, wardrobe, accessories, and related services;

3. Lease or rental of real property in Kentucky as a set location;

4. Photography, sound synchronization, lighting, and related services;

5. Editing and related services;

6. Rental of facilities and equipment;

7. Vehicle leases;

8. Food; and

9. Accommodations.

(b) "Qualifying expenditure" does not include Kentucky sales and use tax paid by the approved company on the qualifying expenditure;

***(21)*** ~~[(19)]~~ "Qualifying payroll expenditure" means compensation paid to above-the-line crew and below-the line crew while working on a motion picture or entertainment production in the Commonwealth if the compensation is for services performed in the Commonwealth;

***(22) "Resident" has the same meaning as in KRS 141.010;***

***(23)*** ~~[(20)]~~ "Secretary" means the secretary of the Tourism, Arts and Heritage Cabinet;

***(24)*** ~~[(21)]~~ "Tax incentive agreement" means the agreement entered into pursuant to KRS 148.546 between the office and the approved company; and

***(25)*** ~~[(22)]~~ "Television program" means any live-action or animated production or documentary, including but not limited to:

(a) An episodic series;

(b) A miniseries;

(c) A television movie; or

(d) A television pilot;

that is produced for distribution on television via broadcast, cable, or any digital format, including but not limited to cable, satellite, Internet, or mobile electronic devices.

➔Section 2. KRS 148.544 is amended to read as follows:

(1) The purposes of KRS 141.383 and 148.542 to 148.546 are to:

(a) Encourage the film and entertainment industry to choose locations in the Commonwealth for the filming and production of motion picture or entertainment productions;

(b) Encourage the development of a film and entertainment industry in Kentucky;

(c) Encourage increased employment opportunities for the citizens of the Commonwealth within the film and entertainment industry; and

(d) Encourage the development of a production and postproduction infrastructure in the Commonwealth for film production and touring Broadway show production facilities containing state-of-the-art technologies.

(2) The Kentucky Film Office is hereby established in the Tourism, Arts and Heritage Cabinet to administer, together with the Finance and Administration Cabinet and the Tourism Development Finance Authority, the tax incentive established by KRS 141.383 and 148.542 to 148.546.

(3) To qualify for the tax incentive provided in subsection (4) of this section, the following requirements shall be met:

(a) ***For an approved company that is also a Kentucky-based company that:***

***1. Films or produces a feature-length film, television program, or industrial film in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred twenty-five thousand dollars ($125,000);***

***2. Films or produces a commercial in whole or in part in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be one hundred thousand dollars ($100,000);***

***3. Produces a national touring production of a Broadway show in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be twenty thousand dollars ($20,000); or***

***4. Films or produces a documentary in whole or in part in the Commonwealth, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ten thousand dollars ($10,000);***

***(b)*** For an approved company ***that is not a Kentucky-based company*** that***:***

***1.*** Films or produces a ***feature-length film, television program, or industrial film in whole or in part in the Commonwealth***~~[motion picture production, except for a commercial or documentary]~~, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ***two hundred fifty thousand dollars ($250,000)***~~[five hundred thousand dollars ($500,000)]~~;

***2.***~~[(b)]~~ ~~[For an approved company that ]~~Films or produces a commercial ***in whole or in part*** in the Commonwealth that is distributed regionally or nationally, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ***one hundred thousand dollars ($100,000)***~~[two hundred thousand dollars ($200,000)]~~; ***or***~~[and]~~

***3.***~~[(c)]~~ ~~[For an approved company that ]~~Films or produces a documentary ***in whole or in part*** in the Commonwealth or that produces a national touring production of a Broadway show, the minimum combined total of qualifying expenditures and qualifying payroll expenditures shall be ***twenty thousand dollars ($20,000)***~~[fifty thousand dollars ($50,000)]~~.

(4) (a) The incentive available under KRS 141.383 and 148.542 to 148.546 is a refundable credit against the Kentucky income tax imposed under KRS 141.020 or 141.040, and the limited liability entity tax imposed under KRS 141.0401, as provided in KRS 141.383.

***(b) 1. For a motion picture or entertainment production filmed or produced in its entirety in an enhanced incentive county, the amount of the incentive shall be equal to thirty-five percent (35%) of the approved company's:***

***a. Qualifying expenditures;***

***b. Qualifying payroll expenditures paid to resident and nonresident below-the-line production crew; and***

***c. Qualifying payroll expenditures paid to resident and nonresident above-the-line production crew not to exceed one million dollars ($1,000,000) in payroll expenditures per employee.***

***2. a. To the extent the approved company films or produces a motion picture or entertainment production in part in an enhanced incentive county and in part a Kentucky county that is not an enhanced incentive county, the approved company shall be eligible to receive the incentives provided in this paragraph for those expenditures incurred in the enhanced incentive county and all other expenditures shall be subject to the incentives provided in paragraph (c) of this subsection.***

***b. The approved company shall track the requisite expenditures by county. If the approved company can demonstrate to the satisfaction of the cabinet that it is not practical to use a separate accounting method to determine the expenditures by county, the approved company shall determine the correct expenditures by county using an alternative method approved by the cabinet.***

***(c) For a motion picture or entertainment production filmed or produced in whole or in part in any Kentucky county other than in an enhanced incentive county,*** the amount of the incentive shall ***be equal to***~~[not exceed]~~:

1. ***Thirty percent (30%)***~~[Twenty percent (20%)]~~ of the approved company's***:***

***a.*** Qualifying expenditures;

***b.*** ~~[2. Twenty percent (20%) of the approved company's ]~~Qualifying payroll expenditures paid to below-the-line production crew ***that are not residents***; and

***c.*** ~~[3. Twenty percent (20%) of the approved company's ]~~Qualifying payroll expenditures paid to above-the-line production crew ***that are not residents,*** not to exceed ***one million dollars ($1,000,000)***~~[one hundred thousand dollars ($100,000)]~~ in payroll expenditures per employee***; and***

***2. Thirty-five percent (35%) of the approved company's:***

***a. Qualifying payroll expenditures paid to resident below-the-line production crew; and***

***b. Qualifying payroll expenditures paid to resident above-the-line production crew not to***

***exceed one million dollars ($1,000,000) in payroll expenditures per employee***.

***(d)***~~[(b)]~~ The Tourism Development Finance Authority may accept applications, authorize the execution of tax incentive agreements, and enter into tax incentive agreements beginning on June 26, 2009; however, no credit amount shall be claimed by the taxpayer as a refund or paid by the Department of Revenue prior to July 1, 2010.

➔Section 3. KRS 148.546 is amended to read as follows:

(1) An eligible company shall, at least thirty (30) days prior to incurring any expenditure for which recovery will be sought, file an application for tax incentives with the office. The application shall include:

(a) The name and address of the applicant;

(b) ***Verification that the applicant is a Kentucky-based company;***

***(c)*** The production script or a detailed synopsis of the script;

***(d)***~~[(c)]~~ ***The locations where the filming or production will occur;***

***(e)*** The anticipated date on which filming or production shall begin;

***(f)***~~[(d)]~~ The anticipated date on which the production will be completed;

***(g)***~~[(e)]~~ The total anticipated qualifying expenditures;

***(h)***~~[(f)]~~ The total anticipated qualifying payroll expenditures for ***resident and nonresident*** above-the-line crew ***by county***;

***(i)***~~[(g)]~~ The total anticipated qualifying payroll expenditures for ***resident and nonresident*** below-the-line crew ***by county***;

***(j)***~~[(h)]~~ The address of a Kentucky location at which records of the production will be kept;

***(k)***~~[(i)]~~ An affirmation that if not for the incentive offered under KRS 148.542 to 148.546, the eligible company would not film or produce the production in the Commonwealth; and

***(l)***~~[(j)]~~ Any other information the office may require.

(2) The office shall notify the eligible company within thirty (30) days after receiving the application of its status.

(3) (a) Upon review of the application and any additional information submitted, the office shall present the application and its recommendation to the Tourism Development Finance Authority established by KRS 148.850 which may, by resolution, authorize the execution of a tax incentive agreement between the Tourism Development Finance Authority and the approved company.

(b) 1. The total amount of tax credits authorized by the Tourism Development Finance Authority during fiscal year 2010-2011 shall not exceed five million dollars ($5,000,000).

2. The total amount of tax credits authorized by the Tourism Development Finance Authority during the fiscal year 2011-2012 shall not exceed seven million five hundred thousand dollars ($7,500,000).

(4) The tax incentive agreement shall include the following provisions:

(a) The duties and responsibilities of the parties;

(b) A detailed description of the motion picture or entertainment production for which incentives are requested;

(c) The anticipated qualifying expenditures and qualifying payroll expenditures for ***resident and nonresident***~~[both]~~ above-the-line and below-the-line crews ***by county***;

(d) The minimum combined total of qualifying expenditures and qualifying payroll expenditures necessary for the approved company to qualify for incentives;

(e) That the approved company shall have no more than two (2) years from the date the tax incentive agreement is executed to start the motion picture or entertainment production;

(f) That the approved company shall have no more than four (4) years from the execution of the tax incentive agreement to complete the motion picture or entertainment production;

(g) That the motion picture or entertainment production shall not include obscene materials and shall not negatively impact the economy or the tourism industry of the Commonwealth;

(h) That the execution of the agreement is not a guarantee of tax incentives and that actual receipt of the incentives shall be contingent upon the approved company meeting the requirements established by the tax incentive agreement;

(i) That the approved company shall submit to the office within one hundred eighty (180) days of the completion of the motion picture or entertainment production a detailed cost report of the qualifying expenditures, qualifying payroll expenditures, and final script;

(j) That the approved company shall provide the office with documentation that the approved company has withheld income tax as required by KRS 141.310 on all qualified payroll expenditures for which an incentive under KRS 141.383 and 148.544 is sought;

(k) That, if the office determines that the approved company has failed to comply with any of its obligations under the tax incentive agreement:

1. The office may deny the incentives available to the approved company;

2. Both the office and the cabinet may pursue any remedy provided under the tax incentive agreement;

3. The office may terminate the tax incentive agreement; and

4. Both the office and the cabinet may pursue any other remedy at law to which it may be entitled;

(l) That the office shall monitor the tax incentive agreement;

(m) That the approved company shall provide to the office and the cabinet all information necessary to monitor the tax incentive agreement;

(n) That the office may share information with the cabinet or any other entity the office determines is necessary for the purposes of monitoring and enforcing the terms of the tax incentive agreement;

(o) That the motion picture or entertainment production shall contain an acknowledgment that the motion picture ***or entertainment*** production was ***produced or*** filmed~~[ or the touring show was produced]~~ in the Commonwealth of Kentucky;

(p) ***That the approved company shall include screen credits in its final production that:***

***1. Indicate that the approved company received tax incentives from the Commonwealth of Kentucky; and***

***2. Display the "Unbridled Spirit" logo;***

***(q)*** Terms of default;

***(r)*** ~~[(q)]~~ The method and procedures by which the approved company shall request and receive the incentive provided under KRS 141.383 and 148.544;

***(s)*** ~~[(r)]~~ That the approved company may be required to pay an administrative fee as authorized under subsection (5) of this section; and

***(t)*** ~~[(s)]~~ Any other provisions deemed necessary or appropriate by the parties to the tax incentive agreement.

(5) The office may require the approved company to pay an administrative fee, the amount of which shall be established by administrative regulation promulgated in accordance with KRS Chapter 13A. The administrative fee shall not exceed one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars ($500), whichever is greater.

(6) Prior to commencement of activity as provided in a tax incentive agreement, the tax incentive agreement shall be submitted to the Government Contract Review Committee established by KRS 45A.705 for review, as provided in KRS 45A.695, 45A.705, and 45A.725.

(7) The office shall notify the cabinet upon approval of an approved company. The notification shall include the name of the approved company, the name of the motion picture or entertainment production, the estimated amount of qualifying expenditures, the estimated date on which the approved company will complete filming or production, and any other information required by the cabinet.

(8) Within one hundred eighty days (180) days of completion of the motion picture or entertainment production, the approved company shall submit to the office a detailed cost report of:

(a) Qualifying expenditures;

(b) Qualifying payroll expenditures for ***resident and nonresident*** above-the-line crew ***by county***;

(c) Qualifying payroll expenditures for ***resident and nonresident*** below-the-line crew ***by county***; and

(d) The final script.

(9) (a) The office, together with the secretary, shall review all information submitted for accuracy and shall confirm that all relevant provisions of the tax incentive agreement have been met.

(b) Upon confirmation that all requirements of the tax incentive agreement have been met, the office, and the secretary shall review the final script, and if they determine that the motion picture or entertainment production does not:

1. Contain visual or implied scenes that are obscene; or

2. Negatively impact the economy or the tourism industry of the Commonwealth;

the office shall forward the detailed cost report to the cabinet for calculation of the refundable credit.

(10) The cabinet shall verify that the approved company withheld the proper amount of income tax on qualifying payroll expenditures, and the cabinet shall notify the office of the total amount of refundable credit available on qualifying expenditures and qualifying payroll expenditures.

(11) On or before October 1, 2010, and on or before each October 1 thereafter, for the immediately preceding fiscal year, the office shall report to the Tourism Development Finance Authority:

(a) The number of tax incentive agreements that have been executed;

(b) The estimated amount of tax incentives that have been requested under KRS 141.383 and 148.542 to 148.546; and

(c) The amount of tax incentives approved under KRS 139.538, 141.383, and 148.542 to 148.546.

(12) (a) By November 1 of each year, the authority shall file an annual report with the Governor and the Legislative Research Commission. The report shall be submitted in cooperation with the Cabinet for Economic Development and included in the single annual report required in KRS 154.12-2035. The report shall also be available on the Tourism, Arts and Heritage Cabinet's Web site.

(b) The report shall include information for all motion picture or entertainment production projects approved.

(c) The report shall include the following information:

1. For each approved motion picture or entertainment production project:

a. The name of the approved company and a brief description of the project;

b. The amount of approved costs included in the agreement; and

c. The total amount recovered under the tax incentive agreement;

2. The number of applications for projects submitted during the prior fiscal year;

3. The number of projects finally approved during the prior fiscal year; and

4. The total dollar amount approved for recovery for all projects approved during the prior fiscal year, and cumulatively under KRS 141.383 and 148.542 to 148.546 since its inception, by year of approval.

(d) The information required to be reported under this section shall not be considered confidential taxpayer information and shall not be subject to KRS Chapter 131 or any other provisions of the Kentucky Revised Statutes prohibiting disclosure or reporting of information.

➔Section 4. This Act applies to taxable periods beginning on or after January 1, 2015.

**Signed by Governor March 30, 2015.**

**CHAPTER 75**

**( HB 358 )**

AN ACT relating to military affairs and declaring an emergency.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section, unless the context requires otherwise:***

***(a) "Morale, welfare, and recreation facility" means any post exchange, canteen, barber shop, fitness center, snack bar, transient housing, billeting operation, daycare, laundry, or similar facility, the purpose of which is to enhance the morale and welfare of military personnel;***

***(b) "Nonappropriated fund employee" means an employee of a nonappropriated fund instrumentality who is not an employee of the federal government or the Commonwealth of Kentucky; and***

***(c) "Nonappropriated fund instrumentality" means an enterprise operated exclusively with funds derived from sales or user fees, which receives no legislative appropriations for its operations.***

***(2) (a) The adjutant general is authorized to establish morale, welfare, and recreation facilities within the state as in his or her judgment may be necessary and proper for military purposes.***

***(b) Morale, welfare, and recreation facilities may be established at any property under the control of the Department of Military Affairs.***

***(c) As used in this subsection, "property under the control of the Department of Military Affairs" means any property on the facility installations stationing plan as maintained by the construction and facilities manager for the Kentucky National Guard, and includes all armories, training areas, ranges, and other facilities leased, licensed, or owned by the Department of Military Affairs.***

***(3) Notwithstanding any other provision of law to the contrary, the adjutant general is authorized to establish a nonappropriated fund instrumentality for the purpose of operating the morale, welfare, and recreation facilities.***

***(4) A nonappropriated fund instrumentality established under this section may:***

***(a) Contract for goods and services;***

***(b) Hire nonappropriated fund employees under terms and conditions as it may negotiate, subject only to applicable state and federal labor laws;***

***(c) Establish a system of bookkeeping, accounting, and auditing procedures for the proper handling of funds derived from its operations; and***

***(d) Perform any other action necessary to establish a board, corporation, or other entity for the purpose of operating the morale, welfare, and recreation facilities.***

***(5) A nonappropriated fund instrumentality established under this section is solely responsible for its operations. No debt of the nonappropriated fund instrumentality is a debt of the Commonwealth. An action of the nonappropriated fund instrumentality is not an action of the Commonwealth, and shall not obligate the Commonwealth in any manner.***

***(6) The adjutant general may promulgate administrative regulations for the operation of morale, welfare, and recreation facilities and any nonappropriated fund instrumentality established under this section.***

***(7) All proceeds derived from the operation of the morale, welfare, and recreation facilities within the state shall, after payment of operating expenses, notwithstanding any other provision of law to the contrary, be used exclusively to benefit the morale, welfare, and recreation facilities.***

***(8) Use of the morale, welfare, and recreation facilities provided for in this section is limited to:***

***(a) Current and retired members of the Kentucky National Guard and their eligible dependents; and***

***(b) Civilian employees of the United States or the Commonwealth of Kentucky working under***

***Department of Military Affairs management or in support of Department of Military Affairs activities.***

➔Section 2. Whereas the Department of Military Affairs has been offered a substantial sum of money to establish morale, welfare, and recreation facilities that will benefit the members of the National Guard and their dependents and make their service to the United States and Commonwealth easier and the offer is time sensitive, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 30, 2015.**

## CHAPTER 76

**( HB 380 )**

AN ACT relating to school employees.

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

➔Section 1. KRS 161.190 is amended to read as follows:

Whenever a teacher***, classified employee,*** or school administrator is functioning in his capacity as an employee of a board of education of a public school system, it shall be unlawful for any person to direct speech or conduct toward the teacher***, classified employee,*** or school administrator when such person knows or should know that the speech or conduct will disrupt or interfere with normal school activities or will nullify or undermine the good order and discipline of the school.

**Signed by Governor March 30, 2015.**

## CHAPTER 77

**( HB 417 )**

AN ACT relating to the hazardous waste management fund.

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

➔Section 1. KRS 224.46-580 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.

(2) The Energy and Environment Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.1-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Pub. L. 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Energy and Environment Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes. The assessment shall be charged against generators of hazardous waste until June 30, ***2024*** ~~[2016]~~. After this date, no further hazardous waste management assessment shall be charged against generators. The hazardous waste assessment shall be waived for any generator owing less than fifty dollars ($50) for the year. However, a return must be filed by generators to whom a payment waiver applies.

(8) The assessment on generators shall be one and two-tenths cents ($0.012) per pound if the waste is liquid, or two-tenths of a cent ($0.002) per pound if the waste is solid.

(a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;

(b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt;

(c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt;

(d) Emission control dust and sludge from the primary production of steel that is recycled by high

temperature metals recovery or managed by stabilization of metals shall be exempt; and

(e) Waste that is delivered from the generator to an on-site or off-site industrial boiler or furnace and burned for energy recovery in accordance with state and federal laws and regulations shall be assessed at one-half (1/2) of the appropriate rate.

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.

(13) (a) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.

(b) In any fiscal year in which the fees assessed under this section total less than one million eight hundred thousand dollars ($1,800,000) in fiscal year 2007-2008 dollars, adjusted annually to reflect any increase in the cost-of-living index, the difference between the fee receipts and the adjusted minimum balance shall be transferred from funds collected pursuant to KRS 224.60-130.

(c) The cabinet shall file with the Legislative Research Commission a biennial report, beginning two (2) years after July 15, 2008, on the revenues and expenditures of the fund.

(14) There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill.

(15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(16) If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(17) If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(18) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

**Signed by Governor March 30, 2015.**

## CHAPTER 78

**( HB 459 )**

AN ACT relating to farm animals.

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

➔Section 1. KRS 247.4015 is amended to read as follows:

As used in KRS 247.401 to 247.4029, unless the context requires otherwise:

(1) "Engages in a farm animal activity" means leading, showing, exhibiting, riding, training, providing, or assisting in providing medical treatment of, grooming, driving, or being a passenger upon a farm animal, whether mounted or unmounted; visiting, touring, or utilizing a farm animal facility as part of an organized event or activity; or assisting a participant or show management in farm animal activities. The term does not include being a spectator at a farm animal activity, except in cases where the spectator voluntarily places himself or herself in immediate proximity to the activity;

(2) "Farm animal" means one ***(1)*** or more of the following domesticated animals: cattle, oxen, sheep, swine, goats, horses, ponies, mules, donkeys, hinnies, ratites (ostrich, rhea, emu), ***camelids (alpaca, camel, llama),*** and poultry;

(3) "Farm animal activity" means:

(a) Shows, fairs, exhibits, competitions, performances, or parades that involve farm animals;

(b) Training or teaching activities, or both, involving farm animals;

(c) Boarding farm animals, including normal daily care;

(d) Rides, trips, shows, clinics, ***demonstrations, sales,*** hunts, parades, games, exhibitions, or other activities of any type, however informal or impromptu, that are sponsored by a farm animal activity sponsor or other person;

(e) Testing, riding, inspecting, or evaluating a farm animal belonging to another, whether or not the owner has received some monetary consideration or other thing of value for the use of the farm animal or is permitting a prospective purchaser of the farm animal to ride, inspect, or evaluate the farm animal;

(f) Placing or repairing horseshoes, trimming the hooves on a farm animal, or otherwise providing farrier services; or

(g) Examining or administering medical treatment to a farm animal by a veterinarian;

(4) "Farm animal activity sponsor" means an individual, group, club, partnership, corporation, or other legally constituted entity, whether the sponsor is operating for profit or nonprofit, which sponsors, organizes, allows, or provides the facilities for a farm animal activity, including, but not limited to: pony clubs, 4-H clubs, hunt clubs, riding clubs, polo clubs, school and college sponsored classes, programs, activities, and therapeutic

riding programs, and operators, instructors, and promoters of farm animal facilities, including, but not limited to, stables, clubhouses, ponyride strings, fairs, exhibitions, farmstays, and arenas at which the activity is held;

(5) "Farm animal facility" means any areas used for any farm animal activity, including, but not limited to, farms, ranches, riding arenas, training stables or barns, pastures, riding trails, show rings, polo fields, ***tents and other semipermanent structures,*** and other areas or facilities used or provided by farm animal activity sponsors or where participants engage in farm animal activities;

(6) "Farm animal professional" means a person engaged for compensation in any of the following:

(a) Instructing a participant or renting to a participant a farm animal for the purpose of riding, driving, or being a passenger upon the farm animal;

(b) Providing daily care of farm animals boarded at a farm animal facility;

(c) Renting equipment or tack to a participant in a farm animal activity;

(d) Training a farm animal;

(e) Examining or administering medical treatment to a farm animal as a veterinarian; ~~[or]~~

(f) Providing farrier services to a farm animal; ***or***

***(g) Providing shearing services to a farm animal;***

(7) "Farmstay" has the same meaning as in KRS 219.011;

(8) "Horse racing activities" means the conduct of horse racing activities within the confines of any horse racing facility licensed and regulated by KRS 230.070 to 230.990, but shall not include harness racing at county fairs;

(9) "Inherent risks of farm animal activities" means dangers or conditions which are an integral part of farm animal activities, including, but not limited to;

(a) The propensity of a farm animal to behave in ways that may result in injury, harm, or death to persons around them;

(b) The unpredictability of the reaction of a farm animal to sounds, sudden movement, and unfamiliar objects, persons, or other animals;

(c) Certain hazards such as surface and subsurface conditions;

(d) Collisions with other farm animals or objects; and

(e) The potential of a participant to act in a negligent manner that may contribute to injury to the participant or others, such as failing to maintain control over a farm animal or not acting within his or her ability;

(10) "Participant" means any individual, whether amateur or professional, who engages in a farm animal activity, whether or not a fee is paid to participate in the farm animal activity; and

(11) "Person" means any individual, corporation, association, or other legally constituted entity that owns or controls one or more farm animals.

**Signed by Governor March 30, 2015.**

## CHAPTER 79

## ( HCR 168 )

A CONCURRENT RESOLUTION establishing a Federal Environmental Regulation Impact Assessment Task Force to study the effect of federal environmental regulations and policies on the affordability and reliability of electricity generation and transmission in the Commonwealth.

WHEREAS, during the past eight years, the United States Environmental Protection Agency has issued rules and regulations that have adversely impacted many industries through the over-reaching regulation of air, water, and land; and

WHEREAS, this over-reach has been felt most forcefully in the Kentucky coal industry, which has suffered

unprecedented job losses and put the energy economy of the Commonwealth at risk by making it unprofitable to build coal-fired power plants and to mine and supply coal to those plants; and

WHEREAS, from 2008 to 2013, Kentucky has lost more than 30 percent of coal jobs and 37 percent of power plant jobs, which reduces the prosperity of many Kentucky households; and;

WHEREAS, the United States Environmental Protection Agency has proposed regulations restricting the emission of carbon dioxide from new and existing power generation sources under Sections 111(b) and 111(d) of the Clean Air Act, respectively; and

WHEREAS, the proposed regulations for new and existing emissions sources are scheduled to be finalized this year; and, if finalized as currently proposed, could greatly hamper Kentucky's ability to continue to supply affordable and reliable electricity to its residents and businesses; and

WHEREAS, Kentucky has long relied on coal-fired generation, a carbon-intensive electricity generation source, to provide low electricity rates for its residents and businesses; and

WHEREAS, Kentucky will, therefore, be among the states hardest hit by these federal regulations, with lower-income Kentuckians and electricity-intensive industries, such as manufacturing and aluminum smelting, being particularly affected; and

WHEREAS, it is incumbent upon the General Assembly to gather representatives from Kentucky's economic, educational, scientific, industrial, and political sectors to study the consequences of these federal regulations on the affordability and reliability of electricity generation in the Commonwealth and to formulate recommendations on how to cope with these consequences;

NOW, THEREFORE,

***Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:***

➔Section 1. The Legislative Research Commission is hereby directed to create a Federal Environmental Regulation Impact Assessment Task Force to study the potential effect of federal environmental policies and regulations on the affordability and reliability of electricity generation in Kentucky. The task force shall study how those effects on affordability and reliability will impact the residents, local governments, school districts, and businesses of the Commonwealth.

➔Section 2. The task force shall be composed of the following members, with final membership of the task force being subject to the consideration and approval of the Legislative Research Commission:

(1) The chair of the House Standing Committee on Natural Resources and Environment to serve as co-chair;

(2) The chair of the Senate Standing Committee on Natural Resources and Energy to serve as co-chair;

(3) Two additional members of the Senate, one to be appointed by the President of the Senate, and one to be appointed by the Minority Floor Leader of the Senate;

(4) Two additional members of the House of Representatives, one to be appointed by the Speaker of the House of Representatives, and one to be appointed by the Minority Floor Leader of the House of Representatives;

(5) The secretary of the Energy and Environment Cabinet, or designee;

(6) The secretary of the Cabinet for Economic Development, or designee;

(7) The executive director of the Public Service Commission, or designee;

(8) The director of the Division of Emergency Management of the Department of Military Affairs, or designee;

(9) The president of the Kentucky League of Cities, or designee;

(10) The president of the Kentucky Association of Counties, or designee;

(11) The executive director of the Kentucky School Boards Association, or designee;

(12) The executive director of Kentucky Industrial Utility Customers, or designee;

(13) The president of the Kentucky Coal Association, or designee;

(14) The president of the Kentucky Oil and Gas Association, or designee;

(15) The director of the Center for Applied Energy Research at the University of Kentucky, or designee;

(16) The director of the Conn Center for Renewable Energy Research at the University of Louisville, or designee;

(17) The president of the Kentucky Association of Manufacturers, or designee;

(18) The executive director of Community Action Kentucky, or designee;

(19) The Kentucky state director of the American Association of Retired Persons, or designee; and

(20) The Kentucky state director of the National Federation of Independent Business, or designee.

➔Section 3. The task force shall meet at least three times between the effective date of this Resolution and the date that it submits its findings and recommendations to the Legislative Research Commission.

➔Section 4. The task force shall submit its findings and recommendations to the Legislative Research Commission for referral to the appropriate committee or committees by December 31, 2016.

➔Section 5. A majority of the members appointed to the task force may vote to recommend that the Legislative Research Commission hire an outside entity or entities to complete an analysis or study on behalf of the task force relating to the issues contained herein.

➔Section 6. In furtherance of the goal of this Resolution to ensure that the consequences of environmental regulations are more fully considered prior to them taking effect, the Kentucky General Assembly additionally urges the United States Congress to pass legislation to require the United States Environmental Protection Agency to appear before a congressional committee to discuss any proposed rule or regulation along with any associated guidance document and to require that the committee's approval be a prerequisite to that rule or regulation becoming effective.

➔Section 7. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof and to designate a study completion date.

**Signed by Governor March 30, 2015.**

## CHAPTER 80

**( SB 107 )**

AN ACT relating to health providers.

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

➔Section 1. KRS 205.8477 is amended to read as follows:

(1) Each ***Medicaid provider, other than an individual practitioner or group of practitioners, fiscal agent that processes or pays vendor claims on behalf of the Medicaid agency, and managed care entity***~~[health facility and health service as defined in KRS 216B.015 and each provider, participating in the Medical Assistance Program]~~ shall~~[, as a condition of participation in the Medical Assistance Program,]~~ file ***a disclosure***~~[annually]~~ with the Cabinet for Health and Family Services ***in accordance with 42 C.F.R. 455.104***~~[the names and addresses of all persons having direct or indirect ownership or control interest, as defined in 42 C.F.R. 455.101, with five percent (5%) or more interest in the health facility, or health service or the business of the provider and those Medical Assistance Program participating health facilities or health services with which the reporting provider, or health facility, or health service engages in a significant business transaction or a series of transactions that during any one (1) fiscal year, exceed the lesser of twenty-five thousand dollars ($25,000) or five percent (5%) of the total operating expenses of the provider, or health facility, or health service. The list of names and addresses shall be made available by the cabinet for public inspection during regular business hours and shall be updated annually]~~.

(2) Each owner of or direct financial investor in any health facility or health service which dispenses or supplies drugs, medicines, medical devices, or durable medical equipment to a patient shall ~~[annually ]~~file ***a disclosure*** with the Cabinet for Health and Family Services ***of*** the names and addresses of any immediate family member

who is authorized under state law to prescribe drugs or medicines or medical devices or equipment.

***(3) Each provider shall, as a condition of participation in the Medical Assistance Program, file a disclosure with the Cabinet for Health and Family Services in accordance with 42 C.F.R. 455.105 relating to business transactions and in accordance with 42 C.F.R. 455.106 relating to information on persons convicted of crimes.***

***(4) Disclosures required under this statute shall be provided at any of the following times or as otherwise provided by law:***

***(a) Upon submitting a provider application;***

***(b) Upon executing a provider agreement;***

***(c) Upon request of the Cabinet for Health and Family Services during a provider's revalidation of enrollment;***

***(d) Within thirty-five (35) days after any change in ownership of a health facility or health service, fiscal agent, or managed care entity;***

***(e) Upon the submission of a proposal in accordance with the state's procurement process by a fiscal agent or by a managed care entity;***

***(f) Upon execution, renewal, or extension of a contract by the state with a fiscal agent or a managed care entity; or***

***(g) Upon written request within thirty-five (35) days by the Cabinet for Health and Family Services.***

➔Section 2. KRS 212.786 is amended to read as follows:

(1) The independent district board of health shall be ***composed***~~[comprised]~~ of the following members:

***(a)*** The judge/executive or his designee as an ex officio member from each participating county***;***~~[,]~~

***(b)*** The chairman from each participating local board of health as an ex officio member***; and***~~[,]~~

***(c)*** Additional members appointed by the judge/executive with the approval of the ***fiscal court***~~[local board of health]~~ including, at least to the extent practicable, ***from the following professions:***

***1. Registered nurses;***

***2. Licensed veterinarians;***

***3. Licensed dentists;***

***4. Licensed physicians;***

***5. Licensed podiatrists;***

***6. Licensed optometrists;***

***7. Mental health professionals;***

***8. Public health professionals;***

***9. Consumers; and***

***10. Licensed pharmacists***~~[ twenty-five percent (25%) who shall be licensed physicians, ten percent (10%) who shall be licensed dentists, twenty-five percent (25%) who shall be licensed registered nurses, ten percent (10%) who shall be licensed veterinarians, ten percent (10%) who shall be pharmacists, and twenty percent (20%) who shall be consumer members]~~.

***The appointments under paragraph (c) of this subsection shall be made taking into consideration the need for a balanced representation on the board of the professions listed under paragraph (c) of this subsection.*** Each member shall serve a term of two (2) years with a maximum of three (3) consecutive terms, except ex officio members who shall continue to serve.

(2) The judge/executive, or his designee and the chairman of the local board of health shall serve as ex officio members of the district board of health. Additional appointments shall be based on population. Each county shall have an appointment of one (1) member for ***thirty thousand (30,000)***~~[fifteen thousand (15,000)]~~ population or portion thereof. Additional members shall be at a rate of one (1) member per whole increment of ***thirty thousand (30,000)***~~[fifteen thousand (15,000)]~~ population. The mayor of each city containing a

population equal to or greater than fifteen thousand (15,000) based upon the most recent federal decennial census, or his or her designee, shall serve as an ex officio member of the district board of health and shall count against the population-based appointees.

(3) ***All appointments made prior to the effective date of this Act shall remain unaffected, and the appointed members shall serve the remainder of their terms. The most recent estimates published by the United States Department of Commerce, Bureau of the Census shall be used for appointments based on population made after the effective date of this Act***~~[The original appointments by the judge/executive to the board shall be made within thirty (30) days of July 13, 1990. One-half (1/2), or the nearest portion thereof, shall be appointed for a term to expire June 30, 1991 and one-half (1/2), or the nearest portion thereof, shall be appointed for a term to expire June 30, 1992. All subsequent appointments and successors shall be appointed in accordance with the provisions of this section]~~.

(4) The judge/executive shall fill all vacancies occurring by reason of death, resignation, or disqualification and do so for the unexpired term.

➔Section 3. KRS 212.784 is amended to read as follows:

(1) Independent district departments of health shall be governed by an independent district board of health which shall be a body politic and corporate. The board shall have jurisdiction throughout the counties, including within all municipalities of the counties with respect to and in accordance with the provisions of KRS 212.780 to 212.794. The board may, in its corporate name, sue and be sued, contract and be contracted with, acquire real, personal, and mixed property by deed, purchase, gift, devise, lease, or otherwise, and mortgage, pledge, sell, convey, or otherwise dispose of same. The board may make appropriate rules and regulations and do all things reasonable or necessary in order to carry out the work and to properly perform the duties intended as required under the provisions of KRS 212.780 to 212.794 ***except that the board shall not adopt, unless otherwise provided by law, rules and regulations in conflict with state laws or administrative regulations***. The title to all property acquired for purposes of KRS 212.780 to 212.794 whether real, personal, and mixed, or whether acquired by deed, gift, purchase, devise, or otherwise, shall vest in the board and shall be exempt from taxation. When and after the board and department established under the provisions of KRS 212.782 are organized, and except as otherwise provided herein, the board and department shall succeed to and be vested with all of the functions, obligations, powers, duties, immunities, and privileges now being exercised by the district board of health and district department of health, and thereupon the district board of health and district department of health shall cease to exist and all laws and amendments to any such laws, relating to and governing the district board of health and district department of health, in conflict with the provisions of KRS 212.780 to 212.794 shall, to the extent of such conflict, stand and be repealed.

(2) When an independent district board of health is created pursuant to KRS 212.782, all powers and duties of the previous district board of health and local boards of health, except as otherwise provided in KRS 212.780 to 212.794, are transferred to the newly created independent district board of health and independent district department of health. Independent district boards of health and independent district departments of health established under KRS 212.782 shall succeed to and be vested with all the functions, powers, obligations, duties, immunities, and privileges exercised by a district health department and local board of health.

**Signed by Governor March 30, 2015.**

## CHAPTER 81

**( SB 193 )**

AN ACT relating to bond transactions.

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

➔Section 1. KRS 45A.850 is amended to read as follows:

(1) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) or more underwriters and one (1) or more bond counsel firms shall be chosen for each of the following agencies:

1. Turnpike Authority of Kentucky;

2. Kentucky Housing Corporation;

3. Kentucky Infrastructure Authority;

4. Kentucky Higher Education Student Loan Corporation;

5. Kentucky River Authority;

6. Kentucky Agricultural Finance Corporation;

7. Kentucky Local Correctional Facilities Construction Authority;

8. State Property and Buildings Commission; and

9. Kentucky Public Transportation Infrastructure Authority.

(b) The underwriter and the bond counsel chosen for each agency shall provide their services for all bond issuances over a period of twelve (12) months from their selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(2) (a) Pursuant to KRS 45A.853 and 45A.857, one (1) or more underwriters and one (1) or more bond counsel firms shall be chosen to provide their services for all of the following agencies:

1. School Facilities Construction Commission;

2. Murray State University;

3. Western Kentucky University;

4. University of Louisville when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;

5. Northern Kentucky University;

6. Kentucky State University;

7. University of Kentucky when it declines to exercise the authority granted under KRS 164A.585(1) and 164A.605;

8. Morehead State University;

9. Eastern Kentucky University; and

10. Kentucky Community and Technical College System.

(b) The underwriter and the bond counsel chosen for all of the agencies shall provide their services for all bond issuances of the agencies for a period of twelve (12) months from the underwriter's and the bond counsel's selection. At the conclusion of the twelve (12) month period, the executive director may continue the employment of the underwriter or the bond counsel, on the same terms and conditions, for another twelve (12) month period. If the employment is not continued, the choosing of an underwriter or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(3) Pursuant to KRS 45A.853 and 45A.857, one (1) or more financial advisors, managing underwriters, and remarketing agents and one (1) bond counsel shall be chosen for the Kentucky Asset/Liability Commission. The commission shall enter into agreements with the individuals or entities for a maximum contract period of twenty-four (24) months. At the conclusion of the contract period, the executive director may continue the employment of the financial advisor, underwriter, remarketing agent, or bond counsel for another contract period, not to exceed twenty-four (24) months. If the employment is not continued or terminated, the selection of a financial advisor, underwriter, remarketing agent, or bond counsel, as appropriate, shall be conducted pursuant to KRS 45A.853 and 45A.857.

(4) The office may select national comanaging underwriters and Kentucky comanaging underwriters who shall provide national and local marketing expertise for bond issuances. The executive director shall recommend to the secretary of the Finance and Administration Cabinet the number of national and Kentucky comanaging underwriters, if any, to be utilized on each bond issuance. The executive director shall consider the following issues when making the recommendations:

(a) Principal amount of bonds being issued;

(b) Structure of the bond issue; and

(c) Composition of expected buyers of the bonds.

Kentucky comanaging underwriters shall be selected pursuant to a request for proposals. National comanaging underwriters shall be selected pursuant to an administrative regulation promulgated by the office. ***For specific bond transactions under subsection (1) of this section, the executive director may recommend to the secretary of the Finance and Administration Cabinet as a managing underwriter the Kentucky underwriter which received the highest score for its proposal pursuant to this section.*** Comanaging underwriters selected pursuant to this subsection shall provide their services to a bond issuing agency as needed over the appropriate period of time stated in this section.

***(5) If the executive director recommends to the secretary of the Finance and Administration Cabinet a Kentucky underwriter as provided by subsection (4) of this section and the secretary orders that procurement proceed pursuant to KRS 45A.857, the requirements, review, and recommendation of the Capital Projects and Bond Oversight Committee as provided by KRS 45.810 shall apply.***

**Signed by Governor March 30, 2015.**

## CHAPTER 82

**( SB 54 )**

AN ACT relating to drug-dependent newborns.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

***Substance abuse treatment or recovery service providers that receive state funding shall give pregnant women priority in accessing services and shall not refuse access to services solely due to pregnancy as long as the provider's services are appropriate for pregnant women.***

➔Section 2. KRS 625.050 is amended to read as follows:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ..., a child."

(2) The petition shall be filed in the Circuit Court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(3) Proceedings for involuntary termination of parental rights may be initiated upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or Commonwealth's attorney**,** or ***a*** parent.

(4) The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and mailing address of each petitioner;

(b) Name, sex, date of birth and place of residence of the child;

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of the person, cabinet or agency having custody of the child;

(g) Name and identity of the person, cabinet or authorized agency to whom custody is sought to be transferred;

(h) Statement that the person, cabinet or agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(5) No petition may be filed under this section prior to five (5) days after the birth of the child.

***(6) No petition may be filed to terminate the parental rights of a woman solely because of her use of a nonprescribed controlled substance during pregnancy if she enrolls in and maintains substantial compliance with both a substance abuse treatment or recovery program and a regimen of prenatal care as recommended by her health care practitioner throughout the remaining term of her pregnancy. Upon certified completion of the treatment or recovery program, or six (6) months after giving birth during which time substantial compliance with a substance abuse treatment or recovery program has occurred, whichever is earlier, any records maintained by a court or by the cabinet relating to a positive test for a nonprescribed controlled substance shall be sealed and may not be used in any future criminal prosecution or future petition to terminate the woman's parental rights.***

**Signed by Governor March 30, 2015.**

## CHAPTER 83

**( HJR 134 )**

A JOINT RESOLUTION directing the Department of Housing, Buildings and Construction to create a task force representing stakeholders to study the options available to enforce the Kentucky Residential Building Code statewide.

WHEREAS, the Kentucky Residential Building Code was created by the Kentucky General Assembly in 1980; and

WHEREAS, the Kentucky Residential Building Code is a Uniform Code across the Commonwealth; and

WHEREAS, the current statute requires enforcement of the Kentucky Residential Building Code by local option with implementation through a county or city ordinance; and

WHEREAS, currently only one-half of Kentucky's counties enforce the Kentucky Residential Code which results in newly constructed homes in one-half of the Commonwealth going without structural inspections; and

WHEREAS, all other aspects of new homes are inspected statewide, including the electrical, plumbing, and heating and cooling, but not the structure; and

WHEREAS, stakeholders may include but not be limited to the Home Builders Association of Kentucky, the Code Administrators Association of Kentucky, the Kentucky Association of Realtors, the Kentucky Bankers Association, the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Insurance Institute, and the Kentucky Housing Corporation; and

WHEREAS, Kentuckians deserve the comfort level of knowing their newly purchased home is structurally sound;

NOW, THEREFORE,

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

➔Section 1. The Department of Housing, Buildings and Construction shall create a task force of stakeholder organizations to study the feasibility of providing structural inspections of all new homes statewide.

➔Section 2. In undertaking this study the Department of Housing, Buildings and Construction shall specifically address the following issues:

(1) How to allow the cities and counties to have the option of providing new home inspections and, if they

choose not to create a building department, how the state can provide those inspections where local governments do not;

(2) Costs involved in creating such a system of statewide inspections;

(3) The effects of such a system on home builders, cities, counties, banks, and insurance companies; and

(4) Any similar programs in other states;

➔Section 3. The Department of Housing, Buildings and Construction shall present its report to the Interim Joint Committee on Local Government by November 30, 2015.

**Signed by Governor March 30, 2015.**

## CHAPTER 84

**( HJR 100 )**

A JOINT RESOLUTION honoring the aerospace/aviation products manufacturing industry upon becoming the top exporting industry in the Commonwealth, and directing a study of the economic impact of the overall aerospace/aviation industry in the Commonwealth.

WHEREAS, in February 2014, the Governor announced that the value of annual Kentucky exports had broken records for the third consecutive year; and that aerospace products manufactured in Kentucky led the Commonwealth's export growth with $5.6 billion worth of exports in 2013, just surpassing the value of exported motor vehicles and motor vehicle parts; and

WHEREAS, as of 1998, the aerospace/aviation sector was a $10 billion industry in Kentucky that employed over 100,000 people; and

WHEREAS, the number of people employed in the private aerospace/aviation products manufacturing industry in Kentucky has increased by 63 percent since 2002, with a corresponding 100 percent increase in the establishment of aerospace companies; and

WHEREAS, the availability of passenger travel and commercial/industrial freight shipping through the state's six primary air carrier and 53 general aviation airports, along with work currently performed at Kentucky-based plants such as Messier-Bugatti-Dowty in Walton, Mazak Corporation in Florence, Indy Honeycomb in Covington, Meyer Tool, Incorporated in Erlanger, GE Engine in Madisonville, Meggitt Aircraft Braking Systems in Danville, Roll Forming Corporation in Shelbyville, and Lockheed-Martin-Bluegrass Station in Lexington, has helped cement this industry among the state's economic fabric, not only creating direct high-paying jobs but also solidifying the Commonwealth as a destination for aerospace/aviation manufacturers and others that see the Bluegrass State as a potential location to expand their businesses and create new jobs; and

WHEREAS, in 2014, a portion of the Commonwealth was recognized by the federal government for the strength and potential of its aerospace/aviation manufacturing sector by being designated as part of the "Southwestern Ohio Aerospace Regional Manufacturing Community," a status that brings with it opportunities for greater development assistance and funding from various federal agencies as part of the "Investing in Manufacturing Communities Partnership" program of the United States Economic Development Administration; and

WHEREAS, the strength of aerospace and aviation in Kentucky has created a need for greater public awareness of this thriving industry as well as more education and training opportunities for employment in this field; and while there are only 98 high schools across the United States that teach aerospace and aviation skills, 28 of those high schools are in Kentucky, placing the students of the Commonwealth at the forefront of this industry of the future; and

WHEREAS, many of the Commonwealth's postsecondary institutions are working to ensure that future generations of Kentuckians are knowledgeable about aerospace, aviation, and advanced manufacturing methods, and that proper workforce training is available for aerospace, aviation, and manufacturing companies seeking to locate in Kentucky; and

WHEREAS, Eastern Kentucky University's Professional Pilots Program, the Space Science Center at Morehead State University in partnership with NASA and other aerospace agencies worldwide, the University of

Kentucky, Somerset Community College's Aviation Maintenance Tech Program, Embry-Riddle University, and Jefferson Community College collectively offer undergraduate and advanced degrees that make Kentucky the standard-bearer in the field of aerospace and aviation education; and

WHEREAS, the National Air & Space Academy, a nonprofit educational organization based at Bowman Field in Louisville, is working with member high schools, airports, and others, including 28 high schools in Kentucky, as America's leading provider of aeronautic and aerospace-based educational programs for high school students that develop and promote proficiency in the science, technology, engineering, and mathematics subjects, or STEM, producing college and career-ready graduates prepared to become the next generation of aerospace workers through interactive, challenging, hands-on approaches to learning that are engaging and proven effective; and

WHEREAS, over 5,000 children have been taught the science and physics of flight through the official Aviation Museum of Kentucky, and the history of Kentuckians in aerospace and aviation through the official Kentucky Aviation Hall of Fame at the Blue Grass Airport; and

WHEREAS, the aerospace/aviation industry continues to be a vital part of Kentucky's economy, its education, and its culture; and the strength of the industry and the essential role it plays in the lives of so many Kentuckians is a testament to its future in this Commonwealth;

NOW, THEREFORE,

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

➔Section 1. The General Assembly honors the aerospace/aviation products manufacturing industry upon becoming the top exporting industry in the Commonwealth.

➔Section 2. The Transportation Cabinet, the Cabinet for Economic Development, and the Commission on Military Affairs are directed to cooperatively study the economic impact of the overall aerospace/aviation industry in the Commonwealth, pursuant to this Resolution, and to report their findings to the Governor and the Legislative Research Commission.

➔Section 3. For its part, the Transportation Cabinet shall study the general aviation airport system in the Commonwealth, examining various aspects of the general aviation airport network, including but not limited to:

(1) Inventorying and categorizing the existing facilities, infrastructure, and based aircraft, noting deficiencies, and providing suggestions for improvements to ensure that Kentucky's general aviation airports are safe, well-maintained, and efficient, in accordance with state and federal guidelines and regulations;

(2) Documenting the contribution of the state's network of general aviation airports to the overall well-being of all Kentuckians, in terms of the number of airports, the impacts on emergency medical transportation, and disaster relief, and identifying the opportunities and benefits that these facilities provide their local communities and the general public; and

(3) Quantifying the direct economic impact general aviation airports have on their respective communities across the Commonwealth.

➔Section 4. For its part, the Cabinet for Economic Development shall study the aerospace/aviation products manufacturing industry in the Commonwealth, and related issues, including but not limited to:

(1) The number and location of aerospace/aviation products manufacturing facilities in the state, and an evaluation of the number of persons currently employed at those facilities and their levels of compensation, with a breakdown by gender where possible, as well as other economic impacts generated by the facilities;

(2) The unique needs of those manufacturers, and opportunities for state and local government agencies, including secondary and postsecondary educational institutions, to assist with meeting those needs;

(3) The status and impact of educational and workforce training programs currently available in the state that are tailored to employment in the aerospace/aviation industry, and opportunities for further development of these programs; and

(4) Opportunities for further growth and development of the entire aerospace/aviation industry in the Commonwealth, including but not limited to the possibility of expanding the Southwestern Ohio Aerospace Regional Manufacturing Community to include additional regions of the Commonwealth in the future, and other strategies for attracting and creating new high-paying jobs in the state.

➔Section 5. For its part, the Commission on Military Affairs shall evaluate military assets and infrastructure existing in the Commonwealth that may contribute to the growth and development of the commercial unmanned

aerial systems industry and other sectors of the aerospace/aviation industry. The commission shall develop recommendations that the Commonwealth may pursue, with the United States Department of Defense and others, in order to capitalize on the presence of Fort Campbell, Fort Knox, and other installations in the state, and to support further development of the aerospace/aviation industry in Kentucky.

➔Section 6. Each agency shall be responsible for its identified portion of the overall study, and shall from time to time, prior to the completion of the joint final report, update the General Assembly or committees thereof as to the on-going status of the study.

➔Section 7. In furtherance of this study, the Transportation Cabinet, Cabinet for Economic Development, and Commission on Military Affairs, shall each work cooperatively with one another, and with federal, state, and local government agencies, private industry groups, educational institutions, and other interested parties, as necessary, and shall each seek all available sources of funding from these and other groups to defray the costs of their respective portions of the study. Upon request as part of the study efforts, the Education and Workforce Development Cabinet, the Kentucky Department of Education, and the Council on Postsecondary Education shall each cooperate with, and make information and data available to, the Cabinet for Economic Development.

➔Section 8. The Clerk of the House of Representatives is directed to transmit one copy of this Resolution to the Honorable Mike Hancock, Secretary of the Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622; one copy to the Honorable Larry Hayes, Secretary of the Cabinet for Economic Development, 300 West Broadway, Frankfort, Kentucky 40601; and one copy to Colonel David E. Thompson (USA, Retired), Executive Director and Chair of the Commission on Military Affairs, 700 Capital Avenue, Suite 105, Frankfort, Kentucky 40601.

**Signed by Governor March 30, 2015.**

## CHAPTER 85

**( HB 543 )**

AN ACT relating to surface coal mining.

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

➔Section 1. KRS 350.020 is amended to read as follows:

The General Assembly finds that the Commonwealth is the leading producer of coal and that the production of coal in Kentucky contributes significantly to the nation's energy needs. The General Assembly further finds that unregulated surface coal mining operations cause soil erosion, damage from rolling stones and overburden, landslides, stream pollution, the accumulation of stagnant water and the seepage of contaminated water, increase the likelihood of floods, destroy the value of land for agricultural purposes, destroy aesthetic values, counteract efforts for the conservation of soil, water and other natural resources, destroy or impair the property rights of citizens, create fire hazards, and in general create hazards dangerous to life and property, so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth. The General Assembly further finds that lands that have been subjected to surface coal mining operations and have not been reclaimed and rehabilitated in accordance with modern standards constitute the aforementioned perils to the welfare of the Commonwealth. The General Assembly further finds that there are wide variations in the circumstances and conditions surrounding and arising out of surface coal mining operations due primarily to difference in topographical and geological conditions, and by reason thereof it is necessary, in order to provide the most effective, beneficial and equitable solution to the problem, that a broad discretion be vested in the authority designated to administer and enforce the regulatory provisions enacted by the General Assembly. The General Assembly further finds that governmental responsibility for regulating surface coal mining operations rests with state government and hereby directs the Energy and Environment Cabinet to take all actions necessary to preserve and exercise the Commonwealth's authority, to the exclusion of all other governmental entities except the Commonwealth and agencies thereof and except as provided in KRS Chapter 100~~[, and any county surface mining regulation contained within a zoning ordinance adopted prior to April 1, 1988, in regulating surface coal mining operations]~~. Therefore, it is the purpose of this chapter to provide such regulation and control of surface coal mining operations as to minimize or prevent injurious effects on the people and resources of the Commonwealth. To that end, the cabinet is directed to rigidly enforce this chapter and to adopt whatever administrative regulations are found necessary to accomplish the purpose of this chapter.

➔Section 2. The amendments provided for in Section 1 of this Act shall not relate to permit actions or the bonds required thereby in effect prior to the effective date of this Act.

**Signed by Governor March 30, 2015.**

## CHAPTER 86

**( HB 465 )**

AN ACT relating to insurance contracting standards for eye health care.

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

➔Section 1. KRS 304.17A-173 is amended to read as follows:

***(1)*** Any ***insurer issuing or renewing a*** health benefit plan issued or renewed on or after July 12, 2006, which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same ***reimbursement for services***~~[payment for coverage]~~ to optometrists as allowed for those services rendered by physicians or osteopaths.

***(2) An insurer shall not require an optometrist to meet terms and conditions that are not required of a physician or osteopath as a condition for participation in its provider network for the provision of services that are within the scope of practice of an optometrist.***

***(3) The provisions of subsections (1) and (2) of this section shall also apply to any agreements an insurer enters into to provide services covered under the health benefit plan.***

***(4) An insurer shall not require an optometrist, physician, or osteopath to contract with a vision care plan licensed under Subtitle 17C of KRS Chapter 304 as a condition for participation in the health care network of the insurer to provide covered medical services to its enrollees.***

**Signed by Governor March 30, 2015.**

## CHAPTER 87

**( HB 407 )**

AN ACT relating to reorganization.

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

➔Section 1. KRS 2.108 is amended to read as follows:

(1) The Hurricane Creek coal mine site in Leslie County, at which thirty-eight (38) miners lost their lives on December 30, 1970, is designated as a state historic site.

(2) As funds are available, Leslie County shall construct a memorial to those who perished, which shall include but not be limited to:

(a) A monument to the miners, to be built at the mine site with the names of the thirty-eight (38) miners who lost their lives and the one (1) survivor;

(b) Informational materials about the mining disaster;

(c) Signage, off-street parking, and other features to encourage visitors; and

(d) A plan for construction and periodic maintenance of the monument site.

(3) Leslie County's fiscal court is authorized to establish a restricted account for the site, and to raise funds from federal, state, and local entities and from private sources for this account. Funds in the account shall be

expended only for the mining disaster memorial. Moneys received and expended shall be reported separately in the county's budget.

(4) The Governor shall, prior to December 30, 2010, issue a proclamation recognizing the fortieth anniversary of the Hurricane Creek mine disaster, memorializing the deceased miners and their families, and honoring the courage of all Kentucky's miners. The Governor shall call upon all citizens to observe the occasion honoring miners in communities across the Commonwealth. The Governor is authorized to recognize the mine disaster anniversary in future years, on or before December 30, through a proclamation.

(5) Working with Leslie County officials, state agencies shall provide assistance in informing the public about the site. The Tourism, Arts and Heritage Cabinet, with assistance from the Kentucky Heritage Council, the Kentucky Historical Society, the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~, and the Kentucky Mining Board, and within the limits of funds available, shall prepare and distribute information about the Hurricane Creek mining disaster, the risks which miners faced historically, and the advances in mining safety since the 1970 disaster.

➔Section 2. 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) Department for Public Advocacy.

(2) Education and Workforce Development Cabinet:

(a) Office of the Secretary.

1. Governor's Scholars Program.

(b) Office of Legal and Legislative Services.

1. Client Assistance Program.

(c) Office of Communication.

(d) Office of Budget and Administration.

1. Division of Human Resources.

2. Division of Administrative Services.

(e) Office of Technology Services.

(f) Office of Educational Programs.

(g) Office for Education and Workforce Statistics.

(h) Board of the Kentucky Center for Education and Workforce Statistics.

(i) Board of Directors for the Center for School Safety.

(j) Department of Education.

1. Kentucky Board of Education.

2. Kentucky Technical Education Personnel Board.

(k) Department for Libraries and Archives.

(l) Department of Workforce Investment.

1. Office for the Blind.

2. Office of Vocational Rehabilitation.

3. Office of Employment and Training.

a. Division of Grant Management and Support.

b. Division of Workforce and Employment Services.

c. Division of Unemployment Insurance.

(m) Foundation for Workforce Development.

(n) Kentucky Office for the Blind State Rehabilitation Council.

(o) Kentucky Workforce Investment Board.

(p) Statewide Council for Vocational Rehabilitation.

(q) Statewide Independent Living Council.

(r) Unemployment Insurance Commission.

(s) 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.

(t) Kentucky Commission on the Deaf and Hard of Hearing.

(u) Kentucky Educational Television.

(v) Kentucky Environmental Education Council.

(3) Energy and Environment Cabinet:

(a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.
2. Office of General Counsel.
3. Office of Administrative Hearings.
4. Mine Safety Review Commission.
5. Kentucky State Nature Preserves Commission.
6. Kentucky Environmental Quality Commission.
7. Kentucky Public Service Commission.

(b) Department for Environmental Protection.

1. Office of the Commissioner.
2. Division for Air Quality.
3. Division of Water.
4. Division of Environmental Program Support.
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. Division 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.
7. ***Division*** ~~[Office]~~ of Mine Safety ~~[ and Licensing]~~.
8. Division of Forestry.
9. Division of Conservation.
10. Office of the Reclamation Guaranty Fund.
11. ***Kentucky Mining Board.***

(d) Department for Energy Development and Independence.

1. Division of Efficiency and Conservation.

2. Division of Renewable Energy.
3. Division of Biofuels.
4. Division of Energy Generation Transmission and Distribution.
5. Division of Carbon Management.
6. Division of Fossil Energy Development.

(4) Public Protection Cabinet.

(a) Office of the Secretary.

1. Office of Communications and Public Outreach.
2. Office of Legal Services.
    a. Insurance Legal Division.
    b. Charitable Gaming Legal Division.
    c. Alcoholic Beverage Control Legal Division.
    d. Housing, Buildings and Construction Legal Division.
    e. Financial Institutions Legal Division.

(b) Crime Victims Compensation Board.

(c) Board of Claims.

(d) Kentucky Board of Tax Appeals.

(e) Kentucky Boxing and Wrestling Authority.

(f) Kentucky Horse Racing Commission.

1. Division of Licensing.
2. Division of Incentives and Development.
3. Division of Veterinary Services.
4. Division of Security and Enforcement.

(g) Department of Alcoholic Beverage Control.

1. Division of Distilled Spirits.
2. Division of Malt Beverages.
3. Division of Enforcement.

(h) Department of Charitable Gaming.

1. Division of Licensing and Compliance.
2. Division of Enforcement.

(i) Department of Financial Institutions.

1. Division of Depository Institutions.
2. Division of Non-Depository Institutions.
3. Division of Securities.

(j) Department of Housing, Buildings and Construction.

1. Division of Fire Prevention.
2. Division of Plumbing.
3. Division of Heating, Ventilation, and Air Conditioning.
4. Division of Building Code Enforcement.

(k) Department of Insurance.

1. Property and Casualty Division.
2. Health and Life Division.
3. Division of Financial Standards and Examination.
4. Division of Agent Licensing.
5. Division of Insurance Fraud Investigation.
6. Consumer Protection Division.
7. Division of Kentucky Access.

(l) Office of Occupations and Professions.

(5) Labor Cabinet.

(a) Office of the Secretary.

1. Division of Management Services.
2. Office of General Counsel.

(b) Office of General Administration and Program Support for Shared Services.

1. Division of Human Resource Management.
2. Division of Fiscal Management.
3. Division of Budgets.
4. Division of Information Services.

(c) Office of Inspector General for Shared Services.

(d) Department of Workplace Standards.

1. Division of Employment Standards, Apprenticeship, and Mediation.
2. Division of Occupational Safety and Health Compliance.
3. Division of Occupational Safety and Health Education and Training.
4. Division of Workers' Compensation Funds.

(e) Department of Workers' Claims.

1. Office of General Counsel for Workers' Claims.
2. Office of Administrative Law Judges.
3. Division of Claims Processing.
4. Division of Security and Compliance.
5. Division of Information and Research.
6. Division of Ombudsman and Workers' Compensation Specialist Services.
7. Workers' Compensation Board.
8. Workers' Compensation Advisory Council.
9. Workers' Compensation Nominating Commission.

(f) Workers' Compensation Funding Commission.

(g) Kentucky Labor-Management Advisory Council.

(h) Occupational Safety and Health Standards Board.

(i) Prevailing Wage Review Board.

(j) Apprenticeship and Training Council.

(k) State Labor Relations Board.

(l) Employers' Mutual Insurance Authority.

(m) Kentucky Occupational Safety and Health Review Commission.

(6) Transportation Cabinet:

(a) Department of Highways.

1. Office of Project Development.
2. Office of Project Delivery and Preservation.
3. Office of Highway Safety.
4. Highway District Offices One through Twelve.

(b) Department of Vehicle Regulation.

(c) Department of Aviation.

(d) Department of Rural and Municipal Aid.

1. Office of Local Programs.
2. Office of Rural and Secondary Roads.

(e) Office of the Secretary.

1. Office of Public Affairs.
2. Office for Civil Rights and Small Business Development.
3. Office of Budget and Fiscal Management.
4. Office of Inspector General.

(f) Office of Support Services.

(g) Office of Transportation Delivery.

(h) Office of Audits.

(i) Office of Human Resource Management.

(j) Office of Information Technology.

(k) Office of Legal Services.

(7) Cabinet for Economic Development:

(a) Office of the Secretary.

1. Office of Legal Services.
2. Department for Business Development.
   a. Office of Entrepreneurship.
      i. Commission on Small Business Advocacy.
   b. Office of Research and Public Affairs.
   c. Bluegrass State Skills Corporation.
3. Office of Financial Services.
   a. Kentucky Economic Development Finance Authority.
   b. Division of Finance and Personnel.
   c. Division of Network Administration.
   d. Compliance Division.
   e. Incentive Assistance Division.

(8) Cabinet for Health and Family Services:

(a) Office of the Secretary.

(b) Office of Health Policy.

(c) Office of Legal Services.

(d) Office of Inspector General.

(e) Office of Communications and Administrative Review.

(f) Office of the Ombudsman.

(g) Office of Policy and Budget.

(h) Office of Human Resource Management.

(i) Office of Administrative and Technology Services.

(j) Department for Public Health.

(k) Department for Medicaid Services.

(l) Department for Behavioral Health, Developmental and Intellectual Disabilities.

(m) Department for Aging and Independent Living.

(n) Department for Community Based Services.

(o) Department for Income Support.

(p) Department for Family Resource Centers and Volunteer Services.

(q) Kentucky Commission on Community Volunteerism and Service.

(r) Kentucky Commission for Children with Special Health Care Needs.

(s) Governor's Office of Electronic Health Information.

(9) 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) Office of Policy and Audit.

(f) Department for Facilities and Support Services.

(g) Department of Revenue.

(h) Commonwealth Office of Technology.

(i) State Property and Buildings Commission.

(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) Kentucky Higher Education Assistance Authority.

(t) Kentucky River Authority.

(u) Kentucky Teachers' Retirement System Board of Trustees.

(v) Executive Branch Ethics Commission.

(10) Tourism, Arts and Heritage Cabinet:

(a) Kentucky Department of Travel and Tourism.

1. Division of Tourism Services.
2. Division of Marketing and Administration.
3. Division of Communications and Promotions.

(b) Kentucky Department of Parks.

1. Division of Information Technology.
2. Division of Human Resources.
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 Resort Parks.
12. Division of Recreational Parks and Historic Sites.

(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. Office of Administrative and Information Technology Services.
2. Office of Human Resources and Access Control.
3. Division of Expositions.
4. Division of Kentucky Exposition Center Operations.

5. Division of Kentucky International Convention Center.
6. Division of Public Relations and Media.
7. Division of Venue Services.
8. Division of Personnel Management and Staff Development.
9. Division of Sales.
10. Division of Security and Traffic Control.
11. Division of Information Technology.
12. Division of the Louisville Arena.
13. Division of Fiscal and Contract Management.
14. Division of Access Control.

(f) Office of the Secretary.
1. Office of Finance.
2. Office of Research and Administration.
3. Office of Governmental Relations and Tourism Development.
4. Office of the Sports Authority.
5. Kentucky Sports Authority.

(g) Office of Legal Affairs.
(h) Office of Human Resources.
(i) Office of Public Affairs and Constituent Services.
(j) Office of Creative Services.
(k) Office of Capital Plaza Operations.
(l) Office of Arts and Cultural Heritage.
(m) Kentucky African-American Heritage Commission.
(n) Kentucky Foundation for the Arts.
(o) Kentucky Humanities Council.
(p) Kentucky Heritage Council.
(q) Kentucky Arts Council.
(r) 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.

(s) Kentucky Center for the Arts.
1. Division of Governor's School for the Arts.

(t) Kentucky Artisans Center at Berea.
(u) Northern Kentucky Convention Center.
(v) Eastern Kentucky Exposition Center.

(11) Personnel Cabinet:
(a) Office of the Secretary.

(b) Department of Human Resources Administration.

(c) Office of Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Office of Administrative Services.

(f) Office of Legal Services.

(g) Governmental Services Center.

(h) Department of Employee Insurance.

(i) Office of Diversity and Equality.

(j) Center of Strategic Innovation.

III. Other departments headed by appointed officers:

(1) Council on Postsecondary Education.

(2) Department of Military Affairs.

(3) Department for Local Government.

(4) Kentucky Commission on Human Rights.

(5) Kentucky Commission on Women.

(6) Department of Veterans' Affairs.

(7) Kentucky Commission on Military Affairs.

(8) Office of Minority Empowerment.

(9) Governor's Council on Wellness and Physical Activity.

➔Section 3. KRS 148.876 is amended to read as follows:

(1) The power of eminent domain may only be exercised to acquire land in fee within the boundaries of the trail, except that the power of eminent domain shall not be exercised to acquire any privately owned dwelling, areas designated for residential structures and their surrounding properties, or property owned or leased, including adjacent or contiguous tracts of land leased or owned or which may be acquired, for the purposes of operating an oil or gas well, surface or underground coal mine operation, or surface or underground mineral quarrying operation, if the person holds a state permit or license issued by the Energy and Environment Cabinet, Division of Mine Permits or ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~.

(2) Within the boundaries of the trail, the department may acquire, on behalf of the Commonwealth, fee title or lesser interests in land. Acquisition of land may be by gift, by purchase with donated funds, by funds appropriated by the General Assembly, by the use of proceeds from the sale of bonds, by exchange, by assumption of property tax payments, or by other authorized means. Notwithstanding the provisions in KRS 350.085(3) and 353.610, in acquiring any interests the Commonwealth or its agencies shall waive the three hundred (300) foot restriction contained in KRS 350.085(3) and boundary restrictions for a well set forth in KRS 353.610.

➔Section 4. KRS 224.10-020 is amended to read as follows:

(1) There is established within the cabinet a Department for Natural Resources, a Department for Environmental Protection, and a Department for Energy Development and Independence. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.

(2) There is established within the Department for Natural Resources a Division of Forestry, a Division of Conservation, a Division of Technical and Administrative Support, a Division of Mine Reclamation and Enforcement, a Division of Mine Permits, a Division of Abandoned Mine Lands, a Division of Oil and Gas, ***a Division of Mine Safety, and an Office of the Reclamation Guaranty Fund***~~[and an Office of Mine Safety and Licensing. There shall be established within the Office of Mine Safety and Licensing a Division of Safety Inspection and Licensing and a Division of Safety Analysis, Training, and Certification]~~. The Kentucky Mining Board is attached to the ***Department for Natural Resources***~~[Office of Mine Safety and Licensing]~~ for

administrative purposes. Each division shall be headed by a director**,** and each office shall be headed by an executive director. Directors and executive directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050, except for the director of the Division of Conservation, who shall be appointed in accordance with KRS 146.100. Both directors and executive directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(3) There is established within the Department for Environmental Protection a Division of Water, a Division for Air Quality, a Division of Waste Management, a Division of Enforcement, a Division of Compliance Assistance, and a Division of Environmental Program Support. Each division shall be headed by a director appointed by the secretary with the approval of the Governor as required by KRS 12.050. Directors shall be directly responsible to the commissioner and shall perform the functions, powers, and duties as provided by law and as prescribed by the secretary.

(4) There is established within the Department for Energy Development and Independence a Division of Energy Efficiency and Conservation, a Division of Renewable Energy, a Division of Biofuels, a Division of Energy Generation, Transmission and Distribution, a Division of Carbon Management, and a Division of Fossil Energy Development. Each division shall be headed by a director. Directors shall be appointed by the secretary with the approval of the Governor as required by KRS 12.050.

➔Section 5. KRS 304.13-412 is amended to read as follows:

(1) Any employer who is also a licensee of a coal mine that has implemented a drug-free workplace program, including an employee assistance program, certified by the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ shall be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.

(2) Each insurer authorized to write workers' compensation insurance policies shall provide the credit on the workers' compensation premium to any employer who is also a licensee of a coal mine for which the insurer has written a workers' compensation policy. The credit on the workers' compensation premium shall not:

(a) Be available to those employers that are also licensees who do not maintain their drug-free workplace program for the entire workers' compensation policy period; or

(b) Apply to minimum premium policies.

(3) The Department of Insurance shall approve workers' compensation rating plans that give a credit on the premium for a certified drug-free workplace so long as the credit is actuarially sound. The credit shall be at least five percent (5%) unless the Department of Insurance determines that five percent (5%) is actuarially unsound.

(4) The credit on the workers' compensation premium may be applied by the insurer at the final audit.

➔Section 6. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter, an owner or owners of a business, including qualified partners of a partnership owning a business, or qualified members of a limited liability company, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employee if the owner, owners, qualified partners, or qualified members of a limited liability company elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of the owners, partners, or members of a limited liability company to provide coverage for their employees, nonqualified partners, or nonqualified members, if any, required under this chapter.

(2) When an owner, owners, qualified partners, or qualified members of a limited liability company have elected to be included as employees, this inclusion shall be accomplished by the issuance of an appropriate endorsement to a workers' compensation insurance policy.

(3) For the purpose of this section, "qualified partner" or "qualified member or members" means, respectively, a partner who has entered into a meaningful partnership agreement or a member who has entered into meaningful articles of organization or a meaningful operating agreement of a limited liability company, which document shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership or limited liability company and that the partner or member has made some contribution to the partnership or limited liability company which entitles him or her to participate in the profits of the business as well as to participate in the decision-making process of the partnership or limited liability company.

(4) For the purposes of this section, "nonqualified partner" or "nonqualified member" means, respectively, a person who has entered into a partnership agreement, or articles of organization or operating agreement of a limited liability company, which document shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership or limited liability company; that the person will not participate in the decision-making of the partnership or limited liability company and will not participate in the profits and losses of the business engaged in by the partnership or limited liability company.

(5) Every partnership and limited liability company shall provide, upon the request of the commissioner or his or her representative, a copy of its partnership agreement or articles of organization for purposes of demonstrating compliance with this section and KRS 342.340. With particular reference to employers engaged in coal mining, the commissioner shall promptly report the failure to comply with the provisions of this subsection to the Energy and Environment Cabinet, Department for Natural Resources, ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~, so that appropriate action may be undertaken pursuant to KRS 351.175.

(6) For purposes of this section, a "limited liability company" means an entity defined in KRS 275.015 and organized under the provisions of KRS Chapter 275.

➔Section 7. KRS 351.010 is amended to read as follows:

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

(a) "Adulterated specimen" means a specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration;

(b) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;

(c) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(d) "Board" means the Mining Board created in KRS 351.105;

(e) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(f) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;

(g) "Commissioner" means commissioner of the Department for Natural Resources;

(h) "Department" means the Department for Natural Resources;

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(l) "Gassy mine." All mines shall be classified as gassy or gaseous;

(m) "Illicit substances" includes prescription drugs used illegally or in excess of therapeutic levels as well as illegal drugs;

(n) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(o) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(p) "Medical review officer" or "MRO" means a licensed physician with knowledge of substance abuse disorders, laboratory testing, chain of custody, collection procedures, and the ability to verify positive, confirmed test results. The MRO shall possess the necessary medical training to interpret and evaluate a

positive test result in relation to the person's medical history or any other relevant biomedical information;

(q) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;

(r) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;

(s) "Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;

(t) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;

(u) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(v) "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;

(w) "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any oncoming shift;

(x) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(y) "Serious physical injury" means an injury which has a reasonable potential to cause death;

(z) "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(aa) "Slope" means an inclined opening used for the same purpose as a shaft;

(ab) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ac) "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(ad) ***"Division" means the Division of Mine Safety***~~["Office" means the Office of Mine Safety and Licensing]~~;

(ae) ***"Director" means the director of the Division of Mine Safety***~~["Executive director" means the executive director of the Office of Mine Safety and Licensing]~~;

(af) "Probation" means the status of a certification or license issued by the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~ that conditions the validity of the certification or license upon compliance with orders of the Mine Safety Review Commission; and

(ag) "Final order of the commission" means an order which has not been appealed to the Franklin Circuit Court within thirty (30) days of entry, or an order affirming the commission's order that has been entered by any court within the Commonwealth and for which all appeals have been exhausted.

(2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.

(3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

➔Section 8. KRS 351.025 is amended to read as follows:

The department shall:

(1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed

premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. These criteria shall include but not be limited to the following:

(a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;

(b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars ($10,000); and

(c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;

(2) Notwithstanding KRS 351.070(15), promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises for violations of mine safety laws that place miners in imminent danger of serious injury or death. These penalties shall include but not be limited to the revocation or suspension of the mine's license, the probation of a mine's license, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;

(3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;

(4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners and for reports made to the ***division*** ~~[Office of Mine Safety and Licensing]~~ under KRS 351.193;

(5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to the Mine Safety Review Commission for adjudication and for the hearing of appeals from penalties imposed by the ***division*** ~~[Office of Mine Safety and Licensing]~~, and the underlying violation, authorized under KRS 351.070(15); and

(6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

➔Section 9. KRS 351.030 is amended to read as follows:

(1) All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B and this section. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his or her employer for testifying, or for his failure to testify, at these hearings.

(2) The executor or administrator of a deceased miner's estate, or his or her designee, in the case of a fatality, miners that are injured as a result of an accident, and miners that are significantly affected by the conduct that gave rise to a disciplinary proceeding shall be granted the right of intervention in the penalty phase of that proceeding. The petition for intervention shall be made in accordance with KRS 13B.060(3). All hearings before the Mine Safety Review Commission shall be open proceedings. Any party with pertinent information regarding a mine accident may submit that information directly to the ***division's*** ~~[Office of Mine Safety and Licensing's]~~ chief accident investigator.

➔Section 10. KRS 351.060 is amended to read as follows:

(1) The ~~[executive ]~~director of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ shall be a citizen of Kentucky and shall be thoroughly familiar with all methods of safety pertaining to the operation of mines.

(2) The ~~[executive ]~~director shall have a practical knowledge of:

(a) The different systems of working and ventilating coal mines;

(b) The nature, chemistry, and properties of noxious, poisonous, and explosive gases, the dangers due to these gases, and the prevention of these dangers;

(c) The dangers incident to blasting and the prevention of these dangers;

(d) The methods for the management and extinguishment of mine fires;

(e) The methods for rescue and relief work in mine disasters;

(f) The application of electricity in mining operations;

(g) The application of mechanical loading in mining operations;

(h) The equipment and explosives manufactured for use in coal mines;

(i) The methods used in locating oil and gas wells when drilled through any coal seam;

(j) The proper manner of drilling and plugging oil and gas wells;

(k) Mining engineering; and

(l) The methods for the prevention of explosions in mines due to gas or dust.

(3) The ~~[executive ]~~director shall be capable of efficiently reporting on any proposed development in mining operations or the possibility of operating any coal or clay seam.

(4) The ~~[executive ]~~director shall hold a mine inspector's ***or mine safety specialist's*** certificate.

➔Section 11. KRS 351.070 is amended to read as follows:

(1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine ***safety specialists***~~[ inspectors]~~ and other personnel of the department. There is created within the Department for Natural Resources ***a Division of Mine Safety***~~[an Office of Mine Safety and Licensing]~~.

(2) The secretary shall appoint ***a***~~[an executive]~~ director to the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~ in accordance with KRS 224.10-020(2) and prescribe his ***or her*** powers and duties.

(3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection ***regions***~~[districts]~~ as necessary, so as to equalize as nearly as practicable the work of each ***mine safety specialist***~~[inspector]~~, and may assign to the ***specialists***~~[inspectors]~~ their respective ***regions***~~[districts]~~.

(4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine ***safety specialists***~~[inspectors]~~ or change ***specialists***~~[inspectors]~~ from one (1) ***region***~~[district]~~ to another.

(5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.

(6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.

(7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.

(8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.

(9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.

(10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

(11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.

(12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.

(13) The secretary of the Energy and Environment Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the

secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.

(14) The commissioner shall ascertain the cause or causes of any coal mining fatality and any accidents involving serious physical injury and, within sixty (60) days of completion of the investigation, shall report his or her findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. Accident interviews conducted by the ***division*** ~~[Office of Mine Safety and Licensing]~~ shall be closed proceedings. The recommendations may include without being limited to the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality. Effective January 1, 2009, the ***division*** ~~[Office of Mine Safety and Licensing]~~ shall appoint an existing full-time employee to act as a family liaison. The family liaison shall have the responsibility during an accident investigation to keep the families of miners informed of the progress and findings of the accident investigation. The family liaison shall be trained in mining and in grief counseling.

(15) The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans, mine seal construction plans, unsafe working conditions, and mine ventilation plans that could lead to imminent danger or serious physical injury. The Energy and Environment Cabinet shall promulgate administrative regulations within ninety (90) days of July 12, 2006, providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars ($5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under KRS 351.025(2) for imposing penalties against licensed facilities.

➔Section 12. KRS 351.090 is amended to read as follows:

(1) The Governor shall appoint an adequate number of mine ***safety specialists*** ~~[inspectors]~~ to ensure at least two (2) inspections annually at all surface mines, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional ***mine safety specialists*** ~~[inspectors]~~ to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners; except the commissioner shall inspect all underground coal mines not less than six (6) times annually. Two (2) of the six (6) general inspections of underground mines shall be full electrical inspections. One (1) or more of the appointees shall be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety ***specialists to perform safety analysis and safety instruction*** ~~[analysts and mine safety instructors]~~. The term of office of each mine ***safety specialist*** ~~[inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor]~~ shall be during the period of capable, efficient service and good behavior.

(2) All mine ***safety specialists*** ~~[inspectors, mine safety analysts, electrical inspectors, and mine safety instructors]~~ shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. ~~[All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. ]~~For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.

(3) No person shall be appointed to the office of mine ***safety specialist*** ~~[inspector, underground mine safety analyst, electrical inspector, or mine safety instructor]~~ unless he ***or she*** holds a current mine foreman's certificate. ~~[No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. ]~~A person appointed as mine ***safety specialist*** ~~[inspector, mine safety analyst, electrical inspector, and mine safety instructor]~~ shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine ***safety specialist*** ~~[inspector, mine safety analyst, electrical inspector, or mine safety instructor]~~ who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

(4) Mine ***safety specialists*** ~~[inspectors, mine safety analysts, electrical inspectors, and mine safety instructors]~~ shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.

(5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by ***mine safety specialists*** ~~[inspectors, analysts, and safety instructors]~~ who shall verify upon oath that the expenses were incurred in the discharge of their official duties.

(6) Each mine ***safety specialist*** ~~[inspector, mine safety analyst, electrical inspector, and mine safety instructor]~~ shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.

(7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

(8) Each mine ***safety specialist*** ~~[inspector, mine safety analyst, electrical inspector, and mine safety instructor]~~ shall provide authorization to the ***division*** ~~[Office of Mine Safety and Licensing]~~ to perform a criminal background check by means of a fingerprint check by the Department of Kentucky State Police. The results of the state criminal background check shall be sent to the ~~[executive]~~ director of the ***division*** ~~[Office of Mine Safety and Licensing]~~. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

➔Section 13. KRS 351.102 is amended to read as follows:

(1) No person shall be assigned mining duties by a licensee as a laborer or supervisor unless the person holds a valid certificate of competency and qualification or a valid permit as trainee issued in accordance with this section.

(2) The ***division*** ~~[Office of Mine Safety and Licensing]~~ shall require that all applicants for certified miner and initial applicants for other mining certifications pursuant to this chapter shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with KRS 351.182 and 351.183.

(3) A permit as trainee miner shall be issued by the commissioner to any person who has submitted proof that he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183, and has completed a program of education of a minimum of forty (40) hours for underground mining or twenty-four (24) hours for surface mining comprised of sixteen (16) hours of classroom training and eight (8) hours of mine specifics or who has completed a certified mine technology program and has passed an examination approved by the commissioner. An additional eight (8) hours of mine-specific training shall be administered to the trainee miner by the licensee, which training shall be documented on a form approved by the commissioner. This education and training program shall be determined and established by the board, as provided in KRS 351.106. A requirement for a permit as a trainee miner shall be one (1) hour of classroom training dedicated to alcohol and substance abuse education.

(4) Trainee miners shall work within the sight and sound of a certified miner.

(5) Any miner holding a certificate of competency and qualification may have one (1) person working with him and under his direction as a trainee miner. Any person certified as a mine foreman or assistant mine foreman shall have no more than five (5) persons working under his supervision or direction as trainee miners for the purpose of learning and being instructed in the duties of underground coal mining.

(6) A certificate of competency and qualification as a miner shall be issued by the commissioner to any person who has a minimum of forty-five (45) working days' experience within a thirty-six (36) month period as a trainee miner and demonstrated competence as a miner. Any trainee miner who exceeds six (6) months in obtaining the forty-five (45) working days of experience required in this section, shall submit proof of alcohol- and drug-free status in accordance with the provisions of KRS 351.182 and 351.183.

(7) All examinations for the certification of a miner shall be of a practical nature and shall determine the competency and qualification of the applicant to engage in the mining of coal with reasonable safety to himself and his fellow employees. The examination may be given orally, upon approval by the commissioner, if the miner is unable to read or comprehend a written examination.

(8) Examinations shall be held in any ***regional*** ~~[district]~~ office during regular business hours.

(9) If the commissioner or his authorized representative finds that an applicant is not qualified and competent, he shall notify the applicant as soon as possible, but in no case more than thirty (30) days after the date of examination.

(10) Any applicant aggrieved by an action of the commissioner or his authorized representative in failing or refusing to issue a certificate of qualification and competency shall, within ten (10) days of notice of the action complained of, appeal to the commissioner who shall either affirm the action or issue the certificate to the

applicant.

(11) If the applicant is aggrieved by the action of the commissioner, he may appeal to the commission which shall hold a hearing on the matter in accordance with KRS Chapter 13B.

(12) The applicant may appeal from the final order of the commission by filing in the Franklin Circuit Court a petition for appeal in accordance with KRS Chapter 13B.

➔Section 14. KRS 351.1055 is amended to read as follows:

(1) There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Energy and Environment Cabinet.

(2) The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations annually to the ~~[executive ]~~director of the ***division***~~[Office of Mine Safety and Licensing]~~ and the Interim Joint Committee on Natural Resources and Environment regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. Subject to budgetary constraints and approval by the United States Mine Safety and Health Administration (MSHA), if there is no existing law to the contrary, the commissioner may implement the recommendations of the panel. Based on the recommendations provided by the panel, the~~[ executive]~~ director shall comprise a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.

(3) The panel shall meet at the call of the chair. The chair of the panel shall be the ~~[executive ]~~director of ***the division*** ~~[mine safety and licensing]~~. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.

(4) The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after July 12, 2006:

(a) One (1) member shall represent the National Institute of Occupational Safety and Health;

(b) One (1) member shall represent the federal Mine Safety and Health Administration;

(c) One (1) member shall represent the coal industry;

(d) One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;

(e) One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and

(f) One (1) member shall be the ~~[executive ]~~director of the ***division***~~[Office of Mine Safety and Licensing]~~.

(5) ~~[The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. ]~~Periodically, the panel shall review and make recommendations to the ~~[executive ]~~director on changes to or innovations in mine safety equipment that could be deployed in coal mines.

➔Section 15. KRS 351.105 is amended to read as follows:

(1) The Mining Board is created.

(2) The board shall be made up of eight (8) persons, all of whom shall be citizens of Kentucky and from the coal industry in Kentucky. The board's membership shall reflect a fair representation from eastern Kentucky and western Kentucky, large and small operations, and union and nonunion coal production. The Governor shall appoint the members of the board to include:

(a) Three (3) members representing management; the Alliance of Kentucky Coal shall submit three (3) nominees for each management position on the board;

(b) Three (3) members representing labor; the United Mine Workers of America shall submit three (3) nominees for each labor position on the board;

(c) One (1) citizen member with knowledge of mining who is not a coal operator and is not employed in a supervisory or nonsupervisory position in a mine; and

(d) The director of the Division of ***Mine Safety or his or her designee***~~[Safety Analysis, Training, and~~

~~Certification]~~.

The board shall elect one (1) of its members to serve as chairman. The director ***or his or her designee*** ~~[of the Division of Safety Analysis, Training, and Certification]~~ shall be a nonvoting member.

(3) Excluding the citizen member and the director ***or his or her designee*** ~~[of the Division of Safety Analysis, Training, and Certification]~~, initial appointments to the board shall be made in the following manner and shall reflect equal representation as to number and term regarding both the management and the labor positions: two (2) members for a period of two (2) years; two (2) members for a period of three (3) years; and two (2) members for a period of four (4) years. After the initial appointments, members of the board shall be appointed to four (4) year terms. The citizen member shall be appointed for a term of four (4) years. Members of the board may be reappointed at the expiration of their previous appointment at the pleasure of the Governor. Members shall continue to serve until a successor is appointed and qualified.

(4) Two (2) of the persons appointed to the board shall be employed in nonsupervisory positions at mines in this Commonwealth and shall have a minimum of five (5) years' underground experience in the industry and a mine foreman's certificate. Two (2) of the persons shall be employed in supervisory positions by coal companies operating in the Commonwealth and shall have a minimum of five (5) years' experience in the coal mining industry and a mine foreman's certificate. One (1) of each of the members holding supervisory and nonsupervisory mine positions shall have a minimum of five (5) years' practical experience working in a surface or underground coal mine. The director~~[ of the Division of Safety Analysis, Training, and Certification]~~ shall have a minimum of five (5) years' practical underground mining experience.

(5) Whenever a vacancy on the board occurs, appointments shall be made in the manner prescribed in this section. The vacancy shall be filled by the Governor within thirty (30) days from the date the vacancy occurs.

(6) A quorum of the board shall be five (5) voting members; the board may act officially by a majority of those members who are present, except that no action shall be taken without a majority of affirmative votes.

(7) Each member of the board shall receive one hundred fifty dollars ($150) each day while actually engaged in the performance of the work of the board, shall receive mileage at the rate provided by the state's travel regulation for each mile actually traveled from the home of the member to the place of the meeting and returning therefrom, and shall receive reimbursement for food and lodging at a reasonable and customary rate, which shall be paid out of the State Treasury upon proper requisition approved by the commissioner.

(8) The board shall act on all matters it deems appropriate for board action or brought before it by the department.

(9) The board shall meet periodically on the call of the chair or a majority of the members of the board. The Governor shall remove any member who fails to appear at three (3) consecutive meetings of the board, or at one-half (1/2) of the meetings held in a one (1) year period.

(10) The board shall review this chapter and KRS Chapter 352 and make recommendations regarding the amendment of those chapters.

(11) The board shall review and approve all administrative regulations, including administrative regulations required by KRS 351.025, proposed by the department that relate to the mining of coal, penalties, or the certification of miners before those administrative regulations are promulgated in accordance with KRS Chapter 13A.

(12) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.

(13) The board may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its programs and standards.

➔Section 16. KRS 351.106 is amended to read as follows:

(1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons, of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education. Effective January 1, 2009, in addition, six (6) hours of annual training on changes in mine safety laws, safe retreat mining practices, disciplinary cases litigated before the Mine Safety Review Commission, changes in mine safety technology, and ways to improve safe working procedures shall be

required for all mine foremen. This annual training for mine foremen shall be provided exclusively by the ***division***~~[Office of Mine Safety and Licensing]~~.

(2) One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.

(3) In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.

(4) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.

(5) Newly hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.

(6) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.

(7) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.

(8) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.

(9) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.

(10) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.

(11) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.

(12) The secretary may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.

(13) The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by computer for ready access. The commissioner shall not grant certification to any person that, at the time of application, had his or her miner certification, foreman certification, electrician certification, or any other mining specialty certification suspended or revoked by another state. If a person has his or her miner certification, foreman certification, electrician certification, or other mining specialty certification probated in another state, the commissioner or the Mining Board may, at his or its discretion, grant the equivalent certification. However, that certification shall be placed on probation in Kentucky until the probationary period in the other state has expired.

(14) The commissioner is authorized and directed to utilize state mine ***safety specialists***~~[inspectors, mine safety instructors, the state mine foreman examiner]~~, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.

(15) The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.

(16) All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

➔Section 17. KRS 351.120 is amended to read as follows:

(1) The commissioner shall issue a certificate to each person who possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner who has passed the examination given by direction of the board for that position, and who has met the requirements for drug- and alcohol-free status.

(2) The certificate shall be in such form as the commissioner prescribes, shall be signed by the commissioner, and shall show that the holder has passed the required examination and possesses the qualifications required by law for mine inspector, electrical inspector, surface or underground mine safety instructor, surface mine safety analyst, assistant mine foreman, mine foreman, shotfirer, and other mining specialties as established by the board, or miner and is authorized to act as such.

(3) Certificates issued to mine foremen and assistant mine foremen shall be classified as follows:

(a) Mine foreman certificates, authorizing the holder to act as foreman for all classes of coal mines; and

(b) Assistant mine foreman certificates, authorizing the holder to act as assistant foreman.

(4) Any mine foreman or assistant mine foreman may act as a fire boss or mine examiner. This shall not apply to persons holding a second class mine foreman certificate issued before June 16, 1972.

(5) The class of mine foreman's certificate awarded shall be determined by the board according to the experience of the applicant.

(6) No certificate shall be granted to any person who does not present to the board satisfactory evidence, in the form of affidavits, that the applicant has had the required practical experience in underground or surface coal mines. A data sheet shall be filed by each applicant showing places of employment, beginning month and year and ending month and year employed by each company and list jobs performed, showing at least the number of required years. Affidavit and data sheet forms shall be furnished by the department. The applicant also shall submit proof that he or she is drug and alcohol free. The proof shall be submitted in accordance with KRS 351.182 and 351.183. For the purpose of this section, persons holding a four (4) year degree in mining engineering from a recognized institution shall be credited with the equivalent of two (2) years of practical experience in coal mines when applying for any mine foreman or assistant mine foreman certificate. Persons holding an associate degree in mining from a recognized institution shall be credited with the equivalent of two (2) years' experience when applying for a mine foreman certificate and one (1) year when applying for an assistant mine foreman certificate. Persons desiring to use their mining engineering or mining technology degree as credit for practical experience toward a mine foreman or assistant mine foreman certificate shall file proof of having received their degree prior to the examination.

(7) Applicants for an underground mine foreman certificate shall have five (5) years' practical underground coal mining experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine. Applicants for an underground assistant mine foreman certificate shall have three (3) years' practical underground experience acquired after achieving the age of eighteen (18), with at least one (1) year of this experience acquired on an active working section of an underground mine.

(8) Applicants for surface mine foremen certification shall have three (3) years' practical surface mine experience acquired after achieving the age of eighteen (18); for surface mine foreman certification with a specialty in coal extraction, at least one (1) year of the required practical experience shall have been acquired from direct involvement in the mining or extraction of coal at a surface mine. For a surface mine foreman certification with a specialty in postmining activities, at least one (1) year of the required experience shall have been acquired from direct involvement in the performance of such activities at a surface or underground mine, coal preparation plant, or other coal-handling facility. Notwithstanding any requirement in this subsection to the contrary, a person having three (3) years' of underground or surface mining experience shall qualify for a surface mine foreman certification with a specialty in postmining activities if the person has documented experience of at least one (1) year in the performance of these activities. Persons holding a surface mine foreman certificate prior to July 15, 1998, are not affected by this section.

(9) Persons possessing certificates of qualifications to act as mine inspector, mine foreman, assistant mine foreman, or fire boss prior to July 15, 1982, are not affected by this section.

(10) When approved by the commissioner, a person who has successfully completed any mine foreman or assistant mine foreman examination and submitted proof that he or she is drug and alcohol free in accordance with KRS 351.182 and 351.183 may be granted a temporary certification that is valid only until the board acts upon his or her certification at its next regularly scheduled meeting.

(11) A member of the supervisory personnel shall be present at the working section except in cases of emergencies at all times employees under his supervision are at the working section on coal-producing shifts.

(12) The commissioner immediately shall suspend any certification for violation of drug- and alcohol-free status or for failure or refusal to submit to a drug and alcohol test authorized by KRS 351.182, 351.183, 351.184, 351.185, and 352.180. The commissioner shall, by certified mail, notify the holder of the certification of his or her suspension and of the following:

(a) The right to pursue one (1) of the following options:

1. Appeal the suspension to the Mine Safety Review Commission within thirty (30) days of the notification; or

2. Notify the commissioner of the Department for Natural Resources or the ~~[executive ]~~director of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ within thirty (30) days of the notification that the holder intends to be evaluated by a medical professional trained in substance treatment, to complete any prescribed treatment, and to submit an acceptable result from a drug and alcohol test as required by KRS 351.182;

(b) Failure to file an appeal or failure to notify the commissioner of the Department for Natural Resources or the ~~[executive ]~~director of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ of the holder's intent to comply with paragraph (a)2. of this subsection within thirty (30) days of the notification shall result in the revocation of all licenses and certifications issued by the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ for a period of not less than three (3) years, and the holder shall remain ineligible for any other certification issued by the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ during the revocation period. Certifications and licenses revoked under this paragraph may be reissued by:

1. Compliance with all training and testing requirements;

2. Satisfying the requirements of KRS 351.182 and 351.183; and

3. Compliance with all orders of the Mine Safety Review Commission; and

(c) The completion of the evaluation, treatment, and submission of an acceptable drug test pursuant to paragraph (a)2. of this subsection or the revocation described under paragraph (b) of this subsection shall be considered a first offense.

(13) The licenses and certifications of a miner who notifies the commissioner of the Department for Natural Resources or the ~~[executive ]~~director of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply with subsection (12)(a)2. of this section shall remain suspended until the miner has provided proof of the evaluation and successful completion of any prescribed treatment and has submitted a negative drug and alcohol test as required by KRS 351.182 to the ***division*** ~~[Office of Mine Safety and Licensing]~~. The drug and alcohol test shall be taken no more than thirty (30) days prior to the submission of the proof required by this section. Upon receipt and review of the proof by the ***division*** ~~[Office of Mine Safety and Licensing]~~, the miner's licenses and certifications shall be restored. In the event that the miner fails to successfully complete the evaluation, treatment, and drug test within one hundred twenty (120) days of his or her notification pursuant to subsection (12)(a)2. of this section, the miner's licenses and certifications issued by the ***division*** ~~[Office of Mine Safety and Licensing]~~ shall be revoked for a period prescribed under KRS 351.990(8). The one hundred twenty (120) day time period set out in this section shall be extended upon proof that the miner is complying with the recommendations of the medical professional.

(14) If the suspension described in subsection (12) of this section occurs following the miner's first offense as described in this section or KRS 351.184, the notification sent to the miner shall not include the option of notifying the ***division*** ~~[Office of Mine Safety and Licensing]~~ of the miner's intent to seek an evaluation and treatment. The miner shall only have the right to appeal the suspension to the Mine Safety Review Commission within thirty (30) days of notification. If the miner fails to appeal the suspension, the penalty shall be assessed according to KRS 351.990(8)(b) or (c).

➔Section 18. KRS 351.122 is amended to read as follows:

(1) In lieu of an examination prescribed by law or regulation, the board may enter into a reciprocal agreement with another state regarding the certification of miners. The board may, pursuant to a reciprocal agreement, issue to any person holding a certificate issued by another state a certificate permitting him or her to perform similar tasks in the Commonwealth if:

(a) The board finds that the requirements for certification in the other state are substantially equivalent to those of Kentucky;

(b) The person passes only the applicable part of the examination with regard to Kentucky law which is uniquely different from the other state;

(c) The person has submitted proof, in accordance with KRS 351.182, that he or she is drug and alcohol free;

(d) The person's retraining is sufficient to meet Kentucky requirements; and

(e) The person's certification in Kentucky or in any other state has not been suspended, revoked, or probated.

(2) Upon receipt of notice from a reciprocal state of a disciplinary action relating to any of the certifications or licenses issued to a miner who also holds corresponding licenses or certifications issued by the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~, the commissioner shall impose analogous sanctions against the miner's Kentucky licenses or certifications. These sanctions shall terminate upon proof of compliance with the orders from the reciprocal state.

➔Section 19. KRS 351.170 is amended to read as follows:

(1) All reports of any facility licensed pursuant to this chapter shall be made to the ~~[executive ]~~director. The licensee of each commercial coal mine shall give at the end of each calendar year accurate information, on blank forms furnished by the commissioner, as to the number of accidents that have occurred, the number of persons employed, the tons of coal mined, and any other related information that the commissioner requests.

(2) The operator or superintendent of each licensed facility shall report, by the close of the next business day, any certified persons who:

(a) Have been discharged for violation of a company's substance or alcohol abuse policies;

(b) Refused to submit to a test required by the company's substance or alcohol abuse policies or KRS 351.182, 351.183, 351.184, 351.185, and 352.180; or

(c) Tested positive and failed to complete an employee assistance program.

➔Section 20. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). The license shall be issued when the following are properly submitted to the commissioner:

(a) The annual report of the licensee and the annual mine map required in KRS 351.170 and 352.450;

(b) A certification from the commissioner of the Department of Workers' Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;

(c) A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;

(d) Mine seal construction plan filed with the state and approved by MSHA;

(e) Roof control plan filed with the state and approved by MSHA;

(f) The ventilation plan required in KRS 352.020; and

(g) An approved emergency action plan required by KRS 352.640.

(5) The department shall immediately revoke any license if the department receives:

(a) Withdrawal of the certification of compliance with KRS Chapter 342 issued by the commissioner of the Department of Workers' Claims; or

(b) Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.

(6) The commissioner, the ~~[executive ]~~director of the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~, or the mine ***safety specialist***~~[inspector]~~ shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(7) The department shall be authorized to seek injunctive relief for any violation of this section. Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.

(8) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner of revenue.

(9) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

➔Section 21. KRS 351.182 is amended to read as follows:

(1) All applicants for certification as new miners and all initial applicants for all other certifications provided for in this chapter shall provide proof of drug- and alcohol-free status prior to certification in accordance with the provisions of this section.

(2) Proof of drug- and alcohol-free status shall be provided in one (1) of two (2) methods:

(a) By participation in a drug and alcohol testing program offered by the ***division***~~[Office of Mine Safety and Licensing]~~ and paid for by the applicant, in accordance with this section and KRS 351.183; or

(b) By the submission of drug and alcohol test results from other sources, as provided in KRS 351.183(2).

(3) If a newly certified miner gains employment in the coal industry, the initial employer shall reimburse the certified miner for the cost of one (1) drug and alcohol test required by this section and KRS 351.183, 351.184, and 351.185.

(4) If the applicant is currently certified in any category other than that for which he is applying by the ***division***~~[Office of Mine Safety and Licensing]~~ and the applicant is currently employed in the coal industry, the applicant's employer shall reimburse the applicant for the cost of one (1) drug and alcohol test required by this section and KRS 351.183, 351.184, and 351.185.

(5) The fee charged to an applicant for the drug and alcohol tests offered by the ***division***~~[Office of Mine Safety and Licensing]~~ shall not exceed the actual cost of collection, analysis, and medical review officer (MRO) review.

(6) The ***division***~~[Office of Mine Safety and Licensing]~~ shall provide, at each site of examinations for the certifications provided for in Chapter 351, a breath alcohol testing device and a person certified in the operation of the breath alcohol testing device. The breath alcohol test shall be administered prior to examination to determine the applicant's alcohol-free status. The ***division***~~[Office of Mine Safety and Licensing]~~ may satisfy the requirement to furnish an alcohol testing device and certified personnel by:

(a) The use of equipment and appropriately certified personnel of the ***division***~~[Office of Mine Safety and Licensing]~~;

(b) A memorandum of agreement with state or local police agencies for the provision of equipment and

appropriately trained personnel at the examination site; or

(c) Inclusion of breath alcohol testing as part of the contract to provide drug testing and collection services set out in KRS 351.183(1).

(7) A breath alcohol concentration of .04 shall be the maximum acceptable level of concentration for participation in the examination and subsequent certification.

(8) Except for an alternative testing protocol provided for post-accident victims under KRS 352.180(5) to (7), the minimum testing protocol acceptable for the establishment of drug-free status for certification under KRS Chapter 351 shall be at least a ten (10) panel urine test that shall include testing for the following substances:

(a) Amphetamines;

(b) Cannabanoids/THC;

(c) Cocaine;

(d) Opiates;

(e) Phencyclidine (PCP);

(f) Benzodiazepines;

(g) Propoxyphene;

(h) Buprenorphine;

(i) Methadone;

(j) Barbiturates; and

(k) The remaining panels to be used in the urine test shall be set by order of the Mine Safety Review Commission no later than June 1 of each year.

➔Section 22. KRS 351.183 is amended to read as follows:

(1) The ***division*** ~~[Office of Mine Safety and Licensing]~~ may contract with qualified companies to provide the collection of samples and administer the required drug and alcohol tests. The contract may provide that the collection of samples or testing be subcontracted, except that the contract shall require:

(a) The contractor and any subcontractors to follow all standards, procedures, and protocols set forth by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) for the collection and testing required by KRS 351.182 and this section;

(b) The contractor's or subcontractor's drug-testing protocol shall be a ten (10) panel test described in KRS 351.182(8) and any other test required by order of the Mine Safety Review Commission; and

(c) The contractor or the subcontractor shall provide a medical review officer (MRO) who shall:

1. Possess the ability and medical training necessary to verify positive confirmed test results and evaluate those results in relation to an applicant's medical history or other biomedical information; and

2. Follow all procedures outlined in the SAMHSA Medical Review Officer Manual.

(2) The ~~[executive]~~ director of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ may accept proof of drug- and alcohol-free status from other sources whose tests conform to the requirements set forth in KRS 351.182(7) and (8) and in accordance with KRS 351.182(2)(b) under the following conditions:

(a) An applicant shall submit a request for acceptance of his or her drug- and alcohol-free status to the executive director accompanied by pass/fail results of a drug and alcohol test taken within thirty (30) days prior to the request; and

(b) The test results shall have been performed by laboratories certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services Administration's SAMHSA and in accordance with subsection (1) of this section.

(3) The ***division*** ~~[Office of Mine Safety and Licensing]~~ shall maintain and publish annually a list of certified specimen collection services and testing laboratories from which it will accept data.

➔Section 23. KRS 351.184 is amended to read as follows:

(1) The results of any testing performed by the ***division*** ~~[Office of Mine Safety and Licensing]~~ shall be given to the applicant at the time of his or her notification of the granting or denial of certification.

(2) Certification of an applicant shall be denied if any one (1) or more of the following occur:

(a) The applicant's positive drug test results for any of the substances either listed in KRS 351.182(8) or otherwise required to be tested for by order of the Mine Safety Review Commission are deemed to fail by a medical review officer;

(b) The applicant's blood alcohol level is above .04 concentration at the time of testing;

(c) The applicant's test results demonstrate the submission of an adulterated specimen; or

(d) The applicant refuses to submit to a drug or alcohol test as required by KRS 351.182.

(3) (a) Any applicant who is denied certification due to the results of the drug and alcohol testing required by KRS 351.182 may:

1. Appeal to the Mine Safety Review Commission within thirty (30) days of receiving the notification required under KRS 351.120(12); or

2. Notify the commissioner of the Department for Natural Resources or the ~~[executive ]~~director of the ***division*** ~~[Office of Mine Safety and Licensing]~~ within thirty (30) of receiving the notification required under KRS 351.120(12) that the applicant intends to be evaluated by a medical professional trained in substance abuse treatment, to complete any prescribed treatment, and to submit an acceptable result from a drug and alcohol test as required by KRS 351.182.

(b) Failure to file an appeal or failure to notify the commissioner of the Department for Natural Resources or the ~~[executive ]~~director of the ***division*** ~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply with paragraph (a)2. of this subsection within thirty (30) days of the notification shall result in the revocation of all licenses and certifications issued by the ***division*** ~~[Office of Mine Safety and Licensing]~~ for a period of not less than three (3) years, and the holder shall remain ineligible for any other certification issued by the ***division*** ~~[Office of Mine Safety and Licensing]~~ during the revocation period. Certifications and licenses revoked under this paragraph may be reissued by:

1. Compliance with all training and testing requirements;

2. Satisfying the requirements of KRS 351.182 and 351.183; and

3. Compliance with all orders of the Mine Safety Review Commission.

(c) For the purposes of this subsection, the completion of evaluation, treatment, and submission of an acceptable drug test pursuant to paragraph (a)2. of this subsection or the revocation described under paragraph (b) of this subsection shall be considered a first offense.

(4) The licenses and certifications of a miner who notifies the commissioner of the Department for Natural Resources or the ~~[executive ]~~director of the ***division*** ~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply with subsection (3)(a)2. of this section shall remain suspended until the miner has provided proof of the evaluation and successful completion of any prescribed treatment and has submitted a negative drug and alcohol test as required by KRS 351.182 to the ***division*** ~~[Office of Mine Safety and Licensing]~~. The drug and alcohol test shall be taken no more than thirty (30) days prior to the submission of the proof required by this section. Upon receipt and review of the proof by the ***division*** ~~[Office of Mine Safety and Licensing]~~, the miner's licenses and certifications shall be restored. In the event that the miner fails to successfully complete the evaluation, treatment, and drug test within one hundred twenty (120) days of the notification required under KRS 351.120(12), the miner's licenses and certifications issued by the ***division*** ~~[Office of Mine Safety and Licensing]~~ shall be revoked for a period prescribed under KRS 351.990(8). The one hundred twenty (120) day time period set out in this section shall be extended upon proof that the miner is complying with the recommendations of the medical professional.

(5) If the denial described in subsection (3) of this section occurs following the miner's first offense as described in this section or KRS 351.120, the miner shall not have the option of notifying the ***division*** ~~[Office of Mine Safety and Licensing]~~ of his or her intent to comply with subsection (3)(a)2. of this section. The miner shall only have the right to appeal the denial to the Mine Safety Review Commission within thirty (30) days of notification. If the miner fails to appeal the denial, the penalty shall be assessed according to KRS 351.990(8)(b) or (c).

➔Section 24. KRS 351.185 is amended to read as follows:

(1) Records of drug or alcohol test results, written or otherwise, received by the ***division*** ~~[Office of Mine Safety and Licensing]~~, its contractors, subcontractors, or other employees are confidential communications and exempt from disclosure under the Kentucky Open Records Act, except as follows:

(a) Where release of the information is authorized solely pursuant to a written consent form signed voluntarily by the person tested. The consent form shall contain the following:

1. The name of the person who is authorized to obtain the information;

2. The purpose of the disclosure;

3. The precise information to be disclosed;

4. The duration of the consent; and

5. The signature of the person authorizing the release of the information;

(b) Where release of the information is compelled by a hearing officer or court of competent jurisdiction pursuant to an appeal taken under KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and 352.390;

(c) Where release of the information is relevant to a legal claim asserted by the applicant;

(d) Where the information is used by the entity conducting drug or alcohol testing when consulting with legal counsel in connection with matters brought under or related to KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and 352.390, or in its defense of civil or administrative actions related to the testing or results; or

(e) Where release of the information is deemed appropriate by the Mine Safety Review Commission or a court of competent jurisdiction in disciplinary proceeding brought under the terms of KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.180, 352.210, and 352.390.

(2) Information on drug and alcohol test results for tests administered pursuant to KRS 351.182, 351.183, 351.184, 351.185, 351.102, 351.103, 351.1041, 351.106, 351.110, 351.120, 351.127, 351.1291, 351.170, 352.010, 352.180, 352.210, and 352.390 shall not be released or used in any criminal proceeding against the applicant.

➔Section 25. KRS 351.186 is amended to read as follows:

(1) Any employer who is also a licensee that has implemented a drug-free workplace program certified by the ***division*** ~~[Office of Mine Safety and Licensing]~~ shall be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.

(2) Each insurer authorized to write workers' compensation insurance policies shall provide the credit on the workers' compensation premium to any employer who is also a licensee for which the insurer has written a workers' compensation policy. The credit on the workers' compensation premium shall not:

(a) Be available to those employers that are also licensees who do not maintain their drug-free workplace program for the entire workers' compensation policy period; or

(b) Apply to minimum premium policies.

(3) The Department of Insurance shall approve workers' compensation rating plans that give a credit on the premium for a certified drug-free workplace so long as the credit is actuarially sound. The credit shall be at least five percent (5%) unless the Department of Insurance determines that five percent (5%) is actuarially unsound.

(4) The credit on the workers' compensation premium may be applied by the insurer at the final audit.

➔Section 26. KRS 351.242 is amended to read as follows:

(1) There is hereby created in the department a mine safety analysis program.

(2) ***Mine safety specialists*** ~~[Persons]~~ employed in the department ***and conducting*** ~~[as]~~ underground or surface mine safety ***analysis*** ~~[analysts]~~ shall satisfy the applicable requirements established in KRS 351.090.

(3) ***A*** ~~[The]~~ primary responsibility of the ***mine*** safety ***specialist*** ~~[analyst]~~ is to prevent mine accidents and fatalities

by observing and evaluating the work habits of persons involved in the direct production of coal and to contact, advise, and assist these persons in correcting their unsafe or potentially hazardous actions.

(4) ~~[The safety analyst shall have the same powers as a mine inspector of the department, but these powers shall be considered secondary to the primary responsibilities provided in subsection (3) of this section. ]~~Each time a ***mine*** safety ***specialist***~~[analyst]~~ enters a mine to perform ***mine safety analysis***~~[his primary responsibility]~~, he ***or she*** shall confer with the foreman as to the conditions of the mine and the work practices of the employees.

(5) The ***mine*** safety ***specialist***~~[analyst]~~ shall keep mine management, representatives of the employees, and the commissioner informed about all hazardous conditions and all matters which may improve the safety of mines.

(6) The ***division***~~[office]~~ shall assist the department in assessing the effectiveness of miner training programs.

(7) The commissioner shall at his or her discretion assign ***mine*** safety ***specialist***~~[analysts]~~ to all mines in the state taking into consideration such factors as the history of accidents at the mine, experience of the workforce, physical condition of the mine, and size of the mine.

(8) The commissioner may coordinate the assignment of ***mine*** safety ***specialists***~~[analysts]~~ with the appropriate federal authorities to minimize duplication of accident prevention efforts.

(9) The commissioner shall report annually to the General Assembly and to the Governor on the effectiveness of the ***mine*** safety ***specialists***~~[analysts]~~ in improving mine safety.

➔Section 27. KRS 351.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 351.315 to 351.375 or any administrative regulation, determination, or order promulgated in accordance with KRS 351.315 to 351.375 shall be subject to a civil fine not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) for each violation.

(2) Any person who willfully violates any of the provisions of KRS 351.315 to 351.375 or any administrative regulation, determination, or order promulgated in accordance with KRS 351.315 to 351.375 which has become final shall be guilty of a Class A misdemeanor.

(3) Any person who violates any of the provisions of KRS 351.330(16) shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the provisions of KRS 351.345(2) shall be guilty of a Class D felony.

(5) Any operator who fails to obtain his license as required by KRS 351.175 shall be guilty of a Class A misdemeanor as defined in KRS 532.090. Each day the mine is operated without a license constitutes a separate offense. Venue for the offenses shall lie in the county in which the offense occurred.

(6) Any operator operating a mine with knowledge that the mine has been placed under a valid closure order pursuant to KRS 351.175 shall be guilty of a Class D felony. Jurisdiction shall lie in the Circuit Court of the county in which the offense occurred.

(7) Any blasting operation that results in the death or serious physical injury of a person may be subject to a civil fine not more than twenty thousand dollars ($20,000). For the purposes of this subsection, "serious physical injury" means an injury which has a reasonable potential to cause death.

(8) Any person who fails a drug or alcohol test required by KRS 351.182, 351.183, 351.184, 351.185, or 352.180 shall be subject to the following penalties if an appeal to the Mine Safety Review Commission is chosen and the appeal is not successful:

(a) A first offense shall result in probation, suspension, or combination of both, as well as other conditions and time constraints as ordered by the Mine Safety Review Commission. During this time, the person shall be ineligible for any license or certification issued by the ***division***~~[Office of Mine Safety and Licensing]~~. All licenses and certifications shall be restored upon compliance with the orders of the Mine Safety Review Commission. The failure to pursue an appeal will result in revocation of all licenses or certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~ for three (3) years;

(b) A second offense shall result in the revocation of all certifications and licenses issued by the ***division***~~[Office of Mine Safety and Licensing]~~ for a period of five (5) years. During this time, the person shall be ineligible for any license or certification issued by the ***division***~~[Office of Mine Safety and Licensing]~~. Certifications and licenses revoked under this provision may be reissued by:

1. Compliance with all training and testing requirements;

2. Satisfying the requirements of KRS 351.182 and 351.183;

3. Compliance with all orders of the Mine Safety Review Commission; and

(c) A third offense shall result in the permanent revocation of all licenses and certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~. The person shall be permanently ineligible for licenses and certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~.

The Mine Safety Review Commission shall not have the authority to reconsider any order permanently revoking a miner's license or certifications issued by the ***division***~~[Office of Mine Safety and Licensing]~~ if the commission's order is final unless, at the time of the entry of the order, the miner was incarcerated or hospitalized, or the miner did not receive actual notice of the motion or other filing seeking permanent revocation, or did not actually receive notification by the commissioner of the Department for Natural Resources pursuant to KRS 351.120.

➔Section 28. KRS 352.010 is amended to read as follows:

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

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department for Natural Resources;

(h) "Department" means the Department for Natural Resources;

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) ***"Director" means the director of the Division of Mine Safety;***

***(k)*** "Excavations and workings" means the excavated portions of a mine;

~~[(k) "Executive Director" means the executive director of the Office of Mine Safety and Licensing;]~~

(l) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(m) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(n) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(o) "High voltage" means any voltage of one thousand (1,000) volts or more;

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical injury before the condition or practice can be abated;

(q) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(s) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(t) "Low voltage" means up to and including six hundred sixty (660) volts;

(u) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(v) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(w) "Mine foreman" means a certified person whom the licensee, mine manager, or superintendent places in charge of the workings of the mine and of persons employed therein;

(x) "Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;

(y) "NAD 83" means the North American Datum, 1983 version, in feet units;

(z) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(aa) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(ab) "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(ac) "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any oncoming shift;

(ad) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ae) "Serious physical injury" means an injury which has a reasonable potential to cause death;

(af) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ag) "Single Zone Projection" means the Kentucky Single Zone State Plane Coordinate System of 1983, based on the Lambert Conformal Conical map projection with double standard parallels on the North American Datum, 1983 version, as established in 10 KAR 5:010;

(ah) "Slope" means an inclined opening used for the same purpose as a shaft;

(ai) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(aj) "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(ak) "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(al) "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(am) "Working place" means the area of a coal mine inby the last open crosscut;

(an) "Working section" means all areas of a coal mine from the loading point to and including the working faces; and

(ao) "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

➔Section 29. KRS 352.020 is amended to read as follows:

(1) A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the ~~[executive ]~~director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine to contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases and dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.

(2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(3) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases.

(4) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (3) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.

(5) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. Return-air courses shall not be designated as primary escapeways.

(6) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air or the travel of equipment, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine

inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

(7) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the ***mine safety specialist*** ~~[inspector]~~, with the approval of the commissioner**,** may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

(8) The ventilation plan shall require all fans utilized in the ventilation plan to be in continuous operation unless the fan must be turned off for repairs or maintenance, during which time all persons must be withdrawn from the mine. After the mine fan is restarted following the completion of repairs or maintenance, it must be in operation for a sufficient period to ensure air quality and the equalization of the mine atmosphere. Within fifteen (15) minutes after a fan has been unintentionally stopped, all miners must begin withdrawing from the mine. If the fan is restarted before the miners reach the surface, the miners shall remain at the point of their retreat, and the area inby shall be preshifted prior to the miners returning to the section.

➔Section 30. KRS 352.090 is amended to read as follows:

(1) All unused workings and abandoned parts of mines shall be protected by safeguards that will prevent the accumulation or overflow of gas, and all avenues leading thereto shall be so arranged and conducted as to give warning to all persons of the danger of entering, and notice shall be posted warning all unauthorized persons not to enter these parts of the mine. If the area cannot be adequately ventilated, and examined, or evaluated it shall be sealed in a timely manner.

(2) No person, except persons authorized to make examination thereof, shall enter any unused or abandoned part of a mine after the warning has been posted.

(3) Where the practice is to seal abandoned workings, the sealing shall be done in accordance with a mine seal construction plan approved by MSHA and submitted to the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~. Seal construction shall be done immediately in an effective manner with noncombustible material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe and cap or valve to permit the gases behind the seals to be sampled and also to provide a means of determining any existing hydrostatic pressure. When required by the mine inspector and commissioner, drill holes shall be extended from the surface to the sealed area, or vent pipes shall be extended from the sealed area to a return air course. Sufficient ventilation shall be provided at each seal to prevent dangerous gases from accumulating.

➔Section 31. KRS 352.180 is amended to read as follows:

(1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.

(2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine ***safety specialist*** ~~[inspector]~~ shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.

(3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine ***safety specialist*** ~~[inspector]~~ may compel the attendance of witnesses and administer oaths.

(4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil

monetary penalty of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

(5) The ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The ~~[ executive]~~ director or his designee may order the testing of certified persons who:

(a) Were working in the immediate area of the accident; or

(b) In the judgment of the ~~[ executive]~~ director or his designee, may reasonably have contributed to or witnessed the accident or fatality.

(6) The post-accident testing permitted by subsection (5) of this section shall:

(a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;

(b) Be paid for by the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~; and

(c) Be performed on samples obtained within eight (8) hours of the accident.

(7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

(8) The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.

➔Section 32. KRS 352.201 is amended to read as follows:

(1) The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner or his authorized representative shall be adopted and set out in printed form within six (6) months after June 16, 1972, and shall be kept on file in the ***regional*** ~~[district]~~ office of the ***region*** ~~[district]~~ where the mine is located. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished the commissioner or his authorized representative and shall be available to the miners and their representatives.

(2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(3) The licensee, in accordance with the approved plan, shall provide at or near each working face and at other locations in the mine as the commissioner or his authorized representative may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in other circumstances that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(4) Roof bolt recovery for reuse shall not be permitted.

(5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

(6) Within forty-eight (48) hours before the commencement of any retreat mining or pillaring operations, the mine operator shall notify the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ of its intention of beginning or resuming retreat mining or pillaring. The ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ shall document such notification in writing. Upon ~~[such ]~~notification within the forty-eight (48) hour period from a mine operator, and, before retreat mining or pillaring operations can begin, the ***Division of Mine Safety*** ~~[office]~~ shall ensure that every person who will be participating in the retreat mining operations is trained in the operator's pillar removal plan.

➔Section 33. KRS 352.210 is amended to read as follows:

(1) No person shall knowingly injure any shaft, lamp, instrument, air course, or brattice; obstruct or throw open airways; disturb any part of the machinery or appliances; open a door used for directing ventilation without closing it afterwards; enter any part of a mine against caution; disobey any order given in carrying out any of the provisions of KRS Chapter 351 or 352; or do any act endangering the life or health of any person employed in the mine or endangering the security of the mine.

(2) No person shall enter or be on any licensed facility while intoxicated or under the influence of alcohol or a controlled substance or be in possession of any alcoholic beverage or controlled substance at any licensed facility; provided, however, this shall not apply to private vehicles driven to and from the mine.

(3) The licensee shall notify the~~[ executive]~~ director, by the close of the next business day, of any certified persons who have been discharged for violation of the company's substance-abuse or alcohol-abuse policies or who tested positive and failed to complete an employee assistance program.

➔Section 34. KRS 352.340 is amended to read as follows:

(1) The mine foreman or his assistants shall***:***~~[ ]~~

***(a)*** Visit and carefully examine each working place in the mine at least every four (4) hours while the mine employees are at work***;***~~[. He shall]~~

***(b)*** Examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe***;***

***(c)*** ***Ensure***~~[. He shall see]~~ that every mine liberating explosive gas is kept free of standing gas in all working places and roadways, and that all accumulations of explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery***;***~~[. He shall ]~~

***(d)*** Ensure that all preshift examinations are conducted by a certified person***,***~~[ and]~~ that examinations of conveyor belts have been conducted***, and that no***~~[. He shall not allow any]~~ person who may be endangered by the presence of explosive or noxious gases ***be allowed*** to enter that portion of the mine until the gases have been removed***; and***~~[. He shall ]~~

***(e)*** Direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger signs are posted upon the barricade to warn persons of existing danger. ***The mine foreman or his assistants***~~[He]~~ shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss***,*** or any person working in the mine, and if it is impracticable to remove the danger at once ***, the mine foreman or his assistants***~~[he]~~ shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists.

(2) The mine foreman or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, the caches of self-contained self-rescuer devices required by KRS 352.133, the caches' contents, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink pencil in the record book provided for that purpose.

(3) Examinations of conveyor belts shall be conducted by a certified foreman or a certified belt examiner. A certified belt examiner shall have a total of three (3) years of practical underground mining experience and successfully complete a certification examination administered by the ***Division of Mine Safety***~~[Office of Mine Safety and Licensing]~~. The certification examination shall cover the topics of belt conveyor legal requirements; roof control practices; mine ventilation; mine gases and instruments; fire hazards; and inspection and reporting procedures. The belt examiner also shall demonstrate proficiency in the use of an anemometer, methane detector, and oxygen devices.

➔Section 35. KRS 352.510 is amended to read as follows:

(1) In any underground mine before removing any coal or other material or driving any entry or passageway within three hundred (300) feet of any surveyed natural gas or petroleum well, or before extending the workings in any mine beneath any tract of land on which these wells are also drilled, or within three hundred (300) feet of any of these wells or under any tract of land in visible possession of a well operator, the operator shall forward simultaneously to the well operator and to the Department for Natural Resources, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed

and kept up to date, showing on the copy of the map or plan its mine workings and projected mine workings beneath the tract of land and within three hundred (300) feet of its outer boundaries. The operator may then proceed with his mining operations in the manner indicated on the copy of the map or plan; but if the conduct of his mining operations nearer than three hundred (300) feet to any surveyed natural gas or petroleum well, whether completed or being drilled, or to any proposed well where a derrick is being constructed for drilling, or proposed well will endanger the use of drilling of the well, the well owner or operator affected may, within fifteen (15) days from the receipt of the copy of the map by him and the department, file specific objections in writing to the mining operations within less than three hundred (300) feet of the well; and if the objection is filed, the department shall notify the operator of the character of the objections and fix a time and place for an informal hearing not more than ten (10) days from the end of the fifteen (15) day period. At the hearing, the operator and the well operator, in person or by a representative, shall consider the objections and agree upon the character and extent of operations to be conducted within less than three hundred (300) feet of the well to satisfy the objections raised and meet the approval of the department. And, if no agreement can be reached, the department, after an administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection of the use and operation of the well. The decision shall be subject to appeal by either party as provided in KRS 351.040. The department shall keep a complete record of all the hearings.

(2) The mine operator shall, every six (6) months, while mining within three hundred (300) feet of the surveyed natural gas and petroleum well, bring up to date the maps and plans required by this section, or file new maps and plans complete to date.

(3) Prior to issuance of a waiver to mine within three hundred (300) feet of an oil or gas well, the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ shall determine whether the oil or gas operator has been properly notified as required by subsection (1) of this section.

➔Section 36. KRS 352.630 is amended to read as follows:

(1) Effective September 1, 2006, each licensed underground facility shall provide telephone service or equivalent two-way communications facilities, approved by the ~~[executive ]~~director or his authorized representative, between the surface of each landing of main shafts and slopes, and between the surface and each working section that is more than one hundred (100) feet from a portal. Implementation of telephone or equivalent two-way communications facilities shall be subject to the following provisions:

(a) Telephones or equivalent two-way communications facilities provided at each working section shall be located not more than five hundred (500) feet outby the last open crosscut and not more than eight hundred (800) feet from the farthest point of penetration of the working faces on the section;

(b) Primary telephone or two-way communications systems and lines shall be located in the intake air course or adjacent entry, but shall not be located in the beltway or return air courses unless approved by the ~~[executive ]~~director of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ in seams with coal heights twenty-six (26) inches or less; and

(c) The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm that is distinguishable from the surrounding noise level and a visual alarm that can be seen by a miner regularly employed on the working section.

(2) Effective September 1, 2006, each licensed underground facility shall have a telephone or equivalent two-way communications facility located on the surface within one thousand (1,000) feet of all main portals. The telephone or equivalent two-way communications system shall be installed in either a building or in a box-like structure designed to protect the communications equipment from damage by inclement weather. At least one (1) of these communications systems shall be at a location where a responsible person is available and authorized to respond to an emergency situation at all times when miners are working underground. The incoming communications signal on the telephone or other approved two-way communications system shall activate an audible alarm, distinguishable from the surrounding noise level and a visual alarm that can be seen by the responsible person stationed near the communications system.

(3) Effective September 1, 2006, each licensed underground facility shall have a telephone or equivalent two-way communications system located on the surface which can be used to activate the licensed facilities emergency action plan required in KRS 352.640 and to comply with reporting requirements contained in KRS 352.180. The telephone or equivalent two-way communications system shall be installed in either a building or in a box-like structure designed to protect the communications equipment from damage by inclement weather. At least one (1) of the communications systems shall be at a location where a responsible person is available and

authorized to respond at all times to an emergency situation when miners are working. The incoming communications signal on the telephone or other approved two-way communications system shall activate an audible alarm, distinguishable from the surrounding noise level and a visual alarm that can be seen by the responsible person stationed near the communications facility.

➔Section 37. KRS 352.640 is amended to read as follows:

(1) An emergency action plan shall be submitted with each application for a license to operate an underground mine. The emergency action plan shall be for use during emergencies at the licensed facility. The plan shall consist of the following components:

(a) A certification, submitted by the applicant, that the telephone or equivalent two-way communications system will be in place and functioning at the facility when operation begins;

(b) A listing of the telephone numbers of the facility personnel, state and federal regulatory agencies, and state, federal, and local emergency response agencies to be contacted in the event of a mine emergency;

(c) The positions and telephone numbers of the persons designated by the licensee to implement the emergency action plan during mine emergencies;

(d) The name of the ambulance service or first responder with which the licensee has made arrangements to provide twenty-four (24) hour emergency medical assistance for any person injured at the licensed facility;

(e) A copy of the licensed facility's mine emergency evacuation and firefighting plan, if one is required; and

(f) A training schedule for all personnel as to their responsibilities under the emergency action plan. On site, each licensed facility shall maintain a log containing training dates, the personnel trained, and their positions and shifts.

(2) The licensee shall provide a revised copy of the plan to the ***regional*** ~~[district]~~ office and the Frankfort office of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~ within ten (10) days of a change in any of the information required in subsection (1) of this section becoming effective.

(3) The licensee shall be responsible for ensuring that copies of the licensed facility's emergency action plan are submitted to the appropriate ***regional*** ~~[district]~~ office and to the Frankfort office of the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~. Copies of the plan also shall be kept on the premises of the licensed facility where it shall be made open to inspection by the licensee's employees and their independent contractors and inspectors.

(4) Each licensed facility shall post in a prominent place at the mine office a copy of all emergency contact numbers. The list of emergency contact numbers shall be made available to the licensee's employees and their independent contractors during training on the emergency action plan.

(5) Each licensed facility shall train all employees of the licensee, including their independent contractors, at the beginning of their employment with the licensed facility and on an annual basis on the emergency action plan and the persons responsible for the plan's implementation.

(6) Each licensed facility on which an underground mine is operated shall develop and implement a mine emergency evacuation and firefighting program that instructs all miners and other personnel of the licensed facility in the proper evacuation procedures they must follow if a mine emergency occurs. The program, and any revisions thereto, must be submitted to the ~~[executive ]~~director or his designee. All personnel of the licensed facility, including independent contractors, shall be trained in the performance of the plan's revisions prior to any of the revisions being implemented. The program shall include a plan to train all miners on all shifts with procedures for:

(a) Mine emergency evacuation for mine emergencies that present an imminent danger to miners due to fire, explosion, or gas, or water inundation;

(b) Evacuation of all miners not required for a mine emergency response;

(c) Rapid assembly and transportation of necessary miners, fire suppression equipment, and rescue apparatus to the scene of the mine emergency; and

(d) Operation of fire suppression equipment available in the mine.

➔Section 38. KRS 353.745 is amended to read as follows:

(1) For gathering lines installed across terrain with a slope of greater than twenty degrees (20º), the well operator shall mark the location of the gathering lines with line markers at interval distances not to exceed two hundred fifty (250) feet.

(2) The Division of Oil and Gas shall make available on its Web site maps or other relevant information showing the location of gathering lines, as filed by the well operator, within thirty (30) days of the information being filed.

(3) Prior to the issuance of a permit to drill, the division shall determine whether the proposed well will intersect an active mining area by reviewing the pertinent mine maps filed with the ***Division of Mine Safety*** ~~[Office of Mine Safety and Licensing]~~. If the proposed well will intersect with an active mining area, the Division ***of Oil and Gas*** shall:

(a) Determine whether the coal mine permittee has been properly notified pursuant to KRS 353.050; and

(b) Issue the permit to drill on the condition that a directional survey be performed pursuant to KRS 353.739(1).

(4) In order to perform the duties under this section, the Division of Oil and Gas shall create and adequately staff the positions required to perform the duties. The division may charge an administrative fee not to exceed fifty dollars ($50) per permit application to perform its duties under this section.

➔Section 39. The General Assembly hereby confirms Executive Order 2014-390, dated May 30, 2014, relating to the reorganization of the Energy and Environment Cabinet, Office of Mine Safety and Licensing, to the extent that it is not otherwise confirmed or supersceded by this Act.

➔Section 40. The Office of Mine Safety and Licensing, the Division of Safety Analysis, Training, and Certification, and the Division of Safety Inspection and Licensing are abolished. All personnel, files, funds, records, and equipment of the Office of Mine Safety and Licensing shall be transferred to the Division of Mine Safety. The Kentucky Mining Board shall be attached to the Department for Natural Resources, and all personnel, files, funds, records and equipment of Mining Board shall be transferred and attached to the Department for Natural Resources.

**Signed by Governor March 30, 2015.**

## CHAPTER 88

**( HB 378 )**

AN ACT relating to motor vehicle usage tax.

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

➔Section 1. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles titled or registered to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles titled or registered to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously titled in Kentucky on or after July 1, 2005, or previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. The motor vehicles shall not be leased, rented, or loaned to any person and shall be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to ~~[ nonresident]~~ members of the Armed Forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet

proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles titled in Kentucky on or after July 1, 2005, or previously registered in Kentucky, transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved, if the transferor and the transferee are the same business entity except for a change in legal form;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property, if the vehicles were titled in Kentucky on or after July 1, 2005, or previously registered in Kentucky;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) Motor vehicles transferred between a limited liability company and any of its members, if there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(12) The interest of a partner in a motor vehicle when other interests are transferred to him;

(13) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(6). The repossessor shall hold the vehicle for resale only and not for personal use, unless he has previously paid the motor vehicle usage tax on the vehicle;

(14) Motor vehicles transferred to an insurance company to settle a claim. These vehicles shall be junked or held for resale only;

(15) Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281;

(16) (a) 1. Motor vehicles registered under KRS 186.050 that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater; and

2. Farm trucks registered under KRS 186.050(4) that have a declared gross vehicle weight with any towed unit of forty-four thousand and one (44,001) pounds or greater;

(b) To be eligible for the exemption established in paragraph (a) of this subsection, motor vehicles shall be registered at the appropriate range for the declared gross weight of the vehicle established in KRS 186.050(3)(b) and shall be prohibited from registering at a higher weight range. If a motor vehicle is initially registered in one (1) declared gross weight range and subsequently is registered at a declared gross weight range lower than forty-four thousand and one (44,001) pounds, the person registering the vehicle shall be required to pay the county clerk the usage tax due on the vehicle unless the person can provide written proof to the clerk that the tax has been previously paid;

(17) Motor vehicles transferred to a trustee to be held in trust, or from a trustee to a beneficiary of the trust, if a direct transfer from the grantor of the trust to all individual beneficiaries of the trust would have qualified for an exemption from the tax pursuant to subsection (6) or (9) of this section;

(18) Motor vehicles transferred to a trustee to be held in trust, if the grantor of the trust is a natural person and is treated as the owner of any portion of the trust for federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679;

(19) Motor vehicles transferred from a trustee of a trust to another person if:

(a) The grantor of the trust is a natural person and is treated as the owner of any portion of the trust for federal income tax purposes under the provisions of 26 U.S.C. secs. 671 to 679; and

(b) A direct transfer from the grantor of the trust to the person would have qualified for an exemption from the tax pursuant to subsection (6) or (9) of this section; and

(20) Motor vehicles under a manufacturer's statement of origin in possession of a licensed new motor vehicle dealer that are titled and transferred to a licensed used motor vehicle dealer and held for sale.

**Signed by Governor March 30, 2015.**

## CHAPTER 89

**( HB 357 )**

AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. (1) There is appropriated out of the general fund and the transportation fund in the State Treasury for the purpose of compensating persons and companies named below for claims which have been duly audited and approved according to law, but have not been paid because of lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, the amounts listed below:

| | |
|---|---|
| Assured NL Insurance Services, Inc. | |
| DBA CORE Solutions, LLC | |
| PO Box 22989 | |
| Louisville, KY 40252-0989 | $31,298.00 |
| Assured NL Insurance Services, Inc. | |
| DBA Risk Management Services Corporation | |
| PO Box 22989 | |
| Louisville, KY 40252-0989 | $2,911.00 |
| Assured NL Insurance Services, Inc. | |
| DBA Risk Management Services Corporation | |
| PO Box 22989 | |
| Louisville, KY 40252-0989 | $10,471.00 |
| Embry Merritt Shaffar Womack, PLLC | |
| 62 Public Square | |
| Leitchfield, KY 42754 | $13,388.41 |
| Fogle Keller Purdy PLLC | |
| 203 Speed Building | |
| 333 Guthrie Green | |
| Louisville, KY 40202 | $23,674.00 |
| Logan Burch & Fox | |
| 114 West Clinton Street | |
| Frankfort, KY 40601 | $7,898.90 |
| The Law Office of Kim Hunt Price, PLLC | |
| PO Box 1189 | |
| Owingsville, KY 40360 | $600.00 |
| University of Kentucky | |

Survey Research Center
304 Breckinridge Hall
Lexington, KY 40506-0056 $36,500.00

Keith Whitaker
530 Watts Ferry Road
Frankfort, KY 40601 $1,801.00

Wilson Equipment Company, LLC
PO Box 11520
Lexington, KY 40576 $11,005.67

(2) The claims listed below are for the payment of State Treasury checks payable to the persons or their personal representatives, and the firms listed, but not presented for payment within a period of five (5) years from the date of issuance of such checks as required by KRS 41.370 and 413.120:

Amount

Check #G1 06040107 dated December 11, 2003

Adkins, Barry
PO Box 1222
Paintsville, KY 41240 $315.00

Check #G1 13341038 dated April 24, 2008

Adkins, Barry
PO Box 1222
Paintsville, KY 41240 $157.50

Check #G1 14032556 dated January 23, 2009

American Lighthouse Trans II, LLC
c/o Dawn Gramig, KYTC
200 Mero Street
Frankfort, KY 40601 $33.43

Check #T1 12440221 dated April 16, 2008

Amshoff, Robert C & J R
4311 Briarwood Road
Louisville, KY 40207 $92.00

Check #B1 11017197 dated August 17, 2007

Ander Merch of Texas, Inc.
421 East 34th Street
Amarillo, TX 79103 $345.00

Check #T1 04560886 dated May 30, 2006

Justin B Bennett Estate
c/o Tonya Bennett
21 West Jagoe Street
Madisonville, KY 42431 $231.00

Check #G1 12277025 dated June 11, 2007

Brown, Victor
106 Maple Court
Lawrenceburg, KY 40342 $72.64

Check #P1 11770382 dated September 15, 2008
Campbell, Beau A
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $53.11

Check #M1 08013472 dated October 19, 1999
Capps, Richard
PO Box 485
Campton, KY 41301 $3,719.99

Check #P1 11447926 dated September 28, 2007
Carroll, Stephanie N
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $36.11

Check #T1 12637778 dated July 28, 2008
Ellis, Martin L
PO Box 121
Crofton, KY 42217 $112.00

Check #T1 00916875 dated June 3, 2002
Erena, Lauren
1167 Turkey Foot Road, #39
Lexington, KY 40502 $24.00

Check #T1 12259779 dated March 18, 2008
Estes, Patricia
122 Goodrich Avenue
Lexington, KY 40503 $380.00

Check #G1 13371286 dated May 7, 2008
Fisher, Christina
c/o Lisa Wise-Hodnett, CHFS
275 East Main Street 3W-C
Frankfort, KY 40601 $250.00

Check #T 2312496 dated May 19, 1995
Gossett Jr., Robert H
3140 State Route 81
Central City, KY 42330 $18.02

Check #R1 01062909 dated March 28, 2003

Hale, Norvaline Cates
c/o Lana Harrison
479 Versailles Road
Frankfort, KY 40601 $2,036.25

Check #R1 01065509 dated April 28, 2003
Hale, Norvaline Cates
c/o Lana Harrison
479 Versailles Road
Frankfort, KY 40601 $2,036.25

Check #T1 13312973 dated May 4, 2009
Herd, Deborah C
c/o Bonnie Gibbs
8849 Benson Pike
Bagdad, KY 40003 $322.00

Check #E1 02078015 dated July 26, 2004
Geoffrey Herzig Estate
c/o Andrew Herzig
40 Locust Avenue
Larchmont, NY 10538 $1,265.31

Check #T1 03198720 dated March 10, 2005
Jackson, Todd J
3657 Winding Wood Lane
Lexington, KY 40515 $28.00

Check #T1 13249053 dated April 22, 2009
Jones, Mark
4111 Bubbling Over Drive
Louisville, KY 40216 $98.00

Check #E1 11236820 dated March 11, 2009
Kirkpatrick, Dorothy L
153 Lakeshore Drive
Richmond, KY 40475 $542.27

Check #T1 03741184 dated August 10, 2005
Kramer, Geoffrey C
1 Rushmore Court
Towson, MD 21204 $420.00

Check #P1 11035369 dated August 15, 2006
Lawrence, Cynthia
125 Bob-O-Link, Apt 6
Springfield, KY 40069 $829.00

Check #G1 13050119 dated January 7, 2008
Loudermilk, Robert R
26 Byrda Way
Mount Vernon, KY 40456 $247.50

Check #G 03221146 dated August 8, 1997
Luong, Duc Phu
404 Emmett Avenue
Bowling Green, KY 42101 $50.00

Check #G1 07254688 dated September 17, 2004
Marshall, Dan
N3899 Duck Creek Road
Helenville, WI 53137 $189.33

Check #P1 08925012 dated August 22, 2005
Mathews, Amanda L
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $38.14

Check #G1 12390758 dated July 10, 2007
Medley, Angela L
307 West Virginia Avenue
Springfield, KY 40069 $89.60

Check #T1 12382196 dated April 9, 2008
Mitchell, Charles H and G
823 Westerman Court
Villa Hills, KY 41017 $226.00

Check #T1 02633048 dated April 13, 2004
Moberly, Larry D (Dec'd) and D L
202 Ruth Drive
Richmond, KY 40475 $328.00

Check #B1 11007075 dated January 11, 2007
Popp, Linda S
c/o Treasury Disbursements
1050 US 127 South, Suite 100
Frankfort, KY 40601 $403.43

Check #G1 13376365 dated May 8, 2008
Proctor, Katie
c/o Lisa Wise-Hodnett, CHFS
275 East Main Street 3W-C
Frankfort, KY 40601 $250.00

Check #P1 11417964 dated August 30, 2007
Quiroz, Tiffany S
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $131.49

Check #P1 11432870 dated September 14, 2007
Quiroz, Tiffany S
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $21.26

Check #G1 13271688 dated March 31, 2008
Randle, Kristopher
2118 West Market Street
Louisville, KY 40212 $440.97

Check #T1 12365035 dated April 4, 2008
Reeves, Krystal
1243 Kentucky RR 1498
Bevinsville, KY 41606 $178.00

Check #T1 11733394 dated May 29, 2007
Runyon, Gina C
314 ½ High Street, Apt. 10
Richmond, KY 40475 $168.00

Check #T1 11867151 dated November 28, 2007
Schadler, Jason M
4355 Latting Road
Shortsville, NY 14548 $366.00

Check #G1 13859319 dated November 14, 2008
Schraffenberger, Edna
1204 Sugar Pine Terrace
Louisville, KY 40243 $67.50

Check #T1 13392354 dated September 14, 2009
Sharma, Anil and Lalita
7610 Beechspring Farm Boulevard
Louisville, KY 40241 $1,694.00

Check #L1 02410607 dated September 24, 1999
Sherwood, Craig
c/o Hawkins Farms
1790 Glensboro Road
Lawrenceburg, KY 40342 $259.64

Check #P1 11066853 dated August 30, 2006
Simmons, Hope E
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $98.24

Check #Y1 08982771 dated October 5, 2000
Sims, Twyman
400 Maple Valley Drive, Apt. 18
Farmington, MO 63640-1973 $112.29

Check #G1 13570813 dated July 23, 2008
Smith, Jordan
c/o Lisa Wise-Hodnett, CHFS
275 East Main Street 3W-C
Frankfort, KY 40601 $250.00

Check #T1 02816419 dated May 20, 2004
Sparks, Susan A and D R
340 Hollyhill Drive
Lexington, KY 40503 $140.00

Check #T1 12492613 dated April 23, 2008
Stone, Susan A
340 Hollyhill Drive
Lexington, KY 40503 $634.00

Check #P1 11784608 dated September 30, 2008
Swetnam, Brianna L
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $53.11

Check #P1 11791162 dated September 30, 2008
Swetnam, Brianna L
c/o Kentucky Department of Parks
500 Mero Street
Frankfort, KY 40601 $35.28

Check #T1 12355718 dated April 3, 2008
Tortorelli, Janelle E
205 North 13th Street
Murray, KY 42071 $171.00

Check #T1 12594426 dated May 8, 2008
Wagner, James B and J W
625 St. Charles Avenue #6C

New Orleans, LA 70130 $322.00

Check #T1 03489109 dated April 15, 2005

Ward, Lois R

PO Box 91473

Louisville, KY 40291 $155.00

Check #P1 11672812 dated May 30, 2008

Wilson, Laura B

c/o Kentucky Department of Parks

500 Mero Street

Frankfort, KY 40601 $36.34

Check #P1 11685807 dated June 13, 2008

Wilson, Laura B

c/o Kentucky Department of Parks

500 Mero Street

Frankfort, KY 40601 $74.36

Check #T1 08084182 dated April 27, 2000

Witten, Paul W and B L

230 Maple Leaf Lane

Leitchfield, KY 42754-9206 $1,065.00

Check #G1 14508906 dated July 29, 2009

YMCA of Greater Louisville

c/o CHFS – DCC

275 East Main Street 3C-F

Frankfort, KY 40601 $75.00

➔Section 2. Whereas the persons and companies named above have furnished in good faith services, supplies, and materials, and the Commonwealth has received the same, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor March 30, 2015.**

## CHAPTER 90

**( HB 330 )**

AN ACT relating to military affairs.

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

➔Section 1. KRS 156.730 is amended to read as follows:

ARTICLE I

Purpose

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements;

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;

C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;

D. Facilitating the on-time graduation of children of military families;

E. Providing for promulgation and enforcement of administrative rules implementing the provisions of this compact;

F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

G. Promoting coordination between this compact and other compacts affecting military children; and

H. Promoting flexibility and cooperation between the educational system, parents, and students in order to achieve educational success for students.

## ARTICLE II

### Definitions

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;

B. "Children of military families" means a school-aged child or children enrolled in kindergarten through twelfth (12th) grade, in the household of an active duty member;

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact;

D. "Deployment" means the period of one (1) month prior to a service member's departure from his or her home station on military orders through six (6) months after return to the home station;

E. "Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs;

F. "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not limited to preparation for and involvement in public performances, contests, athletics competitions, demonstrations, displays, and club activities;

G. "Interstate Commission on Educational Opportunity for Military Children" means the commission created under Article IX of this compact, which is generally referred to as "Interstate Commission";

H. "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for kindergarten through twelfth (12th) grade public educational institutions;

I. "Member state" means a state that has enacted this compact;

J. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers, and harbor projects, or flood control projects;

K. "Non-member state" means a state that has not enacted this compact;

L. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or

brought;

M. "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets, or prescribes a policy of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule;

N. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought;

O. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory;

P. "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in kindergarten through twelfth (12th) grade;

Q. "Transition" means the formal and physical process of transferring from school to school or the period of time in which a student moves from one school in the sending state to another school in the receiving state;

R. "Uniformed service(s)" means the Army, Navy, Air Force, Marine Corps, and Coast Guard, as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services; and

S. "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III

Applicability

A. Except as otherwise provided in this section, this compact shall apply to the children of:

1. Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. secs. 1209 and 1211;

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

B. The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.

C. The provisions of this compact shall not apply to the children of:

1. Inactive members of the National Guard and Military Reserves;

2. Members of the uniformed services now retired, except as provided for in this section;

3. Veterans of the uniformed services, except as provided for in this section; and

4. Other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV

Educational Records and Enrollment

A. Unofficial or "hand-carried" educational records: In the event that official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official educational records/transcripts: Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official educational records to the school in the receiving state within ten (10) days or within such time as is

reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations: Compacting states shall give thirty (30) days from the date of enrollment, or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age: Students shall be allowed to continue their enrollment at the grade level in the receiving state commensurate with their grade level (including kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V

Placement and Attendance

A. Course placement: When the student transfers before or during the school year, the receiving state shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advance Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement: The receiving state shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include but are not limited to:

1. Gifted and talented programs; and

2. English as a second language (ESL).

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services:

1. In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. sec. 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and

2. In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. sec. 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. secs. 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility: Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement in courses or programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities: A student whose parent or legal guardian is an active member of the uniformed services, as defined by this compact, and has been called to active duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

ARTICLE VI

Eligibility

A. Eligibility for enrollment:

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent;

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in the jurisdiction other than that of the custodial parent; and

3. A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

B. Eligibility for extracurricular participation: State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII

Graduation

In order to facilitate the on-time graduation of children of military families, state and local education agencies shall incorporate the following procedures:

A. Waiver requirements: Local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide alternative means of acquiring required coursework so that graduation may occur on time.

B. Exit exams - States shall accept:

1. Exit or end-of-course exams required for graduation from the sending state;

2. National norm-referenced achievement tests; or

3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her senior year, then the provisions of Article VII, C shall apply.

C. Transfers during senior year: Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of diploma from the sending local education agency if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with sections A and B of this Article.

ARTICLE VIII

State Coordination

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least:

1. The state superintendent of education;

2. A superintendent of a school district with a high concentration of military children;

3. A representative from a military installation;~~[ and]~~

4. One ***legislative member***~~[representative]~~ each from the ***General Assembly's Senate and House of Representatives, to be chosen respectively by the President of the Senate and the Speaker of the House of Representatives. The respective leaders will then forward the names of their chosen***

***members to the Governor. The members shall serve at the pleasure of the President and Speaker;*** ~~[legislative and]~~

***5. One representative from the*** executive ***branch*** ~~[branches]~~ of government***;*** ~~[,]~~ and

***6.*** Other offices and stakeholder groups the State Council deems appropriate.

A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

B. The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

C. The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed by the Governor or as otherwise determined by each member state.

D. The compact commissioner and the military family education liaison designated herein shall be ex-officio members of the State Council, unless either is already a voting member of the State Council.

ARTICLE IX

Interstate Commission on Educational Opportunity for Military Children

The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.

1. Each member state represented at a meeting of the Interstate Commission is entitled to a vote.

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one (1) year term. Members of the executive committee shall be entitled to one (1) vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

F. Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission

shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

G. Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Certify, for a meeting or portion of a meeting closed pursuant to this provision, by the Interstate Commission's legal counsel or designee, that the meeting may be closed and in so doing reference each relevant exemptible provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote or the Interstate Commission.

I. Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

J. Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection shall not be construed to create a private right of action against the Interstate Commission or any member state.

## ARTICLE X

### Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states;

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact;

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;

D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

E. To establish and maintain offices which shall be located within one or more of the member states;

F. To purchase and maintain insurance and bonds;

G. To borrow, accept, hire, or contract for services of personnel;

H. To establish and appoint committees including but not limited to an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out

its powers and duties hereunder;

I. To elect or appoint such officers, attorneys, employees, agents, or consultants and to fix their compensation, define their duties and determine their qualifications to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

J. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;

K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, whether real, personal, or mixed;

L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed;

M. To establish a budget and make expenditures;

N. To adopt a seal and bylaws governing the management and operation of the Interstate Commission;

O. To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission;

P. To coordinate education, training and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;

Q. To establish uniform standards for the reporting, collecting, and exchanging of data;

R. To maintain corporate books and records in accordance with the bylaws;

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

## ARTICLE XI

### Organization and Operation of the Interstate Commission

A. The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the offices and staff of the Interstate Commission;

6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and

7. Providing "start up" rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel:

1. The executive committee shall have authority and duties as may be set forth in the bylaws, including but not limited to:

   a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

   b. Overseeing an organizational structure within, and appropriate procedures for, the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

   c. Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

2. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

1. The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by intentional or willful and wanton misconduct of such person.

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of the Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XII

### Rulemaking Functions of the Interstate Commission

A. Rulemaking Authority: The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

B. Rulemaking Procedure: Rules shall be made pursuant to a rulemaking process that substantially conforms to

the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

C. Not later than thirty (30) days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

D. If a majority of the legislatures of the compacting states rejects a Rule by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

## ARTICLE XIII

### Oversight, Enforcement, and Dispute Resolution

A. Oversight:

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may effect the powers, responsibilities, or actions of the Interstate Commission.

3. The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.

B. Default, Technical Assistance, Suspension, and Termination - If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, the bylaws, or promulgated rules, the Interstate Commission shall:

1. Provide written notice to the defaulting state and other member states of the nature of default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

4. Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, including obligations the performance of which extends beyond the effective date of suspension or termination.

6. The Interstate Commission shall not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution:

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

2. The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement:

1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The Interstate Commission may by majority vote of the members initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules, and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

ARTICLE XIV

Financing of the Interstate Commission

A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

B. The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states except by and with the authority of the member state.

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XV

Member States, Effective Date, and Amendment

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

Withdrawal and Dissolution

A. Withdrawal:

1. Once effective, the compact shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state jurisdiction.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of Compact:

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one (1) member state.

2. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

Severability and Construction

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

Binding Effect of Compact and Other Laws

A. Other Laws:

1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

B. Binding Effect of the Compact:

1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

3. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**Signed by Governor March 30, 2015.**

## CHAPTER 91

**( HB 315 )**

AN ACT relating to the protection of children in motor vehicles.

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

➔Section 1. KRS 189.125 is amended to read as follows:

(1) Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry fifteen (15) or fewer passengers and used for the transportation of persons, but the term does not include:

(a) Motorcycles;

(b) Motor-driven cycles; or

(c) Farm trucks registered for agricultural use only and having a gross weight of one (1) ton or more.

(2) A person shall not sell any new motor vehicle in this state nor shall any person make application for registering a new motor vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3) (a) Any driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(b) Any driver of a motor vehicle, when transporting a child under the age of ***eight (8)***~~[seven (7)]~~ years who is between forty (40) inches and ***fifty-seven (57)***~~[fifty (50)]~~ inches in height in a motor vehicle operated on the roadways, streets, and highways of this state, shall have the child properly secured in a child booster seat. ***A child of any age who is greater than fifty-seven (57) inches in height shall not be required to be secured in a child booster seat under this section.***

(4) As used in this section:

(a) "Child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards; and

(b) "Child booster seat" means a child passenger restraint system that meets the standards set forth in 49 C.F.R. Part 571 that is designed to elevate a child to properly sit in a federally approved lap-and-shoulder belt system.

(5) Failure to use a child passenger restraint system or a child booster seat shall not be considered as contributory negligence, nor shall such failure to use a passenger restraint system or booster seat be admissible as evidence in the trial of any civil action. Failure of any person to wear a seat belt shall not constitute negligence per se.

(6) A person shall not operate a motor vehicle manufactured after 1981 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not apply to:

(a) A person who has in his possession at the time of the conduct in question a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(7) A conviction for a violation of subsection (6) of this section shall not be transmitted by the court to the Transportation Cabinet. The Transportation Cabinet shall not include a conviction for a violation of subsection (6) of this section as part of any person's driving history record.

(8) The provisions of subsection (6) of this section shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsection (6) of this section may be enacted by any unit of local government.

**Signed by Governor March 30, 2015.**

## CHAPTER 92

**( HB 314 )**

AN ACT repealing the certified volunteer firefighter identification program.

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

➔Section 1. The following KRS section is repealed:

95A.080 Certified volunteer firefighter identification program.

**Signed by Governor March 30, 2015.**

## CHAPTER 93

**( HB 274 )**

AN ACT relating to military affairs.

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

➔Section 1. KRS 154.12-203 is amended to read as follows:

(1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) It shall be the purpose of the Kentucky Commission on Military Affairs to:

(a) Address matters of military significance to Kentucky;

(b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

(c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;

(d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;

(e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;

(f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;

(g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;

(h) Recommend to the Kentucky Economic Development Partnership the long-range options and potential for the defense facilities located in Kentucky;

(i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and

(j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.

(3) The Kentucky Commission on Military Affairs shall consist of:

(a) The Governor or a designated representative;

(b) The secretary of the Cabinet for Economic Development or a designated representative;

(c) The adjutant general of the Commonwealth or a designated representative;

(d) The executive director of the Office of Homeland Security or a designated representative;

(e) The secretaries of the following cabinets or their designees:

1. Finance and Administration;

2. Justice and Public Safety;

3. Energy and Environment;

4. Transportation;

5. Education and Workforce Development;

6. Health and Family Services;

7. Personnel;

8. Labor;

9. Public Protection; and

10. Tourism, Arts and Heritage;

(f) The Attorney General or a designated representative;

(g) The commissioner of the Department of Veterans' Affairs or a designated representative;

(h) The executive director of the Kentucky Commission on Military Affairs or a designated representative;

(i) ***The chairperson of the Kentucky Committee for Employer Support of the Guard and Reserve;***

***(j)*** Kentucky's Civilian Aides to the Secretary of the United States Army;

***(k)***~~[(j)]~~ ***The chairperson of the Senate Veterans, Military Affairs, and Public Protection Committee and the chairperson of the House of Representatives Veterans, Military Affairs, and Public Safety Committee***~~[Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House]~~;

***(l)***~~[(k)]~~ The Chief Justice or a designated representative;

***(m)***~~[(l)]~~ The commander or the designee of the commander of each of the following as nonvoting, ex officio members:

1. U.S. Army Cadet Command;

2. U.S. Army Human Resources Command;

3. U.S. Army Recruiting Command;

4. 84th Training Command;

5. One Hundredth Division (Institutional Training);

6. 101st Airborne Division;

7. Blue Grass Army Depot;

8. Fort Campbell Garrison;

9. Fort Knox Garrison;

10. ***11th Theatre Aviation Command, U.S. Army Reserve;***

***11.*** U.S. Army Corps of Engineers, Huntington District;

***12.***~~[11.]~~ U.S. Army Corps of Engineers, Louisville District;

***13.***~~[12.]~~ Adjutant General of the U.S. Army; and

***(n)***~~[(m)]~~ Five (5) at-large members appointed by the Governor, who shall be residents of counties significantly impacted by military installations.

(4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one (1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

(5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.

(b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.

(c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.

(6) The commission shall meet ***one (1) time***~~[two (2) times]~~ each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.

(7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.

(9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.

(10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.

(11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

**Signed by Governor March 30, 2015.**

## CHAPTER 94

## ( HB 260 )

AN ACT relating to postsecondary student financial assistance.

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

➔Section 1. KRS 164A.337 is repealed, reenacted as a new section of KRS 164.740 to 164.7911, and amended to read as follows:

(1) The board is authorized to incorporate an organization pursuant to KRS Chapter 273 for the eleemosynary,

charitable, and educational purposes of administering an endowment trust. The organization so created shall be an instrumentality of the Commonwealth, but shall possess no part of the sovereign powers of the Commonwealth. The corporation shall be created to qualify as a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) The endowment trust created pursuant to subsection (1) of this section shall solicit and accept gifts, grants, donations, bequests, or other endowments, including general fund appropriations from the Commonwealth and grants from any federal or other governmental agency, for the purposes of the endowment trust.

(3) The endowment trust shall provide student financial assistance benefits, including, but not limited to, ***college access programs administered by the board or*** grants, scholarships, or loans to pay higher education costs of ***Kentucky residents***~~[members of the public, designated as beneficiaries of participation agreements under the Kentucky Educational Savings Plan Trust,]~~ who enroll in an institution of higher education in Kentucky.

~~[(4) The board is authorized to transfer to the endowment trust, after its qualification under Section 501(c)(3) of the Internal Revenue Code, any funds or assets then held in the endowment fund initially established pursuant to KRS 164A.335.]~~

***(4)***~~[(5)]~~ Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership or corporation to the endowment trust shall be a grant, gift, or donation for the accomplishment of a valid public, eleemosynary, charitable, and educational purpose.

***(5)***~~[(6)]~~ The endowment trust shall submit an annual audited report~~[, in accordance with KRS 164A.365(1) and (2),]~~ to the ***board***~~[program administrator]~~ not later than the fifteenth of each September.

➔Section 2. The following KRS section is repealed:

164A.315 Office facilities, clerical and administrative support for endowment trust.

**Signed by Governor March 30, 2015.**

## CHAPTER 95

**( HB 179 )**

AN ACT relating to the sale of motor vehicles.

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

➔Section 1. KRS 190.080 is amended to read as follows:

(1) As used in this section, "previous consumer-owner" shall mean the last owner of the vehicle who could reasonably be expected to have operated the used car for personal, family, household, or business purposes, but shall not mean an owner who possessed the vehicle primarily for resale purposes.

(2) It shall be unlawful for any motor vehicle dealer or motor vehicle salesperson to refuse to furnish, upon request of a prospective purchaser, the name, address, and telephone number, if known or available, of the previous consumer-owner of any used car offered for sale.

(3) ~~[It shall be unlawful for any motor vehicle dealer or motor vehicle salesperson to sell or offer to sell to a consumer a used car which does not have affixed to its windshield, when the car is first offered for sale, in a conspicuous manner in at least ten point, boldface type, the following notice: "NOTICE: KENTUCKY LAW REQUIRES THAT, IF REQUESTED, WE SHALL FURNISH YOU WITH THE NAME, ADDRESS, AND TELEPHONE NUMBER, IF AVAILABLE, OF THE PREVIOUS CONSUMER OWNER OF THIS VEHICLE. (KRS 190.080)".~~

~~(4) ]~~It shall be unlawful for any person to transfer a motor vehicle in order to avoid compliance with this section.

➔Section 2. KRS 186A.530 is amended to read as follows:

(1) The owner of a motor vehicle that meets the definition of a salvage vehicle as set forth in KRS 186A.520(1) and has been issued a salvage certificate of title in Kentucky, or the equivalent thereof by another licensing jurisdiction, and has been rebuilt, may make application for a new certificate of title pursuant to KRS 186.115. The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A

governing the form of application.

(2) Upon receipt of a salvage certificate of title issued pursuant to KRS 186A.520, or similar title issued by another state if the title does not disqualify the vehicle from being titled for use on the highway in that state, and proof of passing the inspection required by KRS 186A.115, the cabinet shall issue a new certificate of title with the words "rebuilt vehicle" printed on the face of the title. The brand shall be carried forward and printed in the appropriate section on the face of all titles issued thereafter for that motor vehicle.

(3) If ownership of a motor vehicle has been transferred to an insurance company through payment of damages, the insurance company making the payment of damages shall be deemed the owner of the vehicle.

(4) The owner of a water damaged vehicle shall make application to the cabinet for a salvage certificate of title as provided for in KRS 186A.520. The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as water damaged or other similar designation who is making application for a Kentucky title shall be issued a title with the words "water damaged" printed on the face of the title.

(5) A Kentucky salvage certificate of title may be issued from an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification that disqualifies the vehicle from being titled for use on the highway in that state with the following provisions:

(a) The out-of-state junking certificate of title or other ownership certificate shall be an original, secure document.

(b) The applicant shall submit a minimum of two (2) photographs of the motor vehicle showing the damage to the motor vehicle. The photographs shall be included in the application for a salvage certificate of title.

(c) The applicant shall submit a minimum of two (2) estimates of damage verifying that the condition of the vehicle which has been issued the junking certificate constitutes less than seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Auto Dealers' Association N.A.D.A. price guide.

(d) A salvage title issued under this subsection shall be branded "SALVAGE." The Transportation Cabinet shall use a unique method of identification to differentiate a salvage title issued under this subsection from other salvage titles.

(6) (a) Upon receipt of a salvage certificate of title issued pursuant to subsection (5) of this section, or an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification that disqualifies the vehicle from being titled for use on the highway in that state, and proof of passing the inspection required by KRS 186A.115, the cabinet shall issue a new certificate of title with the words "REBUILT VEHICLE" printed on the face of the title. The Transportation Cabinet shall use a unique method of identification to differentiate a rebuilt brand issued under this paragraph from other rebuilt brands. The brand shall be carried forward and printed in the appropriate section on the face of all titles issued thereafter for that motor vehicle.

(b) A person who obtains a rebuilt title under this subsection shall permanently affix a plate of metallic composition within the opening for the driver's side door which states "REBUILT VEHICLE - May Not Be Eligible For Title In All States."

(7) (a) When an insurance company makes a claim settlement on a vehicle that has been stolen and recovered, if the vehicle meets the definition of a salvage vehicle as set forth in KRS 186A.520, the company shall apply for a salvage certificate of title as provided for in KRS 186A.520. Upon receipt of this information, the cabinet shall issue the company a certificate of title to replace a salvage certificate of title. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A regarding the forms and any additional information which insurance companies shall be required to obtain and submit when seeking a certificate of title to replace a salvage certificate of title.

(b) In claim settlements that do not involve transfer of the vehicle to the insurance company, an insurer shall not render payment on a damage claim for a vehicle whose damage meets or exceeds seventy-five percent (75%) of the value of the vehicle, until the insurer has received proof that the owner has surrendered the title or has applied for a salvage certificate of title as set forth in KRS 186A.520. The owner shall apply for a salvage certificate of title within three (3) working days of the agreed settlement. This subsection shall not apply to hail-damaged vehicles under KRS 186A.555.

(c) An insurance company shall not refuse coverage to, and shall not reclassify coverage of, a vehicle that

has been issued a rebuilt title pursuant to the provisions of this section.

(8) A motor vehicle owner or a motor vehicle dealer licensed in this state who offers for sale, trade, or transfer a motor vehicle which carries a title brand, as set forth in subsection (2) or (6) of this section, shall disclose the nature of the brand to any prospective buyer or transferee, prior to the sale, and according to the following:

(a) Dealer disclosure shall be located on ***a***~~[the previous consumer owner]~~ sticker ***placed on the vehicle***~~[provided for in KRS 190.080. The sticker notification shall appear in a color different from that of the previous consumer-owner sticker and shall be set apart from other information required by KRS 190.080]~~. The sticker wording shall be printed in at least ten (10) point, bold face type, on a background of obviously different color, and shall include the following: "THIS IS A REBUILT VEHICLE." This disclosure information shall not appear on ~~[previous consumer owner stickers for]~~ vehicles that do not have a branded title. Dealer disclosure shall also be located on a buyer's notification form to be approved by the Transportation Cabinet. The form shall inform the buyer that the vehicle is a rebuilt vehicle and may include any other information the cabinet deems necessary.

(b) Nondealer disclosure shall be made in accordance with the procedures provided for in KRS 186A.060. The Department of Vehicle Regulation shall ensure that disclosure information appears near the beginning of the application for title and informs the buyer that the vehicle is a rebuilt vehicle.

(9) Failure of a dealer to procure the buyer's acknowledgment signature on the buyer's notification form or failure of any person other than a dealer to procure the buyer's acknowledgment signature on the vehicle transaction record form shall render the sale voidable at the election of the buyer. The election to render the sale voidable shall be limited to forty-five (45) days after issuance of the title. This provision shall not bar any other remedies otherwise available to the purchaser.

(10) The notification provisions of this section shall not apply to motor vehicles more than ten (10) model years old.

(11) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A, regarding the administration of the title branding procedure. The administrative regulations shall include the manner in which salvage titles and rebuilt brands on vehicles previously declared unrebuildable by another state are differentiated from other salvage titles and rebuilt brands. The administrative regulations may include designation of additional brands which provide significant information to the owner.

**Signed by Governor March 30, 2015.**

## CHAPTER 96

**( HB 178 )**

AN ACT relating to income tax refund designations and related programs, and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***(1) Effective for taxable years beginning January 1, 2016, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to Special Olympics Kentucky may designate an amount, not to exceed the amount of the refund, to be paid to Special Olympics Kentucky. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.***

***(2) The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax return.***

***(3) The instructions accompanying the individual income tax return shall include a description of Special Olympics Kentucky, and the purposes for which the funds from the income tax refund designation may be used.***

***(4) The commissioner shall, by December 1, 2017, and by December 1 of each year thereafter, transfer the***

***funds designated by taxpayers under this section to Special Olympics Kentucky.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***(1) Effective for taxable years beginning on or after January 1, 2016, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the pediatric cancer research trust fund created under Section 3 of this Act may designate an amount, not to exceed the amount of the refund, to be paid to the fund. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.***

***(2) The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax form.***

***(3) The instructions accompanying the individual income tax return shall include a description of the pediatric cancer research trust fund and the purposes for which the funds from the income tax checkoff may be used.***

***(4) The commissioner of the department shall, by July 1, 2017, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the pediatric cancer research trust fund created by Section 3 of this Act.***

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***(1) The pediatric cancer research trust fund is hereby created as a separate trust fund. The fund shall be administered by the Cabinet for Health and Family Services.***

***(2) The fund shall receive amounts collected from the income tax checkoff created in Section 2 of this Act, and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of this fund.***

***(3) Notwithstanding KRS 45.229, trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.***

***(4) Any interest earned on moneys in the trust fund shall become a part of the trust fund and shall not lapse.***

***(5) Trust fund moneys shall be used to support pediatric cancer research and treatment for Kentucky patients. Funds shall be administered and distributed by the pediatric cancer trust fund board established by Section 4 of this Act for the purposes directed in this section and Sections 4 and 5 of this Act.***

***(6) Moneys transferred to the trust fund pursuant to Section 2 of this Act are hereby appropriated for the purposes set forth in Section 5 of this Act.***

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(***1) The pediatric cancer trust fund board is hereby created for the purpose of administering and distributing funds from the trust created under Section 3 of this Act. The board shall be composed of nine (9) members to be appointed as follows:***

***(a) A specialist in pediatric oncology nominated by the Kosair Children's Hospital to be appointed by the Governor;***

***(b) A specialist in pediatric oncology nominated by the University of Kentucky Children's Hospital to be appointed by the Governor;***

***(c) A representative nominated by Kentucky Chapters of the Leukemia and Lymphoma Society to be appointed by the Governor;***

***(d) A representative nominated by Kentucky offices of the American Cancer Society to be appointed by the Governor;***

***(e) Three (3) citizens, one (1) of whom shall be a pediatric cancer survivor, or parent thereof, to be appointed by the Governor from a list of six (6) citizens nominated by Kentucky offices of the American Cancer Society;***

***(f) The secretary of the Cabinet for Health and Family Services, or the secretary's designee; and***

***(g) The commissioner of the Department for Public Health, or the commissioner's designee.***

***(2) The board shall be attached to the Cabinet for Health and Family Services for administrative purposes.***

***(3) The secretary of the Cabinet for Health and Family Services shall convene the first meeting of the board***

***within sixty (60) days of the effective date of this Act.***

***(4) Board members shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.***

***(5) The term of each appointed member shall be four (4) years.***

***(6) A member whose term has expired may continue to serve until a successor is appointed and qualifies. A member who is appointed to an unexpired term shall serve the rest of the term and until a successor is appointed and qualifies. A member may serve two (2) consecutive four (4) year terms and shall not be reappointed for four (4) years after the completion of those terms.***

***(7) A majority of the full membership of the board shall constitute a quorum.***

***(8) At the first meeting, the board shall elect, by majority vote, a president who shall preside at all meetings and coordinate the functions and activities of the board. The president shall be elected or reelected each calendar year thereafter.***

***(9) The board shall meet at least two (2) times annually, but may meet more frequently, as deemed necessary, subject to call by the president or by request of a majority of the board members.***

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***The pediatric cancer research fund board created by Section 4 of this Act shall:***

***(1) Develop a written plan for the expenditure of trust funds made available under Section 3 of this Act. The initial plan shall be completed on or before October 1, 2015, and shall be updated on an annual basis on or before October 1 of each year thereafter. The plan shall, at a minimum, include the following:***

***(a) A summary of existing pediatric cancer research, awareness, treatment, and funding programs provided to children of Kentucky;***

***(b) A needs assessment for the pediatric cancer patients of the Commonwealth of Kentucky that identifies additional research funding needs by cancer type and geographic area, with support for why the identified programs are needed; and***

***(c) A prioritized list of programs and research projects that the board will address with funding available through the competitive grant program established under subsection (2) of this section;***

***(2) Promulgate administrative regulations to establish a competitive, open grant program to provide funding to not-for-profit entities, academic medical centers and government agencies offering research funding and treatment for pediatric cancer to Kentucky children impacted by the disease.***

***(a) The grant program shall provide funding to research projects and programs in accordance with the priorities established in the plan developed under subsection (1) of this section.***

***(b) The administrative regulations shall, at a minimum:***

***1. Establish an application process and requirements;***

***2. Set forth program and outcome measurement requirements;***

***3. Establish an application review and award process; and***

***4. Provide monitoring, oversight, and reporting requirements for funded programs;***

***(3) Promulgate administrative regulations necessary to carry out the provisions of this section and Section 4 of this Act; and***

***(4) Provide to the Governor and the Legislative Research Commission an annual report by October 1 of each year. The report shall include:***

***1. The plan developed under subsection (1) of this section for the expenditure of funds for the current and next fiscal year;***

***2. A summary of the use and impact of prior year funds;***

***3. A summary of the activities of the board during the prior fiscal year; and***

***4. Any recommendations for future initiatives or action regarding pediatric cancer research funding.***

**Signed by Governor March 30, 2015.**

## CHAPTER 97

**( HB 149 )**

AN ACT relating to the continuing education of real estate licensees.

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

➔Section 1. KRS 324.010 is amended to read as follows:

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

(1) "Real estate brokerage" means a single, multiple, or continuing act of dealing in time shares or options, selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee, compensation, or other valuable consideration;

(2) "Commission" means the Kentucky Real Estate Commission;

(3) "Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the fee compensation or other valuable consideration;

(4) "Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;

(5) "Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;

(6) "Sales associate" means any person licensed in accordance with KRS 324.046(2) that is affiliated with a Kentucky-licensed principal broker and who, when engaging in real estate brokerage, does so under the supervision of the principal broker;

(7) "Approved real estate school" means:

(a) A school that has been given a certificate of approval by the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the Kentucky Commission on Proprietary Education or other regulatory bodies that exercise jurisdiction over accreditation and approval and the commission; or

(b) A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;

(8) "Accredited institution" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward a program for either an associate, baccalaureate, graduate, or professional degree;

(9) "Property management" means the overall management of real property for others for a fee, compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;

(10) "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage;

(11) "Designated manager" means a licensed sales associate or broker who manages a main or branch office for the principal broker, at the principal broker's direction, and has managing authority over the activities of the sales associates at that office;

(12) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;

(13) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;

(14) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with KRS 324.121, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;

(15) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his or her license with the principal broker for supervision of the licensee's real estate brokerage activity;

(16) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing ***or post-license*** education;

(17) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time;~~[ and]~~

(18) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years***; and***

***(19) "Post-license education" means the forty-eight (48) hours of commission-approved education required within two (2) years of receiving or activating an initial sales associate license***.

➔Section 2. KRS 324.085 is amended to read as follows:

(1) All actively licensed agents except those licensees exempt under KRS 324.046(5), shall successfully complete six (6) classroom ***or online*** hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law.~~[ The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.]~~

(2) ***A licensee who is issued an initial sales associate license after the effective date of this Act shall complete forty-eight (48) classroom or online hours of commission-approved post-license education:***

***(a) Provided by one (1) or a combination of the following:***

***1. An accredited institution; or***

***2. A commission-approved:***

***a. Real estate school; or***

***b. Broker-affiliated training program;***

***(b) Within two (2) years of receiving or activating his or her license unless extended by the commission for good cause shown.***

***(3) The license held by any licensee failing to complete his or her sales associate post-license education requirements in accordance with subsection (2) of this section shall be automatically canceled, in accordance with administrative regulations establishing compliance and delinquency procedures.***

***(4) The commission shall promulgate administrative regulations to establish procedures for implementing the requirements in this section.***

***(5)*** In order to qualify to teach continuing education ***or post-license*** courses, all continuing education ***and post-license*** instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

➔Section 3. This Act takes effect January 1, 2016.

**Signed by Governor March 30, 2015.**

## CHAPTER 98

**( HB 144 )**

AN ACT relating to in-home care for elderly and disabled persons.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

***(1) The Department for Medicaid Services shall submit a waiver or waiver amendment for approval to the Centers for Medicare and Medicaid Services in order to establish the Hospital-to-Home Transition Program to provide coverage for services provided by an approved Medicaid waiver provider to elderly and physically disabled persons over the age of eighteen (18) years. The program shall provide coverage for up to sixty (60) days for services not otherwise provided as part of the Medicaid essential benefits coverage in order to assist waiver applicants while transitioning from an institutional setting to their home or to a community setting.***

***(2) The Hospital-to-Home Transition Program shall provide nonmedical support services to applicants including but not limited to:***

***(a) Adult day care services;***

***(b) Attendant services;***

***(c) Home-delivered meal services; and***

***(d) Transportation services.***

***(3) The daily cost of services covered by the Hospital-to-Home Transition Program shall be less than the average daily Medicaid payment for a stay at a nursing facility.***

***(4) An applicant shall be eligible for the Hospital-to-Home Transition Program if the applicant:***

***(a) Is determined to be functionally eligible for services in his or her home or community setting; and***

***(b) Has a pending application for Medicaid waiver services provided that he or she complies with all other medical assistance application requirements.***

***(5) The cabinet shall develop a screening tool to determine whether an applicant meets the eligibility criteria under subsection (4) of this section for the Hospital-to-Home Transition Program. The screening tool shall include but not be limited to the following:***

***(a) Procedures for determining whether an applicant is functionally able to live at home or in a community setting;***

***(b) Procedures for determining financial eligibility;***

***(c) Procedures to address patient treatment preferences; and***

***(d) Procedures to address patient goals of care and family caregiver concerns.***

***(6) An applicant for the program shall:***

***(a) Sign a written agreement attesting to the accuracy of the financial and other information that the applicant provides; and***

***(b) Complete a Medicaid application on the date the applicant is screened for functional eligibility or not later than ten (10) days from the screening.***

***(7) The cabinet shall make the Medicaid level of care final determination of eligibility for Medicaid and Medicaid waiver services by sixty (60) days following an eligible applicant's discharge from an institutional setting to a home or community setting.***

***(8) The cabinet shall request funding to support the waiver program. Not later than July 1, 2016, subject to appropriations provided by the General Assembly and approval of the waiver or waiver amendment from the Centers for Medicare and Medicaid Services, the cabinet shall initiate the Hospital-to-Home Transition Program as described in this section.***

***(9) The Department for Medicaid Services shall promulgate administrative regulations to implement this section.***

**Signed by Governor March 30, 2015.**

## CHAPTER 99

**( HB 136 )**

AN ACT relating to the administration of municipal property taxes.

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

➔Section 1. KRS 91A.070 is amended to read as follows:

(1) Any city may by ordinance elect to have all city ad valorem taxes including delinquent taxes collected by the sheriff of the county. The election shall be effective only if a copy of the ordinance is delivered to the sheriff as soon as practicable, and a copy of the ordinance levying the taxes to be collected is delivered to the county clerk as soon as practicable. If the city so elects:

(a) The county clerk shall place city ad valorem taxes due on the tax bills of owners of property in the city, prepared in accordance with KRS 133.220 and 133.230.

(b) The sheriff shall collect all city ad valorem taxes, including delinquent taxes, in the same manner as county ad valorem taxes as provided in KRS Chapter 134, and the sheriff shall be compensated in an amount calculated to defray additional costs to the sheriff for the services performed, but such amount shall not exceed the rates provided for tax collection by KRS Chapter 134. All procedures provided by KRS Chapter 134 concerning collection of delinquent taxes by counties shall be applicable.

(2) If a city does not elect to have city ad valorem taxes collected by the sheriff as provided in subsection (1) of this section, ***the*** city~~[ ad valorem taxes shall be due and payable at the same time as state and county ad valorem taxes are due and payable, unless otherwise prescribed by statute. The city]~~ shall establish by ordinance procedures for the collection of ad valorem taxes which shall specify the ***following:***

***(a) The date that city ad valorem taxes are due and payable, except that ad valorem taxes on motor vehicles and motorboats shall be governed by the provisions of KRS 134.800 to 134.830;***

***(b) The*** manner of billing***;~~[,]~~***

***(c)*** The place ***and manner*** for payment, ***which may permit the payment of the taxes in installments under such terms and conditions specified in the ordinance;***

***(d)*** Discounts, if any, for early payment***;~~[,]~~***

***(e) Any*** penalties and interest for late payment ***or nonpayment;~~[,]~~*** and

***(f) Any*** other necessary procedures related to ad valorem tax administration ***not otherwise in conflict with state law***.

(3) In cities proceeding under subsection (2) of this section, ad valorem taxes upon real or personal property shall be delinquent if not paid by the date due and payable by ordinance or statute. A lien superior to all other liens, except a lien for state taxes, whether such liens were acquired before or after the maturity of the taxes referred to in this section, shall exist in favor of the city from the date the taxes are due, for the amount of the taxes, interest and penalties, upon all the real and personal property of the delinquent taxpayer. The city may enforce the lien by action in the name of the city in the Circuit Court as provided by statute. In that action it may also obtain a personal judgment against the delinquent taxpayer for the tax, penalties, interest and costs of the suit.

***(4) Any city establishing penalties and interest for the late payment or nonpayment of ad valorem property taxes under subsection (3) of this section may, by ordinance, provide an amnesty program as determined by the city's legislative body for the forgiveness or a reduction of a taxpayer's accumulated penalties and interest for late payment or nonpayment of ad valorem property taxes in previous tax years.***

**Signed by Governor March 30, 2015.**

## CHAPTER 100

**( HB 19 )**

AN ACT relating to the disposal of vehicles forfeited to law enforcement agencies.

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

➔Section 1. KRS 218A.420 is amended to read as follows:

(1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.

(2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health and Family Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.

(3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.

(4) Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:

(a) Eighty-five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and

(b) Fifteen percent (15%) shall be paid to the Office of the Attorney General or, in the alternative, the fifteen percent (15%) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts.

The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.

(5) The Attorney General, after consultation with the Prosecutors Advisory Council, shall promulgate administrative regulations to establish the specific purposes for which these funds shall be expended.

(6) Each state and local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving any forfeited property, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(7) Each state or local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving forfeited property, have one (1) or more officers currently employed attend asset-forfeiture training approved by the Kentucky Law Enforcement Council, which shall approve a curriculum of study for asset-forfeiture training.

(8) ***(a)*** Other provisions of this section notwithstanding ***and subject to the limitations of paragraph (b) of this subsection***, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

***(b) Any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter and which has been determined by a state or local law enforcement agency to be contaminated with methamphetamine as defined by KRS 218A.1431 shall not be used, resold, or salvaged for parts, but instead shall be destroyed or salvaged only for scrap metal. Any vehicle which is forfeited pursuant to this chapter and has only transported prepackaged materials or products, precursors, or any other materials which have not been subjected to extraction either directly or indirectly from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis extraction, shall not be deemed contaminated with methamphetamine under this section.***

(9) When money or property is seized in a joint operation involving more than one (1) law enforcement agency or prosecutorial office, the apportionment of funds to each pursuant to subsection (4) of this section shall be made

among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

**Signed by Governor March 30, 2015.**

## CHAPTER 101

**( HB 316 )**

AN ACT relating to address protection and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

***(1) In addition to fees created by KRS 23A.205, 23A.206, and 23A.2065, an administrative fee of thirty dollars ($30) shall be added to the costs that the defendant is required to pay for the following crimes:***

***(a) A sex crime, meaning an offense described in:***

***1. KRS Chapter 510;***

***2. KRS 530.020;***

***3. KRS 530.064(1)(a);***

***4. KRS 531.310; and***

***5. KRS 531.320;***

***(b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150; and***

***(c) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.***

***(2) The first one dollar and fifty cents ($1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the address protection program fund established in Section 3 of this Act to be used solely to establish, operate, and maintain the confidential address protection program established in Section 3 of this Act.***

***(3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

***(1) In addition to fees created by KRS 24A.175, 24A.176, and 24A.1765, an administrative fee of thirty dollars ($30) shall be added to the costs that the defendant is required to pay for the following crimes:***

***(a) A sex crime, meaning an offense described in:***

***1. KRS Chapter 510;***

***2. KRS 530.020;***

***3. KRS 530.064(1)(a);***

***4. KRS 531.310; and***

***5. KRS 531.320;***

***(b) Stalking, meaning conduct prohibited under KRS 508.140 and 508.150; and***

***(c) A criminal attempt, conspiracy, facilitation, or solicitation to commit the crimes set forth in this subsection.***

***(2) The first one dollar and fifty cents ($1.50) of each fee collected under this section shall be placed into the general fund, and the remainder of the fee shall be allocated by the clerk of the court on a quarterly basis to the address protection program fund established in Section 3 of this Act to be used solely to establish, operate, and maintain the confidential address protection program established in Section 3 of this Act.***

***(3) The court may waive all or any portion of the fee required by this section if the court finds that a person subject to the surcharge is indigent or financially unable to pay all or any portion of the surcharge. The court may waive only the portion of the surcharge that the court finds the person is financially unable to pay.***

➔Section 3. KRS 14.260 is amended to read as follows:

(1) As funds are available, the Secretary of State, or designee, ***shall*** ~~[may]~~ promulgate administrative regulations to expand the address protection program to allow an applicant or specified guardians to apply to have a substitute address designated to serve as the address of the participant. Any program created under this section shall:

(a) Collaborate with the Kentucky Commission on Women;

(b) Establish criteria to prohibit certain individuals, including any individual required to register as a sex offender, from participation in the program;

(c) Allow a participant to request that state and local agencies use the substitute address as the address of the participant, but agencies may show that they have a bona fide statutory or administrative requirement for the actual address;

(d) Be open to individuals that are victims of domestic violence and abuse, stalking, any victim of an offense or an attempt to commit an offense defined in KRS Chapter 510, 530.020, 530.064(1)(a), 531.310, or 531.320, or any victim of a similar federal offense or a similar offense from another state or territory;

(e) Allow an applicant to submit evidence, including a sworn statement, to show that he or she is a victim of a qualifying offense.

(2) Participation in any program established under this section shall not affect custody or visitation orders in effect prior to or established during program participation, nor shall it constitute evidence of any offense and shall not be considered for purposes of making an order allocating parental responsibilities or parenting time.

(3) No actionable duty nor any right of action shall accrue against the state, any entity operating an address protection program for the state, an individual operating in his or her professional capacity on behalf of the confidential address protection program established in this section, or an employee of the state or municipality in the event of negligent acts that result in the disclosure of a program participant's actual address.

***(4) The address protection program fund is hereby created as a separate trust fund in the State Treasury. The address protection program fund shall consist of amounts received from fees collected pursuant to Sections 1 and 2 of this Act, amounts received from appropriations, and any other proceeds from gifts, grants, federal funds, or any other funds, both public and private, made available for the purposes of this section.***

***(5) The address protection program fund shall be administered by the Secretary of State to operate and maintain the confidential address protection program established in this section.***

***(6) Notwithstanding KRS 45.229, address protection program fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year.***

***(7) Any interest earnings of the address protection program fund shall become a part of the address protection program fund and shall not lapse.***

***(8) Moneys deposited in the address protection program fund are hereby appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.***

**Signed by Governor April 1, 2015.**

## CHAPTER 102

**( HB 8 )**

AN ACT relating to protective orders.

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

➔SECTION 1. KRS 403.715 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***KRS 403.715 to 403.785 shall be interpreted to:***

***(1) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;***

***(2) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;***

***(3) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;***

***(4) Provide for the collection of data concerning incidents of domestic violence and abuse in order to develop a comprehensive analysis of the numbers and causes of such incidents; and***

***(5) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.***

➔Section 2. KRS 403.720 is amended to read as follows:

As used in KRS 403.715 to 403.785:

(1) "Domestic violence and abuse" means physical injury, serious physical injury, ***stalking,*** sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault between family members or members of an unmarried couple;

(2) "Family member" means a spouse, including a former spouse, a grandparent, ***a grandchild,*** a parent, a child, a stepchild, or any other person living in the same household as a child if the child is the alleged victim;

(3) ***"Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 that was issued on the basis of domestic violence and abuse;***

***(4)*** "Global positioning monitoring system" means a system that electronically determines a person's location through ***a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;*** ~~[global positioning satellite technology, radio frequency technology, or a combination thereof and reports the location of an individual through the use of a transmitter or similar device worn by that individual and that transmits latitude and longitude data to a monitoring entity. The term does not include any system that contains or operates global positioning system technology, or any other similar technology, that is implanted or otherwise invades or violates the individual's body; and]~~

***(5)*** ~~[(4)]~~ "Member of an unmarried couple" means each member of an unmarried couple which allegedly has a child in common, any children of that couple, or a member of an unmarried couple who are living together or have formerly lived together***;*** ~~[.]~~

***(6) "Order of protection" means an emergency protective order or a domestic violence order and includes a foreign protective order; and***

***(7) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.***

➔SECTION 3. KRS 403.725 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A petition for an order of protection may be filed by:***

***(a) A victim of domestic violence and abuse; or***

***(b) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.***

***(2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape domestic violence and abuse.***

***(3) The petition shall be verified and contain:***

***(a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;***

***(b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;***

***(c) The facts and circumstances which constitute the basis for the petition;***

***(d) The date and place of the marriage of the parties, if applicable; and***

***(e) The names, ages, and addresses of the petitioner's minor children, if applicable.***

***(4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.***

***(5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.***

***(6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court and a petition may be filed by a petitioner in either court, except that a petition shall be filed in a family court if one has been established in the county where the petition is filed.***

***(b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to orders of protection in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an order of protection.***

***(8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.***

➔SECTION 4. KRS 403.730 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) (a) The court shall review a petition for an order of protection immediately upon its filing. If the review indicates that domestic violence and abuse exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.***

***(b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.***

***(2) (a) If the review under this section also indicates the presence of an immediate and present danger of domestic violence and abuse, the court shall, upon proper motion, issue ex parte an emergency protective order that:***

***1. Authorizes relief appropriate to the situation utilizing the alternatives set out in Section 6 of this Act, other than awarding temporary support or counseling;***

***2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and***

***3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:***

***a. The petitioner's request is voluntary and not the result of coercion; and***

***b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.***

***(b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any action taken or denied and the reason for it.***

➔SECTION 5. KRS 403.735 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Prior to or at a hearing on a petition for an order of protection:***

***(a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and***

***(b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.***

***(2) (a) If the adverse party is not present at the hearing ordered pursuant to Section 4 of this Act and has not been served, a previously issued emergency protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the emergency protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.***

***(b) The provisions of this section permitting the continuance of an emergency protective order shall be limited to six (6) months from the issuance of the emergency protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the emergency protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.***

➔SECTION 6. KRS 403.740 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Following a hearing ordered under Section 4 of this Act, if a court finds by a preponderance of the evidence that domestic violence and abuse has occurred and may again occur, the court may issue a domestic violence order:***

***(a) Restraining the adverse party from:***

***1. Committing further acts of domestic violence and abuse;***

***2. Any unauthorized contact or communication with the petitioner or other person specified by the court;***

***3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;***

***4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and***

***5. Disposing of or damaging any of the property of the parties;***

***(b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of domestic violence and abuse, except that the court shall not order the petitioner to take any affirmative action;***

***(c) Directing that either or both of the parties receive counseling services available in the community in domestic violence and abuse cases; and***

***(d) Additionally, if applicable:***

***1. Directing the adverse party to vacate a residence shared by the parties to the action;***

***2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody; and***

***3. Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary child support.***

***(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:***

***(a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations and areas from which the respondent should or should not be excluded;***

***(b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;***

***(c) Specifically describe in the order the locations or areas prohibited to the respondent; and***

***(d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.***

***(3) When temporary child support is granted under this section, the court shall enter an order detailing how the child support is to be paid and collected. Child support ordered under this section may be enforced utilizing the same procedures as any other child support order.***

***(4) A domestic violence order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.***

➔SECTION 7. KRS 403.745 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) An emergency protective order and a domestic violence order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.***

***(2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any filing, hearing, service, or order authorized by or required to implement KRS 403.715 to 403.785.***

***(3) A court shall not require mediation, conciliation, or counseling prior to or as a condition of issuing an order of protection.***

***(4) Mutual orders of protection may be issued only if:***

***(a) Separate petitions have been filed by both parties; and***

***(b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.***

***(5) Upon proper filing of a motion, either party may seek to amend an order of protection.***

***(6) Testimony offered by an adverse party in a hearing ordered pursuant to Section 4 of this Act shall not be admissible in any criminal proceeding involving the same parties, except for purposes of impeachment.***

***(7) (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement agencies, and victim services organizations may jointly operate a domestic violence intake center to assist persons who apply for relief under KRS 403.715 to 403.785.***

***(b) In cases where criminal conduct is alleged, a court may suggest that a petitioner voluntarily contact the county attorney. A court may not withhold or delay relief if the petitioner elects to not contact the county attorney.***

***(8) A person's right to apply for relief under this chapter shall not be affected by that person leaving his or her residence to avoid domestic violence and abuse.***

***(9) A court shall order the omission or deletion of the petitioner's address and the address of any minor children from any orders or documents to be made available to the public or to any person who engaged in the acts complained of in the petition.***

***(10) (a) If a petition under KRS 403.715 to 403.785 did not result in the issuance of a domestic violence order, the court in which the petition was heard may for good cause shown order the expungement of the records of the case if:***

***1. Six (6) months have elapsed since the case was dismissed; and***

***2. During the six (6) months preceding the expungement request, the respondent has not been bound by an order of protection issued for the protection of any person, including an order of protection as defined in Section 19 of this Act.***

***(b) As used in this subsection, "expungement" has the same meaning as in KRS 431.079.***

➔SECTION 8. KRS 403.750 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Any family member or any member of an unmarried couple may file for and receive protection under this chapter from domestic violence and abuse, notwithstanding the existence of or intent to file an action under this chapter by either party.***

***(2) (a) Any family member or member of an unmarried couple who files a petition for an order of protection based upon domestic violence or abuse shall make known to the court any custody or divorce actions involving both the petitioner and the respondent that are pending in any court.***

***(b) If the petitioner or respondent to an order of protection initiates an action under this chapter, the party initiating the action shall make known to the court the existence and status of any orders of protection, which shall remain effective and enforceable until superseded by order of the court in which the case is filed.***

***(3) If a family member or member of an unmarried couple files an action for dissolution of marriage, child custody, or visitation, the court hearing the case shall have jurisdiction to issue an order of protection upon the filing of a verified motion either at the commencement or during the pendency of the action.***

➔SECTION 9. KRS 403.751 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) All forms, affidavits, and orders of protection issued or filed pursuant to KRS 403.715 to 403.785 which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice and Public Safety Cabinet. If the provisions of an order of protection are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.***

***(2) The circuit clerk, in cooperation with the court, shall cause a copy of each summons or order issued pursuant to KRS 403.715 to 403.785, or foreign protective order, fully completed and authenticated pursuant to KRS 403.715 to 403.785, to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of orders of protection into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service, if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.***

***(3) Each agency designated for entry of summonses and orders issued pursuant to KRS 403.715 to 403.785, or foreign protective orders authenticated pursuant to this chapter, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.***

➔SECTION 10. KRS 403.7521 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.***

***(2) All peace officers shall treat a foreign protective order as a legal document valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an order of protection issued in Kentucky.***

***(3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.***

***(4) If the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.***

***(5) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken, regardless of the outcome of the original proceeding.***

➔SECTION 11. KRS 403.7524 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) In order to assist a court of another state in determining whether an order issued under KRS 403.715 to 403.785 is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265:***

***(a) All domestic violence orders shall include a statement certifying that the issuing court had jurisdiction over the parties and the matter, and that reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process; and***

***(b) All emergency protective orders shall include a statement certifying that notice and opportunity to be heard has been provided within the time required by state law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.***

***(2) The Administrative Office of the Courts shall prescribe the form to be used for the purposes of this section.***

➔SECTION 12. KRS 403.7527 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A copy of a foreign protective order may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an order of protection issued by a court of this state.***

***(2) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed.***

***(b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information Network of Kentucky in the same manner as a Kentucky order.***

***(3) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.***

***(b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky order of protection, but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a***

***certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an order of protection issued pursuant to Section 6 of this Act, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.***

***(c) Upon the filing of an uncertified protective order, the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign protective order shall be grounds for the issuance of an order of protection.***

***(d) If the clerk has not received a certified copy of the foreign protective order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the foreign protective order will be extended for another fourteen (14) days, but will be dismissed at the expiration of that time. If the clerk informs the judge in writing that the certified foreign protective order has been requested but has not yet been received, the judge shall extend the foreign protective order for a period of fourteen (14) days. If certification of the foreign protective order is not received within twenty-eight (28) days, the foreign protective order shall expire and shall not be reissued. If the applicant meets the qualifications for the issuance of a Kentucky domestic violence order, the court may, upon proper application and showing of evidence, issue a Kentucky order in accordance with this chapter.***

***(4) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under this chapter remains unimpaired.***

➔SECTION 13. KRS 403.7529 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to Section 12 of this Act, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.***

***(2) If the court declares the order to be authenticated, the court shall:***

***(a) Direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable; and***

***(b) Order its enforcement in any county of the Commonwealth in the same manner as an domestic violence order of this state issued pursuant to Section 6 of this Act.***

***(3) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.***

➔SECTION 14. KRS 403.7531 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A foreign protective order which has been entered into the Law Information Network of Kentucky shall be immediately cleared as an active record from the computer system when:***

***(a) The order expires according to its terms;***

***(b) A Kentucky court notifies the Law Information Network of Kentucky that a foreign protective order has been dismissed, either by court order or entry of notification by a circuit clerk; or***

***(c) A circuit clerk notifies the Law Information Network of Kentucky that a foreign protective order tendered to the clerk has not been authenticated in the time period specified in Section 14 of this Act.***

***(2) For validation purposes, the Law Information Network of Kentucky shall provide the circuit court clerk with a printout of foreign protective orders. The clerk shall validate each order annually by contacting the original issuing court or jurisdiction. If the clerk has not received information from the foreign jurisdiction within thirty-one (31) days, the clerk shall cause those orders to be cleared from the Law Information Network of Kentucky.***

➔SECTION 15. KRS 403.7535 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A person who has filed a foreign protective order in a court in Kentucky is under a continuing obligation to inform the court of any expiration, vacation, modification, or other change in the order which the person***

***filing the order has received from the issuing foreign court.***

***(2) A person who has filed a foreign protective order in a court in Kentucky shall, within two (2) working days of the occurrence of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was filed of the fact of the changed order and present the clerk with a copy of the order for authentication as provided in this chapter. The clerk shall immediately notify the Law Information Network of Kentucky entering agency of the modification.***

***(3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section, unless proper notice has been given in accordance with this section.***

***(4) Intentional failure of a person who has filed a foreign protective order to make the notifications required by this section in the manner required by this section shall constitute contempt of court and may be grounds for an appropriate civil action brought by any person damaged by the intentional act of omission by the person failing to act.***

➔SECTION 16. KRS 403.761 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Upon a petitioner's request and after an evidentiary hearing, a court may amend a domestic violence order to require a respondent to participate in a global positioning monitoring system if:***

***(a) The respondent has committed a substantial violation of a previously entered domestic violence order;***

***(b) The court has reviewed an updated history of the respondent's Kentucky criminal and protective order history; and***

***(c) The court makes a factual determination that the use of a global positioning monitoring system would increase the petitioner's safety.***

***(2) An order requiring participation in a global positioning monitoring system shall:***

***(a) Require the respondent to pay the cost of participation up to the respondent's ability to pay, with the system operator bearing any uncovered costs for indigent respondents;***

***(b) State with specificity the locations or areas where the respondent is prohibited from being located or persons with whom the respondent shall have no contact;***

***(c) Include the date that the order expires, which shall be no longer than the expiration date of the domestic violence order, although participation may be extended if the underlying order is extended;***

***(d) Require the entity that operates the monitoring system to immediately notify the petitioner, the local law enforcement agency named in the order, and the court if a respondent violates the order; and***

***(e) Include any other information as the court deems appropriate.***

***(3) The Administrative Office of the Courts shall prepare a publicly available informational pamphlet containing information on the method of applying for, hearing, amending, and terminating an order requiring participation in a global positioning monitoring system.***

***(4) (a) The Supreme Court may establish by rule a sliding scale of payment responsibility for indigent defendants for use in establishing required payments under subsection (2) of this section.***

***(b) A person, county, or other organization may voluntarily agree to pay all or a portion of a respondent's monitoring costs specified in this section.***

***(5) An order requiring participation in a global positioning monitoring system may be shortened or vacated by the court either:***

***(a) Upon request of the petitioner; or***

***(b) Upon request of the respondent after an evidentiary hearing, if the respondent has not violated the order and:***

***1. Three (3) months have elapsed since the entry of the order; and***

***2. No previous request has been made by the respondent in the previous six (6) months.***

***(6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system***

***device in contravention of an order entered under this section shall be guilty of a Class D felony.***

➔SECTION 17. KRS 403.763 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) Violation of the terms or conditions of an order of protection after the person has been served or given notice of the order shall constitute contempt of court and a criminal offense under this section. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.***

***(2) (a) Court proceedings for contempt of court for violation of an order of protection shall be held in the county where the order was issued or filed.***

***(b) Court proceedings for a criminal violation of an order of protection shall follow the rules of venue applicable to criminal cases generally.***

***(3) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of an order of protection.***

***(4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an order of protection after the person has been served or given notice of the order.***

***(b) Violation of an order of protection is a Class A misdemeanor.***

➔SECTION 18. KRS 403.785 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

***(1) A court issuing an order of protection shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.***

***(2) When a law enforcement officer has reason to suspect that a person has been the victim of domestic violence and abuse, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:***

***(a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;***

***(b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and***

***(c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.***

***(3) Orders of protection shall be enforced in any county of the Commonwealth.***

***(4) Officers acting in good faith under this section shall be immune from criminal and civil liability.***

***(5) Each law enforcement agency shall report all incidents of actual or suspected domestic violence and abuse within their knowledge to the Cabinet for Health and Family Services, Department for Community Based Services, within forty-eight (48) hours of learning of the incident or of the suspected incident.***

➔SECTION 19. KRS CHAPTER 456 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

***As used in this chapter:***

***(1) "Dating relationship" means a relationship between individuals who have or have had a relationship of a romantic or intimate nature. It does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The following factors may be considered in addition to any other relevant factors in determining whether the relationship is or was of a romantic or intimate nature:***

***(a) Declarations of romantic interest;***

***(b) The relationship was characterized by the expectation of affection;***

***(c) Attendance at social outings together as a couple;***

***(d) The frequency and type of interaction between the persons, including whether the persons have been involved together over time and on a continuous basis during the course of the relationship;***

***(e) The length and recency of the relationship; and***

***(f) Other indications of a substantial connection that would lead a reasonable person to understand that***

***a dating relationship existed;***

***(2) "Dating violence and abuse" means physical injury, serious physical injury, stalking, sexual assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault occurring between persons who are or have been in a dating relationship;***

***(3) "Foreign protective order" means any judgment, decree, or order of protection which is entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265 which was not issued on the basis of domestic violence and abuse;***

***(4) "Global positioning monitoring system" means a system that electronically determines a person's location through a device worn by the person which does not invade his or her bodily integrity and which transmits the person's latitude and longitude data to a monitoring entity;***

***(5) "Order of protection" means any interpersonal protective order including those issued on a temporary basis and includes a foreign protective order;***

***(6) "Sexual assault" refers to conduct prohibited as any degree of rape, sodomy, or sexual abuse under KRS Chapter 510 or incest under KRS 530.020;***

***(7) "Stalking" refers to conduct prohibited as stalking under KRS 508.140 or 508.150; and***

***(8) "Substantial violation" means criminal conduct which involves actual or threatened harm to the person, family, or property of an individual protected by an order of protection.***

➔SECTION 20. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) This chapter shall be interpreted to:***

***(a) Allow victims to obtain effective, short-term protection against further wrongful conduct in order that their lives may be as secure and as uninterrupted as possible;***

***(b) Expand the ability of law enforcement officers to effectively respond to further wrongful conduct so as to prevent future incidents and to provide assistance to the victims;***

***(c) Provide peace officers with the authority to immediately apprehend and charge for violation of an order of protection any person whom the officer has probable cause to believe has violated an order of protection and to provide courts with the authority to conduct contempt of court proceedings for these violations;***

***(d) Provide for the collection of data concerning incidents of dating violence and abuse, sexual assault, and stalking in order to develop a comprehensive analysis of the numbers and causes of such incidents; and***

***(e) Supplement and not repeal or supplant any duties, responsibilities, services, or penalties under KRS Chapters 209, 209A, and 620.***

***(2) Nothing in this chapter is intended to trigger the application of the provisions of 18 U.S.C sec. 922(g) as to an interpersonal protective order issued on the basis of the existence of a current or previous dating relationship.***

➔SECTION 21. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) A petition for an interpersonal protection order may be filed by:***

***(a) A victim of dating violence and abuse;***

***(b) A victim of stalking;***

***(c) A victim of sexual assault; or***

***(d) An adult on behalf of a victim who is a minor otherwise qualifying for relief under this subsection.***

***(2) The petition may be filed in the victim's county of residence or a county where the victim has fled to escape dating violence and abuse, stalking, or sexual assault.***

***(3) The petition shall be verified and contain:***

***(a) The name, age, address, occupation, residence, and school or postsecondary institution of the petitioner;***

***(b) The name, age, address, occupation, residence, and school or postsecondary institution of the person or persons who have engaged in the alleged act or acts complained of in the petition;***

***(c) The facts and circumstances which constitute the basis for the petition; and***

***(d) The names, ages, and addresses of the petitioner's minor children, if applicable.***

***(4) The petition shall be filed on forms prescribed by the Administrative Office of the Courts and provided to the person seeking relief by the circuit clerk or by another individual authorized by the court to provide and verify petitions in emergency situations, such as law enforcement officers and Commonwealth's or county attorneys.***

***(5) All petitions requested, completed, and signed by persons seeking protection under this chapter shall be accepted and filed with the court.***

***(6) (a) Jurisdiction over petitions filed under this chapter shall be concurrent between the District Court and Circuit Court.***

***(b) The Court of Justice shall provide a protocol for twenty-four (24) hour access to interpersonal protective orders in each county with any protocol, whether statewide or local, being subject to Supreme Court review and approval of the initial protocol and any subsequent amendments. This protocol may allow for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(c) The Court of Justice may authorize by rule that petitions in a specific county be filed in accordance with a supplemental jurisdictional protocol adopted for that county. This protocol may provide for petitions to be filed in or transferred to a court other than those specified in paragraph (a) of this subsection.***

***(7) Any judge to whom a petition is referred under subsection (6) of this section shall have full authority to review and hear a petition and subsequently grant and enforce an interpersonal protective order.***

***(8) If the judge of a court in which there is a pending request for modification or enforcement of an existing order of protection is unavailable or unable to act within a reasonable time, the proceedings may be conducted by any judge of the county in accordance with court rules.***

➔SECTION 22. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) (a) The court shall review a petition for an interpersonal protective order immediately upon its filing. If the review indicates that dating violence and abuse, stalking, or sexual assault exists, the court shall summons the parties to an evidentiary hearing not more than fourteen (14) days in the future. If the review indicates that such a basis does not exist, the court may consider an amended petition or dismiss the petition without prejudice.***

***(b) Service of the summons and hearing order under this subsection shall be made upon the adverse party personally and may be made in the manner and by the persons authorized to serve subpoenas under Rule 45.03 of the Rules of Civil Procedure. A summons may be reissued if service has not been made on the adverse party by the fixed court date and time.***

***(2) (a) If the review under this section also indicates the presence of an immediate and present danger of dating violence and abuse, sexual assault, or stalking, the court shall, upon proper motion, issue ex parte a temporary interpersonal protective order that:***

***1. Authorizes relief appropriate to the situation utilizing the alternatives set out in Section 24 of this Act;***

***2. Expires upon the conclusion of the evidentiary hearing required by this section unless extended or withdrawn by subsequent order of the court; and***

***3. Does not order or refer the parties to mediation unless requested by the petitioner, and the court finds that:***

***a. The petitioner's request is voluntary and not the result of coercion; and***

***b. Mediation is a realistic and viable alternative to or adjunct to the issuance of an order sought by the petitioner.***

***(b) If an order is not issued under this subsection, the court shall note on the petition, for the record, any***

***action taken or denied and the reason for it.***

➔SECTION 23. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) Prior to or at a hearing on a petition for an interpersonal protective order:***

***(a) The court may obtain the respondent's Kentucky criminal and protective order history and utilize that information to assess what relief and which sanctions may protect against danger to the petitioner or other person for whom protection is being sought, with the information so obtained being provided to the parties in accordance with the Rules of Civil Procedure; and***

***(b) If the petitioner or respondent is a minor, the court shall inquire whether the parties attend school in the same school system to assist the court in imposing conditions in the order that have the least disruption in the administration of education to the parties while providing appropriate protection to the petitioner.***

***(2) (a) If the adverse party is not present at the hearing ordered pursuant to Section 22 of this Act and has not been served, a previously issued temporary interpersonal protective order shall remain in place, and the court shall direct the issuance of a new summons for a hearing set not more than fourteen (14) days in the future. If service has not been made on the adverse party before that hearing or a subsequent hearing, the temporary interpersonal protective order shall remain in place, and the court shall continue the hearing and issue a new summons with a new date and time for the hearing to occur, which shall be within fourteen (14) days of the originally scheduled date for the continued hearing. The court shall repeat the process of continuing the hearing and reissuing a new summons until the adverse party is served in advance of the scheduled hearing. If service has not been made on the respondent at least seventy-two (72) hours prior to the scheduled hearing, the court may continue the hearing no more than fourteen (14) days in the future. In issuing the summons, the court shall simultaneously transmit a copy of the summons or notice of its issuance and provisions to the petitioner.***

***(b) The provisions of this section permitting the continuance of an interpersonal protective order shall be limited to six (6) months from the issuance of the temporary interpersonal protective order. If the respondent has not been served within that period, the order shall be rescinded without prejudice. Prior to the expiration of the temporary interpersonal protective order, the court shall provide notice to the petitioner stating that, if the petitioner does not file a new petition, the order shall be rescinded without prejudice.***

➔SECTION 24. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) Following a hearing ordered under Section 22 of this Act, if a court finds by a preponderance of the evidence that dating violence and abuse, sexual assault, or stalking has occurred and may again occur, the court may issue an interpersonal protective order:***

***(a) Restraining the adverse party from:***

***1. Committing further acts of dating violence and abuse, stalking, or sexual assault;***

***2. Any unauthorized contact or communication with the petitioner or other person specified by the court;***

***3. Approaching the petitioner or other person specified by the court within a distance specified in the order, not to exceed five hundred (500) feet;***

***4. Going to or within a specified distance of a specifically described residence, school, or place of employment or area where such a place is located; and***

***5. Disposing of or damaging any of the property of the parties;***

***(b) Directing or prohibiting any other actions that the court believes will be of assistance in eliminating future acts of dating violence and abuse, stalking, or sexual assault, except that the court shall not order the petitioner to take any affirmative action; and***

***(c) Directing that either or both of the parties receive counseling services available in the community in dating violence and abuse cases.***

***(2) In imposing a location restriction described in subsection (1)(a)4. of this section, the court shall:***

***(a) Afford the petitioner and respondent, if present, an opportunity to testify on the issue of the locations***

***and areas from which the respondent should or should not be excluded;***

***(b) Only impose a location restriction where there is a specific, demonstrable danger to the petitioner or other person protected by the order;***

***(c) Specifically describe in the order the locations or areas prohibited to the respondent; and***

***(d) Consider structuring a restriction so as to allow the respondent transit through an area if the respondent does not interrupt his or her travel to harass, harm, or attempt to harass or harm the petitioner.***

***(3) An interpersonal protective order shall be effective for a period of time fixed by the court, not to exceed three (3) years, and may be reissued upon expiration for subsequent periods of up to three (3) years each. The fact that an order has not been violated since its issuance may be considered by a court in hearing a request for a reissuance of the order.***

➔SECTION 25. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) A temporary or ordinary interpersonal protective order shall become effective and binding on the respondent when the respondent is given notice of the existence and terms of the order by a peace officer or the court or upon personal service of the order, whichever is earlier. A peace officer or court giving notice of an unserved order shall make all reasonable efforts to arrange for the order's personal service upon the respondent. Once effective, a peace officer or the court may enforce the order's terms and act immediately upon their violation.***

***(2) Costs, fees, or bond shall not be assessed against or required of a petitioner for any filing, hearing, service, or order authorized by or required to implement this chapter.***

***(3) A court shall not require mediation, conciliation, or counseling prior to or as a condition of issuing an interpersonal protective order.***

***(4) Mutual protective orders may be issued only if:***

***(a) Separate petitions have been filed by both parties; and***

***(b) The orders are written with sufficient specificity to allow any peace officer to identify which party has violated the order.***

***(5) Upon proper filing of a motion, either party may seek to amend an interpersonal protective order.***

***(6) Testimony offered by an adverse party in a hearing ordered pursuant to Section 22 of this Act shall not be admissible in any criminal proceeding involving the same parties except for purposes of impeachment.***

***(7) (a) The Court of Justice, county and Commonwealth's attorneys, law enforcement agencies, and victim services organizations may jointly operate an interpersonal protective order intake center to assist persons who apply for relief under this chapter.***

***(b) In cases where criminal conduct is alleged, a court may suggest that a petitioner voluntarily contact the county attorney. A court may not withhold or delay relief if the petitioner elects to not contact the county attorney.***

***(8) A person's right to apply for relief under this chapter shall not be affected by that person leaving his or her residence to avoid dating violence and abuse, sexual assault, or stalking.***

***(9) A court shall order the omission or deletion of the petitioner's address and the address of any minor children from any orders or documents to be made available to the public or to any person who engaged in the acts complained of in the petition.***

***(10) (a) If a petition under this chapter did not result in the issuance of a non-temporary interpersonal order, the court in which the petition was heard may for good cause shown order the expungement of the records of the case if:***

***1. Six (6) months have elapsed since the case was dismissed; and***

***2. During the six (6) months preceding the expungement request, the respondent has not been bound by an order of protection issued for the protection of any person including an order of protection as defined in Section 2 of this Act.***

***(b) As used in this subsection, "expungement" has the same meaning as in KRS 431.079.***

➔SECTION 26. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***If the petitioner or respondent to an interpersonal protective order initiates an action under KRS Chapter 403, the party initiating the action shall make known to the court the existence and status of any interpersonal protective orders, which shall remain effective and enforceable until superseded by order of the court in which the KRS Chapter 403 case is filed.***

➔SECTION 27. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) A court issuing an interpersonal order shall direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with.***

***(2) When a law enforcement officer has reason to suspect that a person has been the victim of dating violence and abuse, sexual assault, or stalking, the officer shall use all reasonable means to provide assistance to the victim, including but not limited to:***

***(a) Remaining at the location of the call for assistance so long as the officer reasonably suspects there is danger to the physical safety of individuals there without the presence of a law enforcement officer;***

***(b) Assisting the victim in obtaining medical treatment, including transporting the victim to the nearest medical facility capable of providing the necessary treatment; and***

***(c) Advising the victim immediately of the rights available to them, including the provisions of this chapter.***

***(3) Orders of protection shall be enforced in any county of the Commonwealth.***

***(4) Officers acting in good faith under this chapter shall be immune from criminal and civil liability.***

➔SECTION 28. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) Upon a petitioner's request and after an evidentiary hearing, a court may amend an interpersonal protection order to require a respondent to participate in a global positioning monitoring system if:***

***(a) The respondent has committed a substantial violation of a previously entered interpersonal protection order;***

***(b) The court has reviewed an updated history of the respondent's Kentucky criminal and protective order history; and***

***(c) The court makes a factual determination that the use of a global positioning monitoring system would increase the petitioner's safety.***

***(2) An order requiring participation in a global positioning monitoring system shall:***

***(a) Require the respondent to pay the cost of participation up to the respondent's ability to pay, with the system operator bearing any uncovered costs for indigent respondents;***

***(b) State with specificity the locations or areas where the respondent is prohibited from being located or persons with whom the respondent shall have no contact;***

***(c) Include the date that the order expires, which shall be no longer than the expiration date of the underlying interpersonal protection order, although participation may be extended if the underlying order is extended;***

***(d) Require the entity that operates the monitoring system to immediately notify the petitioner, the local law enforcement agency named in the order, and the court if a respondent violates the order; and***

***(e) Include any other information as the court deems appropriate.***

***(3) The Administrative Office of the Courts shall prepare a publicly available informational pamphlet containing information on the method of applying for, hearing, amending, and terminating an order requiring participation in a global positioning monitoring system.***

***(4) (a) The Supreme Court may establish by rule a sliding scale of payment responsibility for indigent defendants for use in establishing required payments under subsection (2) of this section.***

***(b) A person, county, or other organization may voluntarily agree to pay all or a portion of a respondent's monitoring costs specified in this section.***

***(5) An order requiring participation in a global positioning monitoring system may be shortened or vacated by***

***the court either:***

***(a) Upon request of the petitioner; or***

***(b) Upon request of the respondent after an evidentiary hearing, if the respondent has not violated the order and:***

***1. Three (3) months have elapsed since the entry of the order; and***

***2. No previous request has been made by the respondent in the previous six (6) months.***

***(6) A respondent who fails to wear, removes, tampers with, or destroys a global positioning monitoring system device in contravention of an order entered under this section shall be guilty of a Class D felony.***

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) All forms, affidavits, and orders of protection issued or filed pursuant to this chapter which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice and Public Safety Cabinet. If the provisions of an interpersonal protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.***

***(2) The circuit clerk, in cooperation with the court, shall cause a copy of each summons or order issued pursuant to this chapter, or foreign protective order, fully completed and authenticated pursuant to this chapter, to be forwarded, by the most expedient means reasonably available and within twenty-four (24) hours following its filing with the clerk, to the appropriate agency designated for entry of interpersonal protective order records into the Law Information Network of Kentucky and to the agency assigned service. Any order or court record superseding, modifying, or otherwise affecting the status of an earlier summons or order shall likewise be forwarded by the circuit clerk to the appropriate Law Information Network of Kentucky entering agency and to the agency assigned service, if service is required. The clerk and the court shall comply with all provisions and guidelines of the Law Information Network of Kentucky for entry of the records.***

***(3) Each agency designated for entry of summonses and orders issued pursuant to this chapter, or foreign protective orders authenticated pursuant to this chapter, into the Law Information Network of Kentucky shall, consistent with the provisions and guidelines of the Law Information Network of Kentucky, enter the records immediately upon receipt of copies forwarded to the agency in accordance with subsection (2) of this section.***

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) All foreign protective orders shall have the rebuttable presumption of validity. The validity of a foreign protective order shall only be determined by a court of competent jurisdiction. Until a foreign protective order is declared to be invalid by a court of competent jurisdiction, it shall be given full faith and credit by all peace officers and courts in the Commonwealth.***

***(2) All peace officers shall treat a foreign protective order as a legal document valid in Kentucky, and shall make arrests for a violation thereof in the same manner as for a violation of an order of protection issued in Kentucky.***

***(3) The fact that a foreign protective order has not been entered into the Law Information Network of Kentucky shall not be grounds for a peace officer not to enforce the provisions of the order unless it is readily apparent to the peace officer to whom the order is presented that the order has either expired according to a date shown on the order, or that the order's provisions clearly do not prohibit the conduct being complained of. Officers acting in good faith shall be immune from criminal and civil liability.***

***(4) If the order has expired or its provisions do not prohibit the conduct being complained of, the officer shall not make an arrest unless the provisions of a Kentucky statute have been violated, in which case the peace officer shall take the action required by Kentucky law.***

***(5) Civil proceedings and criminal proceedings for violation of a foreign protective order for the same violation of the protective order shall be mutually exclusive. Once either proceeding has been initiated, the other shall not be undertaken, regardless of the outcome of the original proceeding.***

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) In order to assist a court of another state in determining whether an order issued under this chapter is***

***entitled to full faith and credit pursuant to 18 U.S.C. sec. 2265:***

***(a) All interpersonal protective orders shall include a statement certifying that the issuing court had jurisdiction over the parties and the matter, and that reasonable notice and opportunity to be heard has been given to the person against whom the order is sought sufficient to protect that person's right to due process; and***

***(b) All temporary interpersonal protective orders shall include a statement certifying that notice and opportunity to be heard has been provided within the time required by state law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.***

***(2) The Administrative Office of the Courts shall prescribe the form to be used for the purposes of this section.***

➔SECTION 32. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) A copy of a foreign protective order may be filed in the office of the clerk of any court of competent jurisdiction of this state. A foreign protective order so filed shall have the same effect and shall be enforced in the same manner as an interpersonal protective order issued by a court of this state.***

***(2) (a) At the time of the filing of the foreign protective order, the person filing the order shall file with the clerk of the court an affidavit on a form prescribed and provided by the Administrative Office of the Courts. The affidavit shall set forth the name, city, county, and state or other jurisdiction of the issuing court. The person shall certify in the affidavit the validity and status of the foreign protective order, and attest to the person's belief that the order has not been amended, rescinded, or superseded by any orders from a court of competent jurisdiction. All foreign protective orders presented with a completed and signed affidavit shall be accepted and filed.***

***(b) The affidavit signed by the applicant shall have space where the reviewing judge shall place information necessary to allow the order's entry into the Law Information Network of Kentucky in the same manner as a Kentucky order.***

***(3) (a) If the person seeking to file the order presents a copy of the foreign order which is current by the terms of the order and has been certified by the clerk or other authorized officer of the court which issued it, the circuit clerk shall present it to the District Judge or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall not be subject to further verification and shall be accepted as authentic, current, and subject to full faith and credit.***

***(b) If the order presented is current by the terms of the order but is not certified in the manner specified in paragraph (a) of this subsection, the circuit clerk shall present the order and the affidavit to the District or Circuit Judge, who shall read the order and enter on the affidavit the information necessary to allow the order's entry into the Law Information Network of Kentucky. The order shall be subject to full faith and credit in the same manner as a Kentucky interpersonal protective order, but shall be subject to verification by the circuit clerk. The order shall be valid for a period of fourteen (14) days and may be renewed once for a period of fourteen (14) days if the circuit clerk has not received a certified copy of the order from the issuing jurisdiction. The clerk shall treat the foreign protective order in the same manner as an interpersonal protective order of this state issued pursuant to Section 24 of this Act, except that no service on the adverse party shall be required pursuant to 18 U.S.C. sec. 2265.***

***(c) Upon the filing of an uncertified protective order, the circuit clerk shall, within two (2) business days, contact the issuing court to request a certified copy of the order. If the certified copy of the order is received by the circuit clerk within the initial fourteen (14) day period, the clerk shall cause the information that certification has been received to be entered into the Law Information Network of Kentucky and shall notify the applicant for the order of the fact of its certification. A facsimile copy of a certified foreign protective order shall be grounds for the issuance of an interpersonal protective order.***

***(d) If the clerk has not received a certified copy of the foreign protective order within ten (10) days, the clerk shall notify the court and the applicant that the order has not been received. The notice to the applicant, on a form prepared by the Administrative Office of the Courts, shall state that the foreign protective order will be extended for another fourteen (14) days, but will be dismissed at the expiration of that time. If the clerk informs the judge in writing that the certified foreign protective***

***order has been requested but has not yet been received, the judge shall extend the foreign protective order for a period of fourteen (14) days. If certification of the foreign protective order is not received within twenty-eight (28) days, the foreign protective order shall expire and shall not be reissued. If the applicant meets the qualifications for the issuance of a Kentucky interpersonal protective order, the court may, upon proper application and showing of evidence, issue a Kentucky order in accordance with this chapter.***

***(4) The right of a person filing a foreign protective order to bring an action to enforce the order instead of proceeding under this chapter remains unimpaired.***

➔SECTION 33. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) Upon ex parte review of the foreign protective order and the affidavit filed pursuant to Section 32 of this Act, and after determining the order is entitled to full faith and credit in this Commonwealth pursuant to 18 U.S.C. sec. 2265, the court shall declare the order to be authenticated and record the finding on the affidavit.***

***(2) If the court declares the order to be authenticated, the court shall:***

***(a) Direct the appropriate law enforcement agency to assist the petitioner in having the provisions of the order complied with, if applicable; and***

***(b) Order its enforcement in any county of the Commonwealth in the same manner as an interpersonal protective order of this state issued pursuant to Section 24 of this Act.***

***(3) The clerk shall notify the person who filed the foreign protective order of the decision of the court and provide the person a certified copy of the affidavit declaring the authentication of the order.***

➔SECTION 34. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) A foreign protective order which has been entered into the Law Information Network of Kentucky shall be immediately cleared as an active record from the computer system when:***

***(a) The order expires according to the terms contained therein;***

***(b) A Kentucky court notifies the Law Information Network of Kentucky that a foreign protective order has been dismissed, either by court order or entry of notification by a circuit clerk; or***

***(c) A circuit clerk notifies the Law Information Network of Kentucky that a foreign protective order tendered to the clerk has not been authenticated in the time period specified in Section 32 of this Act.***

***(2) For validation purposes, the Law Information Network of Kentucky shall provide the circuit court clerk with a printout of foreign protective orders. The clerk shall validate each order annually by contacting the original issuing court or jurisdiction. If the clerk has not received information from the foreign jurisdiction within thirty-one (31) days, the clerk shall cause those orders to be cleared from the Law Information Network of Kentucky.***

➔SECTION 35. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) A person who has filed a foreign protective order in a court in Kentucky is under a continuing obligation to inform the court of any expiration, vacation, modification, or other change in the order which the person filing the order has received from the issuing foreign court.***

***(2) A person who has filed a foreign protective order in a court in Kentucky shall, within two (2) working days of the occurrence of any event specified in subsection (1) of this section, notify the clerk of the court in which the foreign protective order was filed of the fact of the changed order and present the clerk with a copy of the order for authentication as provided in this chapter. The clerk shall immediately notify the Law Information Network of Kentucky entering agency of the modification.***

***(3) No court in Kentucky and no peace officer in Kentucky shall be expected to enforce a provision of a foreign protective order which has been the subject of any action specified in subsection (1) of this section, unless proper notice has been given in accordance with this section.***

***(4) Intentional failure of a person who has filed a foreign protective order to make the notifications required by this section in the manner required by this section shall constitute contempt of court and may be grounds for an appropriate civil action brought by any person damaged by the intentional act of omission by the person failing to act.***

➔SECTION 36. A NEW SECTION OF KRS CHAPTER 456 IS CREATED TO READ AS FOLLOWS:

***(1) Violation of the terms or conditions of an order of protection after the person has been served or given notice of the order shall constitute contempt of court and a criminal offense under this section. Once a criminal or contempt proceeding has been initiated, the other shall not be undertaken regardless of the outcome of the original proceeding.***

***(2) (a) Court proceedings for contempt of court for violation of an order of protection shall be held in the county where the order was issued or filed.***

***(b) Court proceedings for a criminal violation of an order of protection shall follow the rules of venue applicable to criminal cases generally.***

***(3) Nothing in this section shall preclude the Commonwealth from prosecuting and convicting the respondent of criminal offenses other than violation of an order of protection.***

***(4) (a) A person is guilty of a violation of an order of protection when he or she intentionally violates the provisions of an interpersonal protective order after the person has been served or given notice of the order.***

***(b) Violation of an order of protection is a Class A misdemeanor.***

➔Section 37. KRS 14.304 is amended to read as follows:

(1) Upon the creation of the crime victim address protection program, an applicant, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of a person who is declared incompetent, or a designee of an applicant or a parent or guardian of a minor or a guardian of a person declared incompetent who cannot for any reason apply themselves, may apply to the Secretary of State to have an address designated by the Secretary of State serve for voting purposes as the address of the applicant, the minor, or the incompetent person. The Secretary of State shall approve an application if it is filed in the manner and on the form prescribed by the Secretary of State by administrative regulation and if it contains:

(a) A sworn statement by the applicant that:

1. The applicant or the minor or the incompetent person on whose behalf the application is made is a victim of a specified offense in an ongoing criminal case or in a criminal case that resulted in a conviction by a judge or jury or by a defendant's guilty plea; or

2. The applicant or the minor or the incompetent person on whose behalf the application is made has been granted an ***order of protection as defined in Sections 2 and 19 of this Act***~~[emergency protective order or a domestic violence order under KRS Chapter 403]~~ by a court of competent jurisdiction within the Commonwealth of Kentucky and the order is in effect at the time of application;

(b) A sworn statement by the applicant that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made.

(c) The mailing address and the phone number or numbers where the applicant can be contacted by the Secretary of State;

(d) The new address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of a specified offense; and

(e) The signature of the applicant and of a representative of any office designated under KRS 14.310 as a referring agency who assisted in the preparation of the application, and the date on which the applicant signed the application.

(2) Applications shall be filed with the Office of the Secretary of State.

(3) Upon the filing of a properly completed application, the Secretary of State shall certify the applicant as a program participant if the applicant is not required to register as a sex offender or is not otherwise prohibited from participating in the program.

(4) Applicants shall be certified for two (2) years following the date of filing unless the certification is withdrawn or invalidated before that date. The Secretary of State shall promulgate an administrative regulation to establish a renewal procedure.

(5) A person who falsely attests in an application that disclosure of the address of the applicant would endanger the safety of the applicant or the safety of the children of the applicant, or the minor or incompetent person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application may be found guilty of a violation of KRS 523.030.

(6) The addresses of individuals applying for entrance into the crime victim address confidentiality program and the addresses of those certified as program participants shall be exempt from disclosure under the Kentucky Open Records Act, KRS 61.870 to KRS 61.884.

(7) A program participant shall notify the Office of the Secretary of State of a change of address within seven (7) days of the change of address.

➔Section 38. KRS 23A.100 is amended to read as follows:

(1) As a division of Circuit Court with general jurisdiction pursuant to Section 112(6) of the Constitution of Kentucky, a family court division of Circuit Court shall retain jurisdiction in the following cases:

(a) Dissolution of marriage;

(b) Child custody;

(c) Visitation;

(d) Maintenance and support;

(e) Equitable distribution of property in dissolution cases;

(f) Adoption; and

(g) Termination of parental rights.

(2) In addition to general jurisdiction of Circuit Court, a family court division of Circuit Court shall have the following additional jurisdiction:

(a) Domestic violence and abuse proceedings under KRS Chapter 403 subsequent to the issuance of an emergency protective order in accord with local protocols under KRS ***403.725*** ~~[403.735]~~;

(b) Proceedings under the Uniform Act on Paternity, KRS Chapter 406, and the Uniform Interstate Family Support Act, KRS 407.5101 to 407.5902;

(c) Dependency, neglect, and abuse proceedings under KRS Chapter 620; and

(d) Juvenile status offenses under KRS Chapter 630, except where proceedings under KRS Chapter 635 or 640 are pending.

(3) Family court divisions of Circuit Court shall be the primary forum for cases in this section, except that nothing in this section shall be construed to limit the concurrent jurisdiction of District Court.

➔Section 39. KRS 67.372 is amended to read as follows:

Any county or combination of counties may operate a global positioning monitoring system program subject to the following conditions:

(1) The program shall be assigned by ordinance to a county department or county agency that agrees to operate or supervise the program continuously, twenty-four (24) hours per day, seven (7) days per week;

(2) Each county shall identify a law enforcement agency or agencies with jurisdiction in the county to assist a petitioner, victim, or witness when a person ordered to wear a monitoring device violates the provisions of the court's order and is in need of assistance;

(3) A county or counties electing to contract with an entity providing a global positioning monitoring system and devices shall meet not less than all of the requirements of this section**,** ~~[ and]~~ KRS 403.761***, and Section 28 of this Act***;

(4) Each county shall monitor the performance of the entity providing the global positioning system and devices and shall have a provision in the contract with the monitoring entity agreeing to the termination of the contract in the event of serious or continued violations of the contract;

(5) Any system chosen shall use the most appropriate global positioning technology to track the person ordered to wear the monitoring device and shall include technology that:

(a) In a domestic violence case under KRS 403.715 to 403.785 ***or any case under KRS Chapter 456***:

1. Notifies law enforcement or other monitors of any breach of the court-ordered boundaries;

2. Notifies the petitioner in a timely manner of any breach; and

3. Allows monitors to communicate directly with the person ordered to wear the monitoring device; and

(b) In other situations in which monitoring is authorized by KRS 67.374, ***Section 28 of this Act***~~[ 403.762]~~, 431.517, 431.518, 431.520, 533.030, and 533.250 the contracting county or combination of counties shall, in the contract, specify the type and level of global positioning monitoring system services desired;

(6) The monitoring entity shall agree to a price for monitoring during the duration of the contract which shall not be increased but may be reduced during the duration of the contract. The contract shall provide that reduced payments shall be accepted by the vendor as a full payment for all purposes from persons determined to be indigent by a court or other authority ordering the use of monitoring. In bidding for the contract the vendor may take into account that some monitored persons will not be able to pay the full cost of the monitoring or may not be able to pay any cost for the monitoring. The contract shall specify that no unit of state or local government and no public officer or employee shall be liable for the costs of monitoring under the contract. Notwithstanding the provisions of this subsection, a county or counties may agree to pay all or a part of the monitoring fee to the monitoring entity if the county would have otherwise been required by a court to place a person in jail at county expense and the cost of the monitoring is less than the cost of placing the person in jail;

(7) Agreements between counties for monitoring services may, with the approval of their governing bodies, be consummated by a contract signed by all counties party thereto or by an interlocal cooperation agreement;

(8) A county utilizing a global positioning monitoring system program may charge an administrative fee to a person ordered to participate in a global positioning monitoring program to provide for the county's cost in administering the monitoring program. The fee shall be set by ordinance and shall be in addition to the fee charged by the entity contracted to provide the monitoring; and

(9) KRS ***Chapter 456 and KRS 403.715 to 403.785***~~[403.720, 403.740, 403.741, 403.743, 403.747, 403.750, 403.761, and 403.762]~~ shall not apply to a person ordered to participate in a global positioning monitoring system under KRS 431.517, 431.518, 431.520, 533.030, and 533.250. The provisions of a court order that relate to a person ordered to participate in a global positioning monitoring system pursuant to KRS 431.517, 431.518, 431.520, 533.030, and 533.250 shall govern that person's conduct and any reporting or other requirements ordered by the court.

➔Section 40. KRS 67.374 is amended to read as follows:

(1) "Global positioning monitoring system" has the same meaning as in KRS 403.720.

(2) A county or combination of counties electing to participate in a global positioning monitoring system program shall, by ordinance, set other requirements for global positioning monitoring system devices and for the operation of the global positioning monitoring system which shall include, at a minimum, the requirements contained in KRS 403.715 to 403.785***, Section 28 of this Act,***~~[ and]~~ the provisions of this section***,*** and KRS 67.372.

(3) A county or combination of counties electing to participate in a global positioning monitoring system program shall, through a public bid process, select an entity or entities to provide the best available technology with regard to global positioning monitoring system devices that meet the requirements of this section and KRS 67.372, ***Section 28 of this Act***~~[ 403.720, 403.747, 403.750]~~, and 403.761 and a system that meets those same requirements, including but not limited to the acceptance of reduced fees for petitioners and indigent persons ordered to wear a monitoring device.

(4) A person, county, or combination of counties electing to participate in a global positioning monitoring system program shall continuously monitor the performance of successful bidders, receive complaints regarding service, and conduct hearings pursuant to KRS Chapter 13B which may result in penalties as set out in the contract against an entity providing global positioning monitoring system services or which may result in cancellation of the contract with the provider of the service, or both. The provisions of this subsection shall be part of any bid offering and any contract entered into between the county or combination of counties and an entity providing global positioning monitoring system services.

(5) A county or combination of counties electing to operate a global positioning monitoring system program may

utilize that program for:

(a) Monitoring a~~[ domestic violence]~~ respondent and petitioner pursuant to KRS 403.715 to 403.785 ***or Section 28 of this Act***;

(b) Monitoring the pretrial release of a person charged with a crime pursuant to KRS 431.515 to 431.550;

(c) Monitoring a person assigned to a pretrial diversion program pursuant to KRS 533.250 to 533.262; and

(d) Monitoring a person granted probation or conditional discharge pursuant to KRS Chapter 533.

(6) Information obtained by a global positioning monitoring system shall not be a public record.

(7) Information obtained by a global positioning monitoring system shall be used only for the purpose of verifying the location of the monitored person. Global positioning monitoring system information obtained from persons subject to monitoring pursuant to KRS 403.715 to 403.785 ***or Section 28 of this Act*** shall not be utilized for any criminal investigation, prosecution, or other criminal justice related purpose without a valid search warrant or order issued by a court of competent jurisdiction. Information obtained in violation of this subsection or without a valid search warrant or court order shall be inadmissible in court for any purpose.

(8) Any person or organization who knowingly or wantonly divulges global positioning monitoring system information about any person in violation of subsection (6) or (7) of this section shall be guilty of a Class A misdemeanor.

➔Section 41. KRS 237.100 is amended to read as follows:

(1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice and Public Safety Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS ***403.740***~~[403.750]~~ that the respondent to the order has attempted to purchase a firearm. The Justice and Public Safety Cabinet may contract with a private entity in order to provide notification.

(2) The notification shall be limited to a petitioner who has:

(a) Received a domestic violence protective order issued or reissued under KRS ***403.740***~~[403.750]~~ on or after July 15, 2002;

(b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and

(c) Provided the Justice and Public Safety Cabinet or the entity with a request for notification.

(3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.

➔Section 42. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his or her presence; or

(c) Without a warrant when he or she has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his or her presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his or her presence, except that a violation of KRS 189A.010 or KRS 281A.210 need not be committed in his or her presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person being arrested has violated KRS 189A.010 or KRS 281A.210; or

(f) Without a warrant when a violation of KRS 508.030 has occurred in the emergency room of a hospital without the officer's presence if the officer has probable cause to believe that the person being arrested has violated KRS 508.030. For the purposes of this paragraph, "emergency room" means that portion of a licensed hospital which has the primary purpose of providing emergency medical care, twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.

(2) (a) Any peace officer may arrest a person without warrant when the peace officer has probable cause to believe that the person has intentionally or wantonly caused physical injury to a family member**,**~~[ or]~~ member of an unmarried couple***, or another person with whom the person was or is in a dating relationship***.

(b) ***As used in this subsection, "dating relationship," "family member," and "member of an unmarried couple" have the same meanings as defined in Sections 2 and 19 of this Act***~~[For the purposes of this subsection, the term "family member" has the same meaning as set out in KRS 403.720]~~.

(c) For the purpose of this subsection, the term "member of an unmarried couple" has the same meaning as set out in KRS 403.720.

(3) A peace officer may arrest a person without a warrant when the peace officer has probable cause to believe that the person is a sexual offender who has failed to comply with the Kentucky Sex Offender Registry requirements based upon information received from the Law Information Network of Kentucky.

(4) For purposes of subsections (2) and (3) of this section, a "peace officer" is an officer certified pursuant to KRS 15.380.

(5) If a law enforcement officer has probable cause to believe that a person has violated a condition of release imposed in accordance with KRS 431.064 and verifies that the alleged violator has notice of the conditions, the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

(6) A private person may make an arrest when a felony has been committed in fact and he or she has probable cause to believe that the person being arrested has committed it.

(7) If a law enforcement officer has probable cause to believe that a person has violated a restraining order issued under KRS 508.155, then the officer shall, without a warrant, arrest the alleged violator whether the violation was committed in or outside the presence of the officer.

➔Section 43. KRS 431.015 is amended to read as follows:

(1) (a) KRS 431.005 to the contrary notwithstanding, and except as provided in paragraphs (b), (c), and (d) of this subsection, a peace officer shall issue a citation instead of making an arrest for a misdemeanor committed in his or her presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(b) A peace officer may make an arrest instead of issuing a citation for a misdemeanor committed in his or her presence if the misdemeanor is:

1. A violation of KRS Chapter 508, 510, or 527, or KRS 189A.010;

2. An offense in which the defendant poses a risk of danger to himself, herself, or another person; or

3. An offense in which the defendant refuses to follow the peace officer's reasonable instructions.

(c) A peace officer shall make an arrest for violations of protective orders issued pursuant to KRS 403.715 to 403.785 ***or an order of protection as defined in Section 19 of this Act***.

(d) A peace officer may make an arrest or may issue a citation for a violation of KRS 508.030 which occurs in the emergency room of a hospital pursuant to KRS 431.005(1)(f).

(2) A peace officer may issue a citation instead of making an arrest for a violation committed in his or her presence but may not make a physical arrest unless there are reasonable grounds to believe that the defendant, if a citation is issued, will not appear at the designated time or unless the offense charged is a violation of KRS 189.223, 189.290, 189.393, 189.520, 189.580, 235.240, 281.600, 511.080, or 525.070 committed in his or her presence or a violation of KRS 189A.010, not committed in his or her presence, for which an arrest without a warrant is permitted under KRS 431.005(1)(e).

(3) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he or she will not appear, a complaint may be made before a judge and a warrant shall issue.

(4) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

➔Section 44. KRS 431.064 is amended to read as follows:

(1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of ***an order of protection as defined in Sections 2 and 19 of this Act***~~[a protective order issued pursuant to KRS 403.740 or 403.750]~~, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:

(a) Is a threat to the alleged victim or other family or household member; and

(b) Is reasonably likely to appear in court.

(2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1) of this section, and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:

(a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;

(b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;

(c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;

(d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;

(e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;

(f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or

(g) Any combination of the orders set out in paragraphs (a) to (f) of this subsection.

(3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:

(a) Issue a written order for conditional release; and

(b) Immediately distribute a copy of the order to pretrial services.

(4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.

(5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.

(6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.

(7) The circuit clerk or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.

(8) The information entered under this section shall be accessible to any agency designated by the Department of Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.

(9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pretrial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the

narrative order.

(10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

➔Section 45. KRS 508.130 is amended to read as follows:

As used in KRS 508.130 to 508.150, unless the context requires otherwise:

(1) (a) To "stalk" means to engage in an intentional course of conduct:

1. Directed at a specific person or persons;

2. Which seriously alarms, annoys, intimidates, or harasses the person or persons; and

3. Which serves no legitimate purpose.

(b) The course of conduct shall be that which would cause a reasonable person to suffer substantial mental distress.

(2) "Course of conduct" means a pattern of conduct composed of two (2) or more acts, evidencing a continuity of purpose. One (1) or more of these acts may include the use of any equipment, instrument, machine, or other device by which communication or information is transmitted, including computers, the Internet or other electronic network, cameras or other recording devices, telephones or other personal communications devices, scanners or other copying devices, and any device that enables the use of a transmitting device. Constitutionally protected activity is not included within the meaning of "course of conduct." If the defendant claims that he was engaged in constitutionally protected activity, the court shall determine the validity of that claim as a matter of law and, if found valid, shall exclude that activity from evidence.

(3) "Protective order" means:

(a) An emergency protective order or domestic violence order issued under KRS 403.715 to 403.785;

(b) A foreign protective order, as defined in ***Sections 2 and 19 of this Act***~~[KRS 403.7521(1)]~~;

(c) An order issued under KRS 431.064;

(d) A restraining order issued in accordance with KRS 508.155;

***(e) An order of protection as defined in Sections 2 and 19 of this Act;*** and

***(f)***~~[(e)]~~ Any condition of a bond, conditional release, probation, parole, or pretrial diversion order designed to protect the victim from the offender.

➔Section 46. KRS 508.155 is amended to read as follows:

(1) ***(a) Before the effective date of this Act,*** a verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for a restraining order ***utilizing the provisions of this section and*** limiting the contact of the defendant and the victim who was stalked, unless the victim requests otherwise.

***(b) Beginning on the effective date of this Act, a verdict of guilty or a plea of guilty to KRS 508.140 or 508.150 shall operate as an application for an interpersonal protective order issued under KRS Chapter 456, unless the victim requests otherwise. Notwithstanding the provisions of KRS Chapter 456:***

***1. An interpersonal protective order requested under this subsection may be issued by the court that entered the judgment of conviction;***

***2. The judgment of conviction shall constitute sufficient cause for the entry of the order without the necessity of further proof being taken; and***

***3. The order may be effective for up to ten (10) years, with further renewals in increments of up to ten (10) years.***

(2) The court shall give the defendant notice of his or her right to request a hearing on the application for a restraining order. If the defendant waives his or her right to a hearing on this matter, then the court may issue the restraining order without a hearing.

(3) If the defendant requests a hearing, it shall be held at the time of the verdict or plea of guilty, unless the victim or defendant requests otherwise. The hearing shall be held in the court where the verdict or plea of guilty was

entered.

(4) A restraining order may grant the following specific relief:

(a) An order restraining the defendant from entering the residence, property, school, or place of employment of the victim; or

(b) An order restraining the defendant from making contact with the victim, including an order forbidding the defendant from personally, or through an agent, initiating any communication likely to cause serious alarm, annoyance, intimidation, or harassment, including but not limited to personal, written, telephonic, or any other form of written or electronic communication or contact with the victim. An order issued pursuant to this subsection relating to a school, place of business, or similar nonresidential location shall be sufficiently limited to protect the stalking victim but shall also protect the defendant's right to employment, education, or the right to do legitimate business with the employer of a stalking victim as long as the defendant does not have contact with the stalking victim. The provisions of this subsection shall not apply to a contact by an attorney regarding a legal matter.

(5) A restraining order issued pursuant to this section shall be valid for a period of not more than ten (10) years, the specific duration of which shall be determined by the court. Any restraining order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the safety of the victim, his or her immediate family, or both.

(6) Unless the defendant has been convicted of a felony, or is otherwise ineligible to purchase or possess a firearm under federal law, a restraining order issued pursuant to this section shall not operate as a ban on the purchase or possession of firearms or ammunition by the defendant.

(7) The restraining order shall be issued on a form prescribed by the Administrative Office of the Courts and may be lifted upon application of the stalking victim to the court which granted the order.

(8) Within twenty-four (24) hours of entry of a restraining order or entry of an order rescinding a restraining order, the circuit clerk shall forward a copy of the order to the Law Information Network of Kentucky (LINK).

(9) A restraining order issued under this section shall be enforced in any county of the Commonwealth. Law enforcement officers acting in good faith in enforcing a restraining order shall be immune from criminal and civil liability.

(10) A violation by the defendant of an order issued pursuant to this section shall be a Class A misdemeanor. Nothing in this section shall preclude the filing of a criminal complaint for stalking based on the same act which is the basis for the violation of the restraining order.

➔SECTION 47. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

***The entering of a judgment of conviction for any degree of rape, sodomy, or sexual abuse under this chapter shall operate as an application for an interpersonal protective order issued under KRS Chapter 456, unless the victim requests otherwise. Notwithstanding the provisions of KRS Chapter 456:***

***(1) An interpersonal protective order requested under this subsection may be issued by the court that entered the judgment of conviction;***

***(2) The judgment of conviction shall constitute sufficient cause for the entry of the order without the necessity of further proof being taken; and***

***(3) The order may be effective for up to ten (10) years, with further renewals in increments of up to ten (10) years.***

➔Section 48. KRS 511.085 is amended to read as follows:

(1) As used in this section, "domestic violence shelter" means a residential facility providing protective shelter services for domestic violence victims.

(2) A person is guilty of domestic violence shelter trespass when:

(a) The person enters the buildings or premises of a domestic violence shelter that the person knows or should know is a domestic violence shelter or which is clearly marked on the building or premises as being a domestic violence shelter; and

(b) At the time of the entering, the person is the subject of an order of protection ***as defined in Sections 2 and 19 of this Act***~~[entered under KRS 403.740 or 403.750 or a foreign protective order filed under KRS~~

~~403.7521~~].

(3) It shall be a defense to a prosecution under this section that the person entered the shelter with the permission of the operator of the shelter after disclosing to the operator that the person is the subject of an order of protection or a foreign protective order. Authority to enter under this subsection may not be granted by a person taking shelter at the facility.

(4) A person shall not be convicted of a violation of this section and a violation of KRS 511.060, 511.070, or 511.080 arising from the same act of trespass.

(5) Domestic violence shelter trespass is a Class A misdemeanor.

➔Section 49. KRS 533.250 is amended to read as follows:

(1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:

(a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense;

(b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045;

(c) No person shall be eligible for pretrial diversion more than once in a five (5) year period;

(d) No person shall be eligible for pretrial diversion who has committed a sex crime as defined in KRS 17.500. A person who is on pretrial diversion on July 12, 2006, may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of KRS 17.510;

(e) Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program;

(f) Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion;

(g) The provisions of KRS 533.251 shall be observed; and

(h) The program may include as a component referral to the intensive secured substance abuse treatment program developed under KRS 196.285 for persons charged with a felony offense under KRS Chapter 218A and persons charged with a felony offense whose record indicates a history of recent and relevant substance abuse who have not previously been referred to the program under KRS 533.251.

(2) Upon the request of the Commonwealth's attorney, a court ordering pretrial diversion may order the person to:

(a) Participate in a global positioning monitoring system program through the use of a county-operated program pursuant to KRS 67.372 and 67.374 for all or part of the time during which a pretrial diversion agreement is in effect; or

(b) Use and pay all costs, including administrative and operating costs, associated with the alcohol monitoring device as defined in KRS 431.068. If the court determines that the defendant is indigent, and a person, county, or other organization has not agreed to pay the costs for the defendant in an attempt to reduce incarceration expenses and increase public safety, the court shall consider other conditions of pretrial diversion.

(3) A court ordering global positioning monitoring system for a person pursuant to this section shall:

(a) Require the person to pay all or a part of the monitoring costs based upon the sliding scale determined by the Supreme Court of Kentucky pursuant to KRS 403.761 ***or Section 28 of this Act*** and administrative costs for participating in the system;

(b) Provide the monitoring system with a written or electronic copy of the conditions of release; and

(c) Provide the monitoring system with a contact at the office of the Commonwealth's attorney for reporting violations of the monitoring order.

(4) A person, county, or other organization may voluntarily agree to pay all or a portion of a person's monitoring costs specified in subsection (3) of this section.

(5) The court shall not order a person to participate in a global positioning monitoring system program unless the person agrees to the monitoring in open court or the court determines that public safety and the nature of the person's crime require the use of a global positioning monitoring system program.

(6) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.

(7) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

➔Section 50. KRS 620.140 is amended to read as follows:

(1) In determining the disposition of all cases brought on behalf of dependent, neglected, or abused children, the juvenile session of the District Court, in the best interest of the child, shall have but shall not be limited to the following dispositional alternatives:

(a) Informal adjustment of the case;

(b) Protective orders, such as the following:

1. Requiring the parent or any other person to abstain from any conduct abusing, neglecting, or making the child dependent;

2. Placing the child in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3. Orders authorized by KRS ***403.715 to 403.785 and by KRS Chapter 456***~~[403.740 and 403.750]~~;

(c) Removal of the child to the custody of an adult relative, other person, or child-caring facility or child-placing agency, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child;

(d) Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his or her attainment of the age eighteen (18), unless the youth elects to extend his or her commitment beyond the age of eighteen (18) under paragraph (e) of this subsection. Beginning at least six (6) months prior to an eligible youth attaining the age of eighteen (18), the cabinet shall provide the eligible youth with education, encouragement, assistance, and support regarding the development of a transition plan, and inform the eligible youth of his or her right to extend commitment beyond the age of eighteen (18); or

(e) Extend or reinstate an eligible youth's commitment up to the age of twenty-one (21) to receive transitional living support. The request shall be made by the youth prior to attaining nineteen (19) years of age. Upon receipt of the request and with the concurrence of the cabinet, the court may authorize commitment up to the age of twenty-one (21).

(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

➔Section 51. The following KRS sections are repealed:

403.737 Forms for documents entered into Law Information Network of Kentucky.

403.741 Consideration of respondent's criminal history and past emergency protective order or domestic violence order required.

403.743 Referral of petitioner to county attorney -- Duties of county attorney.

403.747 Testimony to be given under oath -- Consideration of specified areas respondent is to be excluded from.

403.7539 Civil and criminal proceedings for violations of foreign protective orders.

403.755 Enforcement by law enforcement agency.

403.760 Contempt of court.

403.762 Request for modification of global positioning monitoring order -- Hearing.

403.763 Criminal penalty for violation of protective order.

403.765 Certification of existence of domestic violence protective orders -- Efficacy of existing orders.

403.770 Nonpublication of petitioner's and minor children's addresses -- Forwarding of order to Law Information Network of Kentucky and other agencies.

403.771 Printout of foreign orders -- Annual validation.

403.775 Effect of petitioner's leaving residence.

403.780 Testimony not admissible in criminal proceeding.

➔Section 52. This Act takes effect January 1, 2016.

**Signed by Governor April 1, 2015.**

## CHAPTER 103

**( HB 163 )**

AN ACT relating to reemployment after retirement.

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

➔Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.510 to 61.705 and 78.510 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.510 to 61.705 and 78.510 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment.

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment.

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation

shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691; and

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095.

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which

the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination;

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began;

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691;

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account; and

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852 which he was eligible to purchase prior to his initial retirement.

(17) Notwithstanding any provision of subsections (1) to (7)(a) and (10) to (15) of this section, the following shall apply to retired members who are reemployed by an agency participating in one (1) of the systems administered by Kentucky Retirement Systems on or after September 1, 2008:

(a) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement

allowance from one (1) of the systems administered by Kentucky Retirement Systems, or has filed the forms required to receive a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems, and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems or is employed in a position that is not considered regular full-time with an agency participating in one (1) of the systems administered by Kentucky Retirement Systems within three (3) months following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided;

(b) Except as provided by paragraphs (c) and (d) of this subsection, if a member is receiving a retirement allowance from one (1) of the systems administered by Kentucky Retirement Systems and is employed in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems after a three (3) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (a) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium***. Effective July 1, 2015, local school boards shall not be required to pay the reimbursement required by this subparagraph for retirees employed by the board for eighty (80) days or less during the fiscal year***;

(c) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, or has filed the forms required to receive a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System, and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System within one (1) month following the member's initial retirement date, the member's retirement shall be voided, and the member shall repay to the retirement system all benefits received, including any health insurance benefits. If the member is returning to work in a regular full-time position required to participate in one (1) of the systems administered by Kentucky Retirement Systems:

1. The member shall contribute to a member account established for him or her in one (1) of the systems administered by Kentucky Retirement Systems, and employer contributions shall be paid on behalf of the member by the participating employer; and

2. Upon subsequent retirement, the member shall be eligible for a retirement allowance based upon total service and creditable compensation, including any additional service or creditable compensation earned after his or her initial retirement was voided; and

(d) If a member is receiving a retirement allowance from the State Police Retirement System or from hazardous duty retirement coverage with the Kentucky Employees Retirement System or the County Employees Retirement System and is employed in a regular full-time position required to participate in the State Police Retirement System or in a hazardous duty position with the Kentucky Employees Retirement System or the County Employees Retirement System after a one (1) month period following the member's initial retirement date, the member may continue to receive his or her retirement allowance during the period of reemployment subject to the following provisions:

1. Both the employee and participating agency shall certify in writing on a form prescribed by the board that no prearranged agreement existed between the employee and agency prior to the employee's retirement for the employee to return to work with the participating agency. If the participating agency or employer fail to complete the certification, the member's retirement shall be voided and the provisions of paragraph (c) of this subsection shall apply to the member and the employer;

2. Notwithstanding any other provision of KRS Chapter 16, 61, or 78 to the contrary, the member shall not contribute to the systems and shall not earn any additional benefits for any work performed during the period of reemployment;

3. Except as provided by KRS 70.291 to 70.293, the employer shall pay employer contributions as specified by KRS 61.565 and 61.702 on all creditable compensation earned by the employee during the period of reemployment. The additional contributions paid shall be used to reduce the unfunded actuarial liability of the systems; and

4. Except as provided by KRS 70.291 to 70.293, the employer shall be required to reimburse the systems for the cost of the health insurance premium paid by the systems to provide coverage for the retiree, not to exceed the cost of the single premium.

**Signed by Governor April 1, 2015.**

## CHAPTER 104

**( HB 164 )**

AN ACT relating to employment opportunities for veterans.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

***(1) The following definitions apply in this section unless context otherwise requires:***

***(a) "Private employer" means a sole proprietor, corporation, partnership, limited liability company, or other entity with one (1) or more employees and excludes the state, a municipality, county, school district, or public institution of higher education; and***

***(b) "Veterans' preference employment policy" means a private employer's voluntary preference for hiring, promoting, or retaining a veteran over another qualified applicant or employee.***

***(2) A private employer may have a voluntary veterans' preference employment policy. The veterans' preference employment policy shall be in writing and applied uniformly to employment decisions regarding hiring, promotion, or retention during a reduction in workforce. The private employer may require the veteran to submit a Department of Defense form DD 214 as proof of eligibility for the veterans' preference employment policy. Granting preference under this section does not violate any local or state equal employment opportunity law, including but not limited to KRS Chapter 344.***

***(3) The Department of Veterans' Affairs and the Education and Workforce Development Cabinet may assist a private employer in determining the veteran's status as an applicant. The Education and Workforce***

***Development Cabinet may maintain an online registry of employers that have a voluntary veterans' preference employment policy as described in this section and may promulgate administrative regulations to assist in the creation of this policy.***

➔Section 2. This Act may be cited as the Voluntary Veterans' Preference Employment Policy Act.

**Signed by Governor April 1, 2015.**

## CHAPTER 105

**( HB 408 )**

AN ACT relating to executive branch entities.

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

➔Section 1. KRS 153.410 is amended to read as follows:

(1) The Kentucky Center for the Arts Corporation is hereby established, and shall consist of ***nineteen (19)***~~[fifteen (15)]~~ members representing metropolitan Louisville and Kentucky to be appointed by the Governor, who shall also designate a chairman. Initial terms shall be staggered; thereafter, members shall be appointed to four (4) year terms.

(2) Members may be removed by the Governor only for cause after being afforded notice, a hearing with counsel before the Governor or his designee, and a finding of fact by the Governor. A copy of charges, transcript of the record of the hearings, and findings of fact shall be filed with the Secretary of State.

(3) The Kentucky Center for the Arts Corporation shall be a body corporate with full corporate powers. A quorum of the corporation shall consist of ***ten (10)***~~[eight (8)]~~ members, with a majority of members present authorized to act upon any matter legally before the corporation. Full minutes and records shall be kept of all meetings of the corporation and all official actions shall be recorded.

(4) The corporation may enact bylaws concerning the election of other officers, the creation of an executive committee with full authority to act between regular meetings, and the designation of alternates for members with full voting authority.

(5) The corporation shall be attached to the Tourism, Arts and Heritage Cabinet for administrative purposes.

➔Section 2. The General Assembly hereby confirms Executive Order 2014-585, dated July 11, 2014, to the extent that it is not otherwise confirmed or superseded by Section 1 of this Act.

➔Section 3. KRS 56.777 is amended to read as follows:

(1) A High-Performance Buildings Advisory Committee is hereby created and shall be administratively staffed by the cabinet.

(2) The committee shall consist of ***sixteen (16)***~~[fifteen (15)]~~ members and shall include:

(a) A representative of the cabinet designated by the secretary;

(b) A representative of the Tourism, Arts and Heritage Cabinet designated by the secretary;

(c) A representative of the Department of Education designated by the commissioner;

(d) A representative of the Council on Postsecondary Education designated by the president;

(e) A representative of the Department for Energy Development and Independence designated by the commissioner; and

(f) A representative appointed by the Governor from each of the following:

1. The design and construction industry involved in public works contracting;

2. The Kentucky Chapter of the U. S. Green Building Council;

3. The University of Kentucky College of Design;

4. The Kentucky Forest Industries Association;

5. The Kentucky Society of the American Institute of Architects;

6. The American Society of Heating, Refrigerating, and Air-Conditioning Engineers;~~[ and~~

~~7. The Home Builders Association of Kentucky;]~~

***7.***~~[8.]~~ The Associated General Contractors of Kentucky;

***8.***~~[9.]~~ The West Kentucky Construction Association;~~[ and]~~

***9.***~~[10.]~~The Kentucky Manufactured Housing Institute***;***

***10. The Kentucky Ready Mixed Concrete Association; and***

***11. The Plantmix Asphalt Industry of Kentucky***.

(3) The representative of the cabinet shall serve as the chairperson of the committee. All appointments shall be for a term of two (2) years. Committee members shall serve until their successors are appointed and shall be eligible for reappointment.

(4) The committee shall meet at least monthly or as convened by the chairperson.

(5) The members of the committee shall receive reimbursement for the cost of travel to and from the meetings and any costs necessarily incurred in carrying out their duties.

(6) The committee shall:

(a) Consult with architects, engineers, builders, energy and conservation organizations, and other interested stakeholders, and make recommendations to the cabinet regarding:

1. Standards and benchmarks developed under existing high-performance building programs, including the ENERGY STAR rating system, Green Globes rating system, and Leadership in Energy and Environmental Design (LEED) Green Building rating system; and

2. Standards and guidelines developed and adopted by the U.S. Green Building Council, the American Society of Heating, Refrigerating and Air-Conditioning Engineers, and the Illuminating Engineering Society of North America partnership concerning the design of sustainable buildings to balance environmental responsibility, resource efficiency, occupant comfort and well-being, and community sensitivity;

(b) Assist the cabinet in the review of state building projects to ensure that building performance and efficiency are maximized to the extent economically feasible using a life-cycle cost analysis;

(c) Assist the cabinet in developing a process of documentation of the attainment of high-performance building standards; and

(d) Assist the cabinet in conducting an ongoing professional development program for state and local building designers, construction companies, school districts, building managers, and the general public on high-performance building design, construction, maintenance, and operation.

(7) Prior to the implementation of KRS 56.770 to 56.784, the cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section. The cabinet shall consider the recommendations made by the High-Performance Buildings Advisory Committee pursuant to subsection (6) of this section and shall establish the criteria for the high-performance building standards and the benchmarks by which the high-performance building standards will be measured. At a minimum, the cabinet shall:

(a) Include the standards for site selection and management, water efficiency, energy conservation, waste reduction, material and resource use, and indoor air quality; and

(b) Require that each high-performance building be designed, constructed, or renovated so that it is capable of being rated as an ENERGY STAR building in accordance with the criteria and rating system adopted by the United States Environmental Protection Agency and in effect at the time the building is designed or, in the case of leased buildings, at the time the lease is entered into on or after July 1, 2018.

(8) In developing the criteria for the high-performance building standards, the cabinet shall consider and encourage the use of:

(a) Locally grown lumber from forest lands implementing sustainable practices established by the

American Tree Farm System's Sustainable Forest Initiative or the Kentucky Forest Stewardship Program established under KRS 149.330 to 149.355;

(b) Building materials manufactured with recycled content within the Commonwealth; and

(c) Renewable energy sources.

➔Section 4. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) ***"Alteration" means any change, modification, or adjustment to an existing electrical system or conduit;***

***(2) "Commissioner" means the commissioner of the Department of Housing, Buildings and Construction;***

***(3) "Division" means the Electrical Division within the Department of Housing, Buildings and Construction;***

***(4)*** "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical ***system***~~[wiring]~~ used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician;

***(5) "Electrical system" means any electrical work subject to standards provided within the National Electrical Code as adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction;***

***(6)***~~[(2)]~~ "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical ***system***~~[wiring]~~ used for the purpose of furnishing heat, light, or power;

***(7)***~~[(3)]~~ "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

***(8)***~~[(4)]~~ "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices, and fixtures for light, heat, or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky;~~[ and]~~

***(9)***~~[(5)]~~ "Department" means the Department of Housing, Buildings and Construction***; and***

***(10) "Repair" means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance***.

➔Section 5. KRS 227.480 is amended to read as follows:

(1) ***(a)*** A city, county, urban-county, charter county, or consolidated local government ***or the state*** shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments ***or the state***, require any person to obtain ***a permit***~~[permits]~~ before commencing construction, alteration, or repairs of any electrical ***system***~~[wiring]~~.

***(b)*** The city, county, urban-county, charter county, or consolidated local government ***or the state*** shall require all inspections that are deemed necessary by the department for the safety of life and property. The department shall promulgate administrative regulations to describe the circumstances where inspections are required.

(2) A city, county, urban-county, charter county, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed as an electrical contractor under KRS Chapter 227A or of acting on behalf of a licensed electrical contractor. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical ***system***~~[wiring]~~ on his or her own premises or any other person exempt from licensing under KRS 227A.030 ***or KRS 227A.150***. This subsection shall not apply to electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county, charter county, or consolidated local government, or any subdivision thereof.

(3) A city, county, urban-county, charter county, or consolidated local government shall appoint and may fix the

compensation of city, county, urban-county, charter county, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration, and repair of any electrical ***system***~~[wiring]~~ shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National ***Electrical***~~[Electric]~~ Code. These standards shall be used by the electrical inspector in making his inspections.

➔Section 6. KRS 227.491 is amended to read as follows:

(1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his or her signature and certification number in a conspicuous place on the main service entrance equipment. He or she shall also provide the owner of the electrical installation or his or her authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the Department of Housing, Buildings and Construction upon its request.

(2) ***An***~~[No]~~ electrical inspector shall:

(a) ***Not*** attempt to supplant, overrule, or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure, or other project have been solicited by an owner, contractor, municipality, or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector;

(b) ***Not*** certify unlicensed or unlawful electrical installations;

(c) ***Not*** certify or inspect an electrical installation in a manufactured home or mobile home where the certified installer seal is not present pursuant to KRS 227.570;~~[ or]~~

(d) ***Not*** certify or inspect an electrical installation in a previously owned manufactured home or a previously owned mobile home when a Class B1 seal is not present as required by KRS 227.605***; and***

***(e) Verify required electrical licensure on projects within the inspector's jurisdiction. The electrical inspector shall report all electrical licensure violations to the department within ten (10) days of discovery***.

(3) Failure of an electrical inspector to ***comply with any provision of this chapter or the administrative regulations promulgated thereunder***~~[observe subsection (2) of this section]~~ shall subject that inspector to review by the commissioner of housing, buildings and construction with possible suspension of certification for a period not to exceed one (1) year from the date of the commissioner's ruling.

➔Section 7. KRS 227.530 is amended to read as follows:

(1) There is hereby created an Electrical Advisory Committee which shall be attached to the Electrical Division within the Department of Housing, Buildings and Construction for administrative purposes. The committee shall be constituted as follows:

(a) Two (2) members chosen from public utility companies;

(b) Two (2) members who are electricians;

(c) Two (2) members who are certified electrical inspectors, one (1) of whom shall be employed by a governmental entity and the other who shall be an ***electrical inspector contracted to conduct inspections of***~~[independent contractor engaged in the business of inspecting]~~ electrical installations;

(d) Two (2) members who are licensed professional electrical engineers;

(e) Two (2) members who are engaged in the business of electrical contracting;~~[ and]~~

(f) One (1) member who is engaged in the business of electrical contracting and who employs no more than five (5) full-time employees when appointed***; and***

***(g) The commissioner of the Department of Housing, Buildings and Construction or his or her designee***.

(2) ***Appointed*** committee members shall be appointed by the Governor for four (4) year terms. No committee member shall be appointed for more than one (1) successive term.

(3) The committee shall meet at least quarterly or upon request of the department for the purpose of considering

matters relating to electrical installations and electrical inspections. The committee shall have the opportunity to review and comment on relevant administrative regulations that are subject to the requirements of KRS 198B.030(8) and (9) and 198B.040(11) and shall make recommendations to and otherwise advise the department on these matters.

(4) All committee members shall be compensated for expenses incurred in the conduct of Commonwealth business.

➔Section 8. KRS 227A.010 is amended to read as follows:

As used in KRS 227A.010 to 227A.140, unless the context otherwise requires:

(1) "Authorized local licensing program" means any city, county, urban-county, charter county, or consolidated local government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;

(2) "Committee" means the Electrical Advisory Committee as described in KRS 227.530;

(3) "Department" means the Department of Housing, Buildings and Construction;

(4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(5) "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical ***system***~~[wiring]~~ used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician; however, no master electrician shall act in this capacity for more than one (1) electrical contractor;

***(6) "Electrical system" means any electrical work subject to standards provided within the National Electrical Code as adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction;***

***(7)***~~[(6)]~~ "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical ***system***~~[wiring]~~ used for the purpose of furnishing heat, light, or power;

***(8)***~~[(7)]~~ "Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;

***(9)***~~[(8)]~~ "Master electrician" means any individual licensed to ***engage in, and*** assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of ***any*** electrical ***system***~~[wiring]~~ used to furnish heat, light, or power;

***(10) "Repair" means the reconstruction or renewal of any part of an existing building for the purpose of its maintenance;*** and

***(11)***~~[(9)]~~ "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems.

➔Section 9. KRS 45A.030 is amended to read as follows:

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

(1) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted;

(2) "Change order" means a written order signed by the purchasing officer, directing the contractor to make changes that the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor;

(3) "Chief purchasing officer" means the secretary of the Finance and Administration Cabinet, who shall be responsible for all procurement of the Commonwealth except as provided by KRS Chapters 175, 176, 177, and 180;

(4) "Construction" means the process of building, altering, repairing, improving, or demolishing any public structures or buildings, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property;

(5) "Construction manager-agency" means services to assist the purchasing agency manage construction that are procured through a contract that is qualifications-based;

(6) "Construction management-at-risk" means a project delivery method in which the purchasing officer enters into a single contract with an offeror that assumes the risk for construction at a contracted guaranteed maximum price as a general contractor, and provides consultation and collaboration regarding the construction during and after design of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;

(7) ***"Construction manager-general contractor" means a project delivery method in which the purchasing officer enters into a single contract with an offeror to provide preconstruction and construction services. During the preconstruction phase, the successful offeror provides design consulting services. During the construction phase, the successful offeror acts as general contractor by:***

***(a) Contracting with subcontractors; and***

***(b) Providing for management and construction at a fixed price with a completion deadline;***

***(8)*** "Contract" means all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; purchase orders; and insurance contracts except as provided in KRS 45A.022. It includes supplemental agreements with respect to any of the foregoing;

***(9)*** ~~[(8)]~~ "Contract modification" means any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the parties to the contract. It includes bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option;

***(10)*** ~~[(9)]~~ "Contractor" means any person having a contract with a governmental body;

***(11)*** ~~[(10)]~~ "Data" means recorded information, regardless of form or characteristic;

***(12)*** ~~[(11)]~~ "Design-bid-build" means a project delivery method in which the purchasing officer sequentially awards separate contracts, the first for architectural, engineering, or engineering-related services to design the project and the second for construction of the capital project according to the design. The contract shall be subject to the bonding requirements of KRS 45A.185;

***(13)*** ~~[(12)]~~ "Design-build" means a project delivery method in which the purchasing officer enters into a single contract for design and construction of a capital project. The contract shall be subject to the bonding requirements of KRS 45A.190;

***(14)*** ~~[(13)]~~ "Designee" means a duly authorized representative of a person holding a superior position;

***(15)*** ~~[(14)]~~ "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof;

***(16)*** ~~[(15)]~~ "Employee" means an individual drawing a salary from a governmental body, whether elected or not, and any nonsalaried individual performing personal services for any governmental body;

***(17)*** ~~[(16)]~~ "Governmental body" means any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state government;

***(18)*** ~~[(17)]~~ "Meeting" means all gatherings of every kind, including video teleconferences;

***(19)*** ~~[(18)]~~ "Negotiation" means contracting by either the method set forth in KRS 45A.085, 45A.090, or 45A.095;

***(20)*** ~~[(19)]~~ "Person" means any business, individual, organization, or group of individuals;

***(21)*** ~~[(20)]~~ "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It includes all functions that pertain to the procurement of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration;

***(22)*** ~~[(21)]~~ "Purchase request" or "purchase requisition" means that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by KRS 45A.025;

***(23)*** ~~[(22)]~~ "Purchasing agency" means any governmental body that is authorized by this code or its implementing administrative regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer;

***(24)*** ~~[(23)]~~ "Purchasing officer" means any person authorized by a governmental body in accordance with procedures prescribed by administrative regulations to enter into and administer contracts and make written determinations and findings with respect thereto. The term includes an authorized representative acting within the limits of authority;

***(25)*** ~~[(24)]~~ "Services" means the rendering by a contractor of its time and effort rather than the furnishing of a specific end product, other than reports that are merely incidental to the required performance of services;

***(26)*** ~~[(25)]~~ "Supplemental agreement" means any contract modification that is accomplished by the mutual action of the parties;

***(27)*** ~~[(26)]~~ "Supplies" means all property, including but not limited to leases of real property, printing, and insurance, except land or a permanent interest in land;

***(28)*** ~~[(27)]~~ "Using agency" means any governmental body of the state that utilizes any supplies, services, or construction purchased under this code;

***(29)*** ~~[(28)]~~ "Video teleconference" means one (1) meeting, occurring in two (2) or more locations, where individuals can see and hear each other by means of video and audio equipment; and

***(30)*** ~~[(29)]~~ "Writing" or "written" means letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

➔Section 10. KRS 45A.180 is amended to read as follows:

(1) The secretary of the Finance and Administration Cabinet shall promulgate administrative regulations by October 15, 2003, providing for as many alternative methods of management of construction contracting as he or she may determine to be feasible; setting forth criteria to be used in determining which method of management of construction is to be used for a particular project; establishing a model process parallel to the selection committee procedures established in 45A.810 for the procurement of alternative project services of "construction management-at-risk" and "design-build," and for a ***"construction manager-general contractor" and a*** "construction manager-agency;" and providing that the chief purchasing officer shall execute and include in the contract file a written statement setting forth the facts recommending that a particular method of management of construction contracting be used. The administrative regulations shall include the establishment of:

(a) The relative weighing between qualifications and price, including the reciprocal preference for resident bidders required under KRS 45A.494; and

(b) The level of stipend, if any, available for the various types of projects.

(2) When a request for proposal for a project utilizing an alternative project delivery method is issued, the contracting body shall transmit a copy of the request for proposal to the Capital Projects and Bond Oversight Committee staff.

(3) Upon issuance of the contract for a project utilizing an alternative project delivery method, the contracting body shall submit the contract to the Government Contract Review Committee for review in accordance with KRS 45A.690 to 45A.725. The contracting body shall insure the contract clearly identifies to the committee that an alternative project delivery method is being utilized. Upon disapproval of or objection to the contract by the committee, the contracting body shall determine whether the contract shall be revised to comply with

the objections of the committee, be canceled, or remain in effect. Subsequent contract amendments relating to change orders shall not be required to be submitted to the Government Contract Review Committee.

(4) A request for proposal for a project utilizing an alternative project delivery method under this section shall specifically state the evaluation factors and the relative weight of each to be used in the scoring of awards.

(5) Any governing body of a postsecondary institution that manages its capital construction program under KRS 164A.580 shall adhere to the regulations promulgated under this section when utilizing an alternative project delivery method for capital projects, and shall report to legislative committees as specified in this section.

(6) Any corporation as described by KRS 45.750(2)(c) or as created under the Kentucky Revised Statutes as a governmental agency and instrumentality of the Commonwealth that manages its capital construction program shall adhere to the regulations promulgated under this section when utilizing an alternative project delivery method for capital projects, and shall report to legislative committees as specified in this section.

➔Section 11. KRS 45A.183 is amended to read as follows:

***(1)*** When a capital project is to be constructed ***using*** ~~[utilizing]~~ the construction management-at-risk method, a process parallel to the selection committee procedures established in KRS 45A.810 shall apply when procuring a construction management-at-risk firm and regulations promulgated in accordance with KRS 45A.180 shall apply that set forth requirements for:

***(a)*** ~~[(1)]~~ Description of the bond, insurance, and other security provisions that apply to a project;

***(b)*** ~~[(2)]~~ Description of appropriate contract clauses and fiscal responsibility requirements that apply to each project; and

***(c)*** ~~[(3)]~~ Restrictions relating to conflicts of interest, including a provision that a construction management-at-risk entity shall be eligible to become an offeror of goods or services on a project it manages only when a subcontractor fails to perform and upon prior approval by the contracting body.

***(2) (a) When a construction project is to be constructed using the construction manager-general contractor method, a competitive process consistent with this code established by administrative regulations promulgated under Section 10 of this Act shall apply.***

***(b) The procurement process shall set forth the requirements for:***

***1. Description of the bond, insurance, and other security provisions that apply to the project;***

***2. Description of appropriate contract clauses and fiscal responsibility requirements that apply to the project; and***

***3. Restrictions relating to conflicts of interest, including a provision that a construction manager-general contractor shall be eligible to become an offeror of goods or services on a project it manages only when a subcontractor fails to perform and upon prior approval by the contracting body.***

***(c) The selection of the construction manager-general contractor shall be based on:***

***1. Qualifications; and***

***2. Price, including preconstruction consulting services, overhead, and profit.***

***(d) Prior to the construction phase, the construction manager-general contractor shall competitively bid the subcontracts by public notice and award each subcontract to the lowest responsive and responsible bidder.***

***(e) The final construction cost and completion date for the project shall be established by change order after the construction manager-general contractor enters into all applicable subcontracts.***

➔Section 12. KRS 45A.837 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 45A.800 to 45A.835, the Finance and Administration Cabinet and the Transportation Cabinet may enter into price contracts for architectural, engineering, and engineering-related services. If the agencies choose to enter into a price contract, subsection (2) of this section shall apply.

(2) Price contracts shall be awarded to firms qualified by the Finance and Administration Cabinet, Department of Facilities Management or by the Transportation Cabinet, Department of Highways. The Finance and Administration Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during

each fiscal year to review and make recommendations to the commissioner of the Department for Facilities Management for qualification of interested firms. The Transportation Cabinet selection committee established by KRS 45A.810 shall meet at least quarterly during each fiscal year to review and make recommendations to the commissioner of the Department of Highways for qualification of interested firms.

(a) The respective committees shall evaluate those firms submitting statements of interest in obtaining a price contract. The submitting firms shall be reviewed according to the following criteria:

1. Qualifications;

2. Ability of professional personnel; and

3. Past record and experience.

(b) Firms qualified by the commissioner of the Department for Facilities Management or by the commissioner of the Department of Highways shall be awarded price contracts by the respective departments for the type of work for which they have been qualified.

(c) The commissioner of the Department for Facilities Management or the commissioner of the Department of Highways may select firms to perform work under price contract for small projects for which the architectural, engineering, or engineering-related fees do not exceed ***seventy-five thousand dollars ($75,000)***~~[fifty thousand dollars ($50,000)]~~. However, no firm that has received more than ***one hundred fifty thousand dollars ($150,000)***~~[one hundred thousand dollars ($100,000)]~~ in price contract fees in any one (1) fiscal year in the contract discipline being awarded shall be selected to work under a price contract unless the secretary of finance and administration or the secretary of transportation makes a written determination that the selection is in the best interest of the Commonwealth and the determination is confirmed by the appropriate cabinet's selection committee established by KRS 45A.810.

(3) Notwithstanding any provision of the Kentucky Revised Statutes, no price contract shall be awarded under the provisions of this section before completion of the review procedure provided for in KRS 45A.695 and 45A.705.

➔Section 13. KRS 164A.575 is amended to read as follows:

(1) The governing boards of each institution may elect to purchase interest in real property, contractual services, rentals of all types, supplies, materials, equipment, printing, and services, except that competitive bids may not be required for:

(a) Contractual services where no competition exists;

(b) Food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies;

(c) Instructional materials available from only one (1) source;

(d) Where rates are fixed by law or ordinance;

(e) Library books;

(f) Commercial items that are purchased for resale;

(g) Professional, technical, scientific, or artistic services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725;

(h) All other commodities, equipment, and services which, in the reasonable discretion of the board, are available from only one (1) source; and

(i) Interests in real property.

(2) Nothing in this section shall deprive the boards from negotiating with vendors who maintain a General Services Administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between General Services Administration and the vendor affected.

(3) The governing board shall require the institution to take and maintain inventories of plant and equipment.

(4) The governing board shall establish procedures to identify items of common general usage among all departments to foster volume purchasing. It shall establish and enforce schedules for purchasing supplies,

materials, and equipment.

(5) The governing board shall have power to salvage, to exchange, and to condemn supplies, equipment, and real property.

(6) Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the appraised value as determined by a qualified appraiser or the value set by the eminent domain procedure. Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

(7) The governing board shall sell or otherwise dispose of all real or personal property of the institution which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the board. The determination of the board shall be set forth in an order, and shall be reached only after review of a written request by the institution desiring to dispose of the property. Such request shall describe the property and state the reasons why the institution believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the appropriate officer of the board. Unless the board deems it in the best interest of the institution to proceed otherwise, all such real or personal property shall be sold either by invitation of sealed bids or by public auction; provided, however, that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the Finance and Administration Cabinet or the Transportation Cabinet for such requirements of that department.

(8) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employee of any board of the institution, based upon a written application by the grantor or lessor approved by the board, that the employee has not either himself or through any other person influenced or attempted to influence either the board requesting the purchase of the property. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the Secretary of State along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(9) (a) As used in this section, "construction manager-agency," "construction management-at-risk," "design-bid-build,"~~[ and]~~ "design-build***,***" ***and "construction manager-general contractor"*** shall have the same meaning as in KRS 45A.030.

(b) For capital construction projects, the procurement may be on a total design-bid-build basis, a design-build basis, ***construction manager-general contractor basis,*** or construction management-at-risk basis, whichever in the judgment of the board offers the best value to the taxpayer. Best value shall be determined in accordance with KRS 45A.070. Proposals shall be reviewed by the institution's engineering staff to assure quality and value, and compliance with procurement procedures. All specifications shall be written to promote competition. Services for projects delivered on the design-build basis***, construction manager-general contractor basis,*** or construction management-at-risk basis shall be procured in accordance with KRS 45A.180***, Section 11 of this Act,*** and the regulations promulgated in accordance with KRS 45A.180. Nothing in this section shall prohibit the procurement of construction manager-agency services.

(10) The governing board shall attempt in every practicable way to insure the institution's supplying its real needs at the lowest possible cost. To accomplish this the board may enter into cooperative agreements with other public or private institutions of education or health care.

(11) The governing board shall have control and supervision over all purchases of energy consuming equipment, supplies, and related equipment purchased or acquired by the institution, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

(12) The governing board may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency must be fully explained, in writing, by the vice president responsible for business affairs and such explanation must be approved by the university president. The letter and approval shall be filed with the record of all such purchases. Where practical, standard specifications shall be followed in making emergency purchases. A good faith effort shall be made to effect a competitively established price for emergency purchases.

(13) (a) All governing boards that purchase agricultural products, as defined by KRS 45A.630, shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the

Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.

(b) If purchasing agricultural products, a governing board shall encourage the purchase of Kentucky-grown agricultural products in accordance with KRS 45A.645. If a governing board purchases agricultural products through a contract with a vendor or food service provider, the contract shall require that if Kentucky-grown agricultural products are purchased, the products shall be purchased in accordance with KRS 45A.645. Only contracts entered into or renewed after July 15, 2008, shall be required to comply with the provisions of this subsection.

(c) All governing boards that purchase Kentucky-grown agricultural products shall, on or before January 1 of each year, provide a report to the Legislative Research Commission and to the Department of Agriculture describing the types, quantities, and costs of each product purchased. The report shall be completed on a form provided by the department.

(14) Governing boards shall apply the reciprocal resident bidder preference described in KRS 45A.494 prior to the award of any contract.

(15) Governing boards may authorize the use of reverse auctions as defined in KRS 45A.070 for the procurement of goods and leases.

➔Section 14. KRS 164A.580 is amended to read as follows:

Subject to the provisions of KRS 45.750 through 45.800, 45A.180, ***Section 11 of this Act,*** and 56.870 to 56.874, the governing board of each institution may provide for the management and administration of capital construction projects authorized for such institution including, but not limited to:

(1) The procurement of necessary consulting services;

(2) The supervision and control of the making of all contracts for building projects, renovation projects, repair projects, and supervision of same;

(3) The prescription of the amount and form of evidences of indebtedness submitted in connection with bids and contracts when not otherwise provided by law;

(4) The preparation of plans and specifications for any construction, alteration, or enlargement of buildings, structures, and other improvements;

(5) The advertisement of bids and the awarding of contracts in connection with such projects;

(6) The supervision and inspection of all related work;

(7) The approval of changes in plans or specifications; and

(8) The acceptance of such improvements when completed according to such plans and specifications.

➔Section 15. KRS 164A.595 is amended to read as follows:

Capital construction projects shall be carried out as follows:

(1) Subject to the provisions of KRS 45.750 through 45.800~~[ and]~~ 45A.180, ***and Section 11 of this Act,*** the governing boards of the institutions may acquire, erect, construct, reconstruct, improve, rehabilitate, remodel, repair, complete, extend, enlarge, equip, furnish, and operate any buildings, structures, improvements, or facilities, including any utilities, other related services and appurtenances and land required as the respective governing boards shall deem necessary for carrying on the educational, research or public service programs or discharging the statutory responsibilities of the universities and colleges and various divisions under the jurisdiction of the boards, or for the management, operation, or servicing of the universities and colleges.

(2) The governing boards may acquire real or personal property, by purchase, lease, sublease, condemnation, trade or exchange, gift, devise, or otherwise, and improve such property whenever in the judgment of the governing board it shall be necessary. The title to any real estate acquired under this section shall vest in the Commonwealth for the use and benefit of the appropriate institution.

**Signed by Governor April 1, 2015.**

## CHAPTER 106

## ( HB 525 )

AN ACT relating to regulating risk.

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

➔Section 1. KRS 247.233 is amended to read as follows:

(1) The owner of any amusement ride or attraction shall, within twelve (12) hours, notify the Commissioner of any occurrence involving an amusement ride or attraction if the occurrence results in:

(a) Death;

(b) Injury requiring ***ambulance or emergency vehicle transport to a hospital from the site, where the injury is a result of a failure of the amusement ride or attraction*** ~~[medical treatment other than first aid]~~; or

(c) Damage to an amusement ride or attraction that affects the future safe operation of the ride or attraction. Reporting is not required in the case of normal wear and tear.

(2) The Commissioner shall, after notification of an occurrence described in subsection (1) of this section, make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the department and shall give in detail all facts and information available. The owner may submit results of investigations independent of the department's investigation for inclusion in the file.

(3) No person, following an occurrence described in subsection (1) of this section, shall:

(a) Operate or move the amusement ride or attraction without the approval of the Commissioner, unless necessary to prevent injury to a person; or

(b) Remove from the premises any damaged or undamaged part of the amusement ride or attraction or attempt to repair any damaged part before the department has completed its investigation. The department shall initiate its investigation within twelve (12) hours of being notified.

(4) The department may:

(a) Conduct hearings;

(b) Administratively subpoena and examine under oath persons whose activities are subject to KRS 247.232 to 247.236;

(c) Issue administrative subpoenas and examine the business records, books, and accounts of persons whose activities are subject to KRS 247.232 to 247.236; and

(d) Request any other information necessary to assist the department in properly performing the department's duties.

(5) The department shall have control of any incident scene involving an amusement ride or attraction if there has been an occurrence described in subsection (1) of this section. The department shall remain in control of the scene until the department completes its investigation and releases the scene. The department shall have access within twelve (12) hours to all documents or records pertaining to the amusement ride or attraction.

(6) (a) The department shall promulgate administrative regulations relating to amusement rides and attractions that establish:

1. A comprehensive set of administrative violations and civil penalties not to exceed ten thousand dollars ($10,000); and

2. The procedure for the suspension or revocation of any business identification number, license, or other certificate issued by the department.

(b) No owner of an amusement ride or attraction shall remove the amusement ride or attraction from the state before paying all civil penalties imposed under this subsection.

➔Section 2. KRS 160.310 as amended by HB 117/EN of the 2015 Regular Session, if that bill becomes law, is further amended to read as follows:

~~[(1)]~~ Each board of education may set aside funds to provide for liability and indemnity insurance against the negligence of the drivers or operators of school buses, other motor vehicles, and mobile equipment owned or

operated by the board. If the transportation of pupils is let out under contract, the contract shall require the contractor to carry indemnity or liability insurance against negligence in such amount as the board designates. In either case, the indemnity bond or insurance policy shall be issued by some surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment, not to exceed the limits of the policy, rendered against the insured for loss or damage to property of any school child or death or injury of any school child or other person~~[; and~~

~~(2) Each board of education may set aside funds to provide for basic reparation benefits and purchase such limits as the board of education shall direct, but shall only be required to purchase such basic reparation benefits as defined in KRS 304.39-020 and as provided in KRS 304.39-010 to 304.39-080]~~.

➔Section 3. KRS 238.505 as amended by SB 33/EN of the 2015 Regular Session, if that bill becomes law, is further amended to read as follows:

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

(1) "Department" means the Department of Charitable Gaming within the Public Protection Cabinet;

(2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. "Charitable gaming" shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;

(3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

(4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. "Charity game ticket" shall include pulltabs;

(6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;

(7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;

(8) "Charity fundraising event" means an activity of limited duration at which games of chance approved by the department are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions, and bazaars;

(9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:

(a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and

(b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;

(10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:

(a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and

(b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or

equipment to another licensed charitable organization if the donation is first approved by the department.

(11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;

(12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

(13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;

(14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;

(15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;

(16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;

(17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the department;

(18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;

(19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;

(20) "Immediate family" means:

(a) Spouse and parents-in-law;

(b) Parents and grandparents;

(c) Children and their spouses; and

(d) Siblings and their spouses;

(21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;

(22) "Secretary" means the secretary of the Public Protection Cabinet;

(23) "Commissioner" means the commissioner of the Department of Charitable Gaming within the Public Protection Cabinet;

(24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);

(25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year; and

(26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device;

(27) "Electronic pulltab device" means an electronic device used only for charitable gaming to facilitate the play of

an electronic pulltab. An electronic pulltab device shall be a tablet or other personal computing device, other than a mobile phone or similar handheld device, as approved by the department. An electronic pulltab device may only operate on a closed network or intranet that is confined to the licensee's premises, and shall not be Internet accessible by patrons, but shall be connected to a central server system solely for the purposes of monitoring, reporting, accounting, and software maintenance. An electronic pulltab device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device; and

(28) "Electronic video gaming device," as used in this chapter and the related administrative regulations, means any device that possesses a video display and computer mechanism for playing a game. Electronic video gaming device shall not mean any electronic representation of charitable gaming games identified, defined, and approved by statute ~~[or]~~***and by*** administrative regulation of the department.

**Signed by Governor April 1, 2015.**

## CHAPTER 107

**( HB 363 )**

AN ACT relating to accountancy.

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

➔Section 1. KRS 325.220 is amended to read as follows:

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

(1) "Board" means the State Board of Accountancy;

(2) "State" includes and means any state, territory, or insular possession of the United States, or the District of Columbia;

(3) "Public accountant" means a public accountant issued a license to practice by the Commonwealth of Kentucky under the Public Accounting Act of 1946 as amended;

(4) ***(a) "Regulated activities" means the offering to perform or the performance for a client or potential client by a person or firm holding a license issued under this chapter of one (1) or more types of services involving the use of accounting, attest, or compilation services, including the issuance of reports on financial statements, or one (1) or more types of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.***

***(b) Notwithstanding paragraph (a) of this subsection, this definition shall not prohibit anyone who is not a certified public accountant from performing accounting and bookkeeping services, as well as the preparation of tax returns or financial statements, for which attestation by the preparer is not required. The board shall promulgate an administrative regulation defining terms, as necessary, that are not included in this chapter.***

***(5)*** "Attest service" means providing the following~~[ financial statement]~~ services:

(a) Any audit or other engagement subject to and to be performed in accordance with the current versions of the American Institute of Certified Public Accountants (AICPA) Statements on Auditing Standards (SAS), and Government Auditing Standards issued by the United States Government Accountability Office;

(b) Any review~~[ or compilation]~~ of a financial statement subject to and to be performed in accordance with the current versions of the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Accounting and Review Services (SSARS);

(c) Any examination of prospective financial information or other professional services to be performed in accordance with the current versions of the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Attestation Engagements (SSAE);~~[ or]~~

(d) Any engagement to be performed in accordance with the Public Company Accounting Oversight Board Auditing Standards; ***and***

***(e) Any examination, review, or agreed upon procedures engagement to be performed in accordance with the SSAE, other than an examination described in paragraph (c) of this subsection.***

~~[(5) "Regulated activities" means the offering to perform or the performance for a client or potential client by a person or firm holding a license issued under this chapter of one (1) or more types of services involving the use of accounting, attest, or compilation services, including the issuance of reports on financial statements, or one (1) or more types of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. This definition shall not prohibit anyone who is not a certified public accountant from performing accounting services, such as the preparation of tax returns or financial statements, for which attestation by the preparer is not required;]~~

(6) "Firm" means a sole proprietorship, partnership, professional service corporation, or any other form of business organization that is authorized to operate under the laws of this Commonwealth, complies with the provisions of this chapter, and is issued a license to practice by the board or is exempt from having to obtain a license pursuant to KRS 325.301;

(7) "Firm manager" means a licensee of this state or another state designated by a firm to be responsible for the firm complying with the firm registration and firm licensing requirements contained in this chapter and administrative regulations promulgated thereunder;

(8) "License" means a license as a certified public accountant or a firm issued pursuant to this chapter;

(9) "Licensee" means a certified public accountant, firm, or public accountant, holding a license to practice issued under this chapter;

(10) "Peer review" means a practice monitoring process designed to promote quality in accounting and auditing services, and protect the public interest. The process shall comply with standards that are equivalent to or more stringent than the current version of the Standards for Performing and Reporting on Peer Reviews issued by the American Institute of Certified Public Accountants (AICPA);

(11) "Peer review committee" means any person or persons administering a peer review program that is equivalent to or more stringent than a program as outlined in the American Institute of Certified Public Accountants (AICPA)'s current version of the Standards for Performing and Reporting on Peer Reviews, including provisions that provide guidance for administering peer reviews;~~[ and]~~

***(12) "Report," when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information on financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence; and***

***(13)***~~[(12)]~~ "Substantial equivalency" means a determination by the board or its designee that the education, examination, and experience requirements in the statutes and administrative regulations of another state for the licensing of a certified public accountant are comparable or better than those contained in the Uniform Accountancy Act issued by the American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA), or that an individual certified public accountant's education, examination, and experience qualifications are comparable or exceed these national standards.

➔Section 2. KRS 325.261 is amended to read as follows:

The license of "certified public accountant" shall be granted by the board to any person who satisfies the following requirements:

(1) Is no less than eighteen (18) years of age;

(2) Is of good moral character;

(3) Has a baccalaureate degree or master's degree conferred by a college or university recognized by the board with a major or concentration in accounting or its equivalent, as defined in administrative regulations promulgated by the board;

(4) Passes a board-approved examination in accounting, auditing, and other related subjects as the board deems appropriate. To be eligible to apply for the examination, a person shall first satisfy the requirement of subsections (1) to (3) of this section;

(5) Completes one hundred fifty (150) college semester hours that include a baccalaureate or masters degree conferred by a college or university recognized by the board with a major or concentration in accounting or its equivalent, as defined in administrative regulations promulgated by the board;

(6) Obtains one (1) year of accounting or attest experience while employed in an accounting or auditing position in public practice,~~[ academia,]~~ industry, or government that shall be verified by a certified public accountant who, during the time being verified, held an active license to practice from any state. The one (1) year of experience required under this subsection shall be obtained:

(a) After the completion of the education requirements established in subsection (3) of this section; and

(b) ***Within***~~[Effective January 1, 2011, within]~~ five (5) years from the ***date***~~[ last day of the testing window during which]~~ the candidate successfully completed the examination;

(7) At the time of applying for a license is a United States citizen, a citizen of a foreign country who is legally residing in the United States, or is an employee of a public accounting firm, company, or an institution of postsecondary education located outside the United States, but which has an office or campus located in the United States; and

(8) Submits a complete application for a license to practice as a certified public accountant in accordance with KRS 325.330.

➔Section 3. KRS 325.270 is amended to read as follows:

(1) Examinations provided for in this chapter shall be authorized by the board.

(2) The board may by administrative regulation adopt standards and fees governing the application and all examination policies and procedures.

(3) The board may accept examination results from other states if:

(a) It is established that the examination is the same or substantially similar to the one adopted by the board; and

(b) The candidate has met the prerequisite examination requirements of this chapter.

(4) An examination candidate who passes all sections of the examination~~[ after January 1, 2011,]~~ shall apply for a license within five (5) years from the ***date***~~[ last day of the testing window during which]~~ the~~[ examination]~~ candidate successfully completed the examination. Failure to apply for a license prior to the expiration of the five (5) year period shall result in cancellation of the examination scores~~[ unless the candidate completes the requirements to reinstate his or her scores, as established by administrative regulations promulgated by the board]~~.

➔Section 4. KRS 325.280 is amended to read as follows:

(1) The board may issue a license to practice by reciprocity, if the applicant submits an application for a license to practice any regulated activity, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board, and meets the following requirements:

(a) The applicant received a grade on the Uniform Certified Public Accountants Examination in another state that was equivalent to a passing grade at the time in this Commonwealth;

(b) The applicant holds a valid active license, and is in good standing as a certified public accountant, issued under the laws of any other state; and

(c) 1. The applicant meets all current experience requirements in this Commonwealth at the time application is made; or

2. Within the ten (10) years immediately preceding the application, had four (4) years of experience in the practice of the regulated activities acceptable to the board upon which the license was

based.

(2) The board may issue a license to practice the regulated activities without examination to an applicant who holds a valid license to engage in the practice of the regulated activities in good standing from a foreign country if:

(a) The applicant's foreign country makes similar provisions to allow a person who holds a valid license to practice the regulated activities issued by this Commonwealth to obtain that foreign country's comparable designation;

(b) The authority of the foreign country that issued the designation regulates the practice of the regulated activities, including the issuance of reports~~[ upon financial statements]~~;

(c) The foreign designation was granted upon education and examination requirements which were established by the foreign authority or law and were substantially equivalent to those in effect in this Commonwealth at the time the foreign designation was granted;

(d) The applicant satisfies the applicable experience requirement contained in paragraph (c) of subsection (1) of this section;

(e) The applicant has successfully passed a uniform qualifying examination on United States national standards approved by the board; and

(f) The applicant submits an application for a license to practice the regulated activities, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board.

➔Section 5. KRS 325.301 is amended to read as follows:

(1) The following firms shall obtain a license to practice in this state:

(a) Any firm with an office located in this state performing attest services, as defined in KRS 325.220;

(b) Any firm with an office in this state that uses the title "CPA" or other phrase or abbreviation in any manner described in KRS 325.410 to suggest it is a certified public accounting firm; and

(c) Any firm that does not have an office located in this state but performs any attest service described in KRS 325.220***(5)***~~[(4)]~~(a), (c), or (d) for a client with his or her home office in this state or a client who is a resident of this state.

(2) The following firms shall not be required to obtain a license to practice in this state and may use the title "CPA" in the name of the firm:

(a) A firm which does not have an office in this state that performs services described in KRS 325.220***(5)***~~[(4)]~~(b) ***or (e)*** for a client having its home office in this state or a client who is a resident of this state if:

1. The firm complies with the requirements contained in subsections (3)(a) and (12) of this section; and

2. All services provided by the firm are performed by an individual with a practice privilege granted under KRS 325.282; and

(b) A firm which does not have an office in this state and does not provide attest services, as defined in KRS 325.220, to a client having his or her home office located in this state or a client who is a resident of this state may provide other services that are regulated activities, as defined in KRS 325.220, if:

1. The services are provided through an individual granted a practice privilege as described in KRS 325.282; and

2. The firm can legally provide the services in the state where the individual with a practice privilege has his or her principal place of business.

(3) All firms seeking to obtain a license to practice in this Commonwealth shall meet the following requirements:

(a) Certified public accountants shall hold fifty-one percent (51%) or more of the ownership of the firm in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers of the firm;

(b) All owners of the firm who are not certified public accountants shall be natural persons actively

engaged in the firm's operations and shall satisfy additional requirements established by the board through promulgation of an administrative regulation;

(c) The name of the firm shall comply with the requirements of KRS 325.380;

(d) All certified public accountants who are sole proprietors, partners, shareholders, members, officers, directors, or employees of a firm with an office located in this state, who regularly practice in this Commonwealth, shall maintain current licenses to practice issued by the board;

(e) Any individual licensee and any individual qualifying for a practice privilege under this chapter who is responsible for supervising attest services and signs or authorizes someone to sign the report~~[ on the financial statements]~~ on behalf of the firm shall meet the competency requirements established by the board through promulgation of an administrative regulation; and

(f) The firm shall comply with the provisions of this chapter, the administrative regulations promulgated by the board, and all other laws of this Commonwealth applicable to the firm's particular form of business organization.

(4) Before a firm may practice in this Commonwealth, the firm manager shall:

(a) Submit an initial application which contains information required by the board through promulgation of an administrative regulation; and

(b) Pay a fee not to exceed two hundred dollars ($200) established by an administrative regulation promulgated by the board.

(5) The firm license shall be renewed every two (2) years by the firm manager:

(a) Completing the renewal process according to the procedures as established in administrative regulation promulgated by the board; and

(b) Paying the renewal fee, which shall not exceed two hundred dollars ($200), as established by administrative regulation promulgated by the board.

(6) A firm license due to expire on July 1, 2011, shall:

(a) Be renewed by the firm manager according to the procedures established by the board through promulgation of an administrative regulation;

(b) Require payment of a fee not to exceed fifty dollars ($50) established by the board through promulgation of an administrative regulation; and

(c) Expire on August 1, 2012.

(7) A firm license that expires on or after August 1, 2012, shall:

(a) Be renewed by the firm manager prior to August 1, 2012;

(b) Require payment of a fee not to exceed two hundred dollars ($200) established by the board through promulgation of an administrative regulation;

(c) Be effective for two (2) years; and

(d) Be renewed by the firm manager on or before August 1 of each two (2) year period thereafter according to the procedures contained in this subsection and as established by the board through promulgation of an administrative regulation.

(8) If a firm license has been expired for a period of less than one (1) month and the firm has not violated any other provision of this chapter or the accompanying administrative regulations promulgated thereunder, the firm manager may renew the license by:

(a) Satisfying all the requirements of this subsection, including any requirements established by the board through promulgation of an administrative regulation; and

(b) In addition to the renewal fee, paying a late fee not to exceed one hundred dollars ($100).

(9) A firm with a license expired for a period of longer than one (1) month after the date of expiration shall cease operating immediately. The firm shall not operate until the board approves the issuance of a new license to the firm.

(10) Effective August 1, 2012, sole proprietors shall comply with the licensing requirements for firms under this

section.

(11) The firm manager shall notify the board in accordance with procedures established in an administrative regulation promulgated by the board, of any change in its licensing information within thirty (30) days. Any change in the name of a firm shall require the filing of an initial application.

(12) All firms that perform audits, reviews, or compilations shall enroll in and complete on a regular basis an approved peer review program with standards that are equivalent to or better than the peer review program administered by the American Institute of Certified Public Accountants as determined by administrative regulations promulgated by the board. Every firm shall comply with any requirements or restrictions placed on its license as prescribed by the board in response to the results of peer reviews.

(13) Nothing contained in this chapter shall require a certified public accountant or firm of certified public accountants licensed by another state to obtain a license to practice in this Commonwealth if the certified public accountant or firm of certified public accountants enters this Commonwealth solely to:

(a) Conduct a peer review of a firm; or

(b) Perform attestation work, incidental to an engagement which was initiated with a client located outside of the Commonwealth and has extended into the Commonwealth due to common ownership or existence of a subsidiary, assets, or other operations located within the Commonwealth.

➔Section 6. KRS 325.380 is amended to read as follows:

(1) No person shall assume or use the title or designation "certified public accountant," "public accountant," or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless the person holds a license issued under this chapter or qualifies for a practice privilege under KRS 325.282.

(2) No firm shall assume or use the title or designation "certified public accountants," "public accountants," or the abbreviation "CPA's" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants, unless the firm:

(a) Holds a license issued under this chapter which has not been revoked or suspended, and all offices of the firm in this state are maintained as required under this chapter; or

(b) Is authorized to do so as provided for in KRS 325.301.

(3) No individuals or firm shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited auditor," "accounting practitioner," "accredited accountant," "expert accountant," "expert auditor," "certified auditor," or any other title or designation likely to be confused with "certified public accountant" and "public accountant" or any of the abbreviations "CA," "AP," "PA," "RA," "LA," or "AA" or similar abbreviations likely to be confused with "CPA."

(4) No person or firm shall sign or affix his name or a firm name to any document or prepare or issue any document which indicates that the person or firm performed attest services~~[ or a compilation]~~ or that includes any language which indicates that the person or the firm has expert knowledge in performing attest services~~[ or a compilation]~~, unless the person or firm holds a license to practice issued under this chapter or is exempt from having to obtain a license pursuant to KRS 325.301. This prohibition shall be applicable to issuance by any unlicensed person or firm of a report using any form of language conventionally used by licensees with respect to a compilation of financial statements ***or on any attest service***. ~~[The board shall issue safe harbor language, to be defined by the promulgation of administrative regulations, that nonlicensees may use in connection with a compilation of financial information. ]~~***Nonlicensees may use safe harbor language provided in 201 KAR 1:180 in connection with a compilation of financial information.*** The provisions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of the organization with any wording designating the position, title, or office which he holds in the organization, nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties.

(5) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a firm, or in conjunction with the designation "and Company" or "and Associates" or a similar designation if there is in fact no bona fide firm licensed under this chapter or exempted from licensure under KRS 325.301.

(6) No person or firm holding a license under this chapter shall use a professional or firm name or designation

which contains the names of any nonlicensees, is misleading as to the legal form of the firm, or as to the persons who are partners, officers, shareholders, or any other owners of the firm, or as to any other matters. If more than one (1) certified public accountant has an ownership interest in the firm, the names of one (1) or more deceased, retired, or withdrawn partners, shareholders, or other certified public accountants with an ownership interest may be included in the name of a firm or its successor.

(7) If the death or retirement of a certified public accountant results in a firm having only one (1) certified public accountant with an ownership interest, the board may permit the firm to continue to use the firm name for no more than two (2) years from the certified public accountant's respective death or retirement.

**Signed by Governor April 1, 2015.**

## CHAPTER 108

**( SB 82 )**

AN ACT relating to income tax checkoff programs, and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

***(1) Effective for taxable years beginning on or after January 1, 2016, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the pediatric cancer research trust fund created under Section 2 of this Act may designate an amount, not to exceed the amount of the refund, to be paid to the fund. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.***

***(2) The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax form.***

***(3) The instructions accompanying the individual income tax return shall include a description of the pediatric cancer research trust fund and the purposes for which the funds from the income tax checkoff may be used.***

***(4) The commissioner of the department shall, by July 1, 2017, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the pediatric cancer research trust fund created by Section 2 of this Act.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***(1) The pediatric cancer research trust fund is hereby created as a separate trust fund. The fund shall be administered by the Cabinet for Health and Family Services.***

***(2) The fund shall receive amounts collected from the income tax checkoff created in Section 1 of this Act, and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of this fund.***

***(3) Notwithstanding KRS 45.229, trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.***

***(4) Any interest earned on moneys in the trust fund shall become a part of the trust fund and shall not lapse.***

***(5) Trust fund moneys shall be used to support pediatric cancer research and treatment for Kentucky patients. Funds shall be administered and distributed by the pediatric cancer trust fund board established by Section 3 of this Act for the purposes directed in this section and Sections 3 and 4 of this Act.***

***(6) Moneys transferred to the trust fund pursuant to Section 1 of this Act are hereby appropriated for the purposes set forth in Section 4 of this Act.***

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***(1) The pediatric cancer trust fund board is hereby created for the purpose of administering and distributing funds from the trust created under Section 2 of this Act. The board shall be composed of nine (9) members to be appointed as follows:***

***(a) A specialist in pediatric oncology nominated by the Kosair Children's Hospital to be appointed by the Governor;***

***(b) A specialist in pediatric oncology nominated by the University of Kentucky Children's Hospital to be appointed by the Governor;***

***(c) A representative nominated by Kentucky Chapters of the Leukemia and Lymphoma Society to be appointed by the Governor;***

***(d) A representative nominated by Kentucky offices of the American Cancer Society to be appointed by the Governor;***

***(e) Three (3) citizens, one (1) of whom shall be a pediatric cancer survivor, or parent thereof, to be appointed by the Governor from a list of six (6) citizens nominated by Kentucky offices of the American Cancer Society;***

***(f) The secretary of the Cabinet for Health and Family Services, or the secretary's designee; and***

***(g) The commissioner of the Department for Public Health, or the commissioner's designee.***

***(2) The board shall be attached to the Cabinet for Health and Family Services for administrative purposes.***

***(3) The secretary of the Cabinet for Health Services shall convene the first meeting of the board within sixty (60) days of the effective date of this Act.***

***(4) Board members shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.***

***(5) The term of each appointed member shall be four (4) years.***

***(6) A member whose term has expired may continue to serve until a successor is appointed and qualifies. A member who is appointed to an unexpired term shall serve the rest of the term and until a successor is appointed and qualifies. A member may serve two (2) consecutive four (4) year terms and shall not be reappointed for four (4) years after the completion of those terms.***

***(7) A majority of the full membership of the board shall constitute a quorum.***

***(8) At the first meeting, the board shall elect, by majority vote, a president who shall preside at all meetings and coordinate the functions and activities of the board. The president shall be elected or reelected each calendar year thereafter.***

***(9) The board shall meet at least two (2) times annually, but may meet more frequently, as deemed necessary, subject to call by the president or by request of a majority of the board members.***

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

***The pediatric cancer research fund board created by Section 3 of this Act shall:***

***(1) Develop a written plan for the expenditure of trust funds made available under Section 2 of this Act. The initial plan shall be completed on or before October 1, 2015, and shall be updated on an annual basis on or before October 1 of each year thereafter. The plan shall, at a minimum, include the following:***

***(a) A summary of existing pediatric cancer research, awareness, treatment, and funding programs provided to children of Kentucky;***

***(b) A needs assessment for the pediatric cancer patients of the Commonwealth of Kentucky that identifies additional research funding needs by cancer type and geographic area, with support for why the identified programs are needed; and***

***(c) A prioritized list of programs and research projects that the board will address with funding available through the competitive grant program established under subsection (2) of this section;***

***(2) Promulgate administrative regulations to establish a competitive, open grant program to provide funding to not-for-profit entities, academic medical centers and government agencies offering research funding and treatment for pediatric cancer to Kentucky children impacted by the disease.***

***(a) The grant program shall provide funding to research projects and programs in accordance with the priorities established in the plan developed under subsection (1) of this section.***

***(b) The administrative regulations shall, at a minimum:***

*1. Establish an application process and requirements;*

*2. Set forth program and outcome measurement requirements;*

*3. Establish an application review and award process; and*

*4. Provide monitoring, oversight, and reporting requirements for funded programs;*

*(3) Promulgate administrative regulations necessary to carry out the provisions of this section and Section 3 of this Act; and*

*(4) Provide to the Governor and the Legislative Research Commission an annual report by October 1 of each year. The report shall include:*

*1. The plan developed under subsection (1) of this section for the expenditure of funds for the current and next fiscal year;*

*2. A summary of the use and impact of prior year funds;*

*3. A summary of the activities of the board during the prior fiscal year; and*

*4. Any recommendations for future initiatives or action regarding pediatric cancer research funding.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

*(1) Effective for taxable years beginning on or after January 1, 2016, any taxpayer required to file a return under KRS 141.180, who is entitled to an income tax refund and who desires to contribute to the rape crisis center trust fund created by Section 6 of this Act, may designate an amount, not to exceed the amount of the refund, to be paid to the fund. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.*

*(2) The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax form. The instructions accompanying the individual income tax return shall include a description of the rape crisis center trust fund and the purposes for which the funds may be used.*

*(3) The department shall, by July 1, 2017, and annually thereafter, transfer the funds designated by taxpayers under this section to the rape crisis center trust fund created by Section 6 of this Act.*

➔SECTION 6. A NEW SECTION OF KRS 211.600 TO 211.608 IS CREATED TO READ AS FOLLOWS:

*(1) There is created a trust fund to be known as the rape crisis center trust fund. The fund shall be administered by the Cabinet for Health and Family Services.*

*(2) The trust fund shall be funded with moneys collected through the designation of a taxpayer's refund as provided by Section 5 of this Act and any contributions, gifts, donations, or appropriations designated for the trust fund. Moneys in the fund shall be used to support the services listed in KRS 211.600(3). No moneys in the fund shall be used to support abortion services or abortion education.*

*(3) Notwithstanding KRS 45.229, any moneys remaining in the fund at the close of the fiscal year shall not lapse but shall be carried forward into the succeeding fiscal year to be used for the purposes set forth in subsection (2) of this section.*

*(4) Any interest earned upon moneys in the rape crisis center trust fund shall become a part of the fund and shall not lapse.*

*(5) Moneys deposited in the fund are appropriated for the purposes set forth in this section and shall not be appropriated or transferred by the General Assembly for any other purposes.*

**Signed by Governor April 1, 2015.**

## CHAPTER 109

**( HB 395 )**

AN ACT relating to reorganization.

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

➔Section 1. The General Assembly hereby confirms Executive Order 2014-986, dated December 17, 2014, which authorizes the establishment and maintenance of a veterans' nursing home in Radcliff and the creation of the Radcliff Veterans Center Division within the Office of Kentucky Veterans Centers in the Department of Veterans Affairs.

**Signed by Governor April 1, 2015.**

## CHAPTER 110

**( HB 239 )**

AN ACT relating to licensed professions.

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

➔Section 1. KRS 317.450 is amended to read as follows:

(1) (a) The board shall issue a probationary license to practice barbering to any person who:

1. Is at least seventeen and one-half (17-1/2) years of age;

2. Is of good moral character and temperate habit;

***3. Has graduated from high school, possesses a General Educational Development (GED) certificate, or transcript from an issuing institution that is recognized by the educational authority in the state from which the diploma, certificate, or transcript is issued;***

***4***~~[3]~~. Has graduated from a licensed school of barbering;

***5***~~[4]~~. Has satisfactorily passed the probationary examination prescribed by the barber board, which shall include a practical assessment of the applicant's skills, including but not limited to a haircut and a chemical application; and

***6***~~[5]~~. Has paid a fee not to exceed fifty dollars ($50).

(b) A barber shall serve a probationary period of six (6) months of continuous service from the effective date of the license issued pursuant to paragraph (a) of this subsection.

(c) In addition to the grounds for disciplinary action specified in KRS 317.590, the board may, during the probationary period, require a licensee to retake any part or all of the written or practical examination, or both.

(d) At the end of the probationary period, the board shall issue a license to practice barbering to a probationary licensee who has:

1. Satisfactorily passed the barber examination prescribed by the board by administrative regulations promulgated in accordance with KRS Chapter 13A; and

2. Complied with all other requirements of this subsection.

(e) The board may issue a barber license by endorsement to a resident of another state, district, or territory within the United States of America upon payment of a fee not to exceed two hundred fifty dollars ($250) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. In the absence of the required equivalency, an applicant from another state, district, or territory within the United States of America, shall show proof of three (3) years or more experience immediately before making application and be currently licensed and in good standing with the state, district, or territory in which he or she is licensed. The board may also require an applicant under this section to pass a written and practical examination to establish equivalency.

(2) The board shall:

(a) Issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon

application and payment of a fee not to exceed fifty dollars ($50);

(b) Refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board;

(c) Allow the licensed owner of a barber shop, which is licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner; and

(d) Allow an unlicensed owner of a barber shop, which is licensed under this chapter and managed by a barber licensed under this chapter, to rent or lease space in his or her barber shop to an independent contract owner.

(3) The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:

(a) Applies for a license upon forms furnished by the board;

(b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;

(c) Has furnished adequate evidence to the board that:

1. There is an intent to establish a bona fide school for the education and training of competent barbers; and

2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of twelve (12) months' experience teaching in a barber school that includes administrative experience; and

(d) Pays a fee not to exceed one hundred fifty dollars ($150).

(4) The board shall issue a license to teach barbering to any person who:

(a) Is of good moral character and temperate habit;

(b) Has graduated from high school, or possesses a General Educational Development (GED) certificate;

(c) Has been a licensed and practicing barber for at least eighteen (18) months;

(d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and

(e) Has paid a fee not to exceed one hundred dollars ($100).

(5) The board shall issue a license to any barber who holds an independent contract owner's license who:

(a) Is of good moral character and temperate habit;

(b) Has graduated from high school, or possesses a General Educational Development (GED) certificate;

(c) Is a licensed and practicing barber under this chapter; and

(d) Has paid a fee not to exceed fifty dollars ($50).

(6) Applications for examination required in this section shall be accompanied by an examination fee as follows:

(a) Barber -- not to exceed three hundred dollars ($300); and

(b) Teaching barbering -- not to exceed one hundred fifty dollars ($150).

(7) ***(a)*** ***On and after July 1, 2016, a license***~~[Licenses]~~ issued pursuant to this section shall expire on the first day of July next following the date of ***its***~~[their]~~ issuance. ***A license shall be renewed on June 1 through July 1 of each year.***

***(b)*** Any license shall automatically be renewed by the board***:***

***1.*** Upon receipt of the ***application for renewal or duplicate renewal application form and the*** required annual ***renewal*** license fee ***submitted either in person, or via written or electronic means; and***

***2.*** ~~[no later than thirty one (31) days after the expiration date ]~~If the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Barber -- not to exceed fifty dollars ($50);

(b) Teacher of barbering -- not to exceed fifty dollars ($50);

(c) Barber shop -- not to exceed fifty dollars ($50);

(d) Barber school -- not to exceed one hundred fifty dollars ($150); and

(e) Independent contract owner -- not to exceed fifty dollars ($50).

(9) ***(a)*** ~~[Except as provided in subsection (7) of this section, ]~~The fee ***per year*** for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as follows:

***1.***~~[(a)]~~ Barber -- not to exceed twenty-five dollars ($25) plus lapse fees;

***2.***~~[(b)]~~ Barber shop -- not to exceed twenty-five dollars ($25) plus lapse fees;

***3.***~~[(c)]~~ Barber school -- not to exceed twenty-five dollars ($25) plus lapse fees;

***4.***~~[(d)]~~ Teacher of barbering -- not to exceed twenty-five dollars ($25) plus lapse fees; and

***5.***~~[(e)]~~ Independent contract owner - - not to exceed twenty-five dollars ($25) plus lapse fees.

***(b) An applicant who fails to renew a license within five (5) years of its expiration shall comply with the requirements for relicensure established by the board through promulgation of administrative regulations in accordance with Chapter 13A.***

➔Section 2. KRS 317.440 is amended to read as follows:

(1) To protect the health and safety of the public or to protect the public against misrepresentation, deceit, or fraud in the practice or teaching of barbering, the board shall promulgate administrative regulations governing the:

(a) Location and housing of barber shops or schools;

(b) Quantity and quality of equipment, supplies, materials, records, and furnishings required in barber shops or schools;

(c) Qualifications of teachers of barbering;

***(d) Qualifications of applicants to or enrollees in barber schools;***

***(e)***~~[(d)]~~ Hours and courses of instruction at barber schools;

***(f)***~~[(e)]~~ Examinations of applicants for barber or teacher of barbering; and

***(g)***~~[(f)]~~ Qualifications of independent contract owners.

(2) The board shall establish fees by administrative regulation according to the schedules established in KRS 317.450.

(3) Administrative regulations pertaining to health and sanitation shall be approved by the Kentucky secretary for health and family services before becoming effective.

➔Section 3. KRS 317.540 is amended to read as follows:

No license shall be renewed or issued by the barber board to any barber school, unless the school provides:

***(1) The name of the proposed school;***

***(2) A statement that the proposed school is authorized to operate educational programs beyond secondary education;***

***(3)***~~[(1)]~~ As a prerequisite of graduation, a prescribed course of instruction of not less than fifteen hundred (1,500) hours shall be given within a reasonable period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays;

***(4)***~~[(2)]~~ Courses of instruction in histology of the hair, skin, muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics; disease of the skin, hair, and glands; massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring, bleaching, and tinting the hair and such other courses as may be prescribed by regulation of the board; ***and***

***(5)***~~[(3)]~~ Such facilities, equipment, materials, and qualified teachers as may be required by rules and regulations

of the board adopted pursuant to this chapter, but in no event shall any school have fewer than one (1) licensed teacher per twenty (20) students enrolled, or more than two (2) students per chair.

➔Section 4. KRS 317A.090 is amended to read as follows:

No license shall be renewed or issued by the cosmetologist board to any cosmetology school unless such school provides:

***(1) The name of the proposed school;***

***(2) A statement that the proposed school is authorized to operate educational programs beyond secondary education;***

***(3)*** ~~[(1)]~~ As a prerequisite of graduation**,** a prescribed course of instruction of not less than eighteen hundred (1,800) hours in the case of a cosmetology school to be given within an uninterrupted period with not more than eight (8) hours nor less than four (4) hours of instruction a day, exclusive of Sundays; except that in the state area vocational schools the eighteen hundred (1,800) hours of instruction may be offered according to the schedule for other vocational classes in the school;

***(4)*** ~~[(2)]~~ Courses of instruction in histology of the hair, skin, nails, muscles, and nerves of the face and neck; elementary chemistry with emphasis on sterilization and antiseptics, diseases of the skin, hair, and glands, and massaging and manipulating of the muscles of the upper body; cutting, shaving, arranging, dressing, coloring, bleaching, and tinting the hair and such other courses as may be prescribed by administrative regulation of the board;

***(5)*** ~~[(3)]~~ Such facilities, equipment, materials, and qualified instructors and apprentice instructors as may be required by administrative regulations of the board adopted pursuant to this chapter, but in no event shall any cosmetology school have fewer than one (1) licensed instructor per twenty (20) students present for instruction;

***(6)*** ~~[(4)]~~ The fee for the initial license of a cosmetology school shall be one thousand dollars ($1,000);

***(7)*** ~~[(5)]~~ No cosmetology school, after being licensed for the first time, shall serve the public until three hundred (300) hours of instruction has been taught; ***and***

***(8)*** ~~[(6)]~~ In compliance with KRS 317A.070, the board may revoke or suspend any license issued by it if, in the judgment of the board, the school is not following the requirements as set out in this chapter or such school does not comply with the administrative regulations promulgated by the board in order to regulate the conduct of the school and in order to supervise the proper education of the students.

**Signed by Governor April 2, 2015.**

## CHAPTER 111

**( SB 118 )**

AN ACT relating to government contracts.

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

➔Section 1. KRS 441.053 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, each jail, regional jail, holdover, or other correctional facility owned or operated by a unit of local government, combination of units of local government, or regional jail authority shall utilize the Department of Corrections' contract pharmacy plan.

(2) (a) Except as provided in paragraph (b) of this subsection, the Department of Corrections shall, on a yearly basis, waive the requirement of subsection (1) of this section if the unit of local government, combination of units of local government, or regional jail authority proves to the Department of Corrections that the unit of local government, combination of units of local government, or regional jail authority has contracted with another vendor and that:

1. The prescription plan covers pharmacy services, drugs, and medicine in a manner which is equal to or superior to the Department of Corrections' contract pharmacy plan; and

2. The cost of the prescription plan is equal to or less in total cost, including the product cost and all other costs associated with the delivery of the drugs, than the Department of Corrections' contract pharmacy plan.

(b) If a unit of local government, combination of units of local government, or regional jail authority contracts with a private provider of comprehensive health services for inmates, then that private provider may elect not to use the Department of Corrections' contract pharmacy plan and a waiver under this subsection shall not be required.

(3) Except as provided in subsection (4) of this section, each jail, regional jail, holdover, or other correctional facility owned or operated by a unit of local government, combination of units of local government, or regional jail authority shall utilize the Department of Corrections' contract medical, dental, and psychological care access plan, and the administrative service fee for the plan shall be paid by the Department of Corrections subject to the limits of 2007 Ky. Acts ch. 128, sec. 5.

(4) The Department of Corrections may, on a yearly basis, waive the requirement of subsection (3) of this section if the unit of local government, combination of units of local government, or regional jail authority proves to the Department of Corrections that the unit of local government, combination of units of local government, or regional jail authority has contracted with another vendor and that:

(a) The medical, dental, and psychological care access plan provides services and access which is equal to or superior to the Department of Corrections' contract medical, dental, and psychological care access plan; and

(b) The cost of the medical, dental, and psychological care access plan is equal to or less in cost than the Department of Corrections' contract medical, dental, and psychological care access plan.

(5) ***(a)*** An entity, corporation, or organization of any kind that assists the Department of Corrections in managing claims or evaluating an application for a waiver under subsection (2) or (4) of this section shall not seek or be awarded a contract to provide***:***

***1.*** Medical care***;*** ~~[, ]~~

***2.*** Dental care***;*** ~~[, ]~~

***3.*** Psychological care***;*** ~~[, ]~~

***4.*** Pharmaceutical products***;*** ~~[,]~~ or

***5.*** Any other health care service***;***

to inmates housed in any jail operated by any unit of local government, combination of units of local government, or regional jail authority.

***(b)*** The prohibition in this subsection shall also apply to the entity's, corporation's, or organization of any kind's:

***1.*** ~~[(a)]~~ Owners;

***2.*** ~~[(b)]~~ Incorporators;

***3.*** ~~[(c)]~~ Officers;

***4.*** ~~[(d)]~~ Employees; or

***5.*** ~~[(e)]~~ Other person who has a financial interest in the organization.

***(c)*** Nothing in this subsection shall be construed to prohibit or limit the ability of ***a state university*** ~~[the University of Kentucky]~~ to provide health care services to prison populations.

(6) ***The provisions of subsection (5) of this section shall not apply if an entity, corporation, organization, or person referenced in subsection (5)(b) of this section is:***

***(a) Already a party to a contract with any consolidated local government or urban-county government and is currently engaged in providing the services or products referenced in subsection (5)(a) of this section; and***

***(b) There is no material change to the existing contract with any consolidated local government or urban-county government within a reasonable time period;***

***prior to seeking or being awarded a contract with the department to manage claims or evaluate an application for a waiver under subsection (2) or (4) of this section. No provision of this subsection shall be construed to prohibit or limit the ability of a state university to provide health care services to prison populations.***

***(7)*** A unit of local government, combination of units of local government, or regional jail authority may appeal a decision of the Department of Corrections denying a waiver under subsection (2) or (4) of this section to the secretary of justice and public safety.

***(8)*** ~~[(7)]~~ No program specified in this section shall require or permit reimbursement at a rate in excess of the Kentucky Medicaid program for the same or similar services or products but may permit a lesser rate of reimbursement.

**Signed by Governor April 2, 2015.**

## CHAPTER 112

**( HB 268 )**

AN ACT relating to Kentucky Educational Excellence Scholarships and declaring an emergency.

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

➔Section 1. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

(1) "Advanced placement" or "AP" means a college-level course that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area and is licensed by the College Board.

***(2) "Cambridge Advanced International" means the Cambridge Advanced International Certificate of Education Diploma program, an international pre-university curriculum and examination system offered by Cambridge International Examinations at the University of Cambridge.***

***(3)*** ~~[(2)]~~ "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.

***(4)*** ~~[(3)]~~ "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.

***(5)*** ~~[(4)]~~ "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study, including participating in the Gatton Academy of Mathematics and Science in Kentucky.

***(6)*** ~~[(5)]~~ "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously, including participating in the Gatton Academy of Mathematics and Science in Kentucky.

***(7)*** ~~[(6)]~~ "International Baccalaureate" or "IB" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.

➔Section 2. KRS 164.7879 is amended to read as follows:

(1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

| GPA | Amount | GPA | Amount |
|---|---|---|---|
| 2.50 | $125.00 | 3.30 | $325.00 |
| 2.60 | $150.00 | 3.40 | $350.00 |

| | | | |
|---|---|---|---|
| 2.70 | $175.00 | 3.50 | $375.00 |
| 2.75 | $187.00 | 3.60 | $400.00 |
| 2.80 | $200.00 | 3.70 | $425.00 |
| 2.90 | $225.00 | 3.75 | $437.00 |
| 3.00 | $250.00 | 3.80 | $450.00 |
| 3.10 | $275.00 | 3.90 | $475.00 |
| 3.20 | $300.00 | 4.00 | $500.00 |
| 3.25 | $312.00 | | |

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.

(b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:

a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and

b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.

2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:

a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and

b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.

3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

(d) Beginning with the 2013-2014 academic year, a student who meets the Kentucky core academic standards for high school graduation established in administrative regulation and graduates after completing three (3) years of high school shall receive a Kentucky educational excellence scholarship award equivalent to completing high school in four (4) years. The award shall be determined by dividing the total actual KEES scholarship earned under subsection (1) of this section by three (3) and multiplying that number by four (4). The resulting number shall be the annual award the student is eligible for under subsection (1) of this section.

(3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

| ACT Score | Annual Bonus | ACT Score | Annual Bonus |
|---|---|---|---|
| 15 | $21 | 22 | $171 |
| 16 | $43 | 23 | $193 |
| 17 | $64 | 24 | $214 |
| 18 | $86 | 25 | $236 |
| 19 | $107 | 26 | $257 |
| 20 | $129 | 27 | $279 |
| 21 | $150 | 28 or above | $300 |

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

| ACT Score | Amount | ACT Score | Amount |
|---|---|---|---|
| 15 | $36 | 22 | $286 |
| 16 | $71 | 23 | $321 |
| 17 | $107 | 24 | $357 |
| 18 | $143 | 25 | $393 |
| 19 | $179 | 26 | $428 |
| 20 | $214 | 27 | $464 |
| 21 | $250 | 28 and above | $500 |

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) Beginning with the 2008-2009 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in ***Section 1 of this Act***~~[KRS 158.007]~~ to an eligible high school student whose family was eligible for free or reduced-price lunch for any year during high school enrollment.

1. The supplemental award for AP examination scores are as follows:

a. Two hundred dollars ($200) for each score of three (3);

b. Two hundred fifty dollars ($250) for each score of four (4); and

c. Three hundred dollars ($300) for each score of five (5).

2. The supplemental award for IB examination scores are as follows:

a. Two hundred dollars ($200) for each score of five (5);

b. Two hundred fifty dollars ($250) for each score of six (6); and

c. Three hundred dollars ($300) for each score of seven (7).

(d) ***Beginning with the 2013-2014 academic year, the authority shall commit to provide a supplemental award for achievement on examinations for Cambridge Advanced International as defined in Section 1 of this Act to an eligible high school student whose family was eligible for free or reduced-priced lunch for any year during high school enrollment. The supplemental award for Cambridge Advanced International examination scores are as follows:***

***1. Two hundred dollars ($200) for each score of "e";***

***2. Two hundred fifty dollars ($250) for each score of "c" or "d"; and***

***3. Three hundred dollars ($300) for each score of "a*", "a", or "b".***

***(e)*** The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

➔Section 3. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or the ACT exam administered statewide under KRS 158.6453(11)(a)3., or an equivalent score, as determined by the authority, on the SAT administered by the College Board, Inc.;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means the fall and spring consecutive academic terms within one (1) academic year;

(6) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(7) "Eligible high school student" means any person who:

(a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

(b) Was enrolled after July 1, 1998:

1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the KEES curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year;

2. In a Kentucky high school for the fall academic term of the senior year and who:

a. Was enrolled during the entire academic term;

b. Completed the high school's graduation requirements during the fall academic term; and

c. Was not enrolled in a secondary school during any other academic term of that academic year; or

3. In the Gatton Academy of Mathematics and Science in Kentucky while meeting the Kentucky

educational excellence scholarship curriculum requirements;

(c) Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under paragraph (b) 2. of this subsection; and

(d) Is not a convicted felon;

(8) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

(a) Earned a KEES award;

(b) Has the required postsecondary GPA and credit hours required under KRS 164.7881;

(c) Has remaining semesters of eligibility under KRS 164.7881;

(d) Is enrolled in a participating institution as a part-time or full-time student; and

(e) Is not a convicted felon;

(9) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(10) "Grade point average" or "GPA" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(11) "High school" means any Kentucky public high school, the Gatton Academy of Mathematics and Science in Kentucky, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

(12) "KEES" or "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(13) "KEES award" means:

(a) For an eligible high school student, the sum of the KEES base amount for each academic year of high school plus any KEES supplemental amount, as adjusted pursuant to KRS 164.7881; and

(b) For a student eligible under KRS 164.7879(3)***(e)***~~[(d)]~~, the KEES supplemental amount as adjusted pursuant to KRS 164.7881;

(14) "KEES award maximum" means the sum of the KEES base amount earned in each academic year of high school plus any KEES supplemental amount earned;

(15) "KEES base amount" or "base amount" means the amount earned by an eligible high school student based on the student's GPA pursuant to KRS 164.7879;

(16) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (7)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;

(17) "KEES supplemental amount" means the amount earned by an eligible student based on the student's ACT score pursuant to KRS 164.7879;

(18) "KEES trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(19) "On track to graduate" means the number of cumulative credit hours earned as compared to the number of hours determined by the postsecondary education institution as necessary to complete a bachelor's degree by the end of eight (8) academic terms or ten (10) academic terms if a student is enrolled in an undergraduate program that requires five (5) years of study;

(20) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated;

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a General Educational Development (GED) diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs; and

(21) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours, or the equivalent for an institution that does not use credit hours.

➔Section 4. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)***(e)***[~~(d)~~], shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsections (5) and (6) of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is

enrolled in and attending the program of study.

2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period. If the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.

3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have:

   a. A cumulative grade point average of 3.0 or greater at the end of the prior award period. If the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted; or

   b. A cumulative grade point average of 2.5 or greater but less than 3.0 at the end of the prior award period and be on track to graduate. If the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible full-time postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 but is not on track to graduate at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.

5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.

6. a. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.

   b. In addition to reporting the grade point average, beginning with the 2010-2011 academic year, each participating institution shall certify to the authority at the close of each award period whether a Kentucky educational excellence scholarship recipient who initially enrolled in college in 2009-2010 or thereafter is on track to graduate.

7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) 1. Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student

in the Peace Corps Act or the Americorps, for the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.

2. A student whose eligibility expired prior to July 15, 2008, due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to July 15, 2008, shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.

(6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each participating institution shall notify its students of their terms of eligibility.

(8) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

➔Section 5. KRS 164.7885 is amended to read as follows:

(1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, highest ACT score, family eligibility status for free or reduced-price lunch, and each AP***, Cambridge Advanced International,*** or IB examination score. The Gatton Academy of Mathematics and Science in Kentucky shall report the data on its students to the authority. The list need not contain the ACT, AP, ***Cambridge Advanced International,*** or IB if the authority receives the scores directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, highest ACT score, and qualifying AP***, Cambridge Advanced International,*** or IB scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.

(2) The authority shall provide data access only to the Kentucky Longitudinal Data System and to those participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.

(3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

(a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)***(e)***~~[(d)]~~ through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

(b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

(c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and

(d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.

(4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.

(5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).

(6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:

(a) In default on any loan under Title IV of the federal act; or

(b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or

(c) Liable for overpayment of any grant or loan under Title IV of the federal act; or

(d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.

(7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

➔Section 6. The provisions of this Act shall be applied retroactively beginning with the 2013-2014 academic year.

➔Section 7. Whereas the Cambridge Advanced International program has been implemented in one or more Kentucky high schools, and students who have made qualifying scores on the Cambridge exams should be credited for Kentucky Educational Excellence Scholarship awards as soon as possible to apply to their postsecondary expenses, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

**Signed by Governor April 2, 2015.**

## CHAPTER 113

**( HB 248 )**

AN ACT relating to the provision of healthcare services.

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

➔Section 1. KRS 214.610 is amended to read as follows:

(1)~~[ (a)]~~ The Cabinet for Health and Family Services ~~[or the licensing board or certifying entity, subject to the board's or entity's discretion, ]~~shall approve appropriate educational courses on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome, that may address appropriate behavior and attitude change~~[, to be completed as specified in the respective chapters by each person licensed or certified under KRS Chapters 311, 311A, 312, 313, 314, 315, 320, 327, 333, and 335. Each licensing board or certifying entity shall have the authority to determine whether it shall approve courses or use courses approved by the cabinet. Completion of the courses shall be required at the time of initial licensure or certification in the Commonwealth, as required under KRS 214.615 and 214.620, and shall not be required under this section or any other section more frequently than one (1) time every ten (10) years thereafter, unless the licensing board or certifying entity specifically requires more frequent completion under administrative regulations promulgated in accordance with KRS Chapter 13A]~~.

***(2)***~~[(b)]~~ The Department for Public Health shall publish on its Web site the current informational resources for the development of the educational courses or programs. To the extent possible, the educational courses or programs under this subsection shall:

***(a)*** ~~[1.]~~ Include changes in Kentucky law affecting HIV testing and reporting; confidentiality and privacy of HIV-related data, information, and reports; and advances in treatment protocols, intervention protocols, coordination of services, and other information deemed important by the Department for Public Health and the Centers for Disease Control and Prevention (CDC);

***(b)*** ~~[2.]~~ Inform all professions involved with or affected by the birthing process about the importance of HIV testing of pregnant women and the probability of preventing perinatal transmission of HIV with appropriate treatment; and

***(c)*** ~~[3.]~~ Update all health care professionals ~~[identified under paragraph (a) of this subsection ]~~requesting information about the potential involvement of their occupation in the treatment or prevention of blood-borne pathogens with the latest CDC guidelines on occupational exposure to HIV and other blood-borne pathogens.

~~[(2) Each licensee or certificate holder shall submit confirmation on a form provided by the cabinet of having completed the course by July 1, 1991, except persons licensed under KRS Chapters 314 and 327 for whom the completion date shall be July 1, 1992.]~~

➔Section 2. KRS 214.620 is amended to read as follows:

(1) ~~[The boards of the professions in KRS Chapter 311A and KRS 311.450, 311.571, 311.601, 312.085, 312.175, 313.030, 313.035, 313.040, 313.045, 314.041, 314.042, 314.051, 314.073, 315.050, 315.065, 320.250, 320.280, 327.050, 333.100, 333.190, 335.080, 335.090, 335.100, and 335.150, and the Cabinet for Health and Family Services shall begin planning for the implementation of those sections listed above which require, as a part of initial licensure or certification, applicants for certain specified professions to complete an educational course on the transmission, control, treatment, and prevention of human immunodeficiency virus and acquired immunodeficiency syndrome. The planning shall include collecting information from the facilities and programs which educate and train the licensed professionals affected by the licensure requirements of those sections listed above and shall also include developing administrative regulations for the implementation of the licensure requirements.~~

~~(2) ~~The Cabinet for Health and Family Services shall develop~~[, if requested by a licensing board or certifying entity,]~~ instructional material on the human immunodeficiency virus, including information related to methods of transmission, education, and infection control. ~~[The materials developed under this section shall be provided to persons licensed under KRS Chapters 317 and 317A. Costs of production and distribution of the instructional materials shall be wholly assumed from the fees assessed by the licensing boards which regulate the professionals who are provided with educational materials under this section. ]~~To expeditiously and economically develop, produce, and distribute the instructional material required under this section, the Cabinet for Health and Family Services shall consult with the professional associations of professions to determine whether suitable instructional materials already exist that may be lawfully reproduced or reprinted.

~~[(3) The Cabinet for Human Resources shall require that, by July 1, 1992, all employees of health facilities defined in KRS 216B.015 shall have completed an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change except for those employees who shall have completed such a course as required for their professional licensure or upon evidence that the employee received such a course from another health facility where the employee was previously employed.]~~

***(2)*** ~~[(4)]~~ Information on the human immunodeficiency virus infection shall be presented to any person who receives treatment at any hospital, however named, skilled-nursing facilities, primary-care centers, rural health clinics, outpatient clinics, ambulatory-care facilities, ambulatory surgical centers, and emergency-care centers licensed pursuant to KRS Chapter 216B. The information shall include but not be limited to methods of transmission and prevention and appropriate behavior and attitude change.

~~[(5) Notwithstanding any provision of law to the contrary, the licensing board or certifying entity of any profession required to complete the course described in subsection (1) or (2) of this section shall have the discretion to develop and approve its own instructional course to be required for the profession under the jurisdiction of the respective licensing board or certifying entity.]~~

➔Section 3. KRS 311.450 is amended to read as follows:

(1) Every license issued for the practice of podiatry shall expire on June 30 following the date of issuance unless sooner revoked and canceled.

(2) On or before June 1 of each year, the board shall send notices to all licensed podiatrists in this state, at their

last known addresses, advising them that the annual license renewal fee is due on July 1 of each year. Every registered podiatrist shall renew his license on or before July 1 of each year by the payment to the board of an annual license renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. ~~[The regulations shall include a requirement to complete the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. ]~~If such renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee by mail at his last known address that such fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.

(3) All fees collected under the provisions of KRS 311.380 to 311.510, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of KRS 311.380 to 311.510 including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

➔Section 4. KRS 311.571 is amended to read as follows:

(1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read, and write the English language;

(b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;

(d) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;

(e) Has successfully completed an examination prescribed by the board; ***and***

(f) ~~[Has complied with the requirements of KRS 214.615(1); and~~

~~(g) ]~~Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read, and write the English language;

(b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United States or Canada;

(d) Has successfully completed an examination prescribed by the board;

(e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;

(f) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after

consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine; ***and***

(g) ~~[Has complied with the requirements of KRS 214.615(1); and~~

~~(h) ]~~Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:

(a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

(b) Has fulfilled the requirements for regular licensure as delineated in~~[ paragraphs (a) through (e) and (h) of]~~ subsection (2)***(a) to (e) and (g)*** of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;

***and***

(c) ~~[Has complied with the requirements of KRS 214.615(1); and~~

~~(d) ]~~Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.

(4) The board may grant an applicant a limited license-institutional practice for a renewable period of one (1) year if the applicant:

(a) Has fulfilled the requirements for regular licensure as delineated in~~[ paragraphs (a), (b), (d), (e), and (h) of]~~ subsection (2)***(a), (b), (d), (e), and (g)*** of this section;

(b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)***(c)***~~[(d)]~~ of this section; ***and***

(c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board~~[; and~~

~~(d) Has complied with the requirements of KRS 214.615(1)]~~.

(5) The board may grant an applicant a fellowship training license for a renewable period of one (1) year if the applicant:

(a) Has been accepted for a fellowship approved by the administration of any of Kentucky's medical schools and conducted under the auspices of that medical school; or

(b) Has graduated from a medical school located outside the United States or Canada that has been approved by the board, and:

1. Has been certified by the appropriate licensing authority in his or her home country in the subject specialty of the fellowship; and

2. Is able to demonstrate that he or she is a physician of good character and is in good standing in the country where he normally practices medicine.

(6) (a) The board may grant an applicant a special faculty license for a renewable period of one (1) year if the applicant:

1. Holds or has been offered a full-time faculty appointment at an accredited Kentucky medical or osteopathic school approved by the board and is nominated for a special faculty license by the dean of the school of medicine or school of osteopathy;

2. Possesses a current valid license to practice medicine or osteopathy issued by another state, country, or other jurisdiction;

3. Is able to understandably speak, read, and write the English language;

4. Is board certified in his or her specialty;

5. Is not otherwise eligible for a regular license under this chapter; and

6. Is not subject to denial of a license under any provision of this chapter.

(b) The applicant shall submit the fee established by administrative regulation promulgated by the board for an initial license to practice medicine.

(c) An applicant approved for a license under this subsection shall not engage in the practice of medicine or osteopathy outside an accredited medical school program or osteopathic school program and any affiliated institution or program for which the medical school or osteopathic school has assumed direct responsibility.

(d) The board may grant a regular license to practice medicine or osteopathy to a person who has had a special faculty license for a period of at least five (5) consecutive years.

(7) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain licensure in the Commonwealth without further testing and training if the applicant:

(a) Has been endorsed in writing by the applicant's original licensing state as being licensed in good standing in that state; and

(b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.

(8) No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.

(9) Notwithstanding any of the requirements for licensure established by subsections (1) to (8) of this section and after providing the applicant or reregistrant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny licensure to an applicant or the reregistrant of an inactive license without a prior evidentiary hearing upon a finding that the applicant or reregistrant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.

(10) Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

(11) Notwithstanding any provision of this section, the board may exercise its discretion to grant a visiting professor license to an applicant after considering the following:

(a) Whether the applicant meets the qualifications for a regular license;

(b) Whether the applicant is licensed to practice medicine in other states or in other countries; and

(c) The recommendation of the program director of an accredited medical school that confirms the applicant's employment as a visiting professor and that includes, if necessary, written justification for a waiver of the requirements specified in subsections (1) and (2) of this section.

Orders denying applications for a visiting professor license shall not be appealed under KRS 311.593.

➔Section 5. KRS 311.601 is amended to read as follows:

(1) The board may adopt reasonable rules and regulations to effectuate and implement the provisions of KRS 311.550 to 311.620, including but not limited to regulations designed to ***ensure***~~[insure]~~ the continuing professional competency of present and future licensees. As an adjunct to the power conferred upon the board by this section, the board may require licensees to submit to interrogation as to the nature and extent of their postgraduate medical education and to require licensees found to be deficient in their efforts to keep abreast of new methods and technology, to obtain additional instruction and training therein.

(2) ~~[Any continuing medical education requirement which the board may institute by regulation shall include the completion of a one (1) hour course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. The provisions of this subsection shall expire on December 31, 2016.~~

~~(3) ]~~As part of the continuing medical education which the board adopts to ensure continuing professional competency of present and future licensees, the board shall ensure that:

(a) Current practicing pediatricians, including those certified in medicine and pediatrics, radiologists, family practitioners, and those physicians practicing in an emergency medicine or urgent care setting, demonstrate completion of a one (1) time course of at least one (1) hour of continuing medical education approved by the board and covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020, prior to December 31, 2017; and

(b) Future practicing pediatricians, including those certified in medicine and pediatrics, radiologists, family practitioners, and those physicians who will practice in an emergency medicine or urgent care setting, demonstrate completion of a one (1) time course of at least one (1) hour of continuing medical education, or its equivalent, approved by the board and covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020, within five (5) years of licensure.

➔Section 6. KRS 311.674 is amended to read as follows:

(1) To be licensed by the board as an acupuncturist, an applicant shall:

(a) Submit an application approved by the board, with all sections completed, with the required fee;

(b) Be of good character and reputation;

(c) Have achieved a passing score on the acupuncture examination administered by the National Commission for Certification of Acupuncture and Oriental Medicine; and

(d) Have graduated from a course of training of at least one thousand eight hundred (1,800) hours, including three hundred (300) clinical hours, that is approved by the Accreditation Commission for Acupuncture and Oriental Medicine.

All provisions of this subsection, including graduation from an approved course of training as specified in paragraph (d) of this subsection, must be met by all applicants before initial licensure as an acupuncturist may be granted.

(2) An acupuncturist who is legally authorized to practice acupuncture in another state and who is presently in good standing in that other state may be licensed by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.

(3) The board may request any reasonable information from the applicant and from collateral sources that is necessary for the board to make an informed decision. The applicant will execute any necessary waiver or release so that the board may obtain necessary information from collateral sources. An application will be considered completed when the applicant has fully answered all sections of the approved application and the board has received all necessary additional information from the applicant and collateral sources.

(4) An acupuncturist's license shall be renewed every two (2) years upon fulfillment of the following requirements:

(a) The applicant has submitted a renewal application approved by the board within the time specified, with all sections completed, with the required fee; ***and***

(b) The applicant is of good character and reputation~~[; and~~

~~(c) The applicant has provided evidence of completion of the required continuing education during the previous period of licensure, including evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome in the previous ten (10) years that meets the requirements of KRS 214.610]~~.

(5) The board shall notify each applicant in writing of the action it takes on an application within one hundred twenty (120) days following the board's receipt of a completed application.

(6) Notwithstanding any of the requirements for licensure established in this section, and after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny licensure to an applicant without a prior evidentiary hearing upon a finding that the applicant has violated any provision of this section or is otherwise unfit to practice. If the board denies an application, it shall notify the applicant of the grounds on which the denial is based. Orders denying a license may be appealed pursuant to KRS 311.593.

➔Section 7. KRS 311.844 is amended to read as follows:

(1) To be licensed by the board as a physician assistant, an applicant shall:

(a) Submit a completed application form with the required fee;

(b) Be of good character and reputation;

(c) Be a graduate of an approved program; and

(d) Have passed an examination approved by the board within three (3) attempts.

(2) A physician assistant who is authorized to practice in another state and who is in good standing may apply for licensure by endorsement from the state of his or her credentialing if that state has standards substantially equivalent to those of this Commonwealth.

(3) A physician assistant's license shall be renewed upon fulfillment of the following requirements:

(a) The holder shall be of good character and reputation;

(b) The holder shall provide evidence of completion during the previous two (2) years of a minimum of one hundred (100) hours of continuing education approved by the American Medical Association, the American Osteopathic Association, the American Academy of Family Physicians, the American Academy of Physician Assistants, or by another entity approved by the board;

(c) The holder shall provide evidence of completion of a continuing education course on the human immunodeficiency virus and acquired immunodeficiency syndrome~~[ in the previous ten (10) years that meets the requirements of KRS 214.610]~~;

(d) As a part of the continuing education requirements that the board adopts to ensure continuing competency of present and future licensees the board shall ensure that physician's assistants shall demonstrate completion of a one-time training course of one and one-half (1.5) hours of training covering the prevention and recognition of pediatric abusive head trauma, as defined in KRS 620.020. The one and one-half (1.5) hours of continuing education required under this section shall be included in the current number of required continuing education hours~~[. Current practicing physician's assistants shall demonstrate completion of this course by December 31, 2013]~~; and

(e) The holder shall provide proof of current certification with the National Commission on Certification of Physician Assistants.

➔Section 8. KRS 311.901 is amended to read as follows:

(1) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A relating to the licensure and regulation of athletic trainers. The regulations shall include but shall not be limited to the establishment of fees and continuing education requirements. The board shall require, as a part of any continuing educational requirement, that persons licensed as athletic trainers complete an educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. The course on the human immunodeficiency virus shall be approved by the Cabinet for Health and Family Services~~[ and shall be given in accordance with KRS 214.610]~~.

(2) There is hereby created the Kentucky Athletic Trainers Advisory Council, composed of nine (9) members appointed by the Governor. The council shall review and make recommendations to the board regarding all matters relating to athletic trainers that come before the board, including but not limited to:

(a) Applications for athletic training licensure;

(b) Licensure renewal requirements;

(c) Approval of supervising physicians;

(d) Disciplinary investigations or action, when specifically requested by one (1) of the board's panels established under KRS 311.591; and

(e) Promulgation of administrative regulations.

(3) Except for initial appointments, members of the council shall be appointed by the board for four (4) year terms and shall consist of:

(a) Five (5) practicing licensed athletic trainers who shall each be selected by the board from a list of three (3) licensed athletic trainers submitted by the Kentucky Athletic Trainers Society, Inc. for each vacancy;

(b) Two (2) supervising physicians;

(c) One (1) member of the board; and

(d) One (1) citizen at large.

(4) The chair of the council shall be elected by a majority vote of the council members and shall preside over meetings. The meetings shall be held quarterly. Additional meetings may be held on the call of the chair or upon the written request of four (4) council members.

(5) Initial appointments shall be for staggered terms. Three (3) members shall serve a four (4) year term, two (2) members shall serve a three (3) year term, two (2) members shall serve a two (2) year term, and two (2) members shall serve a one (1) year term.

(6) Members of the council shall not be compensated for their service but shall receive reimbursement for expenditures relating to attendance at committee meetings, consistent with state policies for the reimbursement of travel expenses for state employees.

(7) A council member may be removed by the board for good cause or if he or she misses two (2) consecutive council meetings without good cause.

(8) Upon the death, resignation, or removal of any member, the vacancy for the unexpired term shall be filled by the board in the same manner as the original appointment.

(9) The quorum required for any meeting of the council shall be five (5) members. No action by the council or its members shall have any effect unless a quorum of the council is present at the meeting where the action is taken.

(10) The board shall not be required to implement or adopt the recommendations of the council.

➔Section 9. KRS 311A.115 is amended to read as follows:

The Kentucky Board of Emergency Medical Services shall, by regulation, require an applicant for licensure as a paramedic to have completed a board or Cabinet for Health and Family Services-approved educational course on the transmission, control, treatment and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.~~[ The board shall require continuing education that updates this training at least one (1) time every ten (10) years that is consistent with and as required for other health care providers under KRS 214.610.]~~

➔Section 10. KRS 311A.120 is amended to read as follows:

(1) As a condition of being issued a certificate or license as an emergency medical technician or first responder, the applicant shall have completed a Kentucky Board of Emergency Medical Services approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.~~[ The board shall require continuing education that updates this training at least one (1) time every ten (10) years that is consistent with and as required for other health care providers under KRS 214.610.]~~

(2) The board shall require continuing education for emergency medical technicians or first responders that includes the completion of one and one-half (1.5) hours of board approved continuing education covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020, at least one (1) time every five (5) years. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.

➔Section 11. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state shall make application to the board, in the form and manner established by the board by the promulgation of administrative regulations. Each applicant shall have satisfactorily completed not less than sixty (60) semester credit hours of study from a college or university accredited by the Southern Association of Colleges and Schools or other regional accrediting agencies as recognized by the United States Department of Education and the Council on Higher Education Accreditation, be a graduate of a college or university accredited by the Council on Chiropractic Education or their successors, and which maintains a standard and reputability approved by the board~~[, and meet the requirements of KRS 214.610 and KRS 214.615]~~.

(2) The board may by administrative regulation require a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by administrative regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational experience, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from

which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation. No license shall be issued to any person convicted of a felony unless he has been pardoned and approved by the board.

➔Section 12. KRS 312.175 is amended to read as follows:

(1) Each person licensed to practice chiropractic in this state shall, on or before the first day of March, annually renew his license and pay a renewal fee of not more than one hundred dollars ($100) for each inactive licensee and not more than five hundred dollars ($500) for each active licensee each year to the board. In addition to the payment of the renewal fee, the active licensee applying for a license renewal shall furnish to the board satisfactory evidence that he has attended an educational program in the year preceding each application for renewal. Satisfactory evidence of attendance of postgraduate study at an institution approved by the board shall be considered equivalent. ~~[Any education shall include completion of the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. ]~~Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program, or both, in instances where the applicant submits an affidavit to the board evidencing that he, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least forty-five (45) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The board shall, within forty-five (45) days, notify every person failing to renew his license after it is due that he is delinquent and is subject to a late penalty of three hundred dollars ($300). If the licensee fails to renew his license within forty-five (45) days after the mailing of the delinquent notice then his license shall be revoked for nonrenewal. Any licensee whose license has been revoked for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed five hundred dollars ($500) for each delinquent year or any part thereof in addition to the renewal fee of not more than five hundred dollars ($500) and upon presentation of satisfactory evidence of postgraduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section.

(3) Any licensee whose license has been revoked for less ***than***~~[that]~~ four (4) years, may not apply for a license pursuant to KRS 312.085. The licensee may only apply for restoration pursuant to subsection (2) of this section.

(4) Any licensee whose license has been revoked for more than four (4) years may apply for a license by examination, as long as the licensee pays a restoration fee not to exceed five hundred dollars ($500) for each delinquent year, or any part thereof, in addition to the renewal fee of not less than five hundred dollars ($500) and not more than three thousand dollars ($3,000).

➔Section 13. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant:

(a) Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;

(b) ~~[Has fulfilled the requirements of KRS 214.615(1);~~

~~(c) ]~~Is able to understandably speak and write the English language and to read the English language with comprehension; and

***(c)***~~[(d)]~~ Has passed the jurisprudence examination approved by the board as provided by subsection (4) of this section.

(2) An applicant shall be required to pass a licensure examination in any subjects as the board may determine. Application for licensure by examination shall be received by the board at the time determined by the board by administrative regulation.

(3) Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance.

(4) The jurisprudence examination shall be prescribed by the board and be conducted on the licensing

requirements under this chapter and board regulations and requirements applicable to the nursing profession in this Commonwealth. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.

(5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "R.N.A." An R.N.A. shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.

(6) Upon the applicant's successful completion of all requirements for registered nurse licensure, the board may issue to the applicant a license to practice nursing as a registered nurse, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.

(7) The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the licensure examination and the jurisprudence examination prescribed by the board or their equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state.

(8) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and licensure examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(9) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(10) (a) On November 1, 2006, and thereafter, a registered nurse who is retired, upon payment of a one-time fee, may apply for a special license in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "registered nurse" and the abbreviation "R.N."

(b) A retired registered nurse who wishes to return to the practice of nursing shall apply for reinstatement.

(c) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (a) of this subsection and reinstatement under paragraph (b) of this subsection.

(11) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter. A person whose license has lapsed for one (1) year or more shall pass the jurisprudence examination approved by the board as provided in subsection (4) of this section.

(12) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

(13) A graduate of an approved prelicensure registered nurse program who has not successfully completed the licensure examination for registered nurses shall be eligible for admission to the licensure examination for licensed practical nurses following successful completion of a board-approved practical nursing role delineation course. This course shall include content on the roles and responsibilities of a licensed practical nurse and direct supervised clinical instruction.

(14) A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

➔Section 14. KRS 314.042 is amended to read as follows:

(1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant has completed an approved organized postbasic program of study and clinical experience; ~~[has fulfilled the requirements of KRS 214.615(1); ]~~is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a license to practice advanced practice registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of subsection (1) of this section. An advanced practice registered nurse shall be:

(a) Designated by the board as a certified nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and

(b) Certified in at least one (1) population focus.

(3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced practice registered nurse shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a license to practice as an advanced practice registered nurse in this state shall have the right to use the title "advanced practice registered nurse" and the abbreviation "APRN." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced practice registered nurse. No person shall practice as an advanced practice registered nurse unless licensed under this section.

(6) Any person heretofore licensed as an advanced practice registered nurse under the provisions of this chapter who has allowed the license to lapse may be reinstated on payment of the current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced practice registered nurse temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "APRN Applicant" or "APRN App."

(8) (a) Except as authorized by KRS 314.196 and subsection (9) of this section, before an advanced practice registered nurse engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician that defines the scope of the prescriptive authority for nonscheduled legend drugs.

(b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-NS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-NS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the collaborating physician's name.

(c) The CAPA-NS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.

(d) The CAPA-NS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of nonscheduled legend drugs by the advanced practice registered nurse.

(e) The advanced practice registered nurse who is prescribing nonscheduled legend drugs and the collaborating physician shall be qualified in the same or a similar specialty.

(f) The CAPA-NS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.

(g) The CAPA-NS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.

(9) (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-NS required under subsection (8) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing as a nurse practitioner, clinical nurse specialist, nurse midwife, or as a nurse anesthetist. For nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus of adult-gerontology, pediatrics, neonatology, family, women's health, acute care, or psychiatric-mental health.

(b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;

2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and

3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.

(c) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:

1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and

2. Has been prescribing for at least four (4) years.

(d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.

(e) After July 15, 2014:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;

2. An advanced practice registered nurse who has maintained a CAPA-NS for four (4) years or more will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and

3. An advanced practice registered nurse who has maintained a CAPA-NS for less than four (4) years shall be required to continue to maintain a CAPA-NS until the four (4) year period is completed, after which the CAPA-NS will no longer be required.

(10) (a) Before an advanced practice registered nurse engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician that defines the scope of the prescriptive authority for controlled substances.

(b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the collaborating physician's name.

(c) The CAPA-CS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.

(d) The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of controlled substances by the advanced practice registered nurse.

(e) The advanced practice registered nurse who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.

(f) The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.

(g) Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:

1. Have been licensed to practice as an advanced practice registered nurse for one (1) year with the Kentucky Board of Nursing; or

2. Be nationally certified as an advanced practice registered nurse and be registered, certified, or licensed in good standing as an advanced practice registered nurse in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.

(h) Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.

(i) The CAPA-CS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.

(j) The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced practice registered nurse, as agreed to by the advanced practice registered nurse and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.

(11) Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified nurse anesthetist to enter into a collaborative agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

➔Section 15. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a) ~~[Has fulfilled the requirements of KRS 214.615(1);~~

~~(b) ]~~Has completed the required educational program in practical nursing at an approved school of nursing and has completed requirements for graduation therefrom;

***(b)***~~[(c) ]~~Is able to understandably speak and write the English language and to read the English language with comprehension; and

***(c)***~~[(d)]~~ Has passed the jurisprudence examination approved by the board as provided by subsection (4) of this section.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and licensure examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass a licensure examination in any subjects the board may determine. Application for licensure by examination shall be received by the board at the time determined by the board by administrative regulation.

(4) The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to the nursing profession in this Commonwealth. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.

(5) Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance.

(6) An individual who holds a provisional license shall have the right to use the title "licensed practical nurse applicant" and the abbreviation "L.P.N.A." An L.P.N.A. shall only work under the direct supervision of a nurse and shall not engage in independent nursing practice.

(7) Upon the applicant's successful completion of all requirements for licensed practical nurse licensure, the board may issue to the applicant a license to practice as a licensed practical nurse if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state.

(8) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the licensure examination and the jurisprudence examination prescribed by the board or their equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(9) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(10) (a) Beginning November 1, 2005, for a licensed practical nurse who is retired, upon payment of a one-time fee, the board may issue a special license to a licensed practical nurse in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "licensed practical nurse" and the abbreviation "L.P.N."

(b) A retired licensed practical nurse who wishes to return to the practice of nursing shall apply for reinstatement.

(c) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (a) of this subsection and reinstatement under paragraph (b) of this subsection.

(11) Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter. A person whose license has lapsed for one (1) year or more shall pass the jurisprudence examination approved by the board as provided in subsection (4) of this section.

(12) A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

➔Section 16. KRS 314.073 is amended to read as follows:

(1) As a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document continuing competency during the immediate past licensure period as prescribed in regulations promulgated by the board.

(2) The continuing competency requirement shall be documented and reported as set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A.

(3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to ***ensure***~~[assure]~~ that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing competency requirements.

(6) ~~[The continuing competency requirements shall include the completion of the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.~~

~~(7) ~~]As a part of the continuing education requirements that the board adopts to ensure continuing competency of present and future licensees, the board shall ensure practitioners licensed under KRS Chapter 314 complete a one-time training course of at least one and one-half (1.5) hours covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours. Current practicing nurses shall demonstrate completion of this course by December 31, 2013.

***(7)***~~[(8)]~~ In order to offset administrative costs incurred in the implementation of the mandatory continuing competency requirements, the board may charge reasonable fees as established by regulation in accordance

with the provisions of KRS Chapter 13A.

***(8)***~~[(9)]~~ The continuing competency requirements shall include at least five (5) contact hours in pharmacology continuing education for any person registered as an advanced practice registered nurse.

➔Section 17. KRS 315.050 is amended to read as follows:

(1) Every applicant for licensure as a pharmacist shall be not less than eighteen (18) years of age, of good mental health and moral character, a graduate of a school or college of pharmacy program approved by the board, ~~[shall have fulfilled the requirements of KRS 214.615(1), ]~~and shall file proof satisfactory to the board, substantiated by proper affidavits, of completion of an approved internship.

(2) After the applicant has passed a satisfactory examination conducted before the board under regulations prescribed by the board, he shall be entitled to a license as a pharmacist.

(3) The examination for licensure shall be given by the board at least two (2) times during each year. The examination shall be prepared to measure the competency of the applicant to engage in the practice of pharmacy. The board may employ and cooperate with any organization or consultant in the preparation and grading of an appropriate examination, but shall retain the sole discretion and responsibility of determining which applicants have successfully passed such an examination.

(4) The board shall by regulation establish standards for pharmacist intern certification and an approved internship program and shall determine appropriate qualifications for pharmacists supervising approved internship programs.

(5) The board shall issue certificates of internship which shall be valid for six (6) years from date of issuance. The fee for a certificate shall be set by administrative regulation of the board, not to exceed fifty dollars ($50).

➔Section 18. KRS 315.065 is amended to read as follows:

(1) Because of the continuous introduction of new therapeutic and diagnostic agents and changing concepts in the practice of pharmacy, it is essential that a pharmacist undertake a program of continuing education to maintain his professional competency to practice in the public interest.

(2) No pharmacist's license shall be renewed until the license holder is able to submit written proof to the board that he has satisfactorily completed, in the previous renewal period, a continuing education program acceptable to the board. Such continuing education requirements shall be determined by regulation of the board, ~~[and shall include, at least one (1) time every ten (10) years, the course described in KRS 214.610(1), ]~~but they shall not require more than an average of one and one-half (1-1/2) continuing education units (CEU) per year.~~[ The board may in its discretion require completion of the course described in KRS 214.610(1) more frequently.]~~

(3) The board shall adopt rules and regulations to carry out the provisions of this section, to include guidelines and criteria for reviewing and approving continuing education programs.

➔Section 19. KRS 320.250 is amended to read as follows:

(1) Licenses to engage in the practice of optometry shall be issued only to those who qualify under the provisions of KRS 320.260 or 320.270, or who successfully pass examinations conducted or approved by the board at a time and place fixed by the board. ~~[Each applicant shall comply with the provisions of KRS 214.615(1). ]~~Each license certificate shall be signed by the president and secretary-treasurer and authenticated by the seal of the board.

(2) The examinations may consist of written, clinical, or practical examinations and shall relate to the skills needed for the practice of optometry in this Commonwealth at the time of the examination and shall seek to determine the applicant's preparedness to exercise these skills. The examining board may:

(a) Prepare, administer, and grade the examination;

(b) Accept the scores of the applicant from an examination prepared, administered, and graded by the National Board of Examiners in Optometry or any other organization approved by the board as qualified to administer the examination; and

(c) Require passage of an examination on Kentucky optometric law.

(3) Any person seeking a license to practice optometry under the provisions of this section shall submit an application to the board on forms furnished by the board. The applicant shall show proof of the following:

(a) The applicant is not less than eighteen (18) years of age and is of good moral character;

(b) The applicant is a graduate of a school or college of optometry that is accredited by a regional or professional accreditation organization that is recognized or approved by the council on postsecondary accreditation, or by the United States Department of Education, and is in good standing, as approved by the board. All applicants shall have transcript credit of at least six (6) semester hours in a course or courses from a school or college as described in this subsection in general and ocular pharmacology with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye and six (6) semester hours in ocular pathology and therapy with emphasis on utilization of therapeutic pharmaceutical agents. All hours shall be from a school or college as described in this subsection;

(c) All other information requested by the board as is set out on the application.

(4) The nonrefundable fee for each license application shall not exceed six hundred dollars ($600).

(5) No application shall be considered by the board after one (1) year from the date in which the board received the application has lapsed. After the lapse of the one (1) year period, an applicant shall submit a new application and another nonrefundable fee for further consideration by the board.

➔Section 20. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than two hundred dollars ($200). Not later than February 15 of each year the board shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon a form prescribed by the board and the optometrist shall furnish the information required by the form.

(2) As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. ~~[The annual courses of study shall include the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. ]~~The length and content of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year, with the exception of those optometrists who are authorized to prescribe therapeutic agents who shall be required to have additional credit hours of continuing education in ocular therapy and pharmacology, the amount of required credit hours to be determined by the board, but not to exceed an additional seventeen (17) credit hours, for a total not to exceed twenty-five (25) credit hours per year. Attendance shall be at a course or by a sponsor approved by the board. Attendance at any course or courses of study is to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board may waive the continuing education requirement in cases of illness or undue hardship.

(3) Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

➔Section 21. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy approved by the board~~[ and shall have fulfilled the requirements of KRS 214.615(1)]~~. No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the qualifications required by this chapter and who desires to apply for licensure as a physical therapist in Kentucky shall make written application to the board, on forms to be provided by the board. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by the board, but not to exceed two hundred fifty dollars ($250).

(3) If it appears from the application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, the applicant shall be allowed to sit for the examination and tested in the subjects the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at the time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score. The board may summarily withdraw a temporary permit upon determination that the person has made any false statement to the board on the application, or the person fails to pass an examination approved by the board.

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed, but the board may, by administrative regulation, permit applicants to take the examination more than once.

(8) All licenses and certificates shall be renewed biennially, upon payment on or before March 31 of each uneven-numbered year of a renewal fee in an amount to be promulgated by the board by administrative regulations.~~[ Any licensed or certified person seeking renewal shall be required to complete the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently. Proof of completion of the course shall be retained for three (3) years following completion.]~~

(9) Licenses and certificates which are not renewed by March 31 of each uneven-numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days;

(d) A physical therapist licensed in another state or country from performing therapy on members of the out-of-state sports or entertainment group they accompany to Kentucky; or

(e) The practice of chiropractic as defined in KRS 312.015(3).

➔Section 22. KRS 327.060 is amended to read as follows:

(1) The board shall issue a license to:

(a) An individual who holds a valid license from another state, who meets requirements specified in KRS 327.050 and who has no imposed or pending disciplinary actions.

(b) An individual who has been educated as a physical therapist outside the United States and who has:

1. Completed the application process;

2. Provided satisfactory evidence to the board that his or her education is substantially equivalent to the requirements for physical therapists educated in United States accredited educational programs;

3. Provided written proof that the school of physical therapy education outside the United States is recognized by its own ministry of education;

4. Successfully completed the examinations provided for in KRS 327.050;

5. Passed the board-approved English language proficiency examinations if English is not his or her native language;

6. Successfully completed, prior to licensure, a board-approved, supervised practice period of not less than three (3) months nor more than six (6) months, under the direct supervision of a physical therapist who holds an unrestricted Kentucky license. This requirement may be satisfied by at least three (3) months of supervised practice as a physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky;

7. ~~[Fulfilled the requirements of KRS 214.615(1);~~

~~8.~~ ]Provided proof of legal authorization to reside and seek employment in the United States or its territories;

***8***~~[9]~~. Provided proof of authorization to practice as a physical therapist without limitations in the country where the professional education occurred;

***9***~~[10]~~. Submitted to a prescreening process by an agency approved by the board; and

***10***~~[11]~~. Submitted educational credentials to the board for evaluation by an agency approved by the board.

(2) The board may approve an agency to prescreen applicants for initial licensure under this section.

(3) The board may approve one (1) or more services to provide an evaluation of the applicant's educational credentials for board approval for licensing under this section.

(4) The board may waive the requirements of~~[ subparagraphs 3., 10., and 11. of paragraph (b) of]~~ subsection (1)***(b) 3., 9., and 10.*** of this section if the applicant is a graduate of a professional physical therapy education program preapproved by the board.

➔Section 23. KRS 333.100 is amended to read as follows:

The cabinet may prescribe minimal qualifications for medical laboratory personnel including, but not limited to~~[,]~~ microbiology, serology, chemistry, hematology, immunohematology, biophysics, cytology, or pathology.~~[ In addition, laboratory personnel, trainees, assistants, or other individuals employed by a medical laboratory shall fulfill the requirements of KRS 214.615(1).]~~

➔Section 24. KRS 333.190 is amended to read as follows:

A medical laboratory license may be denied, revoked, suspended, limited, annulled, or renewal thereof denied for any of the following reasons:

(1) Making false statements on an application for medical laboratory license or any other documents required by the cabinet.

(2) Permitting unauthorized persons to perform technical procedures or to issue or sign reports.

(3) Demonstrating incompetence or making frequent errors in the performance or reporting of medical laboratory examinations and procedures.

(4) Performing a test and rendering a report thereon to a person not authorized by law to receive such services.

(5) Reporting the results determined on a specimen by a medical laboratory which has not been licensed or exempted under this chapter.

(6) Rendering a report on medical laboratory work actually performed in another medical laboratory without designating the name of the director and the name and address of the medical laboratory in which the test was performed.

(7) Knowingly having professional connection with or knowingly lending the use of the name of the licensed medical laboratory or its director to an unlicensed medical laboratory.

(8) Violating or aiding and abetting in the violation of any provision of this chapter or the rules or regulations promulgated hereunder.

(9) Failing to submit to the cabinet any report required by the provisions of this chapter or the reasonable rules and regulations promulgated hereunder.

~~[(10) Failure of medical laboratory personnel, trainees, assistants or other individuals employed by a medical laboratory, to complete the course specified in KRS 214.610(1) at least one (1) time every ten (10) years, unless the cabinet requires, by promulgation of an administrative regulation in accordance with KRS Chapter 13A, completion of the course more frequently.]~~

➔Section 25. KRS 335.080 is amended to read as follows:

(1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding three (3) months failed to pass an examination given by the board; ***and***

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation~~[; and~~

~~(h) Has complied with KRS 214.615(1)]~~.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

(3) A certified social worker may engage in the practice of clinical social work by contracting, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations. The certified social worker shall, for purposes of this section, be an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment. No certified social worker shall enter into a practice of clinical social work until this contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

➔Section 26. KRS 335.090 is amended to read as follows:

(1) The board shall issue a license as "licensed social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) 1. Has received a baccalaureate degree in a social work or social welfare program accredited by the Council on Social Work Education; or

2. Has received a baccalaureate degree and has completed courses equivalent to a social work or social welfare program as determined by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding three (3) months failed to pass an examination given by the board; ***and***

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation~~[; and~~

~~(h) Has complied with KRS 214.615(1)]~~.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

➔Section 27. KRS 335.100 is amended to read as follows:

(1) The board shall issue a license as "licensed clinical social worker" to an applicant who meets the following requirements:

(a) Has received a master's degree or doctoral degree in social work from an educational institution approved by the board;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to

be employed in clinical social work practice, the experience having been acquired under appropriate supervision as established by the board by promulgation of an administrative regulation;

(c) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding three (3) months failed to pass an examination given by the board; ***and***

(f) Has paid an initial license fee established by the board by promulgation of an administrative regulation~~[; and~~

~~(g) Has complied with KRS 214.615(1)]~~.

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and KRS 335.990.

(3) A licensed clinical social worker may contract with a certified social worker in the practice of clinical social work as provided in KRS 335.080(3). The licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations.

➔Section 28. KRS 335.150 is amended to read as follows:

(1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose an administrative fine; issue a written reprimand or admonishment; or any combination of actions regarding any applicant, license, or licensee upon proof that the applicant or licensee has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence creates a rebuttable presumption at the ensuing disciplinary hearing of the guilt of the applicant or licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of social work;

(e) Violated any state statute or administrative regulation governing the practice of social work or any activities undertaken by a social worker;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation;

(h) Been legally declared mentally incompetent;

(i) Aided or abetted another person in falsely procuring or attempting to procure a license; ***or***

(j) Aided or abetted an unlicensed person in the practice of social work~~[; or~~

~~(k) Failed to comply with the requirements of KRS 214.615(1)]~~.

(2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to engage competently in the practice of social work.

(3) If an alleged violation is not of a serious nature and the evidence presented to the board, after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response within thirty (30) days of its receipt and to have the response placed in the licensee's permanent file. Alternatively, the licensee may file a request for a hearing, within thirty (30) days of the receipt of the written admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order with, or accept an assurance of voluntary compliance from, the licensee that effectively satisfies the complaint.

(5) The board may reconsider, modify, or reverse its decision regarding probation, suspension, or any other disciplinary action.

(6) Upon proof substantiating that sexual contact occurred between a social worker licensed by the board and a client while the client was under the care of or in a professional relationship with the social worker, the social worker's license may be revoked or suspended with mandatory treatment of the social worker as prescribed by the board. The board may require the social worker to pay a specified amount for mental health services for the client which are needed as a result of the sexual contact.

(7) The board may revoke the license of a social worker if the social worker has been convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a felony offense under KRS Chapter 510, 530.064(1)(a), or 531.310, or has been found to have had sexual contact as defined in KRS 510.010(7) with a client while the client was under the care of the social worker.

➔SECTION 29. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***As used in Sections 29 to 31 of this Act:***

***(1) "Anaphylaxis" means an allergic reaction resulting from sensitization following prior contact with an antigen which can be a life-threatening emergency, including reactions triggered by, among other agents, foods, drugs, injections, insect stings, and physical activity;***

***(2) "Administer" means to directly apply an epinephrine auto-injector to the body of an individual;***

***(3) "Authorized entity" means an entity that may at any time have allergens present that are capable of causing a severe allergic reaction and has an individual who holds a certificate issued under Section 30 of this Act on the premises or officially associated with the entity. The term includes but is not limited to restaurants, recreation camps, youth sports leagues, theme parks and resorts, and sports arenas;***

***(4) "Certified individual" means an individual who successfully completes an approved educational training program and obtain a certificate, as described in Section 30 of this Act;***

***(5) "Epinephrine auto-injector" means a single-use device used to administer a premeasured dose of epinephrine;***

***(6) "Health-care practitioner" means a physician or other health-care provider who has prescriptive authority; and***

***(7) "Self-administration" means an individual's administration of an epinephrine auto-injector on herself or himself.***

➔SECTION 30. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***(1) A health-care practitioner may prescribe epinephrine auto-injectors in the name of an authorized entity or to a certified individual for use in accordance with this section.***

***(2) A pharmacist may dispense epinephrine auto-injectors pursuant to a prescription issued in the name of an authorized entity or to a certified individual.***

***(3) The Department for Public Health, the Kentucky Board of Medical Licensure, the Kentucky Board of Nursing, the American Red Cross, or other training programs approved by the Department for Public Health may conduct in-person or on-line training for administering lifesaving treatment to persons believed in good faith to be experiencing severe allergic reactions and issue a certificate of training to persons completing the training. The training shall include instructions for recognizing the symptoms of anaphylaxis and administering an epinephrine auto-injector.***

***(4) An individual who has a certificate issued under this section may:***

***(a) Receive a prescription for epinephrine auto-injectors from a health-care practitioner;***

***(b) Possess prescribed epinephrine auto-injectors; and***

***(c) In an emergency situation when a physician is not immediately available and the certified individual in good faith believes a person is experiencing a severe allergic reaction regardless of whether the person has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy:***

***1. Administer an epinephrine auto-injector to the person; and***

***2. Provide an epinephrine auto-injector to the person for immediate self-administration.***

***(5) An authorized entity that acquires and stocks a supply of epinephrine auto-injectors with a valid prescription shall:***

***(a) Store the epinephrine auto-injectors in accordance with manufacturer's instructions and with any additional requirements established by the department; and***

***(b) Designate an employee or agent who holds a certificate issued under this section to be responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.***

***(6) Any individual or entity who administers or provides an epinephrine auto-injector to a person who is experiencing a severe allergic reaction shall contact the local emergency medical services system as soon as possible.***

***(7) Any individual or entity who acquires and stocks a supply of epinephrine auto-injectors in accordance with this section shall notify an agent of the local emergency medical services system and the local emergency communications or vehicle dispatch center of the existence, location, and type of the epinephrine auto-injectors acquired if a severe allergic reaction has occurred.***

➔SECTION 31. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

***(1) Any individual or entity who, in good faith and without compensation, renders emergency care or treatment by the use of an epinephrine auto-injector shall be immune from civil liability for any personal injury as a result of the care or treatment, or as a result of any act or failure to act in providing or arranging further medical treatment, if the person acts as an ordinary, reasonable prudent person would have acted under the same or similar circumstances.***

***(2) The immunity from civil liability for any personal injury under subsection (1) of this section includes:***

***(a) A health-care practitioner who prescribes or authorizes the emergency use of the epinephrine auto-injector;***

***(b) A pharmacist who fills a prescription for the epinephrine auto-injector;***

***(c) A certified individual who provides or administers the epinephrine auto-injector;***

***(d) An authorized entity who stores or provides the epinephrine auto-injector to a certified individual or authorized noncertified individual; and***

***(e) An individual trainer or training entity providing the certified individual.***

***(3) The immunity from civil liability under subsection (1) of this section shall not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.***

***(4) The requirements of subsection (6) of Section 30 of this Act shall not apply to any individual who provides or administers an epinephrine auto-injector if that individual is acting as a Good Samaritan under KRS 313.035 and 411.148.***

➔Section 32. Sections 29 to 31 of this Act may be cited as the Emergency Allergy Treatment Act.

➔Section 33. The following KRS section is repealed:

214.615 Required educational course on transmission, control, treatment, and prevention of AIDS.

**Signed by Governor April 2, 2015.**

## CHAPTER 114

**( HB 59 )**

AN ACT relating to aviation.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

***(1) As used in this section, "laser" means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam.***

***(2) A person shall not knowingly direct at an aircraft, any light emitted from a laser device or any other source which is capable of interfering with the vision of a person operating the aircraft.***

***(3) This section shall not apply to:***

***(a) An authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations; or***

***(b) Members or elements of the United States Department of Defense or United States Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing, or training.***

➔Section 2. KRS 183.990 is amended to read as follows:

(1) Any person violating any of the provisions of this chapter with respect to operation of aircraft, or violating the provisions of any rule, regulation, or ordinance adopted under KRS 183.133(6), shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) or imprisoned not more than ninety (90) days or both.

(2) Each violation of the statutes pertaining to the state airport zoning commission or of any order, rule, or regulation promulgated pursuant thereto shall be punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment for not more than thirty (30) days or both and each day a violation continues to exist shall constitute a separate offense.

(3) Any person who violates the provisions of KRS 183.886 shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.

***(4) Any person who violates the provisions of subsection (2) of Section 1 of this Act shall be guilty of:***

***(a) A Class A misdemeanor; or***

***(b) A Class D felony, if the violation causes a significant change of course or a serious disruption to the safe travel of the aircraft that threatens the physical safety of the passengers and crew of the aircraft.***

➔Section 3. KRS 183.132 is amended to read as follows:

(1) Any urban-county government, city, or county, or city and county acting jointly, or any combination of two (2) or more cities, counties, or both, may establish a nonpartisan air board composed of six (6) members ***or, under subsection (5) of this section, of eleven (11), twelve (12), or thirteen (13) members***. Any city other than the first class and county jointly or an urban-county government established pursuant to KRS Chapter 67A may establish a nonpartisan board composed of ten (10) members. Any existing six (6) member board, including a board established in an urban-county government, may be expanded to ten (10) members by action of the government entity or entities that established the six (6) member board.

(2) Any city of the first class, jointly with the county containing the city or a consolidated local government, may establish or maintain a nonpartisan air board. Membership of the board shall be appointed in accordance with subsection ***(7)***~~[(6)]~~ or ***(12)***~~[(11)]~~ of this section. Any air board established or maintained in a county containing a city of the first class or consolidated local government shall be composed of eleven (11) members.

(3) The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with, and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(4) The members of an air board composed of six (6) members shall be appointed as follows:

(a) If the air board is established by a city, the members shall be appointed by the mayor of the city;

(b)~~[ If the air board is established by a county, the members shall be appointed by the county judge/executive except that in the event that an airport is located outside the boundary of the county~~

~~establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board;~~

~~(c)~~] If the air board is established as a joint city-county air board, the members shall be appointed jointly by the mayor of the city and the county judge/executive;

***(c)***[~~(d)~~] If a combination of cities, counties, or both, establishes a joint air board, the mayors and county judges/executive involved shall jointly choose six (6) members and shall jointly choose successors;

***(d)***[~~(e)~~] If the air board is established by an urban-county government, the mayor of the urban-county government or an officer of the urban-county government designated by the mayor shall serve as one (1) member of the board. The remaining five (5) members shall be appointed by the mayor. One (1) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

(5) ***If the air board is established by a county, the members shall be appointed by the county judge/executive, except that in the event that an airport is located outside the boundary of the county establishing the airport board, the voting members of the air board are appointed as follows:***

***(a) One (1) member appointed by the Governor of the Commonwealth;***

***(b) Ten (10), eleven (11), or twelve (12) members appointed from the following jurisdictions located within a twenty (20) mile radius of the airport operations:***

***1. Eight (8) members appointed by the judge/executive of the county establishing the air board, with the approval of the county fiscal court. If the air board is located within a metropolitan statistical area, as defined by the United States Bureau of the Census, the county judge/executive, with the approval of the county fiscal court, may choose to appoint two (2) of these members as follows:***

***a. One (1) member may be appointed following nomination by the chief executive officer of the largest city within the metropolitan statistical area;***

***b. One (1) member may be appointed following nomination by the chief executive officer of the county containing the largest city within the metropolitan statistical area, if that county does not already have representation on the board; and***

***c. The county judge/executive of the county establishing the air board may choose whether to invite the chief executive officers identified in subdivisions a. and b. of this subparagraph to nominate members. If the county judge/executive does invite a chief executive officer to make a nomination and the chief executive officer makes a nomination, the county judge/executive may choose whether to appoint that nominee or to appoint another person instead;***

***2. Two (2) members appointed by the county judge/executive of the county containing the majority of territory encompassing the airport. This appointment shall be made with the approval of both the fiscal court of the county containing the majority of territory encompassing the airport and the fiscal court of the county establishing the air board; and***

***3. One (1) or two (2) additional members, if there are any counties within the prescribed geographic limits that do not otherwise have an appointment to the air board. If there is one (1) such county, this appointment shall be made by the county judge/executive of that county, with the approval of that county's fiscal court. If there are two (2) or more such counties, these appointments shall be made by the county judges/executive of the two (2) counties among them having the largest population, and the appointments shall receive the approval of those respective counties' fiscal courts and the fiscal court of the county establishing the air board; and***

***(c) Board members of any air board established prior to the effective date of this Act that is operating an airport that is located outside the boundary of the county establishing the airport board shall serve out the remainder of their terms. Additional voting members shall assume their offices on the July 1 following the effective date of this Act and be appointed as follows:***

***1. The member appointed by the Governor shall be appointed for an initial term of one (1) year;***

***2. One (1) member from the county containing the majority of territory encompassing the airport shall be appointed for an initial term of two (2) years;***

***3. One (1) member from the county containing the majority of territory encompassing the airport shall be appointed for an initial term of three (3) years;***

***4. One (1) member from the county establishing the airport board shall be appointed for an initial term of four (4) years; and***

***5. If there are any, the members from the counties that are not otherwise represented on the air board within the prescribed geographic limit shall be appointed for an initial term of four (4) years.***

***Thereafter, their replacements shall serve a full four (4) year term. All members may be reappointed for subsequent terms. The majority of all air board appointees shall be residents of the county establishing the air board.***

***(6)*** The members of an air board composed of ten (10) members in a city other than a city of the first class and county jointly other than an urban-county government established pursuant to KRS Chapter 67A shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

***(7)*** ~~[(6)]~~ An air board consisting of eleven (11) members and established jointly by a city of the first class and the county containing the first class city shall be composed of members as follows:

(a) The mayor of the city of the first class;

(b) The county judge/executive of the county containing the city of the first class;

(c) Three (3) members appointed by the mayor of the city of the first class;

(d) Three (3) members appointed by the county judge/executive of the county, with the approval of the fiscal court;

(e) Two (2) members, who shall be residents of the county containing a city of the first class or of counties contiguous thereto, appointed by the Governor; and

(f) One (1) member, who shall be a member of the executive board of an incorporated alliance of incorporated neighborhood associations and cities with a population of less than three thousand (3,000) based upon the most recent federal decennial census which represents citizens living within a five (5) mile radius of airport operations, appointed by the Governor. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of any of the incorporated alliances. If no alliances exist, the Governor shall appoint a citizen of the county who resides within a five (5) mile radius of airport operations.

***(8)*** ~~[(7)]~~ An air board consisting of eleven (11) members and established or maintained by a consolidated local government upon its establishment shall be composed of members as follows:

(a) The mayor of the consolidated local government;

(b) Seven (7) members appointed by the mayor of the consolidated local government;

(c) Two (2) members who shall be residents of the county containing the consolidated local government or residents of counties contiguous to the county containing the consolidated local government, appointed by the Governor; and

(d) One (1) member who shall be a member of the executive board of an incorporated alliance of incorporated neighborhood associations and cities with a population of less than three thousand (3,000) based upon the most recent federal decennial census which represents citizens living within a five (5) mile radius of airport operations, appointed by the Governor. If more than one (1) incorporated alliance exists, the Governor shall select the appointee from the executive boards of any of the incorporated alliances. If no alliances exist, the Governor shall appoint a citizen of the county who resides within a five (5) mile radius of airport operations.

***(9)*** ~~[(8)]~~ The members of an air board composed of ten (10) members established by an urban-county

government shall be composed of the mayor of the urban-county government or an officer of the urban-county government designated by the mayor. The remaining nine (9) members shall be appointed by the mayor. Two (2) of the members appointed by the mayor shall live within a three (3) mile radius of the airport.

***(10)*** ~~[(9)]~~ Members of the board composed of six (6) members shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Upon expiration of the staggered terms, successors shall be appointed for a term of four (4) years.

***(11)*** ~~[(10)]~~ Members of the board composed of ten (10) members in a city other than a city of the first class and county jointly shall serve for a term of four (4) years each and until their successors are appointed and qualified. The initial appointments made by the mayor and the county judge/executive shall be made so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years. If an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive, or the mayor if the board is established by an urban-county government, each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of the initial terms, successors shall be appointed for a term of four (4) years. In the case of a board established by an urban-county government, the term of the mayor for the urban-county government, or the officer of the urban-county government designated by the mayor, shall be coextensive with the term of the mayor.

***(12)*** ~~[(11)]~~ Members of an air board composed of eleven (11) members and established or maintained jointly by a city of the first class and the county containing a city of the first class shall serve for a term of three (3) years each and until their successors are appointed and qualified. The terms of the mayor and the county judge/executive shall be coextensive with their terms of office. The mayor and the county judge/executive shall each make their initial appointments to a board established jointly by a city of the first class and the county containing a city of the first class so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of the initial terms, successors shall be appointed for a term of four (4) years.

***(13)*** ~~[(12)]~~ Members of an air board composed of eleven (11) members in a county that has established a consolidated local government in a county containing a former city of the first class shall serve until their successors are appointed and qualified. The terms of office on the air board of the mayor of the previously existing city of the first class and the county judge/executive of this county shall expire upon the establishment of a consolidated local government. Upon the establishment of a consolidated local government, if the consolidated local government maintains the previously existing air board, the incumbent members, except the mayor of the previously existing city of the first class and the county judge/executive of that county, shall continue to serve as members of the board for the time remaining of their current terms of appointment. The Governor shall appoint members pursuant to subsection ***(8)*** ~~[(7)]~~(c) and (d) of this section. The mayor of the consolidated local government shall serve on the board for a term which shall be coextensive with his or her term of office. Incumbent members shall be eligible for reappointment upon the expiration of their terms. The terms of all other board members shall be for four (4) years. Upon the establishment of a consolidated local government and maintenance of a previously existing air board, any incumbent member whose term had expired but who had continued to serve because the member's successor had not been appointed, shall continue to serve until a successor is appointed. Successors shall be appointed by the mayor or the Governor as provided by law within sixty (60) days after the establishment of the consolidated local government. As the terms of the previously serving members of an air board being maintained by a consolidated local government expire, the mayor of the consolidated local government and the Governor shall respectively make their new appointments.

***(14)*** ~~[(13)]~~ Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of eleven (11) members, shall choose a chairman and vice chairman who shall serve for terms of one (1) year. Where the board is composed of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. Where the board is composed of eleven (11) members and is in a county containing a consolidated local government, the mayor shall appoint the chairman from among the membership of the board. The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall

execute an official bond to be set and approved by the board, and the cost of the bond shall be paid by the board.

***(15)*** ~~[(14)]~~ The board may employ necessary counsel, agents, and employees to carry out its work and functions and prescribe rules and regulations as it deems necessary.

***(16)*** ~~[(15)]~~ The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. The secretary-treasurer shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. The books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. The secretary-treasurer shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

***(17)*** ~~[(16)]~~ In the event that a joint air board is created by cities, counties, or both, and thereafter a city or county desires to withdraw from participation, then the remaining participants may jointly choose a successor member or members of the board. A local government wanting to withdraw from participation in the board shall not be entitled to return of any moneys or property advanced to the board.

***(18)*** ~~[(17)]~~ A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, a ten (10) member board shall consist of six (6) members, and an eleven (11) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

***(19)*** ~~[(18)]~~ A board member may be replaced by the appointing authority upon a showing to the authority of misconduct as a board member or upon conviction of a felony. A board member shall not hold any official office with the appointing authority, except for the mayor of a city of the first class and the county judge/executive on a board made up of eleven (11) members and established jointly by a city of the first class and the county containing a city of the first class, or the mayor of an urban-county government or a consolidated local government, or an officer of the urban-county government designated by the mayor on a board established by an urban-county government.

**Signed by Governor April 2, 2015.**

## CHAPTER 115

**( HB 225 )**

AN ACT relating to fire departments.

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

➔Section 1. KRS 95.500 is amended to read as follows:

(1) The chief of the fire department in cities or urban-county governments, or an officer acting under his authority, shall be present at all fires and investigate their cause. He may examine witnesses, compel the production of testimony, administer oaths, make arrests, and enter any building for the purpose of examination that, in his opinion, is in danger from fires. He shall report his proceedings to the city legislative body when required.

(2) The chief shall direct and control the operations of the members of the fire department in the discharge of their duties. He shall have access to and use of all cisterns, fireplugs, the waters of the waterworks, and the cisterns of private persons, for the purpose of extinguishing fires. He shall have the right to examine all cisterns, and all plugs and pipes of the waterworks, to see that they are in condition for use in case of fire. He shall have control of all buildings, hose, engines, and other equipment provided for the fire department. He shall perform such other duties as the legislative body shall, by ordinance, prescribe.

(3) The fire department of each city listed on the registry pursuant to subsection (5) of this section or urban-county government shall be divided into three (3) platoons ***of firefighters***. Each platoon, excluding the chief***,*** ~~[ and]~~ the assistant chief***, clerical employees, maintenance employees, fire inspectors, and arson investigators,*** in fire departments in the cities listed on the registry or in urban-county governments, shall be on duty for twenty-four (24) consecutive hours, after which the platoon serving twenty-four (24) hours shall be allowed to remain

off duty for forty-eight (48) consecutive hours, except in cases of dire emergency. The chief of the fire department shall arrange the schedule of working hours to comply with the provisions of this section. The pay, rank, or benefits of the members and officers of the fire department shall not be reduced as a result of this subsection.

(4) In each city or urban-county government listed on the registry, all employees of the fire department shall be given not less than two (2) weeks leave of absence annually, with full pay.

(5) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall be required to comply with the provisions of subsections (3) and (4) of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second class on August 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

**Signed by Governor April 2, 2015.**

## CHAPTER 116

**( HB 370 )**

AN ACT relating to traffic regulations.

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

➔Section 1. KRS 189.338 is amended to read as follows:

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or colored lighted arrows, successively one at a time or in combination, only the colors green, red, and yellow shall be used, except for special pedestrian signals carrying a word legend or symbolic message, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(d) Vehicular traffic that entered an intersection on a circular green or yellow indication is allowed to complete a left turn during the red indication.

(2) Steady yellow indication.

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown, and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

(a) Vehicular traffic facing a circular red signal alone shall stop at a clearly marked stop line but, if none,

then before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown, except as follows:

1. The driver of a vehicle which is stopped as required by ***this paragraph*** ~~[subsection (3)(a)]~~ with the intention of making a right turn, may make such right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding through the intersection***;*** ~~[.]~~

2. The driver of a vehicle which is stopped as required by ***this paragraph*** ~~[subsection (3)(a)]~~ whose vehicle is in the left lane of a one-way highway with the intention of making a left turn onto the left lane of another one-way highway with the flow of traffic, may make such left turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right-of-way to pedestrians and other traffic lawfully proceeding through the intersection***; and*** ~~[.]~~

3. In instances where there are two (2) right or left turn lanes, an allowable turn under this paragraph may be made from either lane unless a regulatory sign specifically prohibits it.

(b) Cities and counties may, by ordinance, and the department of highways may, by regulation, prohibit any such right or left turn against a steady red signal at any intersection, which prohibition shall be effective when an official sign prohibiting such movement is erected at the intersection.

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(5) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal) - When a red lens is illuminated with rapid intermittent flashes, operators of vehicles shall stop at a clearly marked stop line but, if none, before entering the crosswalk on the near side of the intersection or, if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign***; and*** ~~[.]~~

(b) Flashing yellow (caution signal) - When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.

***(6) Any person operating a motorcycle who violates subsection (3) of this section by entering or crossing an intersection controlled by a traffic control signal against a steady red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:***

***(a) The motorcycle was brought to a complete stop;***

***(b) The traffic control signal continued to show a steady red light for one hundred twenty (120) seconds or the traffic control signal at the intersection has completed two (2) lighting cycles;***

***(c) The traffic control signal was apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal apparently failed to detect the arrival of a motorcycle; and***

***(d) No motor vehicle or person was approaching on the street or highway to be crossed or entered, or any approaching person or vehicle was so far away from the intersection that it did not constitute an immediate hazard.***

***(7) The affirmative defense outlined in subsection (6) of this section shall only apply to a violation for entering or crossing an intersection controlled by a traffic signal against a steady red light and shall not provide a defense to any other civil or criminal action.***

***(8) In the event a motorcyclist exercises the affirmative defense provisions set forth in subsection (6) of this section, the Transportation Cabinet or its employees are specifically immune from any and all civil liability arising from any such claim, lawsuit, or dispute. Any claim, lawsuit, or dispute against the Transportation Cabinet as a result of the affirmative defense set forth in subsection (6) of this section, shall be brought using the provisions outlined in KRS Chapter 44.***

**Signed by Governor April 2, 2015.**

## CHAPTER 117

## ( HB 402 )

AN ACT relating to human services.

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

➔Section 1. KRS 210.770 is amended to read as follows:

As used in KRS 210.770 to 210.795, unless the context otherwise requires:

(1) "Mental impairment" includes an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(2) "Person with a disability" means someone with a physical or mental impairment and includes individuals who have a record or history of an impairment, or are regarded as having a physical or mental impairment that substantially limits one (1) or more major life activities;

(3) "Physical impairment" means any physiological disorder or corrective, cosmetic disfigurement, or an anatomical loss affecting one (1) or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;

(4) "Substantial limitation of a major life activity" includes limiting such things as walking, talking, seeing, hearing, caring for oneself, or working;

(5) "Hart-Supported Living Program" means grants which provide a broad category of highly flexible, individualized services which, when combined with natural unpaid or other eligible paid supports, provide the necessary assistance to do the following:

(a) Provide the support necessary to enable a person who is disabled to live in a home of the person's choice which is typical of those living arrangements in which persons without disabilities reside;

(b) Encourage the individual's integrated participation in the community with persons who are members of the general citizenry;

(c) Promote the individual's rights and autonomy;

(d) Enhance the individual's skills and competences in living in the community; and

(e) Enable the individual's acceptance in the community by promoting home ownership or leasing arrangements in the name of the individual or the individual's family or guardian;

(6) "Hart-Supported Living Program" does not include any services that support the following arrangements:

(a) Segregated living models such as any housing situation which physically or socially isolates people with disabilities from general citizens of the community;

(b) Segregated programs or activities which physically or socially isolate people with disabilities from general citizens of the community;

(c) Congregate living models such as any housing situation which groups individuals with disabilities as an enclave within an integrated setting;

(d) Any model where the individual, as an adult, does not have maximum control of the home environment commensurate with the individual's disabilities; and

(e) Any single living unit where more than three (3) people with disabilities live;

(7) "Hart-Supported Living Council" means a supported living council appointed by the Governor and recognized by the ***secretary*** ~~[commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities]~~; and

(8) "***Hart***-supported living services" include but are not limited to:

(a) ***Hart***-supported living community resource developers;

(b) Homemaker services;

(c) Personal care services;

(d) In-home training and home management assistance;

(e) Start-up grants;

(f) Transportation;

(g) Home modifications;

(h) Adaptive and therapeutic equipment; and

(i) Facilitation by an independent and trained facilitator to develop and implement individualized life planning.

➔Section 2. KRS 210.775 is amended to read as follows:

(1) There is hereby created the Hart-Supported Living Council for services to persons with a disability and their families.

(2) (a) The Hart-Supported Living Council shall be composed of eleven (11) members. The ***secretary*** ~~[commissioner of the Department for Behavioral Health, Developmental and Intellectual Disabilities]~~ and the executive director of the Kentucky Housing Corporation or their designees shall be ex officio members.

(b) Nine (9) of the members shall be volunteers and shall be appointed by the Governor from a list of nominees in the following manner:

1. Three (3) of the appointed members shall represent family members of persons with a disability;

2. Two (2) of the appointed members shall be persons with a disability;

3. One (1) of the appointed members shall represent professionals and providers of services to persons with a disability;

4. One (1) of the appointed members shall represent advocates for persons with a disability; and

5. Two (2) of the appointed members shall represent the community at large.

(3) The appointed members may serve on the council for three (3) years from the date of appointment. Members may be reappointed for one (1) additional consecutive three (3) year term. The Governor shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.

(4) The ***cabinet*** ~~[Department for Behavioral Health, Developmental and Intellectual Disabilities]~~ shall provide staff assistance to the Hart-Supported Living Council.

(5) The chairman of the Hart-Supported Living Council shall be elected from among the members. A majority of the members shall constitute a quorum.

(6) The Hart-Supported Living Council shall meet as often as necessary but no less frequently than every other month.

➔Section 3. KRS 210.780 is amended to read as follows:

(1) The Hart-Supported Living Council shall be responsible for making recommendations to the ***cabinet*** ~~[Department for Behavioral Health, Developmental and Intellectual Disabilities]~~ for:

(a) A budget and priorities for fund allocations for supported living services for persons with disabilities within the Commonwealth;

(b) Standards for quality assurance for persons with a disability who receive supported living services in accordance with KRS 210.770 to 210.795; and

(c) The procedure for annual review and approval of and funding recommendations for individual plans for Hart-Supported Living Program grants submitted by any person with a disability, and for the amendment of individual plans during a fiscal year.

(2) The Hart-Supported Living Council shall be responsible for:

(a) Disseminating information about Hart-Supported Living Program grants available under KRS 210.770 to 210.795;

(b) Hearing grievances and providing due process for consumers and providers of supported living services;

(c) Monitoring the overall effectiveness and quality of the program; and

(d) Developing recommendations for improvements.

(3) The Hart-Supported Living Council may recommend necessary administrative regulations under KRS Chapter 13A to carry out the purposes of KRS 210.770 to 210.795.

➔Section 4. KRS 210.795 is amended to read as follows:

(1) The ***cabinet***~~[Department for Behavioral Health, Developmental and Intellectual Disabilities]~~, in cooperation with the Hart-Supported Living Council, shall establish standards for the administration of the Hart-Supported Living Program. The purpose of these standards is to ensure that a person with a disability receives supported living services in a manner that empowers the person to exercise choice and enhances the quality of that person's life. These standards shall promote the following:

(a) Choice over how, when, and by whom supports are provided and over where and with whom a person with a disability lives;

(b) Responsibility of the person with a disability and his or her representative for managing grants and the provision of supports under the grant;

(c) Freedom to live a meaningful life and to participate in activities in the community with members of the general citizenry;

(d) Enhancement of health and safety;

(e) Flexibility of services that change as the person's needs change without the individual having to move elsewhere for services;

(f) Use of generic options and natural supports;

(g) Well-planned and proactive opportunities to determine the kinds and amounts of support desired, with the meaningful participation of the individual, the individual's family or guardian where appropriate, friends, and professionals; and

(h) Home ownership or leasing with the home belonging to the person with a disability, that person's family, or to a landlord to whom rent is paid.

(2) The individual supported living plan shall be developed by the person with a disability and that person's family or guardian where appropriate, and, as appropriate, the proposed or current provider.

(3) The ***cabinet***~~[Department for Behavioral Health, Developmental and Intellectual Disabilities]~~, in concert with the Hart-Supported Living Council, shall promulgate administrative regulations under KRS Chapter 13A, if necessary, to establish the methods of awarding Hart-Supported Living Program grants for individual supported living plans and monitoring the quality of service delivery, and to provide for administrative appeal of decisions. Administrative hearings conducted on appeals shall be conducted in accordance with KRS Chapter 13B.

➔Section 5. The General Assembly hereby confirms Executive Order 2014-988, dated December 17, 2014, which reorganizes the Cabinet for Health and Family Services by establishing the Division of Program Integrity within the Department for Behavioral Health, Developmental and Intellectual Disabilities.

➔Section 6. KRS 164.298 is amended to read as follows:

(1) The governing board as defined in KRS 164.001 of each eligible postsecondary education institution and college as defined in KRS 164.945 ***that offers***~~[shall collaborate with the Kentucky Board of Nursing to ensure that each university offering]~~ an advanced practice doctoral degree in nursing ***shall be accredited by a national nursing accrediting body that includes but is not limited to the Accreditation Commission for Education in Nursing, the National League for Nursing Commission for Nursing Education Accreditation, the Council on Accreditation of Nurse Anesthesia Educational Programs, the Accreditation Commission for Midwifery Education,***~~[complies with the accreditation standards of the National League for Nursing~~

~~Accrediting Commission~~] or the Commission on Collegiate Nursing Education and with minimal education and licensure standards for admission to and graduation from an advanced practice doctoral program in nursing.

(2) Each university offering an advanced nursing practice doctoral program shall refer to the degree as the "doctor of nursing practice," with the degree being abbreviated as "DNP." Any advertisement about the advanced nursing practice doctoral program shall not refer to graduates using the term "doctor." Graduates of the program shall accurately portray their academic credentials as well as their registered nurse and advanced practice registered nurse credentials, if applicable, subject to sanction under KRS 311.375(4).

➔Section 7. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act. For the purposes of KRS 217.136 and 217.137, "bread" or "enriched bread" also means breads that may include vegetables or fruit as an ingredient;

(3) "Cabinet" means the Cabinet for Health and Family Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

(a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and

(b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or

(b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

(a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of

the United States, or official national formulary, or any supplement to any of them;

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;

(c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

(a) Articles used for food or drink for man or other animals;

(b) Chewing gum; and

(c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments, home-based processors, or home-based microprocessors;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in KRS 320.240(12) to (14), advanced practice registered nurses as authorized in KRS 314.011 and 314.042, physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.858, and health care professionals who are residents of and actively practicing in a state other than Kentucky and who are licensed and have prescriptive authority under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, ***advanced practice registered nurse,*** dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health and Family Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to

consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body;

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment;

(51) "Home" means a primary residence occupied by the processor, that contains only two (2) ranges, ovens, or double-ovens, and no more than three (3) refrigerators used for cold storage. This equipment shall have been designed for home use and not for commercial use, and shall be operated in the kitchen within the residence;

(52) "Formulated acid food product" means an acid food in which the addition of a small amount of low-acid food results in a finished equilibrium pH of 4.6 or below that does not significantly differ from that of the predominant acid or acid food;

(53) "Acidified food product" means a low-acid food to which acid or acidic food is added and which has a water activity value greater than 0.85, and a finished equilibrium pH of 4.6 or below;

(54) "Low-acid food" means foods, other than alcoholic beverages, with a finished equilibrium pH greater than 4.6, and a water activity value greater than 0.85;

(55) "Acid food" means foods that have a natural pH of 4.6 or below;

(56) "Home-based processor" means a farmer who, in the farmer's home, produces or processes whole fruit and vegetables, mixed-greens, jams, jellies, sweet sorghum syrup, preserves, fruit butter, bread, fruit pies, cakes, or cookies;

(57) "Home-based microprocessor" means a farmer who, in the farmer's home or certified or permitted kitchen, produces or processes acid foods, formulated acid food products, acidified food products, or low-acid canned foods, and who has a net income of less than thirty-five thousand dollars ($35,000) annually from the sale of the product;

(58) "Certified" means any person or home-based microprocessor who:

(a) Has attended the Kentucky Cooperative Extension Service's microprocessing program or pilot microprocessing program and has been identified by the Kentucky Cooperative Extension Service as having satisfactorily completed the prescribed course of instruction; or

(b) Has attended some other school pursuant to 21 C.F.R. sec. 114.10;

(59) "Farmer" means a person who is a resident of Kentucky and owns or rents agricultural land pursuant to subsection (9) of KRS 132.010 or horticultural land pursuant to subsection (10) of KRS 132.010. For the purposes of KRS 217.136 to 217.139, "farmer" also means any person who is a resident of Kentucky and has grown the primary horticultural and agronomic ingredients used in the home-based processed products which they have produced; and

(60) "Farmers market temporary food service establishment" means any temporary food service establishment operated by a farmer who is a member of the market which operates within the confines of a farmers market registered with the Kentucky Department of Agriculture for the direct-to-consumer marketing of Kentucky-grown farm products from approved sources for a period of time not to exceed two (2) days per week for any consecutive six (6) months period in a calendar year.

➔Section 8. KRS 314.011 is amended to read as follows:

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

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person who is licensed or holds the privilege to practice under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm;

(b) The maintenance of health or prevention of illness of others;

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board, and which are consistent either with American Nurses' Association ***Scope and*** Standards of Practice or with ***standards of practice***~~[Standards of Practice]~~ established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;

2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced practice registered nurse" ***or "APRN"*** means a certified nurse practitioner, certified ***registered*** nurse anesthetist, certified nurse midwife, or clinical nurse specialist, who is licensed to engage in advance practice registered nursing pursuant to KRS 314.042 and certified in at least one (1) population focus;

(8) "Advanced practice registered nursing" means the performance of additional acts by registered nurses who have gained ***advanced clinical***~~[added]~~ knowledge and skills through an ***accredited education program that prepares the registered nurse for one (1) of the four (4) APRN roles***~~[approved organized postbasic program of study and clinical experience]~~; who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced practice registered nursing as a certified nurse practitioner, certified ***registered*** nurse anesthetist, certified nurse midwife, or clinical nurse specialist; and who certified in at least one (1) population focus. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced practice registered nurses who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.

(a) Prescriptions issued by advanced practice registered nurses for Schedule II controlled substances classified under KRS 218A.060 shall be limited to a seventy-two (72) hour supply without any refill. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced practice registered nurse certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional services program for mental health or individuals with an intellectual disability as defined in KRS Chapter 210.

(b) Prescriptions issued by advanced practice registered nurses for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced practice registered nurses for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.

(c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced practice registered nurses appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.

Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified ***registered*** nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, ***advanced practice registered nurse, physician assistant,*** ~~[a]~~ licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the Justice

and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician;

(20) "Population focus" means the section of the population within which the advanced practice registered nurse has targeted to practice. The categories of population foci are:

(a) Family ***and*** ~~[or]~~ individual across the lifespan;

(b) Adult ~~[health and ]~~gerontology;

(c) ***Neonatal*** ~~[Neonatology]~~;

(d) Pediatrics;

(e) Women's health and gender-related health; and

(f) Psychiatric mental health; and

(21) "Conviction" means but is not limited to:

(a) An unvacated adjudication of guilt;

(b) Pleading no contest or nolo contendere or entering an Alford plea; or

(c) Entering a guilty plea pursuant to a pretrial diversion order;

Regardless of whether the penalty is rebated, suspended, or probated.

➔Section 9. KRS 314.025 is amended to read as follows:

(1) There is hereby created the Kentucky nursing incentive scholarship fund.

(2) It is the intent of the General Assembly of the Commonwealth of Kentucky to address the nursing workforce needs throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships to financially needy residents, registered nurses pursuing graduate nursing education, and licensed practical nurses of the Commonwealth.~~[ The fund also may issue grants for nursing workforce competency development.]~~

(3) It further is the intent of the General Assembly that an applicant who has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property may not be eligible for a Kentucky nursing incentive scholarship.

➔Section 10. KRS 314.026 is amended to read as follows:

(1) The board shall make nursing scholarships in schools of nursing and graduate programs in nursing available to Kentucky residents through the Kentucky nursing incentive scholarship fund, as set forth by KRS 314.025 to 314.027 and by administrative regulations of the board promulgated pursuant to KRS Chapter 13A.

(2) The board shall administer the Kentucky nursing incentive scholarship fund and may recover reasonable costs

for administering the fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such scholarships as set forth in KRS 314.025 to 314.027 and in administrative regulations of the board.

(3) Applications from all persons determined to be qualified shall be forwarded to the board. The board shall designate the persons to receive assistance and the amount thereof. Decisions of the board in these matters shall be final. Disbursement of funds shall be pursuant to a written contract between the board and the applicant.

(4) The yearly individual nursing scholarship award granted shall be determined annually by the board. In determining the amount of the award and the number of scholarships to be granted, the board shall use its best judgment and shall seek to maintain the scholarship funds for future use.

(5) Each recipient of a scholarship shall agree in the written contract to practice as a nurse in Kentucky for at least one (1) year for each academic year funded.

~~[(6) The board shall establish a Kentucky Nursing Incentive Scholarship Fund Grant Review Committee composed of two (2) registered nurses and one (1) licensed practical nurse appointed by the board and one (1) member of the board who shall serve as chair of the committee. The committee shall review all proposals for nursing workforce competency development grants and make recommendations to the board. The board shall make the final decision on all grant proposals.]~~

➔Section 11. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant:

(a) Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1);

(c) Is able to understandably speak and write the English language and to read the English language with comprehension; and

(d) Has passed the jurisprudence examination approved by the board as provided by subsection (4) of this section.

(2) An applicant shall be required to pass a licensure examination in any subjects as the board may determine. Application for licensure by examination shall be received by the board at the time determined by the board by administrative regulation.

(3) Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance.

(4) The jurisprudence examination shall be prescribed by the board and be conducted on the licensing requirements under this chapter and board regulations and requirements applicable to the nursing profession in this Commonwealth. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.

(5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "R.N.A." An R.N.A. shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.

(6) Upon the applicant's successful completion of all requirements for registered nurse licensure, the board may issue to the applicant a license to practice nursing as a registered nurse, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.

(7) The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the licensure examination and the jurisprudence examination prescribed by the board or their equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state.

(8) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and licensure examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(9) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(10) (a) On November 1, 2006, and thereafter, a registered nurse who is retired, upon payment of a one-time fee, may apply for a special license in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "registered nurse" and the abbreviation "R.N."

(b) A retired registered nurse who wishes to return to the practice of nursing shall apply for reinstatement.

(c) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (a) of this subsection and reinstatement under paragraph (b) of this subsection.

(11) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter. A person whose license has lapsed for one (1) year or more shall pass the jurisprudence examination approved by the board as provided in subsection (4) of this section.

(12) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

(13) ~~[A graduate of an approved prelicensure registered nurse program who has not successfully completed the licensure examination for registered nurses shall be eligible for admission to the licensure examination for licensed practical nurses following successful completion of a board-approved practical nursing role delineation course. This course shall include content on the roles and responsibilities of a licensed practical nurse and direct supervised clinical instruction.~~

~~(14) ]~~A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

➔Section 12. KRS 314.042 is amended to read as follows:

(1) An applicant for licensure to practice as an advanced practice registered nurse shall file with the board a written application for licensure and submit evidence, verified by oath, that the applicant has completed an approved organized postbasic program of study and clinical experience; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally established organization or agency recognized by the board to certify registered nurses for advanced practice registered nursing; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a license to practice advanced practice registered nursing to an applicant who holds a current active registered nurse license issued by the board or holds the privilege to practice as a registered nurse in this state and meets the qualifications of subsection (1) of this section. An advanced practice registered nurse shall be:

(a) Designated by the board as a certified ***registered*** nurse anesthetist, certified nurse midwife, certified nurse practitioner, or clinical nurse specialist; and

(b) Certified in at least one (1) population focus.

(3) The applicant for licensure or renewal thereof to practice as an advanced practice registered nurse shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced practice registered nurse shall maintain a current active registered nurse license issued by the board or hold the privilege to practice as a registered nurse in this state and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a license to practice as an advanced practice registered nurse in this state shall have the right to use the title "advanced practice registered nurse" and the abbreviation "APRN." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced practice registered nurse. No person shall practice as an advanced practice registered nurse unless licensed under this section.

(6) Any person heretofore licensed as an advanced practice registered nurse under the provisions of this chapter who has allowed the license to lapse may be reinstated on payment of the current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter

13A.

(7) The board may authorize a person to practice as an advanced practice registered nurse temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "APRN Applicant" or "APRN App."

(8) (a) Except as authorized by KRS 314.196 and subsection (9) of this section, before an advanced practice registered nurse engages in the prescribing or dispensing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Nonscheduled Legend Drugs" (CAPA-NS) with a physician ***licensed in Kentucky*** that defines the scope of the prescriptive authority for nonscheduled legend drugs.

(b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-NS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-NS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-NS exists and furnish the collaborating physician's name.

(c) The CAPA-NS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.

(d) The CAPA-NS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of nonscheduled legend drugs by the advanced practice registered nurse.

(e) The advanced practice registered nurse who is prescribing nonscheduled legend drugs and the collaborating physician shall be qualified in the same or a similar specialty.

(f) The CAPA-NS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.

(g) The CAPA-NS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.

(9) (a) Before an advanced practice registered nurse may discontinue or be exempt from a CAPA-NS required under subsection (8) of this section, the advanced practice registered nurse shall have completed four (4) years of prescribing as a nurse practitioner, clinical nurse specialist, nurse midwife, or as a nurse anesthetist. For nurse practitioners and clinical nurse specialists, the four (4) years of prescribing shall be in a population focus of adult-gerontology, pediatrics, ***neonatal***~~[neonatology]~~, family, women's health, acute care, or psychiatric-mental health.

(b) After four (4) years of prescribing with a CAPA-NS in collaboration with a physician:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;

2. The advanced practice registered nurse will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and

3. If the advanced practice registered nurse's license is not in good standing, the CAPA-NS requirement shall not be removed until the license is restored to good standing.

(c) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement is exempt from the CAPA-NS requirement if the advanced practice registered nurse:

1. Has met the prescribing requirements in a state that grants independent prescribing to advanced practice registered nurses; and

2. Has been prescribing for at least four (4) years.

(d) An advanced practice registered nurse wishing to practice in Kentucky through licensure by endorsement who had a collaborative prescribing agreement with a physician in another state for at least four (4) years is exempt from the CAPA-NS requirement.

(e) After July 15, 2014:

1. An advanced practice registered nurse whose license is in good standing at that time with the Kentucky Board of Nursing and who will be prescribing nonscheduled legend drugs without a CAPA-NS shall notify that board that the four (4) year requirement has been met and that he or she will be prescribing nonscheduled legend drugs without a CAPA-NS;

2. An advanced practice registered nurse who has maintained a CAPA-NS for four (4) years or more will no longer be required to maintain a CAPA-NS and shall not be compelled to maintain a CAPA-NS as a condition to prescribe after the four (4) years have expired, but an advanced practice registered nurse may choose to maintain a CAPA-NS indefinitely after the four (4) years have expired; and

3. An advanced practice registered nurse who has maintained a CAPA-NS for less than four (4) years shall be required to continue to maintain a CAPA-NS until the four (4) year period is completed, after which the CAPA-NS will no longer be required.

(10) (a) Before an advanced practice registered nurse engages in the prescribing of Schedules II through V controlled substances as authorized by KRS 314.011(8), the advanced practice registered nurse shall enter into a written "Collaborative Agreement for the Advanced Practice Registered Nurse's Prescriptive Authority for Controlled Substances" (CAPA-CS) with a physician ***licensed in Kentucky*** that defines the scope of the prescriptive authority for controlled substances.

(b) The advanced practice registered nurse shall notify the Kentucky Board of Nursing of the existence of the CAPA-CS and the name of the collaborating physician and shall, upon request, furnish to the board or its staff a copy of the completed CAPA-CS. The Kentucky Board of Nursing shall notify the Kentucky Board of Medical Licensure that a CAPA-CS exists and furnish the collaborating physician's name.

(c) The CAPA-CS shall be in writing and signed by both the advanced practice registered nurse and the collaborating physician. A copy of the completed collaborative agreement shall be available at each site where the advanced practice registered nurse is providing patient care.

(d) The CAPA-CS shall describe the arrangement for collaboration and communication between the advanced practice registered nurse and the collaborating physician regarding the prescribing of controlled substances by the advanced practice registered nurse.

(e) The advanced practice registered nurse who is prescribing controlled substances and the collaborating physician shall be qualified in the same or a similar specialty.

(f) The CAPA-CS is not intended to be a substitute for the exercise of professional judgment by the advanced practice registered nurse or by the collaborating physician.

(g) Before engaging in the prescribing of controlled substances, the advanced practice registered nurse shall:

1. Have been licensed to practice as an advanced practice registered nurse for one (1) year with the Kentucky Board of Nursing; or

2. Be nationally certified as an advanced practice registered nurse and be registered, certified, or licensed in good standing as an advanced practice registered nurse in another state for one (1) year prior to applying for licensure by endorsement in Kentucky.

(h) Prior to prescribing controlled substances, the advanced practice registered nurse shall obtain a Controlled Substance Registration Certificate through the U.S. Drug Enforcement Agency.

(i) The CAPA-CS shall be reviewed and signed by both the advanced practice registered nurse and the collaborating physician and may be rescinded by either party upon written notice via registered mail to the other party, the Kentucky Board of Nursing, and the Kentucky Board of Medical Licensure.

(j) The CAPA-CS shall state the limits on controlled substances which may be prescribed by the advanced

practice registered nurse, as agreed to by the advanced practice registered nurse and the collaborating physician. The limits so imposed may be more stringent than either the schedule limits on controlled substances established in KRS 314.011(8) or the limits imposed in regulations promulgated by the Kentucky Board of Nursing thereunder.

(11) Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified nurse anesthetist to enter into a collaborative agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

➔Section 13. KRS 314.071 is amended to read as follows:

(1) The license of every person issued under the provisions of this chapter shall be renewed for a period of time as determined by the board by administrative regulation promulgated pursuant to KRS Chapter 13A, except as hereinafter provided. The applicant shall fill in the application form ***truthfully and accurately*** and return it to the board with the renewal fee prescribed by the board in a regulation before the expiration date of his current license. The board shall prescribe by regulation the beginning and ending of the licensure period.

(2) Any licensee who allows his license to lapse by failing to renew the license as provided above may be reinstated by the board on payment of current fee ~~[for original licensure ]~~and by meeting the regulations of the board.

(3) Notice that the license must be renewed shall be sent to the address of record pursuant to KRS 314.107 of each licensee before the expiration date of the license.

(4) Any person practicing nursing during the time the license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of the provisions of this chapter.

➔Section 14. KRS 314.073 is amended to read as follows:

(1) As a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document continuing competency during the immediate past licensure period as prescribed in regulations promulgated by the board.

(2) The continuing competency requirement shall be documented and reported as set forth by the board in administrative regulations promulgated in accordance with KRS Chapter 13A.

(3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing competency requirements.

(6) The continuing competency requirements shall include the completion of the course described in KRS 214.610(1) at least one (1) time every ten (10) years, but the board may in its discretion require completion of the course more frequently.

(7) As a part of the continuing education requirements that the board adopts to ensure continuing competency of present and future licensees, the board shall ensure practitioners licensed under KRS Chapter 314 complete a one-time training course of at least one and one-half (1.5) hours covering the recognition and prevention of pediatric abusive head trauma, as defined in KRS 620.020. The one and one-half (1.5) hours required under this section shall be included in the current number of required continuing education hours.~~[ Current practicing nurses shall demonstrate completion of this course by December 31, 2013.]~~

(8) In order to offset administrative costs incurred in the implementation of the mandatory continuing competency requirements, the board may charge reasonable fees as established by regulation in accordance with the provisions of KRS Chapter 13A.

(9) The continuing competency requirements shall include at least five (5) contact hours in pharmacology continuing education for any person ***licensed***~~[registered]~~ as an advanced practice registered nurse.

➔Section 15. KRS 314.085 is amended to read as follows:

(1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; holder of the privilege to practice as a nurse; credential holder; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental health, ***neuropsychological, psychosocial, psychosexual, substance use disorder*** ~~[chemical dependency]~~, or physical evaluation by a licensed or certified practitioner designated by the board. Upon the failure of the person to submit to a mental health, chemical dependency or physical evaluation, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny the application until the person submits to the required evaluation.

(2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; holder of the privilege to practice as a nurse; credential holder; or holder of a temporary work permit shall be deemed to have given consent to submit to a mental health, ***neuropsychological, psychosocial, psychosexual, substance use disorder*** ~~[chemical dependency]~~, or physical evaluation when so directed in writing by the board. The direction to submit to an evaluation shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining practitioner's testimony or examination reports on the ground of privileged communication.

(3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; holder of the privilege to practice as a nurse; credential holder; or holder of a temporary work permit shall bear the cost of any mental health, ***neuropsychological, psychosocial, psychosexual, substance use disorder*** ~~[chemical dependency]~~, or physical evaluation ordered by the board.

➔Section 16. KRS 314.109 is amended to read as follows:

Any person under the jurisdiction of the board shall, within ninety (90) days of entry of an order or judgment, notify the board in writing of any misdemeanor or felony criminal conviction, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol, in this or any other jurisdiction. The person shall submit a certified ***or attested*** copy of the order and a letter of explanation.

➔Section 17. The following KRS sections are repealed:

314.043 Nurse midwifery permits not to be issued after January 1, 1986 -- Current permits may be reissued -- Use of title "advanced practice registered nurse" regulated.

314.061 Credential to bear seal of board -- Exhibit of credential on demand -- Effect of refusal.

314.450 Legislative finding.

314.452 Nursing Workforce Foundation -- Board -- Membership -- Reimbursement -- Executive director -- Funding.

314.454 Powers and duties of board.

314.456 Trust and agency fund.

314.458 Grants -- Requirements for receipt of funds.

314.460 Matching fund program.

314.462 Scholarship program and loan repayment program -- Requirements.

314.464 Annual report.

**Signed by Governor April 2, 2015.**

## CHAPTER 118

**( HB 377 )**

AN ACT relating to medical service providers.

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

➔Section 1. KRS 315.010 is amended to read as follows:

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

(1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;

(2) "Association" means the Kentucky Pharmacists Association;

(3) "Board" means the Kentucky Board of Pharmacy;

(4) "Collaborative care agreement" means a written agreement between ***a pharmacist or pharmacists and a practitioner or practitioners that outlines a plan of cooperative management of patients' drug-related health care needs where:***

***(a) Patients' drug-related health care needs fall within the practitioner's or practitioners' statutory scope of practice;***

***(b) Patients are referred by the practitioner or practitioners to the pharmacist or pharmacists; and***

***(c) The agreement:***

***1. Identifies the practitioner or practitioners and the pharmacist or pharmacists who are parties to the agreement;***

***2. Specifies the drug-related regimen to be provided, and how drug therapy is to be monitored; and***

***3. Stipulates the conditions for initiating, continuing, or discontinuing drug therapy and conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration***~~[a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration]~~;

(5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. "Compounding," as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;

(6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;

(7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;

(8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(9) "Drug" means any of the following:

(a) Articles recognized as drugs or drug products in any official compendium or supplement thereto;

(b) Articles, other than food, intended to affect the structure or function of the body of man or other animals;

(c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

(d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;

(10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's

drug-related history, including but not limited to the following areas:

(a) Evaluation of prescription drug orders and patient records for:

1. Known allergies;

2. Rational therapy contraindications;

3. Appropriate dose and route of administration;

4. Appropriate directions for use; or

5. Duplicative therapies.

(b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;

(c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or

(d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;

(11) "Immediate supervision" means under the physical and visual supervision of a pharmacist;

(12) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion, or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;

(13) "Medical order" means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;

(14) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;

(15) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(16) "Pharmacist intern" means a natural person who is:

(a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;

(b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or

(d) An individual participating in a residency or fellowship program approved by the board for internship credit;

(17) "Pharmacy" means every place where:

(a) Drugs are dispensed under the direction of a pharmacist;

(b) Prescription drug orders are compounded under the direction of a pharmacist; or

(c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;

(18) "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;

(19) "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and

prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection; administration of medications or biologics in the course of dispensing or maintaining a prescription drug order; the administration of adult immunizations pursuant to prescriber-approved protocols; the administration of influenza vaccines to individuals nine (9) to thirteen (13) years of age pursuant to prescriber-approved protocols with the consent of a parent or guardian; the administration of immunizations to individuals fourteen (14) to seventeen (17) years of age pursuant to prescriber-approved protocols with the consent of a parent or guardian; the administration of immunizations to a child as defined in KRS 214.032, pursuant to protocols as authorized by KRS 315.500; drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;

(20) "Practitioner" has the same meaning given in KRS 217.015(35);

(21) "Prescription drug" means a drug which:

(a) Under federal law is required to be labeled with either of the following statements:

1. "Caution: Federal law prohibits dispensing without prescription";

2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian";

3. "Rx Only"; or

4. "Rx"; or

(b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;

(22) "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

(23) "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;

(24) "Society" means the Kentucky Society of Health-Systems Pharmacists;

(25) "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

(26) "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

**Signed by Governor April 3, 2015.**

## CHAPTER 119

**( HB 333 )**

AN ACT relating to peace officers.

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

➔Section 1. KRS 15.520 is amended to read as follows:

(1) ***As used in this section:***

***(a) "Citizen" means any individual who is not:***

***1. A member or supervisor within the law enforcement agency that employs an officer; or***

***2. An elected or appointed official within the unit of government under which the law***

***enforcement agency that employs the officer is organized;***

***(b) "Complaint" means any statement by a citizen, whether written or verbal, that alleges any type of misconduct by an officer, including statements that are submitted or received anonymously;***

***(c) "Disciplinary action" means termination, demotion, a decrease in pay or grade, suspension without pay, and a written reprimand;***

***(d) "General employment policies" means the rules, regulations, policies, and procedures commonly applicable to the general workforce or civilian employees that are not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether those rules, regulations, policies, and procedures exist or appear in a departmental manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;***

***(e) "Interrogation" means a formal investigative interview and does not mean conversations or meetings of supervisory personnel and subordinate officers that are not intended to result in disciplinary action, such as conversations or meetings held for the purpose of providing corrective instruction counseling or coaching;***

***(f) "Law enforcement procedures" means only those policies, rules, and customs that:***

***1. Are specific to the conduct of officers in the exercise of law enforcement powers and functions, including, without limitation: use of force, conduct in the course of pursuits, conduct during stops or detentions of citizens, conduct in the course of interacting with, assisting, or questioning of citizens, and investigative conduct;***

***2. Are carried out in the course of peace officer functions;***

***3. Are not general employment policies; and***

***4. That may exist in either written form or in the form of unwritten standards, practices, or protocols generally accepted and applied in the law enforcement profession.***

***(g) "Misconduct" means any act or omission by an officer that violates criminal law, law enforcement procedures, or the general employment policies of the employing agency; and***

***(h) "Officer" means a person employed as a full-time peace officer by a unit of government that receives funds under KRS 15.410 to 15.510 who has completed any officially established initial probationary period of employment lasting no longer than twelve (12) months not including, unless otherwise specified by the employing agency, any time the officer was employed and completing the basic training required by KRS 15.404.***

***(2)*** In order to establish a minimum system of professional conduct ***for***~~[of the police]~~ officers of local units of government of this Commonwealth, the following standards~~[ of conduct]~~ are stated as the intention of the General Assembly to deal fairly and set administrative due process rights ***in certain disciplinary matters concerning those***~~[for police]~~ officers of ***an employing***~~[the local]~~ unit of government ***that participates in the Kentucky Law Enforcement Foundation Program fund administered pursuant to KRS 15.430*** and***,*** at the same time***, to provide*** ~~[providing ]~~a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by ~~[police]~~ officers covered by this section***.*** ~~[:]~~

***(3)***~~[(a)]~~ Any complaint taken from ***a citizen***~~[any individual]~~ alleging misconduct on the part of any ***officer***~~[police officer, as defined herein,]~~ shall be taken as follows:

***(a)***~~[1.]~~ If the complaint alleges criminal activity ***by an***~~[on behalf of a police]~~ officer, the allegations may be investigated without a signed, sworn complaint of the ***citizen***~~[individual]~~;

***(b)***~~[2.]~~ If the complaint alleges ***any other type of violation not constituting criminal activity, including violations of law enforcement procedures or the general employment policies of the employing agency***~~[abuse of official authority or a violation of rules and regulations of the department]~~, an affidavit, signed and sworn to by the ***citizen***~~[complainant]~~, shall be obtained***, except as provided by paragraph (c) of this subsection***; ***or***

***(c)***~~[3.]~~ If a complaint is required to be obtained and the ***citizen***~~[individual]~~, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the ***employing agency***~~[department]~~ may investigate the allegations, but shall bring charges ***under subsection (6) of this section*** against the ~~[police ]~~officer only if the ***employing agency***~~[department]~~ can independently

substantiate the allegations absent the sworn statement of the ***citizen***~~[complainant;~~

~~4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively]~~.

***(4) (a) When an officer is accused of an act or omission that would constitute a violation of law enforcement procedures by any individual within the law enforcement agency employing the officer, including supervisors and elected or appointed officials of the officer's employing agency, the employing agency shall conform the conduct of any investigation to the provisions of subsection (5) of this section, shall formally charge the officer in accordance with subsection (6) of this section, and shall conduct a hearing in accordance with subsection (7) of this section before any disciplinary action shall be taken against the officer.***

***(b) The provisions of this subsection shall not prevent the employing agency from suspending the officer, with or without pay, during an investigation and pending the final disposition of any formal charges, except that an officer suspended without pay shall be entitled to full back pay and benefits for the regular hours he or she would have worked if no formal charges are brought or the hearing authority finds the officer not guilty of the charges.***

***(c) An employing agency shall not be required to follow the provisions of this section in addressing conduct by the officer that would constitute a violation of the general employment policies of the employing agency.***

***(5) (a) Any complaint filed by a citizen under subsection (3) of this section or any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section shall be investigated by the employing agency or another designated law enforcement agency in accordance with the provisions of this subsection if the employing agency determines that an investigation of the complaint or the alleged conduct is warranted.***

(b) No threats, promises, or coercions shall be used at any time against any ~~[police ]~~officer while he or she is a suspect in a criminal ***case or has been accused of a violation of law enforcement procedures***~~[or departmental matter]~~. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension.~~[;]~~

(c) ***Unless otherwise agreed to in writing by the officer,*** no police officer shall be subjected to interrogation ***for alleged conduct that violates law enforcement procedures***~~[in a departmental matter involving] alleged misconduct on his or her part]~~, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. ***The notice of interrogation shall include a statement regarding any reason for the interrogation and shall be served on the officer by certified mail, return receipt requested, or by personal delivery.***

***(d)*** The interrogation shall be conducted while the officer is on duty. The ~~[police ]~~officer may be required to submit a written report of the alleged incident if the request is made by the ***employing agency***~~[department]~~ no later than the end of the subject officer's next tour of duty after the tour of duty during which the ***employing agency***~~[department]~~ initially was made aware of the ***complaint.***~~[charges;]~~

***(e)***~~[(d)]~~ If ***an***~~[a police]~~ officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he ***or she*** shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. ~~[Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;]~~

***(6) (a)***~~[(e)]~~ ***If it is determined through investigation or other means that the facts alleged in a citizen complaint or in an accusation of a violation of law enforcement procedures warrant charging the officer, the charge***~~[Any charge involving violation of any local unit of government rule or regulation]~~ shall be made in writing with sufficient specificity so as to fully inform the ~~[police]~~ officer of the nature and circumstances of the alleged violation in order that he ***or she*** may be able to properly defend himself ***or herself***.

***(b)*** The charge shall be ***signed by a representative of the employing agency, shall set out the disciplinary action recommended or imposed, and shall be*** served on the ~~[police]~~ officer in writing ***by certified***

***mail, return receipt requested, or by personal delivery.***~~[;]~~

***(c)*** ~~[(f)]~~ When ***an*** ~~[a police]~~ officer has been charged with a violation of ***law enforcement procedures*** ~~[departmental rules or regulations]~~, no public statements shall be made concerning the alleged violation by any person or persons of the ***employing agency*** ~~[local unit of government]~~ or the ~~[police]~~ officer so charged, until final disposition of the charges***.***;

***(d)*** ~~[(g)]~~ No ~~[police]~~ officer as a condition of continued employment by the ***employing agency*** ~~[local unit of government]~~ shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature***.*** ~~[; and]~~

***(7) Unless waived by the charged officer in writing,*** ~~[(h) When]~~ a hearing ***shall*** ~~[is to]~~ be conducted by ***the officer's*** ~~[any]~~ appointing authority ***to determine whether there is substantial evidence to prove the charges and to determine what, if any, disciplinary action shall be taken if substantial evidence does exist. In conducting a hearing*** ~~[, legislative body, or other body as designated by the Kentucky Revised Statutes]~~, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any ~~[police ]~~officer charged***, except as otherwise agreed to in writing by the officer and the employing agency***:

***(a)*** ~~[1.]~~ The accused ~~[police ]~~officer shall ***be*** ~~[have been]~~ given at least ***twelve (12) days written*** ~~[seventy-two (72) hours]~~ notice of any hearing***. The notice of hearing shall be served on the officer by certified mail, return receipt requested, or by personal delivery***;

***(b)*** ~~[2.]~~ Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the ~~[police]~~ officer no less than ***twelve days (12)*** ~~[seventy-two (72) hours]~~ prior to the time of any hearing;

***(c)*** ~~[3.]~~ ***At*** ~~[If]~~ any hearing ~~[is ]~~based upon ***the sworn*** ~~[a]~~ complaint of ***a citizen*** ~~[an individual]~~, the ***citizen*** ~~[individual]~~ shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested ***or by personal delivery***;

***(d)*** ~~[4.]~~ If the return receipt has been returned unsigned, or the individual does not appear, except ~~[where ]~~due to circumstances beyond his ***or her*** control he ***or she*** cannot appear~~[,]~~ at the time and place of the hearing, any charge ***resulting from a complaint*** made by that ***citizen*** ~~[individual]~~ shall not be considered by the hearing authority and shall be dismissed with prejudice;

***(e)*** ~~[5.]~~ The accused ~~[police ]~~officer shall have the right and opportunity to obtain and have counsel present, and to be represented by ~~[the]~~ counsel;

***(f)*** ~~[6.]~~ The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused ~~[police ]~~officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;

***(g)*** ~~[7.]~~ The accused ~~[police]~~ officer shall be allowed to ***present*** ~~[have presented,]~~ witnesses and any documentary ***or other relevant*** evidence the ~~[police ]~~officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;

***(h)*** ~~[8.]~~ ***If any officer who has been*** ~~[Any police officer]~~ suspended with or without pay ~~[who]~~ is not given a hearing as provided by this section within ***seventy-five (75)*** ~~[sixty (60)]~~ days of any charge being filed ***pursuant to this section***, the charge ~~[then ]~~shall be dismissed with prejudice and ***shall*** not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits;~~[ and]~~

***(i) Any officer who has been suspended without pay who is found not guilty of the charges by the hearing authority shall be reinstated with the full back pay and benefits for the regular hours he or she would have worked;***

***(j)*** ~~[9.]~~ The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the

proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced***; and***~~[.]~~

***(k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the hearing authority may conduct the hearing required by this subsection in a closed session, unless the officer requests of the hearing authority in writing at least three (3) days prior to the hearing that the hearing be open to the public.***

***(8)*** ***(a)***~~[(2)]~~ Any ~~[police ]~~officer who ***is***~~[shall be]~~ found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the ***employing agency is***~~[local unit of government may be]~~ located ***within thirty (30) days of the date written findings are issued*** to ***appeal***~~[contest]~~ the action of ***the***~~[that]~~ hearing authority***. The appeal shall be initiated by the filing of a complaint in the same manner as any civil action under the Rules of Civil Procedure and shall include a copy of the hearing authority's final order. The Circuit Court review of the case shall be based solely upon the administrative record created before the hearing authority and any new evidence offered by the officer regarding alleged arbitrariness on the part of the hearing authority***~~[, and the action shall be tried as an original action by the court]~~.

***(b)***~~[(3)]~~ The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action.

***(9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any proposed disciplinary action arising from a citizen complaint made under subsection (3) of this section or arising from any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section. This section shall not be interpreted or construed to alter or impair any of the substantive rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and 95.765 for any proposed disciplinary action or other matters not arising under subsections (3) and (4) of this section, including proposed actions involving alleged violations of general employment policies. To the extent that the provisions of this section are inapplicable to any proposed disciplinary action against a city police officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in full force and effect.***

***(10)*** As the provisions of this section relate to a minimum system of professional conduct, nothing ***in this section***~~[herein]~~ shall be ***interpreted or*** construed ***to:***

***(a) Limit or to in any way affect any rights previously afforded to officers of the Commonwealth by statute, collective bargaining or working agreement, or legally adopted ordinance;***

***(b) Preclude an employing agency from investigating and charging an officer both criminally and administratively;***

***(c) Prevent the suspension with or without pay or reassignment of an officer during an investigation and pending final disposition charges;***

***(d) Permit an employing agency to categorize and treat any complaint that originates from a citizen as an internal matter in order to avoid application of all of the provisions of this section to the final disposition of a citizen's complaint;***

***(e) Apply any disciplinary action required by this section to actions taken by an employing agency that is not related to misconduct by a law enforcement officer, such as personnel decisions made by the employing agency due to a lack of resources or personnel decisions related to a chief's management of a department; or***

***(f) Prevent an employing agency from electing to apply the provisions of this section, or parts thereof, in circumstances that would not be covered under this section***~~[as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement.~~

~~(4) The provisions of this section shall apply only to police officers of local units of government who receive funds pursuant to KRS 15.410 through 15.992]~~.

***(11) This section shall not apply to officers employed by a consolidated local government that receives funds under KRS 15.410 to 15.510, who shall instead be governed by the provisions of Section 2 of this Act.***

➔SECTION 2. A NEW SECTION OF KRS 67C.301 to 67C.327 IS CREATED TO READ AS FOLLOWS:

***(1) In order to establish a minimum system of professional conduct of the police officers of consolidated local***

***governments of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the consolidated local government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:***

***(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:***

***1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;***

***2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;***

***3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;***

***4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.***

***(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;***

***(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;***

***(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;***

***(e) Any charge involving violation of any consolidated local government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;***

***(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the consolidated local government or the police officer so charged, until final disposition of the charges;***

***(g) No police officer as a condition of continued employment by the consolidated local government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and***

***(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:***

***1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;***

***2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than***

***seventy-two (72) hours prior to the time of any hearing;***

***3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;***

***4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;***

***5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;***

***6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;***

***7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;***

***8. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and***

***9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.***

***(2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the consolidated local government is located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.***

***(3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the consolidated local government by statute, ordinance, or working agreement.***

**Signed by Governor April 3, 2015.**

## CHAPTER 120

**( HCR 87 )**

A CONCURRENT RESOLUTION recognizing the General Assembly's Putting Veterans to Work Initiative.

WHEREAS, the Commonwealth of Kentucky has an unrivaled heritage of military service and has never hesitated to send its sons and daughters across the globe in defense of freedom and liberty; and

WHEREAS, the world's ever-evolving political landscape has continued to challenge the United States military with increasingly dangerous missions and has required enormous sacrifice from America's service men and

women as well as their families; and

WHEREAS, Kentucky has always been a state that champions the needs and well-being of its veterans, and the General Assembly has led the way through the Putting Veterans to Work Initiative; and

WHEREAS, the United States military is the most technologically advanced fighting force the world has ever seen, and its service members are given the best training in a variety of professional skills and occupations that are similar to professions licensed in the Commonwealth; and

WHEREAS, during recent years the General Assembly, through its Putting Veterans to Work Initiative, has passed legislation making it easier for veterans who performed professional occupations in the military, such as firefighters, emergency medical technicians, HVAC professionals, and commercial truck drivers, to become licensed in those occupations in Kentucky by taking into account the experience gained during their military service; and

WHEREAS, beginning with House Bill 375 of the 2013 Regular Session, which was passed by the General Assembly as an amendment to another bill and signed into law by the Governor, the Putting Veterans to Work Initiative directed professional occupational licensing and certification boards and commissions to identify military occupational specialties that are similar to professional occupations in Kentucky, and evaluate military training and service to determine their applicability towards the education, training, and experience requirements of professional occupations under their respective purviews; and

WHEREAS, after lengthy deployments and years of military service, the challenge of finding a job should not be a burden for veterans to bear. Yet many veterans find difficulty re-entering the civilian workforce for various reasons, among them being occupational licensure impediments for military service members; and

WHEREAS, the General Assembly will continue advancing the Putting Veterans to Work Initiative to fill the skills gap in Kentucky with professionally trained veterans needed by the Commonwealth's employers;

NOW, THEREFORE,

***Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:***

➔Section 1. The General Assembly honors all of the veterans of the Commonwealth and expresses its persistent enthusiasm for the Putting Veterans to Work Initiative.

➔Section 2. The House of Representatives and the Senate do hereby urge all agencies in the Commonwealth that issue occupational licenses or certifications to join the Putting Veterans to Work Initiative, and evaluate military occupations, training and experience to determine if they may be applicable to the training and experience requirements of professional occupations in Kentucky.

➔Section 3. All professional occupational licensing and certification boards in Kentucky are encouraged to report their progress with implementing the goals of the Putting Veterans to Work Initiative to the General Assembly.

**Signed by Governor April 3, 2015.**

## CHAPTER 121

**( HB 104 )**

AN ACT relating to trusts and estates.

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

➔Section 1. KRS 386B.10-050 is amended to read as follows:

(1) ***For the purposes of this section, a "report" is an account statement or other form of written disclosure made by the trustee to the beneficiary.***

***(2)*** A beneficiary may not commence a proceeding against a trustee for breach of trust more than one (1) year after the date the beneficiary or a representative of the beneficiary was sent a report that adequately disclosed the existence of a potential claim for breach of trust and informed the beneficiary of the time allowed for commencing a proceeding.

***(3)***~~[(2)]~~ A report adequately discloses the existence of a potential claim for breach of trust if it provides sufficient information so that the beneficiary or representative knows of the potential claim or should have inquired into its existence.

***(4)***~~[(3)]~~ If subsection ***(2)***~~[(1)]~~ of this section does not apply, a judicial proceeding by a beneficiary against a trustee for breach of trust shall be commenced within five (5) years ***of discovery of an injury by a trustee to the rights of the beneficiary***~~[after the first to occur of:]~~

~~(a) The removal, resignation, or death of the trustee;~~

~~(b) The termination of the beneficiary's interest in the trust; or~~

~~(c) The termination of the trust]~~.

➔Section 2. KRS 386B.8-180 is amended to read as follows:

(1) (a) When a trust terminates pursuant to the terms of the trust,~~[ and within a reasonable amount of time after such termination,]~~ the trustee ***may follow the requirements for distribution upon termination as provided in KRS 386B.8-170 or, if proceeding under this section, within a reasonable amount of time after such termination, the trustee*** ~~[:~~

~~1. ]~~shall provide to the qualified beneficiaries a statement showing the fair market value of the net assets to be distributed***, a trust accounting for the prior five (5) years and an estimate for any items reasonably anticipated but not yet received or disbursed,***~~[ and the]~~ amount of any fees, including trustee fees, remaining to be paid, and notice that the trust is terminating***. The trustee*** ~~[; and~~

~~2. ]~~may ***also*** provide such statement and notice to any other person whom the trustee reasonably believes may have an interest in the trust.

(b) ***If, after receiving the notice and trust information described in paragraph (a) of this subsection, a qualified beneficiary objects to an action or omission disclosed, he or she shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection shall be considered approved by the recipient and*** the trustee shall***, within a reasonable period of time following the expiration of such period,*** distribute the assets as provided in the trust***. If the trustee receives a written objection within the applicable forty-five (45) day time period,***~~[ within forty-five (45) days after sending the statement and notice unless within such time the trustee has received an objection in writing from a person receiving notice, in which case]~~ the trustee may***:***

***1. Submit the written objection to***~~[ file an accounting with]~~ the District Court ***for resolution*** and charge the expense of ***commencing*** such ***a proceeding***~~[accounting]~~ to the trust***; or***

***2. Resolve the objection with the qualified beneficiary, whether by non-judicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph may include a release, an indemnity clause, or both on the part of the beneficiary against the trustee relating to the trust. If the parties agree to a non-judicial settlement agreement, any related expenses shall be charged to the trust***.

***Upon a resolution of an objection pursuant to subparagraph 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.***

(c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.

(2) (a) When a trustee is removed or resigns pursuant to the terms of the trust,~~[ and within a reasonable time after such removal or resignation,]~~ the trustee ***may follow the requirements for distribution upon termination as provided in KRS 386B.8-170 or, if proceeding under this section, the trustee, within a reasonable time after such removal or resignation,*** ~~[:~~

~~1. ]~~shall provide to the successor trustee a statement showing the net assets to be distributed***, a trust accounting for the prior five (5) years, an estimate for any items reasonably anticipated but not yet received or disbursed,***~~[ and]~~ the amount of any fees, including trustee fees, remaining to be paid, and notice that the trustee has ***resigned or*** been removed~~[; and~~

~~]~~***. The trustee***

~~[2. ]~~may ***also*** provide such statement and notice to any other person whom trustee reasonably believes may have an interest in the trust.

(b) ***Any person provided notice and trust information as described in paragraph (a) of this subsection who objects to an action or omission disclosed, shall provide written notice of the objection to the trustee within forty-five (45) days of the notice having been sent by the trustee. If no written objection is provided within the forty-five (45) day time period, the information provided pursuant to paragraph (a) of this subsection will be considered approved, and the trustee shall, within a reasonable period following the expiration of such forty-five (45) day period,*** ~~[The trustee shall]~~ distribute the assets to the successor trustee***. If the trustee receives a written objection within the applicable forty-five (45) day time period, the*** ~~[ within forty five (45) days after sending the statement and notice unless within such time the trustee has received an objection in writing from a person receiving notice, in which case]~~ trustee may***:*** ~~[ ]~~

***1. Submit the written objection to*** ~~[file an accounting with]~~ the District Court ***for resolution*** and charge the expense of ***commencing*** such ***a proceeding*** ~~[ accounting]~~ to the trust***; or***

***2. Resolve the objection with the opposing party, whether by non-judicial settlement agreement or otherwise. Any agreement entered into pursuant to this paragraph, may include a release, an indemnity clause, or both on the part of the opposing party against the trustee relating to the trust. If the parties agree to a non-judicial settlement agreement, any related expenses shall be charged to the trust***.

***Upon a resolution of any objection raised by an opposing party pursuant to subparagraphs 1. or 2. of this paragraph, within a reasonable period of time thereafter the trustee shall distribute the remaining trust assets as provided in the trust.***

(c) The trustee may rely upon the written statement of a person receiving notice that such person does not object.

(3) When a trustee distributes assets of the trust pursuant to subsection (1) or (2) of this section, the limitations in KRS 386B.6-040 and 386B.10-050 are waived by each person who received notice and either consented or failed to object ***pursuant*** to ~~[ the under]~~ this section, and any such person is barred from bringing a claim against the trustee for breach of trust ***or challenging the validity of the trust, to the same extent and with the same preclusive effect as if the court had entered a final order approving the trustee's final account***.

(4) Notice provided under subsection (1) or (2) of this section shall clearly warn of the impending bar of claims against a trustee under KRS 386B.6-040 and 386B.10-050 that will result if an objection is not timely made.

***(5) No trustee trust shall request that any beneficiary indemnify the trustee against loss in exchange for the trustee forgoing a request to the court to approve its accounts at the time the trust terminates or at the time the trustee is removed or resigns, except as agreed upon by the parties pursuant to paragraph (b)1. or 2. of subsections (1) and (2) of this section.***

***(6)*** ~~[(5)]~~ The District Court shall have exclusive jurisdiction over matters under this section.

➔Section 3. KRS 413.120 is amended to read as follows:

The following actions shall be commenced within five (5) years after the cause of action accrued:

(1) An action upon a contract not in writing, express or implied.

(2) An action upon a liability created by statute, when no other time is fixed by the statute creating the liability.

(3) An action for a penalty or forfeiture when no time is fixed by the statute prescribing it.

(4) An action for trespass on real or personal property.

(5) An action for the profits of or damages for withholding real or personal property.

~~[(6) An action for an injury by a trustee to the rights of a beneficiary of a trust.]~~

***(6)*** ~~[(7)]~~ An action for an injury to the rights of the plaintiff, not arising on contract and not otherwise enumerated.

***(7)*** ~~[(8)]~~ An action upon a bill of exchange, check, draft or order, or any endorsement thereof, or upon a promissory note, placed upon the footing of a bill of exchange.

***(8)*** ~~[(9)]~~ An action to enforce the liability of a steamboat or other vessel.

***(9)*** ~~[(10)]~~ An action upon a merchant's account for goods sold and delivered, or any article charged in such store account.

***(10)*** ~~[(11)]~~ An action upon an account concerning the trade of merchandise, between merchant and merchant or their agents.

***(11)*** ~~[(12)]~~ An action for relief or damages on the ground of fraud or mistake.

***(12)*** ~~[(13)]~~ An action to enforce the liability of bail.

***(13)*** ~~[(14)]~~ An action for personal injuries suffered by any person against the builder of a home or other improvements. This cause of action shall be deemed to accrue at the time of original occupancy of the improvements which the builder caused to be erected.

➔Section 4. KRS 413.130 is amended to read as follows:

(1) In every action upon a merchants' account as described in subsection ***(9)*** ~~[(10)]~~ of KRS 413.120, the limitation shall be computed from January 1 next succeeding the respective dates of the delivery of the several articles charged in the account. Judgment shall be rendered for no more than the amount of articles actually charged or delivered within five (5) years preceding that in which the action was brought. If any merchant willfully postdates any article charged in such account, or the receipt for the delivery of it, he shall forfeit ten (10) times the amount of the article postdated, to be credited against the account. This credit shall be allowed in an action on the account, without any written pleadings setting it up.

(2) In an action to recover a balance due upon a mutual open and current account concerning the trade of merchandise between merchant and merchant or their agents, as described in subsection ***(10)*** ~~[(11)]~~ of KRS 413.120, where there have been reciprocal demands between the parties, the cause of action is deemed to have accrued from the time of the last item proved in the account claimed, or proved to be chargeable on the adverse side.

(3) In an action for relief or damages for fraud or mistake, referred to in subsection ***(11)*** ~~[(12)]~~ of KRS 413.120, the cause of action shall not be deemed to have accrued until the discovery of the fraud or mistake. However, the action shall be commenced within ten (10) years after the time of making the contract or the perpetration of the fraud.

➔Section 5. The following KRS section is repealed:

413.340 Exceptions as to chapter.

**Signed by Governor April 3, 2015.**

## CHAPTER 122

**( HB 427 )**

AN ACT relating to crimes against children and making an appropriation therefor.

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

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

***In addition to the twenty dollar ($20) fee created by KRS 23A.206 and the ten dollar ($10) fee created by KRS 23A.2065, a ten dollar ($10) fee shall be added in criminal cases to the costs imposed by KRS 23A.205. The fee collected under this section shall be allocated to the Department of Kentucky State Police for the training, salaries, and equipment of the Kentucky Internet Crimes Against Children Task Force.***

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

***In addition to the twenty dollar ($20) fee created by KRS 24A.176 and the ten dollar ($10) fee created by KRS 24A.1765, a ten dollar ($10) fee shall be added in misdemeanor cases to the costs imposed by KRS 24A.175. The fee collected under this section shall be allocated to the Department of Kentucky State Police for the training, salaries, and equipment of the Kentucky Internet Crimes Against Children Task Force.***

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

***In any prosecution under KRS 529.100 or 529.110 involving commercial sexual activity with a minor, it shall not be a defense that the defendant was unaware of the minor's actual age.***

➔Section 4. KRS 531.330 is amended to read as follows:

(1) For purposes of KRS 529.040~~[ or 529.100]~~ where the offense involves commercial sexual activity and for the purposes of KRS 530.070, 531.080, and 531.300 to 531.370, any person who appears to be under the age of eighteen (18), or under the age of sixteen (16), shall be presumed to be under the age of eighteen (18), or under the age of sixteen (16), as the case may be.

(2) In any prosecution under KRS 529.040~~[ or 529.100]~~ where the offense involves commercial sexual activity by a minor and in any prosecution under KRS 530.070, 531.080, and 531.300 to 531.370, the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.

(3) The presumption raised in subsection (1) of this section may be rebutted by any competent evidence.

**Signed by Governor April 3, 2015.**

## CHAPTER 123

**( HB 258 )**

AN ACT relating to physician assistants.

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

➔Section 1. KRS 311.854 is amended to read as follows:

(1) A physician shall not supervise a physician assistant without approval of the board. Failure to obtain board approval as a supervising physician or failure to comply with the requirements of KRS 311.840 to 311.862 or related administrative regulations shall be considered unprofessional conduct and shall be subject to disciplinary action by the board that may include revocation, suspension, restriction, or placing on probation the supervising physician's right to supervise a physician assistant.

(2) To be approved by the board as a supervising physician, a physician shall:

(a) Be currently licensed and in good standing with the board;

(b) Maintain a practice primarily within this Commonwealth. The board in its discretion may modify or waive this requirement;

(c) Submit a completed application and the required fee to the board. The application shall include but is not limited to:

1. A description of the nature of the physician's practice;

2. A statement of assurance by the supervising physician that the scope of medical services and procedures described in the application or in any supplemental information shall not exceed the normal scope of practice of the supervising physician;

3. A description of the means by which the physician shall maintain communication with the physician assistant when they are not in the same physical location;

4. The name, address, and area of practice of one (1) or more physicians who agree in writing to accept responsibility for supervising the physician assistant in the absence of the supervising physician; and

5. A description of the scope of medical services and procedures to be performed by the physician assistant for which the physician assistant has been trained in an approved program.

(3) Prior to a physician assistant performing any service or procedure beyond those described in the initial application submitted to the board under subsection (2)(c) of this section, the supervising physician shall supplement that application with information that includes but is not limited to:

(a) A description of the additional service or procedure;

(b) A description of the physician assistant's education, training, experience, and institutional credentialing;

(c) A description of the level of supervision to be provided for the additional service or procedure; and

(d) The location or locations where the additional service or procedure will be provided.

The initial and supplemental applications required under this section may be submitted to the board at the same time.

(4) A physician who has been supervising a physician assistant prior to July 15, 2002, may continue supervision and the physician assistant may continue to perform all medical services and procedures that were provided by the physician assistant prior to July 15, 2002. The supervising physician shall submit the initial application and any supplemental application as required in this section by October 15, 2002.

(5) A physician may enter into supervision agreements with ***no more than*** ~~[a maximum of]~~ four (4) physician assistants ***and*** ~~[but]~~ shall not supervise more than ***four (4)*** ~~[two (2)]~~ physician assistants at any one (1) time. Application for board approval to be a supervising physician shall be obtained individually for each physician assistant.

(6) The board may impose restrictions on the scope of practice of a physician assistant or on the methods of supervision by the supervising physician upon consideration of recommendations of the Physician Assistant Advisory Committee established in KRS 311.842 after providing the applicant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard.

**Signed by Governor April 3, 2015.**

## CHAPTER 124

**( SB 133 )**

AN ACT relating to driving under the influence.

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

➔Section 1. KRS 189A.005 is amended to read as follows:

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

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Ignition interlock device" means a device***, certified by the Transportation Cabinet for use in this Commonwealth under subsection (1) of Section 15 of this Act,*** that connects a motor vehicle ignition system or motorcycle ignition system to a breath alcohol analyzer and prevents a motor vehicle ignition or motorcycle ignition from starting, and from continuing to operate, if a driver's breath alcohol concentration exceeds 0.02, as measured by the device;

(3) ***"Ignition Interlock Certification of Installation" means a certificate providing that the installed ignition interlock device is certified for use in the Commonwealth under subsection (1) of Section 15 of this Act;***

***(4) "Ignition Interlock Device Provider" means any person or company engaged in the business of manufacturing, selling, leasing, servicing, or monitoring ignition interlock devices within the Commonwealth;***

***(5) "Ignition interlock license" means a motor vehicle or motorcycle operator's license issued or granted by the laws of the Commonwealth of Kentucky that, with limited exceptions, permits a person to drive only motor vehicles or motorcycles equipped with a functioning ignition interlock device;***

***(6)*** "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapter 186 or 189;

***(7)*** ~~[(4)]~~ "Limited access highway" has the same meaning as "limited access facility" does in KRS 177.220;

***(8)*** ~~[(5)]~~ "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered;

***(9)*** ~~[(6)]~~ When age is a factor, it shall mean age at the time of the commission of the offense; and

***(10)*** ~~[(7)]~~ Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the suspension period under the terms and for the duration enumerated by the court in its order or judgment.

➔Section 2. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall have his ***or her*** license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;

(b) For the second offense within a five (5) year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;

(c) For a third offense within a five (5) year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5)(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) or (7) of this section, no person shall be eligible for reinstatement of his ***or her full*** privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) or (7) of this section, whichever penalty will result in the longer period of revocation or court-ordered driving conditions.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

(7) ***After a minimum of twelve (12) months from the effective date of the revocation,*** a person whose license has been revoked pursuant to subsection (1)(b), (c), or (d) of this section may move the court to reduce the ~~[applicable minimum]~~ period of revocation ***on a day-for-day basis for each day the person held a valid ignition interlock license under Section 11 of this Act*** ~~[by one-half (1/2)]~~, but in no case ***shall the reduction reduce the period of ignition interlock use to*** less than twelve (12) months. The court may, upon a written

finding in the record for good cause shown, order such a period to be reduced ***to not***~~[ by one-half (1/2), but in no case]~~ less than twelve (12) months, if~~[ the following conditions are satisfied]~~:

(a) The person ***maintained a valid ignition interlock license and did***~~[shall]~~ not operate a motor vehicle or motorcycle without ***a functioning***~~[an]~~ ignition interlock device as provided for in ***Section 11 of this Act***~~[ KRS 189A.340(2)]~~;

(b) The person ***did***~~[shall]~~ not operate a motor vehicle or motorcycle ***in violation of any restrictions***~~[at any other time and for any other purposes than those]~~ specified by the court; and

(c) The ***functioning*** ignition interlock device ***was***~~[shall be]~~ installed on the motor vehicle or motorcycle for a period of time not less than ***twelve (12) months***~~[the applicable minimum period of revocation provided for]~~ under subsection (1)(b), (c), or (d) of this section~~[ nor for more than the respective maximum period of revocation provided for under subsection (1)(b), (c), or (d) of this section]~~.

(8) Upon a finding of a violation of any of the conditions specified in subsection (7) of this section or of the order permitting any reduction in a minimum period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the minimum period of revocation required under subsection (1)(b), (c), or (d) of this section.

➔Section 3. KRS 189A.085 is amended to read as follows:

(1) Unless***, at the final sentencing hearing of a person who has been convicted of a second or subsequent offense under KRS 189A.010, the person provides proof that the requirements of Section 11 of this Act have been met for issuance of an ignition interlock license***~~[ the court orders installation of an ignition interlock device under KRS 189A.340, upon the conviction of a second or subsequent offense of KRS 189A.010]~~, ***the***~~[ a]~~ person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person~~[ who has been convicted of a second or subsequent offense of KRS 189A.010(1)(a), (b), (c), (d), or (e)]~~ shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to operate a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

➔Section 4. KRS 189A.090 is amended to read as follows:

(1) No person shall operate or be in physical control of a motor vehicle while his ***or her*** license is revoked or suspended ***under KRS Chapter 189A, or upon the conclusion of a license revocation period pursuant to Section 8 of this Act***~~[ under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220]~~ ***unless the person has his or her valid ignition interlock license in the person's possession and the***~~[, or operate or be in physical control of a]~~ motor vehicle ***or motorcycle is equipped with***~~[ without]~~ a functioning ignition interlock device ***as required by Section 11 of this Act***~~[in violation of KRS 189A.345(1)]~~.

(2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section

shall:

(a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;

(b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;

(c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.

***(d) At the sole discretion of the court, in the interest of public safety and upon a written finding in the record for good cause shown, the court may order that, following any period of incarceration required for the conviction of an offense under paragraph (a), (b), or (c) of this subsection, the eligible person is authorized to apply for and the cabinet shall issue to the person an ignition interlock license for the remainder of the original period of suspension or revocation and for the entire period of the new revocation if the person is and remains otherwise eligible for such license.***

(3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.

(4) ~~[After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:~~

~~(a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);~~

~~(b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and~~

~~(c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.~~

~~(5) ]~~Upon a finding of a violation of any of the ***requirements of an ignition interlock license*** ~~[conditions specified in subsection (4) of this section or of the order permitting the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto]~~, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

➔Section 5. KRS 189A.105 is amended to read as follows:

(1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests ***his or her license will be suspended by the court at the time of arraignment, and*** he ***or she*** will be unable to obtain ***an ignition interlock license during the suspension period*** ~~[a hardship license]~~; and

2. That, if a test is taken, the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that ***although his or her license will be suspended, he or she may be eligible immediately for an ignition interlock license allowing him or her to drive during the period of suspension and, if he or she is convicted, he or she will receive a credit toward any other ignition interlock requirement arising from this arrest***~~[if the results of the test are 0.15 or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.15]~~; and

3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged with and convicted of an offense arising from the accident, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

➔Section 6. KRS 189A.107 is amended to read as follows:

(1) A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated KRS 189A.010(1) shall have his driver's license suspended by the court during the pendency of the action under KRS 189A.200 ***unless, at the time of arraignment, the person files a motion with the court waiving the right to judicial review of the suspension, after which the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under Section 11 of this Act for the period of the suspension. If the person complies with the requirements of Section 11 of this Act and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court-determined credit on a day-for-day basis for any subsequent ignition interlock requirement arising from the same incident***.

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) in a case in which it is alleged that he refused to take an alcohol concentration or substance test, upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by clear and convincing evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under KRS 189A.200 and 189A.220. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time within the time range specified that the license would have been suspended upon conviction as set forth in KRS 189A.070(1)***, except that the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under Section 11 of this Act for the period of the suspension. If the person complies with the requirements of Section 11 of this Act and is otherwise eligible,***

***the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and grant the person day-for-day credit for any subsequent ignition interlock requirement arising from the same incident***.

➔Section 7. KRS 189A.200 is amended to read as follows:

(1) The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1) who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest; or

(c) Was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review. ***If the person files a motion with the court waiving the right to judicial review of the suspension, the court, in its discretion, may authorize the person to apply to the cabinet for issuance of an ignition interlock license under Section 11 of this Act for the period of the suspension. If the person complies with Section 11 of this Act and is otherwise eligible, the cabinet shall issue the person an ignition interlock license for the remainder of the suspension period and apply the court-determined credit on a day-for-day basis for any subsequent ignition interlock requirement arising from the same incident.***

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court Clerk shall forthwith transmit to the Transportation Cabinet any license surrendered to him pursuant to this section.

(5) Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107. ***Nothing in this subsection shall prevent the person from filing a motion for, the court from granting, or the cabinet from issuing an ignition interlock license under subsection (2) of this section.***

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under KRS 189A.070 and 189A.107.

➔Section 8. KRS 189A.340 is amended to read as follows:

(1) ~~[In lieu of ordering license plate impoundment under KRS 189A.085 of a person convicted of a second or subsequent violation of KRS 189A.010, the court may order installation of an ignition interlock device as provided in this section as follows:~~

~~(a) ]~~Except as provided in ***subsection (4) of Section 11 of this Act***~~[ paragraph (d) of this subsection]~~, at the time that the court revokes a person's license under any provision of KRS 189A.070~~[ other than KRS 189A.070(1)(a)]~~, ***for an offense in violation of KRS 189A.010(a),(b),(e), or (f),*** the court shall also order that, at the conclusion of the license revocation, ***any license*** the person shall be ***issued shall restrict the person to***~~[prohibited from]~~ operating ***only a***~~[any]~~ motor vehicle or motorcycle ***equipped with***~~[without]~~ a functioning ignition interlock device.

***(a)***~~[(b)]~~ ***The ignition interlock periods shall be as follows:***

1. The first time in a five (5) year period~~[ that a person is penalized under this section]~~, a functioning ignition interlock device shall be installed for a period of six (6) months***, if at the time of offense, any of the aggravating circumstances listed under subsection (11) of KRS 189A.010 were present while the person was operating or in physical control of a motor vehicle***.

2. The second time in a five (5) year period~~[ that a person is penalized under this section]~~, a functioning ignition interlock device shall be installed for a period of twelve (12) months.

3. The third or subsequent time in a five (5) year period~~[ that a person is penalized under this section]~~, a functioning ignition interlock device shall be installed for a period of thirty (30) months.

~~[4. The person whose license has been suspended for a second or subsequent violation of KRS 189A.010 shall not be able to apply to the court for permission to install an ignition interlock device until the person has completed one (1) year of license suspension without any subsequent conviction for a violation of KRS 189A.010 or 189A.090. If the court grants permission to install an ignition interlock device, an ignition interlock device shall be installed on all vehicles owned or leased by the person whose license has been suspended.]~~

***(b)***~~[(c)]~~ In determining the five (5) year period under paragraph ***(a)***~~[ (b)]~~ of this subsection, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered, resulting in the license revocations described in KRS 189A.070.

~~[(d) If the court finds that a person is required to operate a motor vehicle or motorcycle in the course and scope of the person's employment and the motor vehicle or motorcycle is owned by the employer, then the court shall order that the person may operate that motor vehicle or motorcycle during regular working hours for the purposes of his or her employment without installation of a functioning ignition interlock device on that motor vehicle or motorcycle if the employer has been notified of the prohibition established under paragraphs (a), (b), and (c) of this subsection.~~

~~(2) Upon ordering the installation of a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:~~

~~(a) Transmit its order and other appropriate information to the Transportation Cabinet;~~

~~(b) Direct that the Transportation Cabinet records reflect:~~

~~1. That the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device, except as provided in paragraph (d) of subsection (1) of this section; and~~

~~2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (d) of subsection (1) of this section;~~

~~(c) Direct the Transportation Cabinet to attach or imprint a notation on the driver's license of any person restricted under this section stating that the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (d) of subsection (1) of this section applies, the notation shall indicate the exception;~~

~~(d) Require proof of the installation of the functioning ignition interlock device and periodic reporting by the person for the verification of the proper functioning of the device;~~

~~(e) Require the person to have the device serviced and monitored at least every thirty (30) days for proper functioning by an entity approved by the Transportation Cabinet; and~~

~~(f) Require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. The court may establish a payment schedule for the person to follow in paying the cost.~~

~~(3) The Transportation Cabinet shall:]~~

***(2) Nothing in this section limits:***

***(a) The person's right to apply for an ignition interlock license during any period of suspension or revocation arising from the same incident;***

***(b) The cabinet's authority to issue an ignition interlock license during any period of suspension or revocation arising from the same incident if the person meets all application requirements and is otherwise eligible for such license; or***

***(c) The person from receiving credit on a day-for-day basis toward any ignition interlock requirement in paragraph (a) of this subsection for any period the person held a valid ignition interlock license during any period of suspension or revocation arising from the same incident.***

***A person prohibited from operating any motor vehicle or motorcycle without a functioning ignition interlock device under paragraph (a) of subsection (1) of this section shall receive any court-determined credit on a day-for-day basis toward any such ignition interlock requirement for any period the person holds a valid ignition interlock license during any period of suspension or revocation arising from the same incident.***

~~[(a) Certify ignition interlock devices for use in this Commonwealth;~~

~~(b) Approve ignition interlock device installers who install functioning ignition interlock devices under the requirements of this section;~~

~~(c) Approve servicing and monitoring entities identified in paragraph (e) of subsection (2) of this section and require those entities to report on driving activity within seven (7) days of servicing and monitoring each ignition interlock device to the respective court, prosecuting attorney, and defendant;~~

~~(d) Publish and periodically update on the Transportation Cabinet Web site a list of the certified ignition interlock devices, the approved ignition interlock installers, and the approved servicing and monitoring entities;~~

~~(e) Develop a warning label that an ignition interlock device installer shall place on a functioning ignition interlock device before installing that device. The warning label shall warn of the penalties established in KRS 189A.345; and~~

~~(f) Promulgate administrative regulations to carry out the provisions of this subsection.]~~

➔Section 9. KRS 189A.345 is amended to read as follows:

(1) No person shall operate a motor vehicle or motorcycle without a functioning ignition interlock device when prohibited to do so under ***Section 11 of this Act***~~[ KRS 189A.340(1) or under KRS 189A.410(2)]~~.

(2) (a) No person shall start a motor vehicle or motorcycle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle or motorcycle to a person subject to the prohibition established in ***Section 11 of this Act***~~[ KRS 189A.340(1) or under KRS 189A.410(2)(b)]~~.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor.

(3) (a) No person shall:

1. Knowingly install a defective ignition interlock device on a motor vehicle or motorcycle; or

2. Tamper with an installed ignition interlock device with the intent of rendering it defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from installing ignition interlock devices or directing others in the installation of ignition interlock devices.

(4) (a) No person shall direct another person to install a defective ignition interlock device on a motor vehicle or motorcycle when the person giving the direction knows that the ignition interlock device is defective.

(b) Any person who violates paragraph (a) of this subsection shall:

1. For a first offense, be guilty of a Class B misdemeanor; and

2. For a second or subsequent offense, be guilty of a Class A misdemeanor and be prohibited from directing others in the installation of ignition interlock devices or installing ignition interlock devices.

➔Section 10. KRS 189A.400 is amended to read as follows:

(1) The District Court shall have exclusive jurisdiction over the issuance of ***ignition interlock and*** hardship licenses.

(2) The county attorney shall review applications submitted to the District Court and may object to the issuance of ***ignition interlock and***~~[ a]~~ hardship ***licenses***~~[license]~~.

➔Section 11. KRS 189A.420 is amended to read as follows:

***(1) A person shall be eligible for an ignition interlock license:***

***(a) During a period of license suspension under KRS Chapter 189A or upon the conclusion of a license revocation period pursuant to Section 8 of this Act; or***

***(b) If he or she was convicted pursuant to KRS 189A.010(1)(a), (b), (e), or (f) and has enrolled in and is actively participating or has completed, alcohol or substance treatment.***

***(2)*** Before ***authorizing a person to apply for an ignition interlock license***~~[granting hardship driving privileges]~~, the court shall order the ***person***~~[defendant]~~ to:

***(a)***~~[(1)]~~ Provide the court with proof of motor vehicle insurance;

***(b)***~~[(2)]~~ ***If necessary,*** provide the court with a written, sworn statement from his employer***, on a form provided by the cabinet,*** detailing~~[ his job, hours of employment, and]~~ the necessity for the defendant to use ***the employer's***~~[a]~~ motor vehicle~~[ either]~~ in his work ***at the direction of the employer during working hours, and acknowledging that the person is restricted from using an employer's nonignition interlock equipped vehicle until the expiration of thirty (30) days from the date of issuance of an ignition interlock license for a first offense or twelve (12) months from the date of issuance of an ignition interlock license for a second or subsequent offense in violation of KRS 189A.010***~~[or in travel to and from work (if the license is sought for employment purposes)]~~; ***and***

~~[(3) If the defendant is self-employed, to provide the information required in subsection (2) together with a sworn and notarized statement (under the penalties of false swearing) as to its truth;~~

~~(4) Provide the court with a written, sworn statement from the school or educational institution which he attends, of his class schedule, courses being undertaken, and the necessity for the defendant to use a motor vehicle in his travel to and from school or other educational institution (if the license is sought for educational purposes). Licenses for educational purposes shall not include participation in sports, social, extracurricular, fraternal, or other noneducational activities;~~

~~(5) Provide the court with a written, sworn statement from a physician, or other medical professional licensed (but not certified) under the laws of Kentucky, attesting to the defendant's normal hours of treatment, and the necessity to use a motor vehicle to travel to and from the treatment (if the license is sought for medical purposes);~~

~~(6) Provide the court with a written, sworn statement from the director of any alcohol or substance abuse education or treatment program as to the hours in which the defendant is expected to participate in the program, the nature of the program, and the necessity for the defendant to use a motor vehicle to travel to and from the program (if the license is sought for alcohol or substance abuse education or treatment purposes);~~

~~(7) Provide the court with a copy of any court order relating to treatment, participation in driver improvement programs, or other terms and conditions ordered by the court relating to the defendant which require the defendant to use a motor vehicle in traveling to and from the court-ordered program. The judge shall include in the order the necessity for the use of the motor vehicle; and]~~

***(c)***~~[(8)]~~ Provide to the court such other information as may be required by administrative regulation of the Transportation Cabinet.

***(3) No court shall grant authorization for a person to operate only motor vehicles or motorcycles equipped with a functioning ignition interlock device, unless and until the person:***

***(a) Provides proof that the person has been issued or has filed a completed application with the Transportation Cabinet for issuance of an ignition interlock license pursuant to Section 14 of this Act; and***

***(b) Provides a certificate of installation of an ignition interlock device issued by a certified ignition interlock device provider pursuant to Section 14 of this Act.***

***(4) Whenever the court grants authorization to apply for an ignition interlock license pursuant to this section,***

***the court through court order, shall:***

***(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device;***

***(b) Require that within the first thirty (30) days of installation of an ignition interlock device and every sixty (60) days thereafter, the person shall have the device serviced pursuant to the administrative regulations promulgated by the cabinet under Section 15 of this Act.***

***(c) If the requirements of paragraph (b) of subsection (2) of this section are met, allow that after the expiration of thirty (30) days from the date of issuance of an ignition interlock license for a first offense or twelve (12) months from the date of issuance of an ignition interlock license for a second or subsequent offense in violation of KRS 189A.010, the person may use an employer's nonignition interlock equipped vehicle as part of the employee's job duties if the person is to be authorized by the cabinet to use a nonignition interlock vehicle owned or leased by the employer as part of the employee's job duties.***

***(5) Upon authorizing a person to operate only motor vehicles or motorcycles equipped with a functioning ignition interlock device, the court, without a waiver or a stay of the following procedure, shall:***

***(a) Transmit its order and other appropriate information to the Transportation Cabinet;***

***(b) Direct that the Transportation Cabinet records reflect:***

***1. That during the applicable suspension or revocation period or upon the conclusion of a license revocation period, the person shall not operate a motor vehicle or motorcycle without a functioning ignition interlock device;***

***2. Whether the court has expressly permitted the person to operate a motor vehicle or motorcycle without a functioning ignition interlock device, as provided in paragraph (b) of subsection (2) of this section; and***

***3. Direct the Transportation Cabinet to issue to any person restricted pursuant to this section an ignition interlock license that states the person shall operate only a motor vehicle or motorcycle equipped with a functioning ignition interlock device. However, if the exception provided for in paragraph (b) of subsection (2) of this section applies, the license shall indicate the exception.***

***(6) All persons applying for an ignition interlock license shall pay a nonrefundable application fee to the Transportation Cabinet in an amount not to exceed the actual cost to the cabinet for issuing the ignition interlock license, but not to exceed two hundred dollars ($200).***

***(7) The court shall require the person to pay the reasonable cost of leasing or buying, installing, servicing, and monitoring the device. If the court determines that a defendant is indigent, the court may, based on a sliding scale established by the Supreme Court of Kentucky by rule, require the defendant to pay the costs imposed under this section in an amount that is less than the full amount of the costs associated with the lease, purchase, or installation of an ignition interlock device and associated servicing and monitoring fees. If a defendant pays to an ignition interlock provider the amount ordered by the court under this subsection, the provider shall accept the amount as payment in full. Neither the Commonwealth, Transportation Cabinet, or any unit of state or local government shall be responsible for payment of any costs associated with an ignition interlock device.***

➔Section 12. KRS 189A.440 is amended to read as follows:

(1) No ***person***~~[ defendant]~~ who is ***issued an ignition interlock license under Section 11 of this Act or***~~[permitted to have]~~ a hardship license shall operate a motor vehicle at any time, place, or for any purpose other than those authorized upon the face of the ***ignition interlock or*** hardship license ***issued under Section 16 of this Act***.

(2) Any defendant who violates the provisions of subsection (1) of this section is guilty of a Class A misdemeanor, and shall have his license revoked for the initial period of revocation plus an additional six (6) months.

(3) Any defendant or any other person who knowingly assists the defendant in making a false application statement is guilty of a Class A misdemeanor and shall have his motor vehicle or motorcycle operator's license revoked for six (6) months.

➔Section 13. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)***(a)*** ~~[(b)]~~, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), (d), or (e);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), (d), or (e) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

➔Section 14. KRS 189A.250 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)***(b)*** ~~[(c)]~~, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of KRS 189A.010;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010;

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1) as charged; and

(4) There is probable cause to believe that the person was involved in an accident that resulted in death or serious physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings.

➔SECTION 15. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

***(1) The Transportation Cabinet shall:***

***(a) Issue ignition interlock license application forms and other forms necessary for the implementation of ignition interlock licenses;***

***(b) Create a uniform certificate of installation to be provided to a defendant by an ignition interlock provider upon installation of a certified ignition interlock device;***

***(c) Create an ignition interlock license for issuance to any person granted authorization by the court to receive an ignition interlock license;***

***(d) Certify ignition interlock devices approved for use in the Commonwealth;***

***(e) Publish and periodically update on the Transportation Cabinet Web site a list of contact information, including a link to the Web site of each certified ignition interlock device provider, with the entity appearing first on the list changing on a statistically random basis each time a unique visitor visits the list of the approved ignition interlock installers and the approved servicing and monitoring entities; and***

***(f) Promulgate administrative regulations to carry out the provisions of this section.***

***(2) No model of ignition interlock device shall be certified for use in the Commonwealth unless it meets or exceeds standards promulgated by the Transportation Cabinet pursuant to this section.***

***(3) In bidding for the contract with the Transportation Cabinet to provide ignition interlock devices and servicing or monitoring or both, the ignition interlock provider shall take into account that some defendants will not be able to pay the full cost of the ignition interlock device or servicing and monitoring fees.***

***(4) Upon the effective date of this Act, any contract between the cabinet and an ignition interlock device provider shall include the following:***

***(a) A requirement that the provider accept reduced payments as a full payment for all purposes from persons determined to be indigent by a court authorizing the use of an ignition interlock device pursuant to subsection (7) of Section 11 of this Act;***

***(b) A requirement that no unit of state or local government and no public officer or employee shall be liable for the cost of purchasing or installing the ignition interlock device or associated costs;***

***(c) A requirement that the provider agree to a price for the cost of leasing or purchasing an ignition interlock device and any associated servicing or monitoring fees during the duration of the contract. This price shall not be increased but may be reduced during the duration of the contract;***

***(d) Requirements and standards for the servicing, inspection, and monitoring of the ignition interlock device;***

***(e) Provisions for training for service center technicians and clients;***

***(f) A requirement that the provider electronically transmit reports on driving activity within seven (7) days of servicing an ignition interlock device to the respective court, prosecuting attorney, and defendant;***

***(g) Requirements for a transition plan for the ignition interlock device provider before the provider leaves the state to ensure that continuous monitoring is achieved and to provide a minimum forty-five (45) day notice to the cabinet of any material change to the design of the ignition interlock device, or any changes to the vendor's installation, servicing, or monitoring capabilities;***

***(h) A requirement that, before beginning work, the ignition interlock device provider have and maintain insurance as approved by the cabinet, including vendor's public liability and property damage insurance, in an amount determined by the cabinet, that covers the cost of defects or problems with product design, materials, workmanship during manufacture, calibration, installation, device removal, or any use thereof;***

***(i) A provision requiring that an ignition interlock provider agree to hold harmless and indemnify any unit of state or local government, public officer, or employee from all claims, demands, and actions, as a result of damage or injury to persons or property which may arise, directly or indirectly, out of any action or omission by the ignition interlock provider relating to the installation, service, repair, use, or removal of an ignition interlock device;***

***(j) A requirement that a warning label to be affixed to each ignition interlock device upon installation. The label shall contain a warning that any person who tampers with, circumvents, or otherwise misuse the device commits a violation of law under KRS 189A.345; and***

***(k) A requirement that a provider will remove an ignition interlock device without cost, if the device is found to be defective.***

➔Section 16. KRS 189A.410 is amended to read as follows:

(1) At any time following the expiration of the minimum license suspension periods enumerated in***:***

***(a)*** KRS 189A.010(6)***; or***~~[,]~~

***(b) KRS*** 189A.070 ***for a violation of:***~~[, and 189A.107,]~~

***1. KRS 189A.010(1)(c) or (d); or***

***2. KRS 189A.010(1)(a), (b), or (e) for a first offense within a five (5) year period if, at the time of the offense, none of the aggravating circumstances enumerated under KRS 189A.010(11) were present while the person was operating or in control of a motor vehicle;***

the court may grant the person hardship driving privileges for the balance of the suspension period imposed by the court, upon written petition of the defendant, if ***the court***~~[ it]~~ finds reasonable cause to believe that revocation would hinder the person's ability to ***continue his employment; continue attending school or an educational institution; obtain necessary medical care; attend driver improvement, alcohol, or substance abuse education programs; or attend court-ordered counseling or other programs***~~[:~~

~~(a) Continue his employment;~~

~~(b) Continue attending school or an educational institution;~~

~~(c) Obtain necessary medical care;~~

~~(d) Attend driver improvement, alcohol, or substance abuse education programs; or~~

~~(e) Attend court-ordered counseling or other programs~~].

(2) ***Before granting hardship driving privileges, the court shall order the person to:***

***(a) Provide the court with proof of motor vehicle insurance;***

***(b) If necessary, provide the court with a written, sworn statement from his or her employer, on a form provided by the cabinet, detailing his or her job, hours of employment, and the necessity for the person to use the employer's motor vehicle either in his or her work at the direction of the employer during working hours, or in travel to and from work if the license is sought for employment purposes; and***

***(c) If the person is self-employed, to provide the information required in paragraph (b) of this subsection together with a sworn statement as to its truth;***

***(d) Provide the court with a written, sworn statement from the school or educational institution which he attends, of his or her class schedule, courses being undertaken, and the necessity for the person to use a motor vehicle in his travel to and from school or other educational institution if the license is sought for educational purposes. Licenses for educational purposes shall not include participation in sports, social, extracurricular, fraternal, or other noneducational activities;***

***(e) Provide the court with a written, sworn statement from a physician, or other medical professional licensed but not certified under the laws of Kentucky, attesting to the person's normal hours of treatment, and the necessity to use a motor vehicle to travel to and from the treatment if the license is sought for medical purposes;***

***(f) Provide the court with a written, sworn statement from the director of any alcohol or substance abuse education or treatment program as to the hours in which the person is expected to participate in the program, the nature of the program, and the necessity for the person to use a motor vehicle to travel to and from the program if the license is sought for alcohol or substance abuse education or treatment purposes;***

***(g) Provide the court with a copy of any court order relating to treatment, participation in driver improvement programs, or other terms and conditions ordered by the court relating to the person which require him or her to use a motor vehicle in traveling to and from the court-ordered program. The judge shall include in the order the necessity for the use of the motor vehicle; and***

***(h) Provide to the court any information as may be required by administrative regulation of the Transportation Cabinet***[~~Whenever the court grants a person hardship driving privileges under subsection (1) of this section, the court through court order, may:~~

~~(a) Prohibit the person from operating any motor vehicle or motorcycle without a functioning ignition interlock device;~~

~~(b) Require that the person comply with all of the requirements of KRS 189A.340, except for the requirements found in KRS 189A.340(1); and~~

~~(c) Require the person to install an ignition interlock device on every vehicle owned or leased by the person who is permitted to operate a motor vehicle under this section~~].

(3) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

**Signed by Governor April 6, 2015.**

## CHAPTER 125

**( HB 413 )**

AN ACT relating to reorganization.

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

➔Section 1. The General Assembly hereby confirms the Governor's Executive Order 2014-987, dated December 17, 2014, to the extent it is not otherwise confirmed or superseded by this Act, relating to the reorganization of the Department for Libraries and Archives in the Education and Workforce Development Cabinet. The reorganization establishes the Division of Library Services; abolishes the Division of State Library Services, the Division of Field Services, and the Division of Administrative Services; and renames the Division of Public Records to the Division of Archives and Records Management.

**Signed by Governor April 6, 2015.**

## CHAPTER 126

**( HB 428 )**

AN ACT relating to corrections.

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

➔Section 1. KRS 196.037 is amended to read as follows:

(1) All personnel of the department, while acting for the department in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.

(2) All department personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Department of Kentucky State Police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Department of Corrections or a detention facility of the Department of Corrections shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.

(3) Probation and parole officers, while acting for the department in any capacity entailing the maintenance of custody or supervision of any confined prisoner, paroled prisoner, escaped prisoner, probationer, or other person otherwise placed under their supervision shall have all the authority and powers of peace officers.

***(4) Internal affairs officers and supervisors of the department, while investigating any person in connection with an offense involving personnel of the department, employee of any contractor providing services to the department, confined prisoner, paroled prisoner, escaped prisoner, probationer, or other person otherwise placed under the supervision of the department, shall have all the authority and powers of peace officers.***

➔Section 2. KRS 186.412 is amended to read as follows:

(1) (a) A person who was under the age of eighteen (18) years at the time of application for an instruction permit and is eighteen (18) years of age or older may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days and has completed a driver training program under KRS 186.410(4).

(b) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days.

(c) A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. Except as provided in subsection (8)(b) and (c) of this section, the application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant

to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this

subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A personal identification card shall be valid for a period of four (4) years from the date of issuance, except that if the personal identification card is issued to a person who does not have a fixed, permanent address, then the personal identification card shall be valid for one (1) year from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Homeland Security, United States Bureau of Citizenship and Immigration Services is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.

(e) A personal identification card may be suspended or revoked if the person who was issued the card

presents false or misleading information to the cabinet when applying for the card.

(8) (a) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(b) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a released felony offender resides shall issue to any felony offender, if the felony offender is eligible, released from the Department of Corrections on home incarceration, parole, completed service of sentence, shock probation, or pardon, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth***, except for offenders born outside this state***;
2. A copy of the offender's resident record card and parole certificate or notice of discharge;
3. A photograph of the offender, printed on plastic card or paper; and
4. A release letter that shall contain the offender's:
   a. Full legal name, subject to the information available to the Department of Corrections;
   b. Discharge/release date;
   c. Signature;
   d. Social Security number;
   e. Date of birth;
   f. Present Kentucky address where he or she resides; and
   g. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the release letter and shall be responsible for paying the fee for the personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

(c) Upon receipt of proper documentation provided by the Department of Corrections, the circuit clerk of the county in which a felony offender resides shall issue to any felony offender, if the felony offender is eligible, probated or conditionally discharged by the court and under the supervision of the Division of Probation and Parole, a personal identification card or, if the felony offender is eligible, an operator's license. Proper documentation under this paragraph shall consist of:

1. The offender's certificate of birth***, except for offenders born outside this state***;
2. The offender's sentencing order;
3. A photograph of the offender, printed on plastic card or paper; and
4. A notarized release letter, signed by the supervising officer verifying the offender's status on supervision, that shall contain the offender's:
   a. Full legal name, subject to the information available to the Division of Probation and Parole;
   b. Signature;
   c. Social Security number;
   d. Date of birth;
   e. Present Kentucky address where he or she resides; and
   f. Physical description.

The offender shall present this documentation to the circuit clerk within thirty (30) calendar days from the date of the notarized release letter. The offender shall be responsible for paying the fee for the

personal identification card or operator's license pursuant to KRS 186.531. The provisions of this paragraph shall apply only to persons released on or after July 15, 2010.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) (a) If a citizen of the Commonwealth has been serving in the United States military stationed or assigned to a base or other location outside the boundaries of the Commonwealth and has allowed his or her operator's license to expire, he or she shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his or her license without having to take a written test or road test.

(b) A citizen who meets the criteria in paragraph (a) of this subsection shall not be convicted or cited for driving on an expired license prior to license renewal during the ninety (90) days after the person's return to the Commonwealth if the person can provide proof of his or her out-of-state service and dates of assignment.

(c) A citizen who meets the criteria in paragraph (a) of this subsection and who does not renew his or her license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired.

(d) If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.1917.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply

for and shall receive, for a fee of two dollars ($2) paid to the circuit clerk, two (2) medical insignia decals that may be affixed to the driver's side of the front windshield of a motor vehicle and to the driver's side of the rear window of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

(19) Any person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under conditions other than dishonorable, may, at the time of initial application or application for renewal or duplicate, request that an operator's license or a personal identification card issued under this section bear the word "veteran" on the face or the back of the license or personal identification card. The designation shall be in a style and format considered appropriate by the Transportation Cabinet. Prior to obtaining a designation requested under this subsection, the applicant shall present the circuit clerk with an original or copy of his or her DD-214 or DD-2 form as proof of veteran status. The circuit clerk shall not be liable for fraudulent or misread DD-214 or DD-2 forms presented.

➔Section 3. KRS 237.110 is amended to read as follows:

(1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.

(2) An original or renewal license issued pursuant to this section shall:

(a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;

(b) Unless revoked or suspended as provided by law, be valid for a period of five (5) years from the date of issuance;

(c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and

(d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.

(3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police, upon receipt of a completed application, applicable fees, and any documentation required by this section or administrative regulation promulgated by the Department of Kentucky State Police, shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:

(a) A state records check covering the items specified in this subsection, together with any other requirements of this section;

(b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check;

(c) A federal Immigration Alien Query if the person is an alien who has been lawfully admitted to the United States by the United States government or an agency thereof; and

(d) In addition to the Immigration Alien Query, if the applicant has not been lawfully admitted to the United States under permanent resident status, the Department of Kentucky State Police shall, if a doubt exists relating to an alien's eligibility to purchase a firearm, consult with the United States Department of Homeland Security, United States Department of Justice, United States Department of State, or other federal agency to confirm whether the alien is eligible to purchase a firearm in the United States, bring a firearm into the United States, or possess a firearm in the United States under federal law.

(4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:

(a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable federal or state law;

(b) 1. Is a citizen of the United States who is a resident of this Commonwealth;

2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky;

3. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, and is a resident of this Commonwealth; or

4. Is lawfully admitted to the United States by the United States government or an agency thereof, is permitted by federal law to purchase a firearm, is, at the time of the application, assigned to a military posting in Kentucky, and has been assigned to a posting in the Commonwealth;

(c) Is twenty-one (21) years of age or older;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services;

(g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue;

(h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and

(i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:

1. Be not more than eight (8) hours in length;

2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;

3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and

4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS

Chapter 503.

(5) (a) A legible photocopy or electronic copy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.

(b) Persons qualifying under subsection (6)(d) of this section may submit with their application:

1. At least one (1) of the following paper or electronic forms or their successor forms showing evidence of handgun training or handgun qualifications:

a. Department of Defense Form DD 2586;

b. Department of Defense Form DD 214;

c. Coast Guard Form CG 3029;

d. Department of the Army Form DA 88-R;

e. Department of the Army Form DA 5704-R;

f. Department of the Navy Form OPNAV 3591-1; or

g. Department of the Air Force Form AF 522; or

2. a. Documentary evidence of an honorable discharge; and

b. A notarized affidavit on a form provided by the Department of Kentucky State Police, signed under penalty of perjury, stating the person has met the training requirements of subsection (6)(d) of this section.

(6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.

(b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:

1. Any peace officer employed by a federal agency specified in KRS 61.365;

2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;

3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army National Guard or Air National Guard who has successfully completed the military law enforcement training course required by that branch of the military; and

4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.

(c) Corrections officers who are currently employed by ~~[a county containing ]~~a consolidated local government**,**~~[ or]~~ an urban-county government***, or the Department of Corrections*** who have successfully completed a basic firearms training course required for their employment, and corrections officers who were formerly employed by ~~[a county containing ]~~a consolidated local government**,**~~[ or]~~ an urban-county government***, or the Department of Corrections*** who are retired, and who successfully completed a basic firearms training course required for their employment, and are members of a state-administered retirement system or other retirement system operated by or for a city, county, or urban-county government in Kentucky shall be deemed to have met the training requirement.

(d) Active or honorably discharged service members in the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard shall be deemed to have met the training requirement if these persons:

1. Successfully completed handgun training which was conducted by the United States Army,

Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army National Guard or Air National Guard; or

2. Successfully completed handgun qualification within the United States Army, Navy, Marine Corps, Air Force, or Coast Guard, or a reserve component thereof, or of the Army Guard or Air Force National Guard.

(7) (a) 1. A paper application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from and submitted to the office of the sheriff in the county in which the person resides.

2. An applicant, in lieu of a paper application, may submit an electronic application for a license, or renewal of a license, to carry a concealed deadly weapon to the Department of Kentucky State Police.

3. Persons qualifying under subsection (6)(d) of this section shall be supplied the information in subsection (4)(i)4. of this section upon obtaining an application.

(b) 1. The completed paper application and any documentation required by this section plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides.

2. The sheriff shall transmit the paper application and accompanying material to the Department of Kentucky State Police within five (5) working days.

3. Twenty dollars ($20) of the paper application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons.

(c) 1. A completed electronic application submitted in lieu of a paper application, any documentation required by this section, and an application fee or renewal fee, as appropriate, of seventy dollars ($70) shall be presented to the Department of Kentucky State Police.

2. If an electronic application is submitted in lieu of a paper application, thirty dollars ($30) of the electronic application fee shall be retained by the Department of Kentucky State Police. Twenty dollars ($20) shall be sent to the office of the sheriff of the applicant's county of residence for official expenses of the office. Ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapon carry permits.

(d) A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council and who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020, or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county government in Kentucky, shall be exempt from paying the paper or electronic application or renewal fees.

(e) The application, whether paper or electronic, shall be completed, under oath, on a form or in a manner promulgated by the Department of Kentucky State Police by administrative regulation which shall include:

1. a. The name, address, place and date of birth, citizenship, gender, Social Security number of the applicant; and

b. If not a citizen of the United States, alien registration number if applicable, passport number, visa number, mother's maiden name, and other information necessary to determine the immigration status and eligibility to purchase a firearm under federal law of a person who is not a citizen of the United States;

2. A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;

3. A statement that the applicant, if qualifying under subsection (6)(c) of this section, has provided:

   a. At least one (1) of the forms listed in subsection (5) of this section; or

   b. i. Documentary evidence of an honorable discharge; and

      ii. A notarized affidavit on a form provided by the Department of Kentucky State Police stating the person has met the training requirements of subsection (6)(c) of this section;

4. A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

5. A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

6. A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(8) The applicant shall submit to the sheriff of the applicant's county of residence or county of military posting if submitting a paper application, or to the Department of Kentucky State Police if submitting an electronic application:

(a) A completed application as described in subsection (7) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation;

(c) A paper or electronic certificate or an affidavit or document as described in subsection (5) of this section;

(d) A paper or electronic document establishing the training exemption as described in subsection (6) of this section; and

(e) For an applicant who is not a citizen of the United States and has been lawfully admitted to the United States by the United States government or an agency thereof, an affidavit as prescribed by administrative regulation concerning his or her immigration status and his or her United States government issued:

1. Permanent Resident Card I-551 or its equivalent successor identification;

2. Other United States government issued evidence of lawful admission to the United States which includes the category of admission, if admission has not been granted as a permanent resident; and

3. Evidence of compliance with the provisions of 18 U.S.C. sec. 922(g)(5), 18 U.S.C. sec. 922(d)(5), or 18 U.S.C. sec. 922(y)(2), and 27 C.F.R. Part 178, including, as appropriate, but not limited to evidence of ninety (90) day residence in the Commonwealth, a valid current Kentucky hunting license if claiming exemption as a hunter, or other evidence of eligibility to purchase a firearm by an alien which is required by federal law or regulation.

If an applicant presents identification specified in this paragraph, the sheriff shall examine the identification, may record information from the identification presented, and shall return the identification to the applicant.

(9) The Department of Kentucky State Police shall, within sixty (60) days after the date of receipt of the items listed in subsection (8) of this section if the applicant submitted a paper application, or within fifteen (15) business days after the date of receipt of the items listed in subsection (8) of this section if the applicant applied electronically, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the

reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available to law enforcement agencies. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information to any requester not entitled to it by law.

(11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) for a paper request, or twenty-five dollars ($25) for an electronic request submitted in lieu of a paper request, to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.

(13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.

(b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.

(c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:

1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or

2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.

(d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.

(e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.

(f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.

(g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.

(h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.

(i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.

(j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.

(k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the paper renewal form, or by filing with the Department of Kentucky State Police an electronic renewal form in lieu of a paper renewal form, stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee set forth in subsection (7) of this section. The sheriff shall issue to the applicant a receipt for the paper application for renewal of the license and shall date the receipt. The Department of Kentucky State Police shall issue to the applicant a receipt for an electronic application for renewal of the license submitted in lieu of a paper application for renewal and shall date the receipt.

(b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.

(c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.

(15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court, but no court costs shall be assessed.

(16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.

(19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(20) (a) A person who is not a resident of Kentucky and who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.

(b) If a person with a valid license to carry a concealed deadly weapon issued from another state that has entered into a reciprocity agreement with the Department of Kentucky State Police becomes a resident of Kentucky, the license issued by the other state shall be considered as valid for the first one hundred twenty (120) days of the person's residence in Kentucky, if within sixty (60) days of moving to Kentucky, the person completes a form promulgated by the Department of Kentucky State Police which shall include:

1. A signed and notarized statement averring that to the best of his or her knowledge the person's

license to carry a concealed deadly weapon is valid and in compliance with applicable out-of-state law, and has not been revoked or suspended for any reason except for valid forfeiture due to departure from the issuing state;

2. The person's name, date of birth, citizenship, gender, Social Security number if applicable, proof that he or she is a citizen of the United States, a permanent resident of the United States, or otherwise lawfully present in the United States, former out-of-state address, current address within the state of Kentucky, date on which Kentucky residence began, state which issued the concealed carry license, the issuing state's concealed carry license number, and the state of issuance of license; and

3. A photocopy of the person's out-of-state license to carry a concealed deadly weapon.

(c) Within sixty (60) days of moving to Kentucky, the person shall deliver the form and accompanying documents by registered or certified mail, return receipt requested, to the address indicated on the form provided by the Department of Kentucky State Police pursuant to this subsection.

(d) The out-of-state concealed carry license shall become invalid in Kentucky upon the earlier of:

1. The out-of-state person having resided in Kentucky for more than one hundred twenty (120) days; or

2. The person being issued a Kentucky concealed deadly weapon license pursuant to this section.

(e) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every twelve (12) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each twelve (12) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;

(d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;

(e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

(h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;

2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and

3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;

(j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(k) The following shall be in effect:

1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;

2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

➔Section 4. KRS 441.064 is amended to read as follows:

(1) The department shall employ the jail consultants, inspectors, and other employees necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(2) The department shall inspect each jail biannually and may inspect jails more frequently.

(3) The department shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the department deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) Following an inspection of a jail, the department shall ***make notification of the inspection***~~[notify the jailer and the fiscal court]~~ by certified or electronic mail of any deficiencies which are discovered and documented. If the deficiencies are related to health or safety, the notification shall be sent within ten (10) working days, excluding weekends and holidays. The department shall submit an annual written report of the findings of its inspections and the condition of the jail to***:***~~[ the jailer and the fiscal court.]~~

***(a) The jailer and the fiscal court in counties where the jail is governed by the county;***

***(b) The jail administrator and the governing authority for a jail governed by an urban-county or metro government; and***

***(c) The jail administrator, the regional board authority, and the fiscal courts of the counties represented in counties where the jail is governed by a regional jail board.***

➔Section 5. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on ***communicable diseases***~~[the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health and Family Services]~~. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers

and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he or she shall not receive the expense allowance specified in subsection (2) of this section until he or she successfully completes the required training.

**Signed by Governor April 6, 2015.**

## CHAPTER 127

## ( HB 510 )

AN ACT amending the 2014-2016 executive branch and transportation cabinet biennial budgets, making an appropriation therefor, and declaring an emergency.

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

➔Section 1. 2014 Kentucky Acts Chapter 117, Part X, Phase I Tobacco Settlement, at pages 750 to 754, is amended to read as follows:

### PART X

### PHASE I TOBACCO SETTLEMENT

**(1) General Purpose:** This Part prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

**(2) State's MSA Share:** The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA are made to the states annually in April of each year.

**(3) MSA Payment Amount Variables:** The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

**(4) Distinct Identity of MSA Payment Deposits:** The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

**(5) MSA Payment Estimates and Adjustments:** Based on the current estimates as reviewed by the Consensus Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2014-2015 is $99,700,000 and in fiscal year 2015-2016 is $72,400,000. ~~[It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.]~~

***In addition to the above estimates, in June 2014, the Commonwealth reached a settlement with the participating manufacturers in regards to nonparticipating manufacturer adjustment disputes from 2003 to 2014. The settlement resulted in the Commonwealth receiving MSA payments of $159,400,000 in fiscal year 2013-2014. Due to the settlement being reached after the 2014 Regular Session, the General Assembly appropriated $90,800,000 in MSA payments for fiscal year 2013-2014**[, leaving $68,600,000 of the MSA payments unappropriated. The General Assembly hereby appropriates the $68,600,000 solely for the purposes identified in subsections (6) and (7) of this Part and separately identified in Part I of this Act for each budget unit, cabinet, and***

***~~program affected~~]**.***

***(6) MSA Appropriations - Fiscal Year 2014-2015: Based on the MSA payment estimate as well as the $68,600,000 of MSA payments **[~~unappropriated~~]** in fiscal year 2013-2014 as identified in subsection (5) of this Part, the following MSA payments are appropriated for fiscal year 2014-2015:***

**a. State Enforcement:** Notwithstanding KRS 248.654, ~~[a total of ]~~$250,000 ***in*** ~~[of the]~~ MSA payments~~[ received]~~ in ~~[each ]~~fiscal year ***2014-2015*** is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

**b. Debt Service:** Notwithstanding KRS 248.654 and 248.703(4), ~~[a total of]~~ $30,570,000 in MSA payments~~[ received]~~ in fiscal year 2014-2015~~[ and a total of $30,657,000 in MSA payments received in fiscal year 2015-2016]~~ is appropriated to the Finance and Administration Cabinet, Debt Service budget unit.

**c. Agricultural Development Initiatives:** Notwithstanding KRS 248.654 and 248.703(4), $37,701,600 ***in MSA payments*** in fiscal year 2014-2015~~[ and 12,821,200 in fiscal year 2015-2016]~~ is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

**d. Early Childhood Development Initiatives:** ***Notwithstanding KRS 248.654,*** ~~[twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2014-2015, estimated to be]~~ $24,198,900 ***in MSA payments in fiscal year 2014-2015***~~[, and notwithstanding KRS 248.654, in fiscal year 2015-2016, $24,198,900]~~ is appropriated for early childhood development initiatives as specified in this Part.

**e. Health Care Initiatives:** Notwithstanding KRS 248.654 ***and 304.17B-003(5)***, $9,159,000 ***in MSA payments*** in fiscal year 2014-2015~~[ and 6,652,400 in fiscal year 2015-2016]~~ is appropriated to the Health Care Improvement Fund for health care initiatives as specified in this Part.

***f. Deficit: If MSA payments received in fiscal year 2014-2015 are insufficient to support the enacted General Fund (Tobacco) appropriations for fiscal year 2014-2015, up to **[~~$26,600,000 of the~~]** $68,600,000 shall be appropriated in fiscal year 2014-2015 to keep appropriations at their enacted levels for fiscal year 2014-2015. Notwithstanding KRS 248.654, 248.703, and 304.17B-003(5), the remainder of the $68,600,000 shall remain in the Tobacco Settlement Agreement Fund and shall not be appropriated or expended without express authority in an enacted biennial budget. **[~~Should the MSA payment be less than $73,100,000 and a deficit between the MSA payments and the enacted appropriations still exists after appropriating the $26,600,000, General Fund (Tobacco) appropriation reductions shall be applied as follows: 50 percent to the Agricultural Development Fund, 25 percent to the Early Childhood Development Fund, and 25 percent to the Health Care Improvement Fund.~~]****

***g. Excess MSA Payments: Notwithstanding KRS 248.654, 248.703, and 304.17B-003(5), if MSA payments received in fiscal year 2014-2015 exceed the enacted General Fund (Tobacco) appropriations for fiscal year 2014-2015, the excess MSA payments shall remain in the Tobacco Settlement Agreement Fund and shall not be appropriated or expended without express authority in an enacted biennial budget.***

***(7) MSA Appropriations - Fiscal Year 2015-2016: Based on the MSA payment estimate as well as the remaining moneys from the $68,600,000 identified in subsections (5) and (6) of this Part, the following MSA payments are appropriated for fiscal year 2015-2016:***

***a. State Enforcement: Notwithstanding KRS 248.654, $250,000 in MSA payments in fiscal year 2015-2016 is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.***

***b. Debt Service: Notwithstanding KRS 248.654 and 248.703(4), $30,657,000 in MSA payments in fiscal year 2015-2016 is appropriated to the Finance and Administration Cabinet, Debt Service budget unit.***

***c. Agricultural Development Initiatives: Notwithstanding KRS 248.654 and 248.703(4), $33,821,200 in MSA payments in fiscal year 2015-2016 is appropriated to the Kentucky Agricultural Development Fund as specified in this Part. Of the $33,821,200, $21,000,000 shall come from the remaining MSA payments received in fiscal year 2013-2014. The $21,000,000 shall be appropriated in fiscal year 2015-2016 as follows:***

***1. $5,000,000 for the Governor's Office of Agricultural Policy to support state agricultural programs established in KRS 248.703(1)(b);***

***2. $5,000,000 for the Kentucky Agricultural Finance Corporation;***

***3. $6,000,000 for the counties account established in KRS 248.703(1)(a); and***

***4. $5,000,000 for the Energy and Environment Cabinet's Environmental Stewardship Program.***

***d. Early Childhood Development Initiatives: Notwithstanding KRS 248.654, $24,198,900 in MSA payments in fiscal year 2015-2016 is appropriated for early childhood development initiatives as specified in this Part.***

***e. Health Care Initiatives: Notwithstanding KRS 248.654 and 304.17B-003(5), $9,159,000 in MSA payments in fiscal year 2015-2016 is appropriated to the Health Care Improvement Fund for health care initiatives as specified in this Part. Of the $9,159,000, $2,506,600 shall come from the remaining MSA payments received in fiscal year 2013-2014. The $2,506,600 shall be appropriated in fiscal year 2015-2016 as follows:***

***1. $682,500 for the Cabinet for Health and Family Service's Smoking Cessation Program;***

***2. $459,100 for the Justice and Public Safety Cabinet's Office of Drug Control Policy; and***

***3. $1,365,000 for the Lung Cancer Research Fund.***

***f. Deficit: If MSA payments received in fiscal year 2015-2016 are less than $72,400,000, General Fund (Tobacco) appropriation reductions shall be applied as follows: 50 percent to the Agricultural Development Fund, 25 percent to the Early Childhood Development Fund, and 25 percent to the Health Care Improvement Fund.***

***g. Excess MSA Payments: Notwithstanding KRS 248.654, 248.703, and 304.17B-003(5), if MSA payments received in fiscal year 2015-2016 exceed $72,400,000, the excess MSA payments shall remain in the Tobacco Settlement Agreement Fund and shall not be appropriated or expended without express authority in an enacted biennial budget.***

~~**[(6) MSA Appropriation Adjustments:** Excluding any amounts received under Part X, (9), Nonparticipating Manufacturer Settlement Proceeds, if Phase I Master Settlement Agreement revenues exceed $99,700,000 in fiscal year 2014-2015, or $72,400,000 in fiscal year 2015-2016, these unanticipated revenues are hereby appropriated as follows: 50 percent to the Agricultural Development Fund, 25 percent to the Early Childhood Development Fund, and 25 percent to the Health Care Improvement Fund.~~

~~(7) MSA Appropriation Adjustment - Fiscal Year 2013-2014: The Consensus Forecasting Group reduced the fiscal year 2013-2014 Phase I Master Settlement Agreement revenue forecast by 50 percent from the enacted estimate of $90,800,000 to $45,400,000. The reduction in the MSA revenue estimate was based on the expectation that a nonparticipating manufacturer adjustment would be applied to the annual MSA payment in fiscal year 2013-2014. To accommodate this reduction in estimated revenues, the following fiscal year 2013-2014 appropriations and continuing appropriations are hereby reduced:~~

~~a. Agricultural Development: General Government – Governor's Office of Agricultural Policy, $14,379,300 in fiscal year 2013-2014; Energy and Environment Cabinet – Natural Resources, $2,938,600 ($2,500,000 in fiscal year 2013-2014 and $438,600, continuing appropriation); and Finance and Administration Cabinet – Debt Service, $5,806,300 in fiscal year 2013-2014.~~

~~b. Early Childhood Development: General Government – Governor's Office: $2,101,800 ($1,912,500 in fiscal year 2013-2014 and $189,300, continuing appropriation); Health and Family Services Cabinet – Community Based Services, $100,000 in fiscal year 2013-2014; Health and Family Services Cabinet – Public Health, $3,682,900 in fiscal year 2013-2014; Health and Family Services Cabinet – Behavioral Health, Developmental and Intellectual Disabilities, $75,600 in fiscal year 2013-2014; and Council on Postsecondary Education – Kentucky Higher Education Assistance Authority, $301,000 in fiscal year 2013-2014.~~

~~c. Health Care Improvement: Health and Family Services Cabinet – Public Health – Smoking Cessation, $839,400 in fiscal year 2013-2014; Justice and Public Safety Cabinet – Justice Administration, $47,100 in fiscal year 2013-2014; Health and Family Services Cabinet – Health Benefit Exchange – Kentucky Access, $14,657,300 in fiscal year 2013-2014; and Postsecondary Education – Council on Postsecondary Education, $442,000 in fiscal year 2013-2014.~~

~~(8) Kentucky Access: To accommodate the fiscal year 2013-2014 budget reduction associated with Kentucky Access, the Cabinet for Health and Family Services may use surplus, unexpended, or continuing appropriations from any source, excluding General Fund (Tobacco) dollars, within the Cabinet to fund the Kentucky Access program in fiscal year 2013-2014.~~

~~(9) Nonparticipating Manufacturer Settlement Proceeds: Notwithstanding KRS 248.654, in the event a settlement is reached between the Commonwealth and the participating manufacturers regarding the nonparticipating manufacturer adjustment issue, any settlement proceeds shall be deposited into the Tobacco Settlement Agreement Fund and shall not be expended without appropriation authority granted by the General Assembly.~~

~~(10) Fiscal Year 2013-2014 County Accounts: Due to the budget reduction actions specified in Part X, (7),~~

~~(a), the Governor's Office of Agricultural Policy shall transfer $6,000,000 in continuing appropriations to the county accounts in fiscal year 2013-2014.]~~

**A. STATE ENFORCEMENT**

**GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

***Notwithstanding KRS 248.654, appropriations for state enforcement shall be as follows:***

**1. FINANCE AND ADMINISTRATION CABINET**

| Budget Unit | | 2014-15 | 2015-16 |
|---|---|---|---|
| a. | Revenue | 250,000 | 250,000 |

**B. DEBT SERVICE**

**GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

***Notwithstanding KRS 248.654 and 248.703(4), appropriations for debt service shall be as follows:***

**1. FINANCE AND ADMINISTRATION CABINET**

| Budget Unit | | 2014-15 | 2015-16 |
|---|---|---|---|
| a. | Debt Service | 30,570,000 | 30,657,000 |

**(1) Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund.~~[ If revenues received from the Tobacco Settlement Program in fiscal year 2013-2014 are insufficient to support the required debt service appropriations, notwithstanding 2012 Ky. Acts ch. 144, Part X., B., no more than $5,751,000 of General Fund (Tobacco) moneys from the Governor's Office of Agricultural Policy shall be transferred to the Finance and Administration Cabinet, Debt Service budget unit to pay the necessary debt service.]~~ All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco-supported funding program accounts to other accounts of the General Fund.

**(2) General Fund (Tobacco) Debt Service Lapse:** Notwithstanding Part X~~[.]~~, (4), of this Act, $2,179,500 in fiscal year 2014-2015 and $2,179,500 in fiscal year 2015-2016 shall lapse.

**C. AGRICULTURAL DEVELOPMENT APPROPRIATIONS**

**GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

***Notwithstanding KRS 248.654 and 248.703(4), appropriations for agricultural development shall be as follows:***

**1. GENERAL GOVERNMENT**

| Budget Units | | 2014-15 | 2015-16 |
|---|---|---|---|
| a. | Governor's Office of Agricultural Policy | 31,101,600***28,221,200***~~[12,221,200]~~ | |

**(1) Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

**(2) Agricultural Development Appropriations:** Notwithstanding KRS 248.703(1), included in the above General Fund (Tobacco) appropriation is $19,350,000 in fiscal year 2014-2015 and $***15,850,000***~~[9,850,000]~~ in fiscal year 2015-2016, for the counties account as specified in KRS 248.703(1)(a). ***The additional $6,000,000 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)c. of this Act.***

***(3) Kentucky Agricultural Finance Corporation: Included in the above General Fund (Tobacco) appropriation is $5,000,000 in fiscal year 2015-2016 for the Kentucky Agricultural Finance Corporation. The $5,000,000 is provided from MSA moneys as detailed in Part X, (5) and (7)c. of this Act.***

| | | | |
|---|---|---|---|
| b. | Agriculture | 600,000 | 600,000 |

**(1) Farms to Food Banks:** Included in the above General Fund (Tobacco) appropriation is $600,000 in each fiscal year to support the Farms to Food Banks program to benefit both Kentucky farmers and the needy by

providing fresh, locally grown produce to food pantries.

**2. ENERGY AND ENVIRONMENT CABINET**

| **Budget Unit** | | **2014-15** | **2015-16** |
|---|---|---|---|
| a. | Natural Resources | 6,000,000 | ***5,000,000***~~[ 0 ]~~ |

**(1) Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is $6,000,000 in fiscal year 2014-2015 ***and $5,000,000 in fiscal year 2015-2016*** for the Environmental Stewardship Program. ***The $5,000,000 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)c. of this Act.***

| | | |
|---|---|---|
| TOTAL - AGRICULTURAL APPROPRIATIONS | 37,701,600***33,821,200***~~[12,821,200]~~ | |

**D. EARLY CHILDHOOD DEVELOPMENT**

**GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

***Notwithstanding KRS 248.654, appropriations for early childhood development shall be as follows:***

**1. GENERAL GOVERNMENT**

| **Budget Unit** | | **2014-15** | **2015-16** |
|---|---|---|---|
| a. | Office of the Governor | 1,912,500 | 1,912,500 |

**(1) Governor's Office for Early Childhood Development:** Included in the above General Fund (Tobacco) appropriation is $1,912,500 in fiscal year 2014-2015 and $1,912,500 in fiscal year 2015-2016 for the Early Childhood Advisory Council.

**2. CABINET FOR HEALTH AND FAMILY SERVICES**

| **Budget Units** | | **2014-15** | **2015-16** |
|---|---|---|---|
| a. | Community Based Services | 8,715,000 | 8,715,000 |

**(1) Early Childhood Development Program:** Included in the above General Fund (Tobacco) appropriation is $8,715,000 in each fiscal year for the Early Childhood Development Program.

| | | | |
|---|---|---|---|
| b. | Public Health | 11,580,000 | 11,580,000 |

**(1) HANDS Program, Healthy Start, Folic Acid Program, Early Childhood Mental Health, and Early Childhood Oral Health:** Included in the above General Fund (Tobacco) appropriation is $9,000,000 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program, $1,000,000 in each fiscal year for Healthy Start initiatives, $80,000 in each fiscal year for the Folic Acid Program, $1,000,000 in each fiscal year for Early Childhood Mental Health, and $500,000 in each fiscal year for Early Childhood Oral Health.

| | | | |
|---|---|---|---|
| c. | Behavioral Health, Developmental and Intellectual Disabilities Services | 891,400 | 891,400 |

**(1) Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is $891,400 in each fiscal year for substance abuse prevention and treatment.

**3. POSTSECONDARY EDUCATION**

| **Budget Unit** | | **2014-15** | **2015-16** |
|---|---|---|---|
| a. | Kentucky Higher Education Assistance Authority | 1,100,000 | 1,100,000 |

**(1) Early Childhood Scholarships:** Included in the above General Fund (Tobacco) appropriation is $1,100,000 in each fiscal year for Early Childhood Scholarships.

| | | |
|---|---|---|
| TOTAL - EARLY CHILDHOOD APPROPRIATIONS | 24,198,900 | 24,198,900 |

**E. HEALTH CARE IMPROVEMENT APPROPRIATIONS**

**GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS**

Notwithstanding KRS ***248.654 and*** 304.17B-003(5), appropriations for health care improvement shall be as follows:

**1. CABINET FOR HEALTH AND FAMILY SERVICES**

| **Budget Unit** | **2014-15** | **2015-16** |
|---|---|---|
| a. Public Health | 2,486,300 | ***2,486,300***~~[1,803,800]~~ |

**(1) Smoking Cessation Program:** Included in the above General Fund (Tobacco) appropriation is $2,486,300 in fiscal year 2014-2015 and ***$2,486,300***~~[$1,803,800]~~ in fiscal year 2015-2016 for the Smoking Cessation Program. ***The additional $682,500 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)e. of this Act.***

**2. JUSTICE AND PUBLIC SAFETY CABINET**

| **Budget Unit** | **2014-15** | **2015-16** |
|---|---|---|
| a. Justice Administration | 1,700,200 | ***1,700,200***~~[1,241,100]~~ |

**(1) Office of Drug Control Policy:** Included in the above General Fund (Tobacco) appropriation is $1,700,200 in fiscal year 2014-2015 and ***$1,700,200***~~[$1,241,100]~~ in fiscal year 2015-2016 for the Office of Drug Control Policy. ***The additional $459,100 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)e. of this Act.***

**3. POSTSECONDARY EDUCATION**

| **Budget Unit** | **2014-15** | **2015-16** |
|---|---|---|
| a. Council on Postsecondary Education | 4,972,500 | ***4,972,500***~~[3,607,500]~~ |

**(1) Ovarian Cancer Screening:** Notwithstanding KRS 164.476, General Fund (Tobacco) moneys in the amount of ***$800,000***~~[$775,000]~~ in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

***(2) Lung Cancer Research Fund: Included in the above General Fund (Tobacco) appropriation is $4,972,500 in fiscal year 2015-2016. The additional $1,365,000 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)e. of this Act.***

| | | |
|---|---|---|
| TOTAL - HEALTH CARE APPROPRIATIONS | 9,159,000 | ***9,159,000***~~[6,652,400]~~ |
| TOTAL - PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM | 101,879,500 | ***98,086,100***~~[74,579,500]~~ |

➔Section 2. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; A. General Government; 6. Governor's Office of Agricultural Policy, at pages 610 to 611, is amended to read as follows:

**6. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY**

| | **2014-15** | **2015-16** |
|---|---|---|
| General Fund (Tobacco) | 31,101,600 | ***28,221,200***~~[12,221,200]~~ |
| Restricted Funds | 843,800 | 553,500 |
| TOTAL | 31,945,400 | ***28,774,700***~~[12,774,700]~~ |

**(1) Kentucky Agricultural Finance Corporation:** Notwithstanding KRS 247.978(2), the total amount of principal which a qualified applicant may owe the Kentucky Agricultural Finance Corporation at any one time shall not exceed $5,000,000. ***Included in the above General Fund (Tobacco) appropriation is $5,000,000 in fiscal year 2015-2016 for the Kentucky Agricultural Finance Corporation. The $5,000,000 is provided from MSA moneys as detailed in Part X, (5) and (7)c. of this Act.***

**(2) Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

**(3) Agricultural Development Appropriations:** Notwithstanding KRS 248.703(1), included in the above General Fund (Tobacco) appropriation is $19,350,000 in fiscal year 2014-2015 and $***15,850,000***~~[9,850,000]~~ in fiscal year 2015-2016 for the counties account as specified in KRS 248.703(1)(a). ***The additional $6,000,000 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)c. of this Act.***

**(4) Appropriation of Unexpended Tobacco Debt Service:** Any unexpended balance from the fiscal year 2014-2015 or the fiscal year 2015-2016 General Fund (Tobacco) debt service appropriation in the Finance and Administration Cabinet, Debt Service budget unit, shall continue and be appropriated to the Governor's Office for Agricultural Policy.

➔Section 3. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; E. Energy and Environment Cabinet; 3. Natural Resources, at pages 637 to 638, is amended to read as follows:

**3. NATURAL RESOURCES**

| | 2013-14 | 2014-15 | 2015-16 |
|---|---|---|---|
| General Fund (Tobacco) | -0- | 6,000,000 | ***5,000,000*** ~~[ 0 ]~~ |
| General Fund | 742,600 | 32,882,900 | 33,579,600 |
| Restricted Funds | -0- | 16,431,700 | 16,342,400 |
| Federal Funds | -0- | 56,091,300 | 56,453,100 |
| TOTAL | 742,600 | 111,405,900 ***111,375,100*** ~~[106,375,100]~~ | |

**(1) Emergency Forest Fire Suppression:** Not less than $240,000 of the above General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of $240,000. Fire suppression costs in excess of $240,000 annually shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

**(2) Mine Safety:** Notwithstanding KRS 42.4592, included in the above General Fund appropriation is $3,219,800 in each fiscal year from the Local Government Economic Development Fund for the Office of Mine Safety and Licensing. Notwithstanding KRS 351.140, the number of mandatory mine safety inspections to be carried out by the Office of Mine Safety and Licensing shall be equal to the number of mine safety inspections required annually by the Mine Safety and Health Administration.

**(3) Conservation Districts:** Included in the above General Fund appropriation is $950,000 in each fiscal year for the Division of Conservation to provide direct aid to local conservation districts.

**(4) Forestry Tree Nurseries:** Included in the above Restricted Funds appropriation is $250,000 in each fiscal year for the Department of Natural Resources' tree nursery programs in Morgan County and Marshall County.

**(5) Division of Oil and Gas:** Notwithstanding KRS 42.4588, included in the above Restricted Funds appropriation is $25,000 in each fiscal year for the Division of Oil and Gas within the Department for Natural Resources for an update of the Best Practices Manual.

***(6) Environmental Stewardship Program: Included in the above General Fund (Tobacco) appropriation is $5,000,000 in fiscal year 2015-2016 for the Environmental Stewardship Program. The $5,000,000 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)c. of this Act.***

➔Section 4. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; G. Health and Family Services Cabinet; 5. Public Health, at pages 645 to 646, is amended to read as follows:

**5. PUBLIC HEALTH**

| | 2014-15 | 2015-16 |
|---|---|---|
| General Fund (Tobacco) | 14,066,300 ***14,066,300*** ~~[13,383,800]~~ | |
| General Fund | 68,820,000 | 71,111,300 |
| Restricted Funds | 97,016,400 | 97,160,000 |
| Federal Funds | 199,916,700 | 186,493,400 |
| TOTAL | 379,819,400 ***368,831,000*** ~~[368,148,500]~~ | |

**(1) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $9,000,000 in each fiscal year for the Health Access Nurturing Development Services Program, $1,000,000 in each fiscal year for Healthy Start initiatives, $80,000 in each fiscal year for Folic Acid Program, $1,000,000 in each fiscal year for Early Childhood Mental Health, $500,000 in each fiscal year for Early Childhood Oral Health, and

$2,486,300 in fiscal year 2014-2015 and $***2,486,300***~~[1,803,800]~~ in fiscal year 2015-2016 for Smoking Cessation. ***The additional $682,500 in fiscal year 2015-2016 for Smoking Cessation is provided from MSA moneys as detailed in Part X, (5) and (7)e. of this Act.***

**(2) Local and District Health Department Retirement Cost Increase:** Included in the above General Fund appropriation is a total of $17,909,700 in each fiscal year for Local and District Health Departments to assist them with employer contributions for the Kentucky Employees Retirement System. Of that amount, $14,615,600 is to fully fund the increase in employer contribution rates in both fiscal years. In July and January of each year the Department for Public Health shall obtain the total creditable compensation reported by each Local and District Health Department Board to the Kentucky Retirement System and utilize that number to determine how much of this total appropriation shall be distributed to each Department. Payments to the Departments shall be made on September 1 and April 1 of each fiscal year.

**(3) Debt Service:** Included in the above General Fund appropriation is $212,500 in fiscal year 2014-2015 and $425,000 in fiscal year 2015-2016 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

**(4) Local and District Health Department Payments:** The Department for Public Health shall not interfere with the ability of a local or district health department to receive reimbursement for services provided. The Department for Public Health shall submit to the Department for Medicaid Services and the Medicaid Managed Care Organizations all requests for payment for services received from a local or district health department.

**(5) Diabetes Services:** Included in the above General Fund appropriation is $2,600,000 in each fiscal year for continuation of base services through Local and District Health Departments.

➔Section 5. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; H. Justice and Public Safety Cabinet; 1. Justice Administration, at page 648, is amended to read as follows:

**1. JUSTICE ADMINISTRATION**

| | **2014-15** | **2015-16** |
|---|---|---|
| General Fund (Tobacco) | 1,700,200 | ***1,700,200***~~[1,241,100]~~ |
| General Fund | 11,095,700 | 11,210,300 |
| Restricted Funds | 3,893,500 | 3,814,600 |
| Federal Funds | 11,135,600 | 11,135,600 |
| TOTAL | 27,825,000 | ***27,860,700***~~[27,401,600]~~ |

**(1) Operation Unite:** Included in the above Restricted Funds appropriation is $2,000,000 in each fiscal year for Operation Unite.

**(2) Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $1,700,200 in fiscal year 2014-2015 and $***1,700,200***~~[1,241,100]~~ in fiscal year 2015-2016 for the Office of Drug Control Policy. ***The additional $459,100 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)e. of this Act.***

**(3) Kentucky Legal Education Opportunity Program:** Included in the above General Fund appropriation is $250,000 in each fiscal year for the Kentucky Legal Education Opportunity Program. All Kentucky law schools may participate in the program, but the summer institute shall be held on the campus of the University of Kentucky.

**(4) Madisonville Medical Examiner's Office:** Included in the above General Fund appropriation is $327,200 in each fiscal year for the operation of the Madisonville Medical Examiner's Office. The office shall not be relocated or closed during the 2014-2016 biennium.

**(5) Court Appointed Special Advocates:** Included in the above General Fund appropriation is $25,000 in fiscal year 2014-2015 for Court Appointed Special Advocates in Hardin County.

**(6) Public Safety First Programs:** Included in the appropriations for the Justice and Public Safety Cabinet is $1,100,000 in each fiscal year for Public Safety First programs. Expenditure of these funds may be from a combination of any of the following appropriation units: Justice Administration, State Police, Corrections Management, Adult Correctional Institutions, and Community Services and Local Facilities.

➔Section 6. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; K. Postsecondary Education; 1. Council on Postsecondary Education, at pages 655 to 656, is amended to read as follows:

**1. COUNCIL ON POSTSECONDARY EDUCATION**

| | 2013-14 | 2014-15 | 2015-16 |
|---|---|---|---|
| General Fund (Tobacco) | -0- | 4,972,500 | ***4,972,500***~~[3,607,500]~~ |
| General Fund | -0- | 45,489,900 | 71,405,000 |
| Restricted Funds | 293,800 | 6,022,400 | 6,027,600 |
| Federal Funds | -0- | 18,073,800 | 18,102,500 |
| TOTAL | 293,800 | 74,558,600 | ***100,507,600***~~[99,142,600]~~ |

**(1) Carry Forward of General Fund Appropriation Balance:** Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2013-2014 and fiscal year 2014-2015 to the Adult Education and Literacy Funding Program shall not lapse and shall carry forward.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2013-2014 and fiscal year 2014-2015 to the Science and Technology Funding Program shall not lapse and shall carry forward.

**(2) Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts:** Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

**(3) Ovarian Cancer Screening:** Notwithstanding KRS 164.476(1), General Fund (Tobacco) moneys in the amount of ***$800,000***~~[$775,000]~~ in each fiscal year shall be allotted from the Lung Cancer Research Fund to the Ovarian Cancer Screening Outreach Program at the University of Kentucky.

**(4) Debt Service:** Included in the above General Fund appropriation is $2,940,500 in fiscal year 2014-2015 and $28,491,500 in fiscal year 2015-2016 for new debt service to support new bonds as set forth in Part II, Capital Projects Budget, of this Act.

**(5) Postsecondary Education Debt:** Notwithstanding KRS 45.750 to 45.810, in order to lower the cost of borrowing, any university that has issued or caused to be issued debt obligations through a not-for-profit corporation or a municipality or county government for which the rental or use payments of the university substantially meet the debt service requirements of those debt obligations is authorized to refinance those debt obligations if the principal amount of the debt obligations is not increased and the rental payments of the university are not increased. Any funds used by a university to meet debt obligations issued by a university pursuant to this subsection shall be subject to interception of state-appropriated funds pursuant to KRS 164A.608.

**(6) Washington D.C. Internship Program:** Included in the above General Fund appropriation are funds in each fiscal year for scholarships to the Washington Center for Internships and Academic Seminars.

**(7) Adult Education:** Included in the above General Fund appropriation are funds in each fiscal year for the Kentucky Adult Education Funding Program.

**(8) Contract Spaces:** Included in the above General Fund appropriation is $5,419,000 in fiscal year 2014-2015 and $5,680,100 in fiscal year 2015-2016 for the Contract Spaces Program.

**(9) Veterinary Medicine:** If General Fund appropriations are not sufficient to fully fund 164 veterinary slots, the Council on Postsecondary Education shall fully fund the 164 slots out of the Council's base budget.

**(10) Optometry Slots:** If General Fund appropriations are not sufficient to fully fund 44 optometry slots, the Council on Postsecondary Education shall fully fund the 44 slots out of the Council's base budget. The Council on Postsecondary Education shall conduct a study on the effect that the licensure and accreditation of any school of optometry within the Commonwealth would have on the Contract Spaces Program. The Council on Postsecondary Education shall submit a report containing the results of this study to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Education by December 1, 2015.

**(11) Council Presidential Compensation:** Notwithstanding KRS 164.013(6), the Council on Postsecondary Education shall set the salary of the President at an amount no greater than the salary he was receiving on January 1, 2012.

***(12) Lung Cancer Research Fund: Included in the above General Fund (Tobacco) appropriation is $4,972,500 in fiscal year 2015-2016. The additional $1,365,000 in fiscal year 2015-2016 is provided from MSA moneys as detailed in Part X, (5) and (7)e. of this Act.***

➔Section 7. 2014 Kentucky Acts Chapter 117, Part VI, General Fund Budget Reduction Plan, at pages 749 to 750, is amended to read as follows:

**PART VI**

**GENERAL FUND BUDGET REDUCTION PLAN**

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected revenue shortfall in General Fund revenue receipts, excluding Tobacco Settlement – Phase I receipts, of $9,801,299,200 in fiscal year 2014-2015 and $10,067,223,600 in fiscal year 2015-2016, as determined by KRS 48.120 and modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected revenue shortfall.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary, as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

Notwithstanding KRS 48.130(4)(a) and (b), in the event of a revenue shortfall of five percent or less, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act;

(2) Transfers of excess unappropriated Restricted Funds, notwithstanding any statutes to the contrary, other than fiduciary funds, to the General Fund shall be applied as determined by the head of each branch for its respective budget units. No transfers to the General Fund shall be made from the following:

(a) Local Government Economic Assistance and Local Government Economic Development Funds;

(b) ~~[Unexpended debt service from the ]~~Tobacco-Settlement Phase I Funds***, including but not limited to unexpended debt service and the Tobacco Unbudgeted Interest Income-Rural Development Trust Fund,*** in either fiscal year; ***and***

(c) ~~[Tobacco Unbudgeted Interest Income-Rural Development Trust Fund; and~~

~~(d) ]~~Multi-County Coal Severance Fund;

(3) ~~[Any unanticipated Phase I Master Settlement Agreement revenues in both fiscal years shall be appropriated according to KRS 248.654;~~

~~(4) ]~~Use of the unappropriated balance of the General Fund surplus shall be applied;

***(4)*** ~~[(6)]~~ Reduce General Fund appropriations in Executive Branch agencies' operating budget units by a sufficient amount to balance either fiscal year. No reductions of General Fund appropriations shall be made from the Local Government Economic Assistance Fund or the Local Government Economic Development Fund;

***(5)*** ~~[(8)]~~ Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth;

***(6)*** ~~[(9)]~~ Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the Trust Fund balance in fiscal year 2014-2015 and 50 percent in fiscal year 2015-2016; and

***(7)*** ~~[(10)]~~ Pursuant to KRS 48.130 and 48.600, if the actions contained in subsections (1) to ***(6)*** ~~[(5)]~~ of this Part are insufficient to eliminate an actual or projected General Fund revenue shortfall, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the

budget by such actions conforming with the criteria expressed in this Part.

➔Section 8. 2014 Kentucky Acts Chapter 117, Part III, General Provisions, after 44. Debt Service Template Interest Rates, at page 743, is amended by inserting the following:

***45. Permitted Use of Water and Sewer Bond Funds: Notwithstanding Part II, (3) of this Act and any statute to the contrary, any balances remaining for either closed or open project grant agreements authorized pursuant to bond pools set forth in 2003 Ky. Acts ch. 156, Part II, A., 3., d. Water and Sewer Resources Development Fund for Tobacco Counties and e. Water and Sewer Resources Development Fund For Coal Producing Counties, 2005 Ky. Acts ch. 173, Part II, A., 3., 003. Infrastructure for Economic Development Fund for Coal-Producing Counties and 004. Infrastructure for Economic Development Fund for Tobacco Counties, 2006 Ky. Acts ch. 252, Part II, A., 2., 003. Infrastructure for Economic Development Fund for Non-Coal Producing Counties and 004. Infrastructure for Economic Development Fund for Coal-Producing Counties, 2008 Ky. Acts ch. 123, Section 3., 004. Infrastructure for Economic Development Fund for Coal-Producing Counties and 005. Infrastructure for Economic Development Fund for Non-Coal Producing Counties, and 2008 Ky. Acts ch. 174, Section 2. and 2009 Ky. Acts ch. 87, Section 2. shall not lapse and shall remain to the credit of projects previously authorized by the General Assembly unless expressly reauthorized and reallocated by action of the General Assembly.***

➔Section 9. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; C. Department of Education; 1. Support Education Excellence in Kentucky (SEEK) Program, at pages 625 to 628, is amended to read as follows:

**1. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM**

| | **2014-15** | **2015-16** |
|---|---|---|
| General Fund | 2,972,270,700 | 3,009,490,600 |

**(1) Common School Fund Earnings:** Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

**(2) Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the above General Fund and Federal Funds appropriations to the base SEEK Program are intended to provide a base guarantee of $3,911 per student in average daily attendance in fiscal year 2014-2015 and $3,981 per student in average daily attendance in fiscal year 2015-2016 as well as to meet the other requirements of KRS 157.360. In accordance with KRS 157.390(3), $100 of the base per pupil guarantee shall be for capital outlay purposes.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose, except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with the approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act and KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

**(3) Local School District Certified and Classified Employee Pay Increases:** Notwithstanding KRS 157.420(2), local school districts shall provide all certified and classified staff a salary or compensation increase of not less than one percent in fiscal year 2014-2015, and an additional salary or compensation increase of not less than two percent in fiscal year 2015-2016. The salary increase for certified staff shall be in addition to the normal rank and step increase attained by certified personnel employed by local school districts. Classified staff employed by a local board of education that work less than full-time shall receive a pro rata share of the salary increase based on terms of their employment.

**(4) Base SEEK Allotments:** Notwithstanding KRS 157.420(2), included in the above General Fund appropriation is $2,069,514,800 in fiscal year 2014-2015 and $2,103,805,900 in fiscal year 2015-2016 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is $214,752,800 in each fiscal year for pupil transportation.

**(5) Tier I Component:** Included in the above General Fund appropriation is $170,476,000 in fiscal year 2014-2015 and $168,116,200 in fiscal year 2015-2016 for the Tier I component as established by KRS 157.440.

**(6) Vocational Transportation:** Included in the above General Fund appropriation is $2,416,900 in each fiscal year for vocational transportation.

**(7) Secondary Vocational Education:** Included in the above General Fund appropriation is $22,866,900 in fiscal year 2014-2015 and $22,881,900 in fiscal year 2015-2016 to provide secondary vocational education in state-operated vocational schools.

**(8) Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is $372,278,100 in fiscal year 2014-2015 and $380,489,300 in fiscal year 2015-2016 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

**(9) Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above General Fund appropriation is $2,750,000 in each fiscal year for the purpose of providing salary supplements for public school teachers attaining certification by the National Board for Professional Teaching Standards. Notwithstanding the provisions of KRS 157.395, if the appropriation is insufficient to provide the mandated salary supplement for teachers who have obtained this certification, the Department of Education is authorized to pro rata reduce the supplement.

**(10) Final SEEK Calculation:** Notwithstanding KRS 157.410, on or before March 1 of each year, the Commissioner of Education shall determine the exact amount of the public common school fund to which each district is entitled, and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

**(11) SEEK Adjustment Factors:** Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

**(12) Facilities Support Program of Kentucky/Equalized Nickel Levies:** Included in the above General Fund appropriation is $76,315,900 in fiscal year 2014-2015 and $73,953,700 in fiscal year 2015-2016 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620.

**(13) Growth Levy Equalization Funding:** Included in the above General Fund appropriation is $16,823,600 in fiscal year 2014-2015 and $16,659,300 in fiscal year 2015-2016 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620, for districts meeting the eligibility requirements of KRS 157.621(1) and (4).

**(14) Retroactive Equalized Facility Funding:** Included in the above General Fund appropriation is $10,753,400 in fiscal year 2014-2015 and $10,741,700 in fiscal year 2015-2016 to provide equalized facility funding pursuant to KRS 157.440 and 157.620 to districts meeting the eligibility requirements of KRS 157.621(2) and (4). In addition, a local board of education that levied a tax rate subject to recall by January 1, 2014, in addition to the five cents levied pursuant to KRS 157.440(1)(b) and that committed the receipts to debt service, new facilities, or major renovations of existing facilities shall be eligible for equalization funds from the state at 150 percent of the statewide average per pupil assessment. Revenue to generate the five cent equivalent levy may be obtained from levies on property, motor vehicles, or the taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, and 160.635 to 160.648 if the levy was dedicated to facilities funding at the time of the levy. The equalization funds shall be used as provided in KRS 157.440(1)(b). For the 2014-2016 fiscal biennium, school districts that levied the tax rate subject to recall prior to September 1, 2012, and began collecting the tax in fiscal year 2012-2013 shall be equalized at 100 percent of the calculated equalization funding, and school districts that levied the tax rate subject to recall after September 1, 2012, and began collecting the tax in the following fiscal year shall be equalized at 25 percent of the calculated equalization funding in each fiscal year. It is the intent of the 2014 General Assembly that any local school district receiving partial equalization under this subsection in the 2014-2016 fiscal biennium shall receive full calculated equalization in the 2016-2018 fiscal biennium and thereafter.

**(15) Equalized Facility Funding:** Included in the above General Fund appropriation is $6,271,500 in fiscal year 2014-2015 and $6,096,100 in fiscal year 2015-2016 to provide equalized facility funding pursuant to KRS 157.420 and 157.620 to districts meeting the eligibility requirements of KRS 157.621(3) and (4).

**(16) BRAC Equalized Facility Funding:** Included in the above General Fund appropriation is $1,719,100 in fiscal year 2014-2015 and $1,658,800 in fiscal year 2015-2016 to provide equalized facility funding to school districts meeting the eligibility requirements of KRS 157.621(1)(c) pursuant to KRS 157.440 and 157.620.

**(17) Instructional Days:** Notwithstanding KRS 158.070, the school term for fiscal year 2014-2015 and

fiscal year 2015-2016 shall include the equivalent of 177 six-hour instructional days. Districts may exceed 177 six-hour instructional days.

**(18) Hold-Harmless Guarantee:** A modified hold-harmless guarantee is established in fiscal biennium 2014-2016 which provides that every local school district shall receive at least the same amount of Support Education Excellence in Kentucky (SEEK) state funding per pupil as was received in fiscal year 1991-1992. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, and allotments to local school districts are reduced in accordance with KRS 157.430, allocations to school districts subject to this provision shall not be reduced.

**(19) Equalization Funding for Critical Construction Needs Schools:** (a) Included in the above General Fund appropriation is $5,331,800 in fiscal year 2014-2015 and $5,168,000 in fiscal year 2015-2016 to provide equalization funding for school districts that have school facilities classified as Category 5 on May 18, 2010, by the Department of Education; Sheldon Clark High School in Martin County, which has been determined to be structurally unsound by a certified engineer; Magoffin County Schools, which have serious space limitations as a result of tornado damage; Carlisle County Elementary School, which is the A1 school determined to be in the poorest condition in the state according to the Parsons/MGT Report of November 2011; and school districts that have levied an additional five cents equivalent tax rate for debt service, new construction, and major renovation beyond the five cents equivalent tax rate required by KRS 157.440(1)(b), except as provided in paragraph (c) of this subsection. Equalization shall be provided at 150 percent of the statewide average per pupil assessment beginning in the fiscal year following the fiscal year in which the levy is imposed. This levy shall be subject to the recall provisions of KRS 132.017. Local school districts that have schools rated in poor condition in the Parsons/MGT Report of November 2011 are encouraged to levy an additional five cents equivalent tax rate for debt service, new construction, and major renovation beyond the five cents equivalent tax rate required by KRS 157.440(1)(b), except as provided in paragraph (c) of this subsection in anticipation of receiving equalization funding during the 2016-2018 fiscal biennium.

(b) If the total revenue generated in the 2014-2016 fiscal biennium by the additional five cents equivalent tax levy, the equalization funds, and any escrowed or additional offers of assistance from the School Facilities Construction Commission is insufficient to cash fund the project or to sufficiently support the required annual debt service for the entirety of the capital project, the school district shall be awarded additional funds equal to the amount of annual debt service necessary to complete the project in its entirety. Any funds included in paragraph (a) of this subsection not necessary to provide equalization in each fiscal year shall be used for this purpose. If the total funds appropriated in paragraph (a) of this subsection are insufficient, the School Facilities Construction Commission is authorized to make additional offers of assistance not to exceed the debt service for $7,300,000 for Carlisle County, not to exceed the debt service for $5,000,000 for Magoffin County, and not to exceed the debt service for $14,000,000 for Martin County.

(c) If the school district utilizes the equalization funds appropriated in paragraph (a) of this subsection to support a bond issue for construction purposes, equalization funds shall be provided for 20 years or until the bonds are retired, whichever is less.

(d) If a school district receives an allotment under paragraph (a) of this subsection and subsequently, as the result of litigation or insurance, receives funds for the original facility, the school district shall reimburse the Commonwealth an amount equal to that received pursuant to paragraph (a) of this subsection. If the litigation or insurance receipts are less than the amount received pursuant to paragraph (a) of this subsection, the district shall reimburse the Commonwealth an amount equal to that received as a result of litigation or insurance less the district's costs and legal fees in securing the judgment or payment. Any funds received in this manner shall be deposited in the Budget Reserve Trust Fund Account (KRS 48.705).

***(20) Additional SEEK Funding: If the above General Fund appropriation is not sufficient to fully fund the SEEK Program including any adjustments pursuant to KRS 157.360 in fiscal year 2014-2015, the Kentucky Department of Education may request up to $10,000,000 in fiscal year 2014-2015, which shall be deemed a necessary government expense and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).***

➔Section 10. 2014 Kentucky Acts Chapter 117, Part V, Funds Transfer; I. Personnel Cabinet, 3. Public Employees Health Trust Fund, at page 748, is amended to read as follows:

**3. Public Employee Health Trust Fund**

| | | | |
|---|---|---|---|
| Enterprise Fund | -0- | 93,000,000 | ***63,500,000*** ~~[ 0 ]~~ |
| (KRS 18A.2254(3)) | | | |

***(1) The***~~[This]~~ fund transfer ***of $93,000,000*** to the General Fund ***in fiscal year 2014-2015*** partially supports the salary increases for Local School District Certified and Classified employees as recommended in Part I, C., 1., (3) of this Act and for full-time and part-time employees of the Executive Branch as set out in Part IV, 3. of this Act.

***(2) The fund transfer of $63,500,000 to the General Fund in fiscal year 2015-2016 shall be appropriated to the Budget Reserve Trust Fund Account (KRS 48.705).***

➔Section 11. 2014 Kentucky Acts Chapter 117, Part I, Operating Budget; after M. Tourism, Arts and Heritage Cabinet, at page 664, is amended by inserting the following:

***N. BUDGET RESERVE TRUST FUND***

| | ***2014-15*** | ***2015-16*** |
|---|---|---|
| ***General Fund*** | ***-0-*** | ***63,500,000*** |

➔Section 12. 2014 Kentucky Acts Chapter 117, Part V, Funds Transfer; E. Energy and Environment Cabinet; 3. Environmental Protection, at page 746, is amended to read as follows:

**3. Environmental Protection**

| | | | | |
|---|---|---|---|---|
| ***a.*** | Insurance Administration Fund | -0- | 7,477,000 | 7,723,000 |
| | (KRS 224.60-130, 224.60-140, ~~[and ]~~224.60-145***, and 224.60-150***) | | | |
| ***b.*** | ***Insurance Administration Fund*** | ***-0-*** | ***3,000,000*** | ***-0-*** |
| | ***(KRS 224.60-130, 224.60-140, 224.60-145, and 224.60-150)*** | | | |

***In fiscal year 2014-2015, $3,000,000 shall be transferred to the General Fund to support the County Road Aid Program and Municipal Road Aid Program as detailed in 2014 Ky. Acts ch. 127, I, A., 7., (1)(b) and (3)(b).***

➔Section 13. 2014 Kentucky Acts Chapter 127, Part I, Operating Budget; A. Transportation Cabinet; 7. Revenue Sharing, at page 791, is amended to read as follows:

**7. REVENUE SHARING**

| | **2014-15** | **2015-16** |
|---|---|---|
| ***General Fund*** | ***7,800,000*** | ***-0-*** |
| Road Fund | 396,861,000 | 390,753,800 |
| ***TOTAL*** | ***404,661,000*** | ***390,753,800*** |

**(1) County Road Aid Program:** ***(a)*** Included in the above Road Fund appropriation is $149,967,100 in fiscal year 2014-2015 and $147,643,000 in fiscal year 2015-2016 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amounts have been reduced by $38,000 in each fiscal year, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

***(b) Included in the above General Fund appropriation is $5,490,000 in fiscal year 2014-2015 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding any statute to the contrary, no county shall be denied its apportionment of the funds contained in this paragraph for failure to comply with the provisions of KRS 65.900 to 65.925. It shall be the responsibility of each county government to ensure that the money hereby allocated in this paragraph is used exclusively for the construction, reconstruction, improvement, and maintenance of county roads and bridges.***

**(2) Rural Secondary Program:** Included in the above Road Fund appropriation is $181,927,400 in fiscal year 2014-2015 and $179,108,000 in fiscal year 2015-2016 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amounts have been reduced by $46,000 in each fiscal year, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

**(3) Municipal Road Aid Program:** ***(a)*** Included in the above Road Fund appropriation is $63,100,900 in fiscal year 2014-2015 and $62,123,000 in fiscal year 2015-2016 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amounts have been reduced by $16,000 in each fiscal year, which has been appropriated to the Highways budget unit for the support of the Kentucky Transportation Center.

***(b) Included in the above General Fund appropriation is $2,310,000 in fiscal year 2014-2015 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366(1) - (7), and 177.369. It shall be the responsibility of each municipal government to ensure that the money hereby allocated in this paragraph is used exclusively for the construction, reconstruction, and maintenance of city roads and bridges.***

**(4) Energy Recovery Road Fund:** Included in the above Road Fund appropriation is $903,000 in each fiscal year for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

➔Section 14. Whereas the provisions of this Act provide ongoing support for programs funded in the 2014-2016 executive branch and transportation cabinet biennial budgets, an emergency is declaredto exist, and this Act takes effect upon its passage and approval by the Governor or upon it otherwise becoming law.

**Vetoed in part April 6, 2015. Portions not vetoed became law April 7, 2015. Vetoed portions, all in Section 1, are shown with brackets and strike-throughs preceded and followed by double asterisks (**).**