

**CHAPTER 177****( HB 469 )**

AN ACT to revise and correct the Kentucky Revised Statutes.

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

**PART A****LEGISLATIVE FINDINGS AND DECLARATIONS**

➔Section 1. The General Assembly finds and declares as follows:

(1) Section 2 of this Act amends KRS 311.685, relating to the practice of acupuncture. KRS 311.685 was created in 2006 Ky. Acts ch. 249, sec. 15, as part of the initial statutory regulation of the practice of acupuncture. However, the drafter of that Act had inadvertently included in subsection (7) of that section a reference to the "practice of medicine" in the second sentence of that subsection. The reviser of statutes has determined from the context that the reference should have instead read "practice of acupuncture," but that change in language is not a manifest clerical or typographical error the reviser is authorized to independently correct under KRS 7.136(1)(h).

(2) Section 3 of this Act amends KRS 343.020, relating to the membership of the Apprenticeship and Training Council. Prior to its amendment in 2014, subsection (2)(a) of KRS 343.020 established staggered lengths of terms for the first appointments of members of the initial Council, and subsection (2)(b) of KRS 343.020 began, "Subsequent members shall serve terms of four (4) years.....," referring to members appointed after the initial terms expired. When subsection (2)(a) was amended in 2014, the language establishing staggered initial terms was deleted; however, the word "Subsequent" in subsection (2)(b) should have been deleted to conform, but was not.

(3) Section 4 of this Act amends KRS 134.452, relating to third-party purchasers of certificates of delinquency of real property taxes. 2014 Ky. Acts ch. 71, sec. 6, amended subsection (1) of that statute to correct improper formatting and replace an incorrect reference to "paragraph (a) of this subsection" with "subdivision a. of this subparagraph" in what is now subsection (1)(c)2.b. of that statute. During codification, it was brought to the attention of the reviser of statutes that a second reference to "paragraph (a)" in subsection (1)(c)3.a. of that statute should have also been corrected to read "subparagraph 2.a. of this paragraph", but it was not. The reviser of statutes has determined that changing that language to conform with the correct reference is necessary, but that it is not a manifest clerical or typographical error the reviser is authorized to independently correct under KRS 7.136(1)(h).

(4) Section 5 of this Act amends KRS 154.33-510, relating to definitions concerning the use of the Kentucky Appalachian regional development fund. The lead-in language for that statute that precedes the list of definitions is, "As used in KRS 154.33-501 to 154.33-585, unless the context otherwise requires:". The range of statutes KRS 154.33-501 to 154.33-585 was composed of 22 statutes; however, 16 of those statutes were repealed in 2015 in 2015 Ky. Acts ch. 58, sec. 7. Therefore, the reference to the depleted range of statutes is no longer appropriate, and should now read, "As used in this subchapter, unless the context otherwise requires:".

(5) Section 6 of this Act amends KRS 243.200, relating to an alcoholic beverage transporter's license. As amended by 2014 Ky. Acts ch. 22, sec. 14, subsection (9)(b) of that statute contains an erroneous reference to "residence requirements" of KRS 244.090. Although certain licensees were previously prohibited from employing any person who "has not had an actual bona fide residence in this Commonwealth for at least one (1) year" or "is not a citizen of the United States," the General Assembly removed the state residency requirement from the statute in 1978 Ky. Acts ch. 194, sec. 19, and the national citizenship requirement in 1998 Ky. Acts ch. 522, sec. 20. Therefore, the reference to KRS 244.090 concerning residency requirements is obsolete. The remaining reference to KRS 243.100 is correct.

(6) Section 7 of this Act amends KRS 402.100, relating to marriage licenses. In subsection (2)(b) of that statute, there is an incomplete, and, therefore, incorrect reference to "KRS 402.050(c)" regarding religious societies authorized to solemnize marriages. KRS 402.050, subsection (1), contains the list of persons authorized to solemnize marriage, so the incorrect cite to "KRS 402.050(c)" should be corrected to read "KRS 402.050(1)(c)."

(7) Section 8 of this Act repeals KRS 158.650, 158.680, 158.685, and 158.710, which were enacted in 1990 as part of the Kentucky Education Reform Act, and contained the initial phase of temporary reform remedies that were designated to expire in 1996. Since the provisions of those statutes expired in 1996 and have not been followed since, it is now appropriate to remove them from the statutory database by repealing them.

(8) Sections 9 and 10 of this Act contain amendments to KRS 156.160 and 160.107 to conform with the repeal of KRS 158.685 by deleting references to that statute number in other statutory text.

#### PART B

##### CORRECTION OF INADVERTENT DRAFTING ERRORS IN STATUTORY TEXT

➔Section 2. KRS 311.685 is amended to read as follows:

- (1) The board, before suspending, revoking, imposing probationary or supervisory conditions upon a licensed acupuncturist, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any licensed acupuncturist under KRS 311.671 to 311.686, shall set the matter for a hearing under the provisions of KRS Chapter 13B.
- (2) After denying an application under KRS 311.671 to 311.686 or issuing a written admonishment, the board, at the request of the aggrieved party, shall grant a hearing under the provisions of KRS Chapter 13B.
- (3) Except for final orders denying an initial application or renewal for licensure or final orders issued pursuant to KRS 13B.125(3), all final orders of the board affecting an acupuncturist's license shall become effective thirty (30) days after notice is given to the license holder unless otherwise agreed; however, the board's panels may provide that a final order be effective immediately when, in the panel's opinion, based upon sufficient reasonable cause, the health, welfare, and safety of patients or the general public would be endangered by delay.
- (4) Any acupuncturist who is aggrieved by a final order of the board denying an initial or renewal application for licensure or rendering disciplinary action against a license holder may seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B. Decisions of the board's panels relating to petitions for reinstatement of revoked licenses are not final orders for purposes of this statute, and are not subject to judicial review.
- (5) The court shall not award injunctive relief against the board without providing the board with the reasonable opportunity to be heard.
- (6) An acupuncturist whose license has been revoked may, after five (5) years from the effective date of the revocation order, petition the board to reissue the license to again practice acupuncture in the Commonwealth of Kentucky.
- (7) The board shall not be required to issue a new license, and a decision of the board not to reissue a license shall not be subject to judicial review. A license shall not be reissued following a petition under subsection (6) of this section unless the former license holder satisfies the board that he or she is presently of good moral character and qualified both physically and mentally to resume the practice of *acupuncture*~~medicine~~ without undue risk or danger to patients or the public.
- (8) In the event the board reissues a revoked license under the circumstances as described in this section, the reissued license shall be under probation for a period of not less than two (2) years nor more than five (5) years with conditions fixed by the board, including a condition that any violation of the remaining conditions of probation shall result in automatic revocation of the license.

➔Section 3. KRS 343.020 is amended to read as follows:

- (1) (a) The Governor shall appoint an Apprenticeship and Training Council composed of four (4) representatives from employer organizations, four (4) representatives from employee organizations, and three (3) at-large members who shall serve for a term of four (4) years and until their successors are appointed and qualified. The commissioner of the Department of Workplace Standards, the commissioner of the Department for Workforce Investment, and the chancellor for the Technical Institutions' Branch in the Kentucky Community and Technical College System shall be ex officio members of the council. The chairman shall be elected by vote of the Apprenticeship and Training Council.
- (b) The regular members of the council shall each have one (1) vote. In the event of a tie vote among the regular members, the commissioner of the Department of Workplace Standards shall have the right to cast the tie-breaking vote. Each member of the council shall receive his or her actual and necessary expenses incurred in attending its meetings.
- (c) The council shall meet at the call of the commissioner and shall aid him or her in formulating policies for the effective administration of this chapter. The commissioner with the advice of the council shall

have the authority to make and revise such rules and regulations as he or she may deem appropriate to carry out the provisions and purposes of this chapter.

- (2) (a) On July 15, 2014, the term of the at-large members appointed on December 31, 2011, shall expire, and the Governor shall appoint three (3) at-large members representing the general public to the Apprenticeship and Training Council.
- (b) ~~Subsequent~~ Members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.
- (3) The council shall be attached to the Labor Cabinet for administrative purposes.

#### PART C

##### CORRECTION OF IMPROPER IN-TEXT STATUTORY REFERENCES

➔Section 4. KRS 134.452 is amended to read as follows:

- (1) Notwithstanding any other provisions of this chapter, a third-party purchaser of a certificate of delinquency shall be entitled to collect only the following prelitigation fees:
  - (a) The amount actually paid for the certificate of delinquency;
  - (b) Interest as provided in KRS 134.125, calculated on the amount actually paid to the county clerk from the date the certificate of delinquency was purchased until paid; and
  - (c)
    - 1. Prelitigation attorneys' fees, which may include amounts incurred for collection efforts and costs related to notification, processing, research, communication, compliance, legal costs, documentation, and similar expenses, from the date the third-party purchaser purchases the certificate of delinquency from the county clerk, to the date on which the notice required by KRS 134.490(2) is mailed by the third-party purchaser.
    - 2. The amount that may be collected by the third-party purchaser as prelitigation attorneys' fees shall be subject to the following limitations:
      - a.
        - i. If the amount paid for a certificate of delinquency is between five dollars (\$5) and three hundred fifty dollars (\$350), actual reasonable fees incurred up to one hundred percent (100%) of the amount of the certificate of delinquency, not to exceed three hundred fifty dollars (\$350);
        - ii. If the amount paid for a certificate of delinquency is between three hundred fifty-one dollars (\$351) and seven hundred dollars (\$700), actual reasonable fees incurred up to eighty percent (80%) of the amount of the certificate of delinquency, not to exceed five hundred sixty dollars (\$560); and
        - iii. If the amount paid for a certificate of delinquency is above seven hundred one dollars (\$701), actual reasonable fees incurred up to seventy percent (70%) of the amount of the certificate of delinquency, not to exceed seven hundred dollars (\$700); and
      - b. If a third-party purchaser is the owner of more than one (1) certificate of delinquency against the same taxpayer, actual and reasonable prelitigation attorneys' fees for all certificates of delinquency against the same taxpayer shall not exceed one and one-half (1.5) times the maximum amount permitted in subdivision a. of this subparagraph for the largest tax bill owed by the taxpayer.
    - 3. The amounts allowed by subparagraph 2. of this paragraph shall not accrue to the account of the delinquent taxpayer, nor be charged by the third-party purchaser against the delinquent taxpayer all at one (1) time unless the amount of certificate of delinquency is one hundred seventy-five dollars (\$175) or less. The third-party purchaser may accrue to the account of the delinquent taxpayer, and charge the delinquent taxpayer an amount equal to the lesser of prelitigation attorney's fees incurred by the third-party purchaser since the prior notice was sent or one hundred seventy-five dollars (\$175), for each notice sent to the delinquent taxpayer, provided that:

- a. The total aggregate amount of prelitigation attorneys' fees that may accrue to the account of the delinquent taxpayer and be charged by the third-party purchaser against the delinquent taxpayer shall not exceed the limitations established by *subparagraph 2.a. of this paragraph*~~[(a) of this subsection]~~; and
  - b. Additional fees shall not accrue to the account of the delinquent taxpayer or be charged by the third-party purchaser against the delinquent taxpayer more frequently than every ninety (90) days, regardless of how many notices the third-party purchaser may send.
- (2) If the delinquent taxpayer and the third-party purchaser enter into a payment agreement, the third-party purchaser may collect the installment payment processing fee authorized by KRS 134.490(5).
  - (3) (a) In addition to the fees established by subsections (1), (2), and (4) of this section, a third-party purchaser may collect actual, reasonable attorneys' fees and costs that arise due to the prosecution of collection remedies or the protection of a certificate of delinquency that is involved in litigation. Fees and costs permitted under this subsection include fees and costs incurred from the first day after the notice required by KRS 134.490(2) is sent through the day any litigation is finally concluded.
    - (b) For purposes of this subsection:
      1. Actual attorneys' litigation fees up to two thousand dollars (\$2,000) may be reasonable if the fees are based upon documented work performed at a rate commensurate with hourly rates customarily charged by private attorneys in that jurisdiction for similar services. A flat rate, without hours documented for work performed, may be reasonable if the flat fee is determined to be discounted from the usual and customary rates for comparable work; and
      2. Any attorneys' litigation fee in excess of two thousand dollars (\$2,000) shall be allowed if authorized by the court upon a finding that the third-party purchaser incurred actual attorneys' litigation fees in excess of two thousand dollars (\$2,000) and that those attorneys' litigation fees were warranted based upon the complexity of the issues presented in the litigation.
  - (4) The third-party purchaser may collect administrative fees incurred for preparing, recording, and releasing an assignment of the certificate of delinquency in the county clerk's office, not to exceed one hundred fifteen dollars (\$115).
  - (5) The General Assembly recognizes that third-party purchasers play an important role in the delinquent tax collection system, allowing taxing districts to receive needed funds on a timely basis. The General Assembly has carefully considered the fees and charges authorized by this section, and has determined that the amounts established are reasonable based on the costs of collection and fees and charges incurred in litigation.
  - (6) A certificate of delinquency owned by a third-party purchaser shall be deemed a general intangible for the purposes of Article 9 of KRS Chapter 355.

➔Section 5. KRS 154.33-510 is amended to read as follows:

As used in *this subchapter*~~[KRS 154.33-501 to 154.33-585]~~, unless the context otherwise requires:

- (1) "Area" or "region" means the geographical area of Kentucky contained within the Appalachian region as defined by the federal Appalachian Regional Development Act of 1965, as amended;
- (2) "Board" means the executive board of Shaping Our Appalachian Region, Inc., a Kentucky nonprofit 501(c)(3) corporation created and organized, as of June 24, 2015, 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;
- (3) "Commissioner" means the commissioner of the Department for Local Government;
- (4) "Commonwealth" means the Commonwealth of Kentucky;
- (5) "Executive director" means the chief administrator of Shaping Our Appalachian Region, Inc. having responsibility for its day-to-day operations, and possessing all duties, responsibilities, and authorities as specified by the board;
- (6) "Fund" means the Kentucky Appalachian regional development fund as provided by KRS 154.33-550.

➔Section 6. KRS 243.200 is amended to read as follows:

- (1)
  - (a) A transporter's license may be issued as a primary license to a person engaged in business as a common carrier. A transporter's licensee may transport alcoholic beverages to or from the licensed premises of any licensee under this chapter if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.
  - (b) A transporter's license shall be issued only to persons authorized by proper certificate from the Department of Vehicle Regulation to engage in the business of a common carrier. Holders of a transporter's license issued under this section may transport alcoholic beverages in Kentucky only in conformity with the provisions of their common carrier certificate issued by the Transportation Cabinet. Such licensees are specifically prohibited from transporting alcoholic beverages anywhere within the state, except upon the route authorized by their respective common carrier certificates.
- (2)
  - (a) No person, firm, or corporation operating motor vehicles for hire over the highways of this state, under authority of a Certificate of Convenience and Necessity issued by the Transportation Cabinet, covering the same territory or highways designated in the certificate as irregular common carrier issued by the Interstate Commerce Commission shall be authorized or permitted to transport any alcoholic beverages in this state until the carrier has procured an appropriate transporter's license from the department, and filed with the department a statement of the proposed route of the territory over which the carrier proposes to transport alcoholic beverages.
  - (b) The statement of route shall be accompanied by an exhibit consisting of a Kentucky road map with the proposed route clearly indicated by suitable marking.
  - (c) The proposed route shall be restricted to designated federal highways, except as to access side roads to distilleries and terminals. The side roads shall be the nearest and most traveled route from the distillery to the designated federal highway, and shall be no more than seven (7) miles from the federal highway.
  - (d) When the carrier has obtained a transporter's license for distilled spirits and wine from the department for transportation over designated routes, pursuant to a regular common carrier certificate, no additional license shall be required upon filing of the designated routes and exhibit required under this section.
  - (e) The license shall be issued to a person legally transporting alcoholic beverages to allow transportation of the beverages over numbered Kentucky state highways, or officially prescribed detours from those highways.
- (3) A transporter's license may be issued to a steam, diesel, or gasoline boatline, desiring to haul alcoholic beverages in barrels or in unbroken case lots, if it maintains published river-rail rates, but licensees shall not be restricted to routes covered by such river-rail rates.
- (4) A transporter's license may be issued as a primary or supplementary license to any nonresident distiller, winery, or wholesaler who is authorized by the state of his or her residence and the federal government to receive and transport distilled spirits and wine. The nonresident licensee may transport for himself or herself only, distilled spirits and wine from the licensed premises of a Kentucky manufacturer, distiller, winery, or rectifier to the transporter's licensed premises only, and beverages on which the Kentucky tax has been paid may be transported from the licensed premises of a nonresident distiller, winery, or rectifier to wholesaler licensees within the Commonwealth of Kentucky, if he or she transports the alcoholic beverages in a truck or other vehicle owned and operated by a nonresident licensee. Each truck or vehicle shall have affixed to its side a sign in uniform letters of at least three (3) inches high containing the name of the company and the state and federal permit numbers for the vehicles.
- (5) An application for a transporter's license shall include a statement that the applicant, if granted a license, will allow any authorized field representative of the department to stop and examine the cargo of any truck or vehicle in which alcoholic beverages are being transported within the boundaries of the Commonwealth of Kentucky.
- (6) All persons or entities holding a transporter's license shall be required to file reports with the Department of Revenue on or before the fifteenth of each month, covering the preceding month's transactions. Only one (1) report may be submitted to cover each unit shipment of alcoholic beverages transported into and from the state. Each Department of Revenue report shall show the state license number, the name and address of consignor and consignee, shipping date, delivery date, and number of cases according to size contained in each shipment, and shall be signed by an official of the company handling the shipment.

- (7) A transporter's license may be issued as a primary license to a person or entity wishing to transport distilled spirits and wine through this state over the public highways. A transporter's license authorizes the holder to transport distilled spirits and wine during the period of the license. The driver of a vehicle so transporting shall be in the possession of a copy of the license and bills of lading, consignment, or other evidence of ownership of the cargo which tally with the cargo. Failure of the driver to be in possession of these documents shall be prima facie evidence of illegal trafficking. The transporting of distilled spirits and wine without a transporter's license shall subject the offending party to the penalties established in KRS 243.990.
- (8) A transporter's license may be issued as a primary license to a person wishing to transfer distilled spirits or wine from a licensed transporter to one (1) truck from another. The licensee may receive from and tender to transporters duly licensed under this section those distilled spirits and wine consigned to licensees under KRS 243.020, in the Commonwealth of Kentucky.
- (9)
  - (a) A transporter's license may be issued as a primary license to a person or entity wishing to export malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of a licensed Kentucky distributor, or from another state, through Kentucky. A transporter's license may be issued to an applicant who holds a beer wholesaler or distributor's license issued by the state into which malt beverages are to be transported, or who is licensed by the state to transport those malt beverages.
  - (b) Applicants for the transporter's license under this subsection, and their employees, may be exempt from the residence requirements of KRS 243.100 ~~and 244.090~~.
  - (c) A transporter's license shall authorize the holder to transport malt beverages from the licensed premises of a Kentucky brewer or from the warehouse of the licensed Kentucky distributor, or from another state, through Kentucky, if the licensee transports the malt beverages in a truck or other vehicle carrying a transporter's license and owned and operated by its employees.
- (10) A transporter's license may be issued as a primary or supplemental license to a person, except a retailer, wishing to transport malt beverages for hire. A transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee, except retailers, if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship, or receive the malt beverages. A transporter licensee may transport malt beverages for hire to or from the licensed premises of any licensee under KRS 243.040 in counties containing a population of less than forty thousand (40,000) if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the malt beverages.
- (11) No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, unless expressly authorized to do so by law.
- (12) Distilled spirits and wine may be transported by the holder of any license authorized to transport distilled spirits and wine to and from express or freight depots and the licensee's premises.
- (13) A licensed alcoholic beverage store operator may move, within the same county, alcoholic beverages from one of the operator's licensed stores to another without a transporter's license. However, the licensed store operator shall keep and maintain, in one (1) of his or her stores in that county, adequate books and records of the transactions involved in transporting alcoholic beverages from one (1) licensed store to another in accordance with standards established in administrative regulations promulgated by the board. The records shall be available to the department and the Department of Revenue upon request.
- (14) Distilled spirits and wine may be transported by any licensed retailer selling distilled spirits or wine, by the package or by the drink, from the premises of a licensed wholesaler to the licensed premises of the retail licensee. Any retailer transporting alcoholic beverages under this subsection shall do so in a vehicle marked in conformity with administrative regulations of the department. Both the wholesaler and the retailer engaging in activity under this subsection shall be responsible for maintaining records documenting the transactions.

➔Section 7. KRS 402.100 is amended to read as follows:

Each county clerk shall make available to the public the form prescribed by the Department for Libraries and Archives for the issuance of a marriage license. The department shall issue a marriage license form which provides for the entering of information identifying each party as a "bride," "groom," or "spouse." This form shall provide for the entering of all of the information required in this section, and may also provide for the entering of additional information prescribed by the Department for Libraries and Archives. The form shall consist of:

- (1) A marriage license which provides for the entering of:

- (a) An authorization statement for any person or religious society authorized to perform marriage ceremonies to unite in marriage the parties named;
  - (b) Vital information for each party, including the full name, date of birth, place of birth, race, gender, condition (single, widowed, or divorced), number of previous marriages, occupation, current residence, relationship to the other party, and full names of parents;
  - (c) A statement signed by both parties swearing that, to the best of their knowledge, the information provided on the form is correct; and
  - (d) The date and place the application was made.
- (2) A marriage certificate which provides for the entering of:
- (a) A statement by the person performing the marriage ceremony or the clerk of the religious society authorized to solemnize the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony or the name of the religious society solemnizing the marriage, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses;
  - (b) A statement by the person performing the marriage ceremony of his legal qualification under this chapter to perform the ceremony, such statement to include the name of the county or city where his license to perform marriage ceremonies was issued or, in the case of religious societies authorized by KRS 402.050(1)(c) to solemnize marriages, the name of the city or county where the religious society is incorporated. The provisions of this paragraph shall not be construed to require the clerk of a religious society to be present at the marriage so long as the witnesses of the society are present;
  - (c) The printed name and dated signature of the person performing the ceremony; and
  - (d) A signed statement indicating that the marriage certificate was recorded in the county in which it was filed. The statement shall also include the title of the county clerk or deputy clerk of the county in which the certificate was filed and indicate the date the marriage certificate was recorded.
- (3) A certificate to be delivered by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony to the parties married. This certificate shall provide for the entering of:
- (a) A statement by the person performing the marriage ceremony or the clerk of the religious society performing the marriage ceremony that the ceremony was performed. The statement shall include the name and title of the person performing the ceremony, or the name of the religious society performing the ceremony, the names of persons married, the date and place of the marriage, and the names of two (2) witnesses; and
  - (b) A dated signature of the person performing the ceremony or the clerk of the religious society performing the ceremony.
- (4) A Social Security card or other government-issued identification card shall be requested as a means of identification of each party but the number shall not be recorded or retained.

#### PART D

#### REPEAL OF STATUTES WHOSE PROVISIONS EXPIRED IN 1996

➔Section 8. The following KRS sections are repealed:

- 158.650 Definitions for KRS 158.680 to 158.710. (Expired)
- 158.680 State Advisory Committee for Educational Improvement. (Expired)
- 158.685 Standards of student, program, service, and operational performance to be established -- Educationally deficient school district -- Action to eliminate deficiency -- Education development district. (Expired)
- 158.710 Responsibilities and functions of educationally deficient districts and education development districts -- Plans required -- Reports required. (Expired)

#### PART E

#### AMENDMENT OF STATUTES TO CONFORM WITH REPEAL OF KRS 158.685

➔Section 9. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
  - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
    1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
    2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
  - (b) Courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in KRS 158.845;
  - (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
  - (d) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
  - (e) The requirements for an alternative high school diploma for students with disabilities whose individualized education program indicates that, in accordance with 20 U.S.C. sec. 1414(d)(1)(A):
    1. The student cannot participate in the regular statewide assessment; and
    2. An appropriate alternate assessment has been selected for the student based upon a modified curriculum and an individualized course of study;
  - (f) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
  - (g) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
  - (h) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
  - (i) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence



shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

- (j)
    1. Beginning with the 2010-2011 school year, a dental screening or examination by a dentist, dental hygienist, physician, registered nurse, advanced practice registered nurse, or physician assistant that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a dental screening or examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a five (5) or six (6) year-old child is enrolled in a public school.
    2. A child shall be referred to a licensed dentist if a dental screening or examination performed by anyone other than a licensed dentist identifies the possibility of dental disease;
  - (k) The transportation of children to and from school;
  - (l) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
  - (m) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
  - (n) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
  - (o) The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
1. An alternative approach will achieve the same result required by the administrative regulation;
  2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
  3. There is a finding of good cause for the waiver.
- (b) The following shall not be subject to waiver:
1. Administrative regulations relating to health and safety;
  2. Administrative regulations relating to civil rights;
  3. Administrative regulations required by federal law; and
  4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, ~~158.685,~~ and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
- (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;

- (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
- (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
- (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

➔Section 10. KRS 160.107 is amended to read as follows:

- (1) A district which is an applicant to be designated as a district of innovation under KRS 156.108 shall:
  - (a) Establish goals and performance targets for the district of innovation proposal, which may include:
    - 1. Reducing achievement gaps among groups of public school students by expanding learning experiences for students who are identified as academically low-achieving;
    - 2. Increasing pupil learning through the implementation of high, rigorous standards for pupil performance;
    - 3. Increasing the participation of students in various curriculum components and instructional components within selected schools to enhance students' preparation at each grade level;
    - 4. Increasing the number of students who are college and career-ready; and
    - 5. Motivating students at different grade levels by offering more curriculum choices and student learning opportunities to parents and students within the district;
  - (b) Identify changes needed in the district and schools to lead to better-prepared students for success in life and work;
  - (c) Have a district-wide plan of innovation that describes and justifies which schools and innovative practices will be incorporated;
  - (d) Provide documentation of community, educator, parental, and the local board's support of the proposed innovations;
  - (e) Provide detailed information regarding the rationale of requests for waivers from Kentucky Revised Statutes and administrative regulations, and exemptions for selected schools regarding waivers of local board of education policies;
  - (f) Document the fiscal and human resources the board will provide throughout the term of the implementation of the innovations within its plan; and
  - (g) Provide other materials as required by the Kentucky Department of Education in compliance with the state board's administrative regulations and application procedures.
- (2) The district and all schools participating in a district's innovation plan shall:
  - (a) Ensure the same health, safety, civil rights, and disability rights requirements as are applied to all public schools;
  - (b) Ensure students meet compulsory attendance requirements under KRS 158.030 and 158.100;
  - (c) Ensure that high school course offerings meet or exceed the minimum required under KRS 156.160 for high school graduation or meet early graduation requirements that may be enacted by the General Assembly;
  - (d) Ensure the student performance standards meet or exceed those adopted by the Kentucky Board of Education ~~as required by KRS 158.685~~, including compliance with the statewide assessment system specified in KRS 158.6453;
  - (e) Adhere to the same financial audits, audit procedures, and audit requirements as are applied under KRS 156.265;
  - (f) Require state and criminal background checks for staff and volunteers as required of all public school employees and volunteers within the public schools and specified in KRS 160.380 and 161.148;
  - (g) Comply with open records and open meeting requirements under KRS Chapter 61;

- (h) Comply with purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480;
  - (i) Provide overall instructional time that is equivalent to or greater than that required under KRS 158.070, but which may include on-site instruction, distance or virtual learning, and work-based learning on nontraditional school days or hours; and
  - (j) Provide data to the Kentucky Department of Education as deemed necessary to generate school and district reports.
- (3) (a) Only schools that choose to be designated as schools of innovation shall be included in a district's application.
- (b) 1. As used in this paragraph, "eligible employees" means employees that are regularly employed at the school and those employees whose primary job duties will be affected by the plan.
  - 2. A vote shall be taken among eligible employees in a school to determine if the school shall be an applicant as a school of innovation in a district's proposal and to approve the school's plan of innovation before it is submitted to the district. At least seventy percent (70%) of those casting votes shall vote in the affirmative in order for the school to request inclusion in the district's plan and to approve the school's plan of innovation.
  - 3. The school-based decision making council shall be responsible for conducting the vote provided for in subparagraph 2. of this paragraph, which shall be by secret ballot.
- (c) Notwithstanding the provisions of paragraph (a) of this subsection, a local board of education may require a school that has been identified as a persistently low-achieving school under KRS 160.346 to participate in the district's plan of innovation.
- (4) (a) With approval of the state board, a school of innovation may request and be granted waivers from all or selected provisions of KRS 160.345 relating to school-based decision making.
- (b) To be exempt from KRS 160.345, a school-based decision making council shall vote by secret ballot to determine if it wishes to request a waiver from KRS 160.345 or specific provisions within that statute. Only a school that has seventy percent (70%) or more of the teachers and staff in the school voting to waive its rights and responsibilities under KRS 160.345 shall be eligible.
  - (c) No local board of education or superintendent nor the Kentucky Board of Education may compel a school to waive its rights under KRS 160.345, except as provided in KRS 160.346.
  - (d) Before the provisions of KRS 160.345 are waived by the Kentucky Board of Education for a specific school, there shall be assurances that teachers, parents, and staff in the affected school will be actively involved in the management and decision-making operations of the schools, including input into employment matters and selection of personnel.
- (5) Notwithstanding any statutes to the contrary, the Kentucky Board of Education may approve the requests of districts of innovation to:
- (a) Use capital outlay funds for operational costs;
  - (b) Hire persons for classified positions in nontraditional school and district assignments who have bachelor's and advanced degrees from postsecondary education institutions accredited by a regional accrediting association as defined in KRS 164.740;
  - (c) Employ teachers on extended employment contracts or extra duty contracts and compensate them on a salary schedule other than the single salary schedule;
  - (d) Extend the school days as is appropriate within the district with compensation for the employees as determined locally;
  - (e) Establish alternative education programs and services that are delivered in nontraditional hours and which may be jointly provided in cooperation with another school district or consortia of districts;
  - (f) Establish a virtual school within the district for delivering alternative classes to meet high school graduation requirements;
  - (g) Use a flexible school calendar;

- (h) Convert existing schools into schools of innovation; and
- (i) Modify the formula under KRS 157.360(2) for distributing support education excellence in Kentucky funds for students in average daily attendance in nontraditional programming time, including alternative programs and virtual programs. Funds granted to a district shall not exceed those that would have otherwise been distributed based on average daily attendance during regular instructional days.

**Signed by Governor April 11, 2017.**